

Nā te kōti i tatari:

The inconsistent treatment of tikanga taurima (whāngai) in Ngāti Mutunga
(1820 – 2019)

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A thesis submitted for the degree of
Doctor of Philosophy

At the University of Otago, Dunedin,
New Zealand

1 August, 2019.

Acknowledgements

He kura tangihia, he maimai aroha.

Mākū ana te whenua i te roimata, i te auētanga o te whakaaro o te hunga kua whetūrangitia. Kei te mārama taku titiro atu ki maunga Taranaki ki maunga Pipitarawai me ō rāua taketake, ngā takotoranga whakamutunga o ōku huānga, o ōku kaumātua i riro atu ki te pō. Ko Joe Tapara, ko Charlene Tapara, ko Bob Goomes, ko Teresa Goomes rātou i ū ki ngā kaupapa Ngāti Mutunga ki Wharekauri. Ko rātou anō hoki ngā whenū o tōku korowai whakaruruhau i runga i tēnei huarahi mātauranga. Nō reira e ōku raukura, e ōku rauhuia, otirā e te rau o tītapu. E moe, e moe, e okioki. Mā ngā parirau whānui o te kākākura koutou e tauawhi i runga i tō koutou huarahi. Haere, haere, haere atu rā.

Many supportive Ngāti Mutunga kaumātua have passed away during the course of this thesis. I spent many hours in discussion, with their warm company, and encouragement. Their knowledge of Ngāti Mutunga history and experiences were invaluable. I wish to acknowledge Uncle Joe and Aunty Goog (Charlene) Tapara, Aunty Teresa Goomes and Uncle Bob Goomes without whom the journey to completion of this PhD Thesis would have been arduous. In my own whānau, Aunty Linda Grennell and Uncle Graeme Grennell have joined our tūpuna (ancestors) throughout the duration of this thesis.

Having grown up in Koukourarata (Port Levy) on Banks Peninsula I gained second-hand accounts of Ngāti Mutunga papakāinga life. Koukourarata is a Kāi Tahu papakainga where my infant Ngāti Mutunga/Kāi Tahu grandmother moved to when just one year old. Our Ngāti Mutunga whānau has resided there since 1919. Koukourarata, along with Rāpaki, Wairewa, Arowhenua, and Tuahiwi, are Kāi Tahu communities where many Ngāti Mutunga people intermarried and resided following the effects of land confiscations, and colonisation. Because of this association, Ngāti Mutunga whānau, including my own, often identified more strongly with their Kāi Tahu kin.

My secondhand accounts of Ngāti Mutunga life were sourced from my grandmother's elder siblings who remembered fragments of information about their father's people. Whānau manuscripts written by elder tūpuna also spoke of our Ngāti Mutunga heritage and whakapapa. My first-hand contact with Ngāti Mutunga iwi (outside of Te Waipounamu) came as an 18-year-old returning to Urenui in north Taranaki. I attended the investiture ceremony for Matarena Rau-Kupa (Aunty Marj) with the Queens Honour medal acknowledging her achievement of the rank of Member of the Order of the British Empire

(MBE) in 1995. Aunty Marj, was raised in the same pā and household with my Ngāti Mutunga kuia, Roimata Wi Tamihana. I corresponded with Aunty Marj prior to my Urenui visit and she was integral in realigning my strong Kāi Tahu identity and including Ngāti Mutunga in my conscious identity. At the same investiture hui, Uncle Bill Tuuta, took me to Ōkoki pā and showed me my kuia's final resting place in an unmarked grave. Uncle Bill had helped bury her in 1956. Following these events, I came into more regular contact with Ngāti Mutunga people. It soon became clear to me that our whānau, while somewhat separated from customary Ngāti Mutunga places and connections continued to live aspects of Ngāti Mutunga tikanga (customs). The key identifier of this type of behaviour was found in tikanga taurima. Our whānau has always known taurima relatives. Taurima is a practice that is completely normal and natural for us, as it was for many Ngāti Mutunga whānau. In our whānau we have known taurima relatives in every generation as far back as the whānau memory allows (at least 5 generations). I continue this tikanga with my wife. We have three sons, two of whom are taurima to us.

New Zealand society and systems treat our taurima children differently to our biological son. This dynamic confused me in the early years of their development. While investigating the reasons for this differing treatment, it quickly became apparent that systematic issues in New Zealand prejudiced the treatment of taurima children. Those systematic issues are the genesis of this thesis.

This thesis builds upon my Master's research which focused on the inconsistent treatment of taurima in whānau land succession with a focus on one historical case study.¹ At the inception of this doctoral research, this thesis sought to consider the inconsistencies in my own lived experience of taurima. However, during the course of this study my research parameters broadened to include all types of inconsistent treatment of taurima amongst Ngāti Mutunga, not just in land succession, although this remains a large contributor to the overall research. This broadening of research occurred as my own understanding of legislative impact on tikanga taurima evolved. Despite this, it is clear that our colonial history had a significant impact on tikanga taurima.

New Zealand's colonisation has encouraged a fundamental competition amongst Ngāti Mutunga people, particularly when land titles were individualized, and succession cases began after 1870. The viability of Ngāti Mutunga's land estate was made ineffectual by

¹ Matiu Payne (2013). *Do selectively superior whāngai succession rights exist for Māori Land?* Unpublished Masters Research Report, Dunedin:University of Otago.

virtue of fragmented shareholdings that were so small that decision making became, at times, impossible. This dynamic created frustration and resentment amongst iwi owners and exacerbated land management issues. Inter-whānau and intra-whānau competition and conflict, trace their roots back to the conditions designed during the 1860s land tenure reforms that followed confiscation of Ngāti Mutunga land in Taranaki.

In acknowledging all who assisted me in this research journey it is appropriate to acknowledge the University of Otago who saw within me an opportunity to support this study with their Māori PhD scholarship. The University also provided me with two exceptionally supportive and knowledgeable supervisors in Professor Lachy Paterson and Dr. Paerau Warbrick. Supervision is crucial to the completion of doctoral study and I am grateful that both men were agreeable to this task from the outset of my post-graduate journey. Financial support was also provided to me by Te Rūnanga o Ngāi Tahu with their Kā Pūtea grants from 2016 to 2019, and their part-time PhD Scholarships in 2018 and 2019. I wish to also thank the Parinīnihi ki Waitōtara Incorporation for financial grants in 2018 and 2019, the Ngāti Maniapoto Fisheries Trust for their financial support in 2018 and 2019, Te Rūnanga o Ngāti Mutunga for their iwi education grant in 2019, and Te Rūnanga o Koukourarata for an education grant in 2019. Every contribution made the completion of this study possible and I thank you all.

In 2014 in Hawai'i, and 2017 in Toronto, Canada, I attended and presented aspects of my study at the World Indigenous People's Conference's on Education. On both occasions I shared information amongst other indigenous peoples. This process allowed consolidation of my arguments while also helping me to understand the impacts upon taurima by colonising influences, internationally. In 2016, I attended the Australian and New Zealand Law and History Conference in Perth. This experience contrasted with that of the WIPCE conferences but was equally as valuable in sharpening the content of my arguments contained in this thesis. By the time of my presentation of a related subject at the He Tuhinga nō Neherā conference in Dunedin November 2018, my practice in presenting at these previous conferences allowed me to more confidently explain taurima dynamics to my peers.

It is especially important to me that I acknowledge all Ngāti Mutunga people who agreed to take part in interviews with me around this subject. In order to maintain confidentiality most cannot be named beyond their identifier as Ngāti Mutunga people. Their lived experiences provided real life qualifications for many situations that could be gleaned

from the literature and conversely, illuminated situations that caused me to look deeper into the literature for reasons why Ngāti Mutunga people experienced the circumstances they did.

One notable exception to the need for confidentiality is my Aunt, Teripa Lewis. Teripa was taurima to my grandparents. She is also the only mokopuna of my grandmother's eldest sibling, Airini Gopas (nee Grennell). Teripa's experiences were given with an openness and aroha that I had not previously experienced within my immediate whānau. Teripa's experience is unique in that she was raised as the youngest child of the youngest child of the whānau, yet in birth order, she was the eldest child of the eldest child. Her experiences in life reflected the tensions Māori often face around birth order and its corresponding hierarchy.

I wish to acknowledge my Aunt, and her wife, Donna, for the support they have shown me in the completion of this kaupapa and for the honesty, frankness, and aroha with which they have provided their support. Tēnā kōrua.

I wish to acknowledge those key people who have assisted me with all manner of activities without which many of the arguments could not have been built in this thesis. I would especially like to thank Dr. Dione Payne (wife and editor extraordinaire), Hine Stewart-Waenga of Ngāti Kinohaku, the staffs of the Māori Land Court, nationally, and especially Bronwyn Te Wekepiri (nee Hika) in Wanganui, Rev. Maurice Manawaroa Gray, J.P., Kaye Gray, Mary Grennell Hall, Francis & Jolene Grace, Jamie Tuuta, and staff of Te Wānanga o Aotearoa who assisted my PhD Thesis journey professionally and academically.

My final acknowledgement is to a mentor, friend and Tohunga Whakairo (carving expert) who passed away after a short illness with cancer in 2018. As a Tohunga Whakairo, and Mātauranga Māori expert Te Kuiti Stewart not only guided me through the art and methodology of whakairo (Māori carving), but we simultaneously completed our master's degrees at different institutions. Noone should underestimate the power of a great mentor while undertaking postgraduate study. I feel honoured to have known and been the recipient of his knowledge and guidance throughout the duration of this study. Nō reira, Te Kuiti, e te rangatira, e kore tēnei maramara o Taranaki maunga e warewaretia i ō parirau whakaarahi i roto i ngā tau. Haere, haere, haere atu rā.

Finally, to my Ngāti Mutunga whanaunga, this academic contribution to Ngāti Mutunga literature is just one lens through which our people can reclaim knowledge associated with our iwi. Please do not let this be the only interpretation lens that is made available for our mokopuna to learn from. I actively invite all iwi members to create their

own contributions to our kōrero so that all of our mokopuna may learn our kōrero from our own authors.

Abstract

This thesis argues that taurima (customary kin adoptive relationships) have been inconsistently treated in Ngāti Mutunga iwi (tribe) since 1820, and disproportionately so since the advent of the Native Land Court in 1862. These inconsistencies include customary observances by Ngāti Mutunga, external legislative influences, public resourcing, and social impacts that affect adults and children involved in taurima relationships.

Previously uncollated case studies of Ngāti Mutunga rangatira who died between 1885 and 1901 (Naera Pōmare, Apitia Punga and Hāmuera Koteriki), demonstrate how for Ngāti Mutunga legislation and public agency impacted their own personal taurima relationships (as taurima children themselves and also as fathers of taurima children) in the nineteenth century.

Subsequently, internalised effects on Ngāti Mutunga taurima relationships have been perpetuated into contemporary Ngāti Mutunga thinking evidenced by lived experiences of Ngāti Mutunga people interviewed for this study.

The research concludes that enduring social impacts exist for taurima children in the twenty first century endorsing an inequitable experience for the children, and families who engage the taurima custom. These inconsistencies also serve to distance the tikanga (custom) from its Polynesian roots as a socially enhancing custom.

Taurima is the dialectal preference for the whāngai custom amongst Ngāti Mutunga.

Keywords: tikanga, taurima, whāngai, Hāmi Te Māunu, Hamuera Koteriki, Ngāti Mutunga, Naera Pōmare, Pōmare, Apitia Punga, colonisation, Māori, indigenous, aboriginal, custom, adoption, family, legislation, New Zealand law, hānai, Urenui, Wharekauri.

Abbreviations

| | |
|-------|--|
| AAPD | Auckland Appellate Court Minute Book. |
| ADPT | Adoptions Minute Book Native Land Court. |
| ADRG | Adoption Register Native Land Court of New Zealand. (1902-1966). |
| AOT | Aotea Māori Land Court Minute Book. |
| AJHR | Appendices to the Journals of the House of Representatives. |
| CIMB | Chatham Islands Native Land Court Minute Book. |
| CJAMB | Chief Judges Appellate Minute Book. |
| NMCSA | Ngāti Mutunga Claims Settlement Act 2006. |
| NZCA | New Zealand Constitution Act 1852. |
| NZFLR | New Zealand Family Law Reports. |
| OPO | Ōpōtiki Māori Land Court Minute Book. |
| OTI | Otaki Native Land Court Minute Book. |
| OTO | Ōtorohanga Native Land Court Minute Book. |
| S.P | <i>Sine Profile</i> (s.p) – no issue |
| TAR | Taranaki Native Land Court Minute Book. |
| TKH | Te Kaha Native Land Court Minute Book. |
| TTK | Taitokerau Māori Land Court Minute Book. |
| WAI | Waiariki Māori Land Court Minute Book. |
| WG | Wanganui Native Land Court Minute Book. |
| WGAP | Wanganui Appellate Court Minute Book. |
| WN | Wellington Native Land Court Minute Book. |
| WTAP | Wellington Appellate Court Minute Book. |

Glossary of terms

| | |
|-----------------|--|
| ahikāroa | Continuous occupation in a locality. A term synonymous with take noho and noho tūturu. |
| Aotearoa | Māori name for the North Island of New Zealand. Commonly used as the Māori name for New Zealand. |
| aroha | Love, empathy, kindness, compassion |
| atawhai | To show kindness, be liberal, foster. A dialectal variation of taurima. |
| hapū | A collection of inter-related whānau commonly referred to as sub-tribe. |
| heke | Migration. |
| iwi | People, or a collection of inter-related hapū. |
| ingoa karanga | Common name |
| Kāi Tahu | An iwi who inhabit the South Island of New Zealand. |
| kaitiakitanga | Guardianship. It can relate to guardianship of people, and resources. |
| kaumātua | Acknowledged and wise elder person. |
| kuaia | Grandmother, elderly woman |
| maara | Cultivated gardens. |
| mahinga kai | Food gathering activities, practices, and places. |
| mana | Individual or collective authority reinforced by people. |
| matua atawhai | Foster parent (a dialectal form of matua taurima) |
| mōkai | A customary form of taurima arrangement. |
| murū | To plunder. |
| murū tauā | To plunder with force. |
| Ngāti Hamupaku | A hapū based in the Waikawau Valley, North Island of New Zealand. |
| Ngāti Kahungunu | An iwi that inhabit the Wairarapa coastline of New Zealand. |
| Ngāti Kinohaku | A hapū in the King Country region of the North Island. |
| Ngāti Mutunga | An iwi in northern Taranaki and at Wharekauri (Chatham Islands). |

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| noho tūturu | Continuous occupation in a locality. A term synonymous with ahikāroa and take noho. |
| ōhākī | An oral will imparted by a dying rangatira in the company of close relatives. |
| ōta whakanoho | A title for an occupation order granted under Te Ture Whenua Māori Act 1993. |
| pā tangata | Villages. |
| pā tuna | Eel fishing grounds. |
| papakāinga | Traditional village areas, a gathering of homes, living communally; i.e. often associated with take whenua. |
| pūrākau | Traditional narratives. |
| rangatira | A binder of people, a chief or leader. |
| rangatiratanga | Chiefly autonomy, self-governance. |
| Tai Tokerau | A term used to refer to the northern geographical tip of the North Island of New Zealand. |
| take | Basis, or a base, land claim or right. |
| take noho | An occupational basis to a claim; i.e. synonymous with ahikāroa and noho tūturu. |
| take raupatu | Claim through subjugation and confiscation. |
| take taunaha | Claim though original discovery or naming the locality after discovery. |
| take tuku | Claim through a gift being received. |
| take tūpuna | Ancestral basis to a claim. |
| take whenua | A term used to describe the collective philosophies associated with Customary Māori Land Tenure; i.e. literally, the “basis of land or birth”. |
| tamaiti atawhai | One foster child; a dialectal form of tamaiti taurima. |
| tamariki whāngai | (Plural) Foster children. |
| tangi | Traditional mourning custom for deceased. |
| taonga | Treasured things. |

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| Taranaki | The westernmost region of New Zealand's North Island. |
| tauranga ika | Fishing grounds. |
| taurima | A dialectal form of whāngai favoured by Taranaki people. |
| Te Waipounamu | Māori name for the South Island of New Zealand. |
| tika | Correct; this is the base meaning of the larger word tikanga. |
| tikanga | Customs and protocols based on what is considered tika or correct. |
| tikanga Māori | Māori customs and protocols. |
| tikanga whāngai | Customs and protocols associated with whāngai practice. |
| tūrangawaewae | A standing place; a place considered to be your source of strength and identity, strongly associated with whakapapa. |
| urupā | Cemetery. |
| wāhi tapu | An area of special significance to a whānau, hapū or iwi; sometimes referred to as a sacred place. |
| whakaaro Māori | Māori ways of thinking. |
| whakapapa | Genealogical connections to each other and the natural environment. |
| whānau | A Māori family unit, and also to give birth. |
| whanaungatanga | Creating and maintaining inter-personal relationships. |
| whāngai | To feed, nourish; it is the customary term used to encompass the practice of customary Māori adoption. |
| whenua | Māori word for land and also afterbirth. |

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Chapter One: Introduction and Methods

For nearly two hundred years tikanga taurima (customary kin adoptive practice) has been treated inconsistently within Ngāti Mutunga, a small iwi Māori located primarily in North Taranaki, New Zealand. Inconsistencies have arisen most noticeably during contact between Māori and non-Māori in the period 1820-1900 where ideological differences in child rearing practices became apparent and competitive.

European colonial influences over Ngāti Mutunga including legislation and public agency forced Ngāti Mutunga to evolve their tikanga taurima but despite this, tikanga taurima has remained a vibrant living custom within Ngāti Mutunga today.

At the 1870 Native Land Court hearings on Wharekauri (Chatham Islands) Hāmuerā Koteriki, a Ngāti Mutunga rangatira, identified the strong role and influence of public agency in Māori affairs. By this stage of Ngāti Mutunga's colonial experiences, Koteriki was fully conversant with the role that public institutions such as the Native Land Court played in advancing the government's agenda. In remarking over the boundaries of land Koteriki argued "Nā te kōti i tatari" (it was the Court that had decided) the boundaries of his land rather than his own customary authority as rangatira.² In this way he ushered in an acknowledgement of public agency and its involvement in customary affairs.

This thesis deliberately adopts the term 'public agency' to target organisations like the Native Land Court. Public agency in this thesis refers to government funded Crown and Public organisations and representatives that engage Ngāti Mutunga to promote ideas of public interest and active citizenship. Currently, there is no single classification of public agency that is in usage nationally or internationally. For Ngāti Mutunga it is interaction with publicly funded colonial agencies (public agencies) which is of fundamental consideration in the arguments this thesis presents. A fuller account of public agency and its origins is contained in Chapter Seven.

From 1862, Ngāti Mutunga's observance of tikanga taurima was influenced by public agents and agencies such as the Native Land Court and other courts with extended jurisdictions over adoption legislation. New Zealand's advancement of colonial agendas

² CIMB 1:316.

utilised legislation and public agency to hasten its outcomes, including Māori land alienation, which was critical to increased European settlement. Prior to public agency intervention, tikanga taurima had been practised inter-generationally amongst Polynesian cultures (from where Māori had originated) for hundreds of years, as evidenced by the prevalence of kin adoption amongst Pacific and Oceanic cultures.³

Use of the word taurima in thesis

The word taurima is used as the dialectal preference for this thesis. It is in common usage with Ngāti Mutunga people and is equivalent to the more commonly known word whāngai. Both words denote the customary kin adoptive practice. This thesis employs the term taurima, except where direct quotes use alternative terms or where explanations of government programmes such as Mātua Whāngai make it more expedient to utilise whāngai in the text.

Tikanga taurima is a socially enhancing system of care which did not allow for property rights for children, nor for children's ownership by their taurima parents. A socially enhancing system means the custom promoted positive social interactions between whānau through childcare arrangements. The custom's intent was not driven by consideration of property rights that might arise from those arrangements. With the advent of legislation these ownership aspects changed irrevocably for tikanga taurima within Ngāti Mutunga, with legislation promoting a model of adoption in which property rights might be passed on. The idea of children with inheritance entitlements is an example of fundamental differences between Māori and European ideas of childcare, fostering, and adoption.

Thesis Aims

Ngāti Mutunga are a small iwi Māori primarily located in Northern Taranaki. Their secondary locations are on Wharekauri, a small group of islands 840km to the east of New Zealand, as well as around Wellington harbour. Ngāti Mutunga occupies an interesting place in New Zealand archival history. Interactions with Ngāti Mutunga people were chronicled in secondhand recollections from 1829 in newspaper reports and manuscripts, where, for example, the tribe was erroneously referred to as "Ngatimatuma".⁴ Ngāti Mutunga provides

³ Ivan Brady (ed.) (1976). *Transactions in Kinship. Adoption and Fosterage in Oceania*. Honolulu: The University Press of Hawaii.

⁴ For an example of this see "Sketches of Old New Zealand [By Hokioi] The First Regatta in Wellington Harbour 1829" published in the *Wanganui Chronicle*, Volume XVIII, Issue 2744, 8 May 1875 accessed at <https://paperspast.natlib.govt.nz/newspapers/WC18750508.2.6?query=Blenkinsopp> on 18 May 2017.

an opportunity to explore documentation and customary practice to analyse tikanga taurima over time. Ngāti Mutunga’s experiences continue to give rise to nationally significant dynamics, including contemporary social inconsistencies for tamariki taurima in twenty-first century Aotearoa.

The three aims of this thesis are: (1) to incorporate and collate Ngāti Mutunga experiences; (2) to inform and highlight social inconsistencies for taurima; and (3) to highlight the marginal legal status of taurima children. This information serves to provide a collective history of key people in Ngāti Mutunga and their lived experience as taurima and the manner in which they were treated through history. This information may also provide context for future public policy to halt the mistreatment of tikanga taurima relationships by public agencies.

This chapter explains the aims of this thesis and provides introductory narratives to each of the three indicated aims, my research methods and methodological approach to this thesis. Later chapters in the thesis further extrapolate and embellish details connected to the thesis aims. A tailored methodological approach based on Kaupapa Māori methodology has been created to cater for the unique nature of this study and Ngāti Mutunga’s diverse histories and realities. I have termed this adaptive approach noninga kumu, which is discussed below. Despite extensive investigation, I have discovered no other research that specifically focuses on taurima within Ngāti Mutunga and this is the contribution this thesis makes to academia.

Thesis aim one: to incorporate and collate Ngāti Mutunga experiences

Analysing tikanga taurima from a Ngāti Mutunga perspective contributes new material to academic literature. This thesis explores Ngāti Mutunga taurima experiences from 1820 to 2018 and extracts information from historical records, and interviews with Ngāti Mutunga people. This information challenges existing knowledge and attitudes amongst Māori and non-Māori regarding tikanga taurima. For example, some Māori people consider it an honour to raise another person’s child as their own and this is a strong customary driver for engaging the taurima practice. However, in Ngāti Mutunga’s experiences, taurima relationships have been, within recent generations, and continue to be, generated increasingly from negatively geared social circumstances such as family breakdowns, court interventions, and whānau interventions to remove children from vulnerable households.

This thesis explores six key periods of time for Ngāti Mutunga. These are: (1) inter-tribal warfare and Māori migrations in the early nineteenth century 1800-1830; (2) land

conflicts leading to wars in the 1860s; (3) mass land and resource confiscations; (4) temporary public agents 1880-1890, such as Compensation Courts, that sought to deal with repatriation of confiscated land; (5) contested land claims amongst Ngāti Mutunga themselves as evidenced in the Native Land Court Minute Books 1870-1930; and (6) legislated impacts on social treatment of taurima relationships in Ngāti Mutunga from 1909 to the present.

In researching this thesis, I appreciate and recognise my own internalised thought process relating to tikanga taurima. As a youth, my Ngāti Mutunga mother explained to me that an Aunt of mine was ‘adopted’ into our whānau, and that this was a permanent arrangement. It is only through the course of studying tikanga taurima that I have learned that customary taurima arrangements are neither ‘adoption’ nor ‘permanent’. Learning this has encouraged considered reflection regarding information gleaned from historical documents and also, from contemporary oral interviews with Ngāti Mutunga people.

Iwi identity for Ngāti Mutunga derives from its ancestral tribal estates at Urenui, North Taranaki. From approximately 1820, this iwi became transient, displaced and later a disorganised entity, a state that they are still trying to recover from.

Ngāti Mutunga’s dispersion across New Zealand dates from the musket wars of New Zealand’s post-contact period. One group of Ngāti Mutunga were taken as captives in the early 1830s by their Waikato and Taitokerau foes who entered Taranaki for a range of retributory reasons (explored later in Chapter Three). Some of the prisoners returned to Urenui later in the 1840s and 1850s, by which time another section of Ngāti Mutunga had already migrated to the Wellington region fearing retribution from Waikato. In 1835, this latter group left the Wellington region and migrated to Wharekauri. Despite each migration, a proportion of Ngāti Mutunga members remained at Urenui to maintain ahikā (occupational fire) for the eventual return of their people.

Disruptions to Ngāti Mutunga continued to occur as the colonisation of New Zealand ensued. In 1867 a large contingent of Ngāti Mutunga returned to Urenui from Wharekauri and Wellington following mass land confiscation by the Government.⁵ Upon their return Ngāti Mutunga discovered the government had given

⁵ Helen Riseborough (1989). Background papers for the Taranaki Raupatu claim, Massey University. Retrieved from [http://repository.digitalnz.org/system/uploads/record/attachment/501/background_papers_for_the_taranaki_raupatu_claim .pdf](http://repository.digitalnz.org/system/uploads/record/attachment/501/background_papers_for_the_taranaki_raupatu_claim.pdf) on 9 January 2018.

minimal land apportionments to a few individuals of Ngāti Mutunga, not the entire iwi. Customary forms of structural organisation such as hapū began to fade as functional operational units resulting in a stronger and singular Ngāti Mutunga identity. Despite this more unitary tribal identity, the whānau within the iwi and their rangatira remained independent.

By 1881, the majority of Ngāti Mutunga were again resident in Taranaki as they sought the repatriation of customary land confiscated by the Government in 1865. At this time also, the iwi were sympathetic supporters of two rangatira based at Parihaka, Te Whiti o Rongomai and Tohu Kākahi, who led resistance against land confiscations through peaceful protest. In response to their protests, government constabulary and military forces imprisoned many men and ultimately invaded Parihaka on 5 November 1881, resulting in the arrest of 636 men.⁶ These prisoners, including Ngāti Mutunga, were incarcerated and endured hard labour in squalid conditions at Lyttelton, Ripapa Island in Lyttelton harbour, Dunedin, and Hokitika.⁷ The relocation to these South Island districts further weakened Ngāti Mutunga's economic base in Taranaki, which was already depleted through previous warfare and migrations around New Zealand. Women and children became the predominant workforce in remaining Ngāti Mutunga communities while many of the captives taken from Parihaka died during their incarceration.⁸ Others who survived chose to relocate to Waikato, South Island or Wharekauri after incarceration causing further displacement of Ngāti Mutunga.

Intermarriage amongst other iwi also facilitated Ngāti Mutunga's permanent residence outside of their takiwā. Some Ngāti Mutunga people remained with the bones of those prisoners who had died in Dunedin, Rāpaki, and Hokitika in accordance with tikanga Māori. This further exacerbated structural disorganisation and disconnection for Ngāti Mutunga.

By 1900, the iwi were essentially landless in their original homeland of Northern Taranaki. Prior to confiscation in 1865 the Ngāti Mutunga takiwā in northern Taranaki consisted of 156,000 acres held according to Māori custom. After the

⁶ Ngāti Mutunga Claims Settlement Act preamble subsection (8). Retrieved from <http://www.legislation.govt.nz/act/public/2006/0061/1.0/whole.html> on 6 May 2017.

⁷ Bill Dacker (2012). Truths far greater than myths. *Otago Daily Times*. Retrieved from <http://www.odt.co.nz/opinion/opinion/221295/truths-far-greater-myths> on 17 May 2019.

⁸ *ibid*; Ngāti Mutunga Iwi Authority (2005). Ngāti Mutunga. Our Journey to a Crown Settlement Offer. Te Manu Korero special edition. June 2005. New Plymouth. p.8

Compensation Court hearings, only 9,900 acres were returned to Ngāti Mutunga individuals, now under Pākehā-defined tenure.⁹ While Ngāti Mutunga was apportioned large tracts of land in the Chatham Islands the land was held in individual title and quickly sold to non-Ngāti Mutunga people.¹⁰ The remaining Taranaki land in Ngāti Mutunga ownership quickly fell prey to multiple-owned title complications and succession issues, not to mention the threat of voluntary and forced sales through the Native Land Court (explored further in Chapter Three).

By 1939 and with the advent of World War II the proportion of Māori (including Ngāti Mutunga) living in cities rose sharply. Greater urbanisation occurred as Māori sought regular income in cities to raise their families. George Asher and David Naulls in their Maori Land Planning Paper gave the urban statistics for Māori in 1936 as 11.2% of the Māori population, rising to 19% in 1945, and 55.8% in 1966.¹¹ The proportion rose again to 68.2% in 1971 and 78.5% in 1981.¹² The legislation contributing to this increase was the Emergency Regulations Act 1939 (discussed in Chapter Three) that directed men and women (including Māori) ineligible or waiting for military enlistment to work in essential industries, often located in towns and cities. The Māori Affairs Department appointed six Māori welfare officers and they were located in “district manpower offices throughout the country who sorted out those already in work of national importance and those needed to fill vacancies.”¹³

The 1945 census confirmed that the increase in the number of Māori in manufacturing industries was due to the war.¹⁴ Within one generation Ngāti Mutunga had felt the full effects of proletarianisation.¹⁵ As their people moved to cities the land left behind was targetted by public interest advocates and government created groups such as Māori Land Boards who sought economic development of Māori land on

⁹ *ibid*, subsection (7)

¹⁰ Block order files for Kekerione, Matarae, Awapatiki, and Otonga blocks held at the Māori Land Court, Te Waipounamu District offices, Christchurch.

¹¹ George Asher, David Naulls (1987). *Maori Land: Planning Paper No.29*. Wellington: New Zealand Planning Council. p.43

¹² *ibid*.

¹³ Nancy Margaret Taylor (1986). *The Home Front*, VII, Wellington: Historical Publications Branch, Department of Internal Affairs. p.666

¹⁴ Urbanisation retrieved from <http://www.teara.govt.nz/en/te-maori-i-te-ohanga-maori-in-the-economy/page-6> on 6 May 2017.

¹⁵ The definition of proletarianise is to “Cause (a person or group) to become proletarian or working class.” Retrieved from Oxford Dictionaries online at <https://en.oxforddictionaries.com/definition/proletarianize> on 18 June 2018.

European terms. The Māori Land Boards facilitated alienation of Ngāti Mutunga land, independently of the owners, to non-Ngāti Mutunga people, such as through sales, and long-term leases. Māori Land Boards and their impacts are discussed further in Chapter Three.

The culmination of negative social impacts amongst Ngāti Mutunga affected the customary whānau structures which were further disrupted in urban settings. The government promoted individualism, which was integral to proletarianisation, through subsidised work schemes. This attraction towards income then increasingly reduced reliance upon and regard for customary behaviours, customs, and value bases.¹⁶ Prior to the war, Māori and European communities had predominantly lived apart. That Māori and Pākehā, for the first time since European settlement in New Zealand, were now living in close proximity to each other, where inter-cultural socialisation became more frequent, directly impacted tikanga taurima and attitudes surrounding adoption. In addition, most Government policies during this period further progressed colonial ideologies of the Europeanisation and assimilation of Māori people, which in turn, affected the socialisation between the different cultures.

Proletarianisation did not escape Ngāti Mutunga living in Wharekauri. Henry Grennell, a Ngāti Mutunga Te Aute College graduate and contemporary of Māui Pōmare and Te Rangi Hīroa, is an example of this trend. In 1919, after the conclusion of World War I, he moved his home from Wharekauri to Banks Peninsula. Grennell relinquished his large landholdings on Wharekauri to take up farming and a passenger/cargo marine ferry business operating between Lyttelton and Port Levy.¹⁷ He and his wife made a conscious decision to not speak Māori to their children and also to send them to Roman Catholic European schools in Christchurch.¹⁸ The decision to cease speaking te reo to their children was attributable in part to the corporal punishment the children often received for speaking te reo at school.¹⁹ The Europeanisation of New Zealand culture and its insistence on English language encouraged English language in the Grennell home and subsequent European schooling

¹⁶ Anonymous interview held at Urenui 6 February 2018 with Ngāti Mutunga participant.

¹⁷ 'Port Levy Man Looks Back' (1982) Newspaper clipping from an unidentified Christchurch newspaper that interviewed Henry Grennell after his 95th birthday celebrations. Held in the author's private collection.

¹⁸ Oral history retained by author. Evidenced by only two Māori speakers amongst Henry Grennell's descendants today.

¹⁹ Oral history retold by Airini Payne, granddaughter of Henry Grennell. 1989.

decisions for their children. Economic advantage for the Grennell children, through the use of English language and customs, was considered advantageous in New Zealand at that time. This dominant language dynamic is not unique to New Zealand. For example, Adaobi Tricia Nwaubani's recollects the reasons why his parents insisted on an English-speaking household in Nigeria rather than in their mother tongue of Igbo.

None of us children spoke Igbo, our local language. Unlike the majority of their contemporaries in our hometown, my parents had chosen to speak only English to their children. Guests in our home adjusted to the fact that we were an English-speaking household, with varying degrees of success. Our helps were also encouraged to speak English. Many arrived from their remote villages unable to utter a single word of the foreign tongue, but as the weeks rolled by, they soon began to string complete sentences together with less contortion of their faces. My parents also spoke to each other in English – never mind that they had grown up speaking Igbo with their families. On the rare occasion my father and mother spoke Igbo to each other, it was a clear sign that they were conducting a conversation in which the children were not supposed to participate.²⁰

Nwaubani's recollections also endorsed the reasoning for choosing English as a common language was for competitive advantage where one language would not dominate the other, citing Singapore's first Prime Minister's efforts to replace Chinese with English:

Within a few decades of independence from Britain in 1965, Singapore had risen from poverty and disorder to become an economic powerhouse. The country's transformation under Lee's guidance is often described as dramatic.²¹

It is likely, in the wake of resocialisation ideology from Henry Grennell's education at Te Aute College (discussed in Chapter Three), and also as a self-employed businessman, that he viewed English language in the same manner. So successful was

²⁰ Adaopi Tricia Nwaubani (2019). 'We spoke English to set ourselves apart': how I rediscovered my mother tongue' accessed at <https://www.theguardian.com/news/2019/mar/14/we-spoke-english-to-set-ourselves-apart-nigeria-childhood-igbo-language> on 7 April 2019.

²¹ *ibid.*

the decision to speak only English that within one generation of his descendants, te reo Māori was no longer the language of communication in Grennell's whānau.

This impact on te reo was replicated amongst a majority of Ngāti Mutunga whānau where te reo Māori statistics for the iwi today now reflect two distinct groups: one group in Taranaki and the other in Wharekauri. For Taranaki Ngāti Mutunga, 18.7% of their members self-categorise as being able to hold a conversation in te reo and English, with only 0.7% of their members stating that they speak only Māori.²² For Wharekauri Ngāti Mutunga the statistics are 18.5% and 0.5% respectively. Therefore, less than 20% of Ngāti Mutunga people are able to hold a conversation in te reo Māori.²³ This statistic is one hundred years after Grennell moved his whānau to Banks Peninsula. Although Maui Pōmare, Apirana Ngata, and Te Rangi Hīroa advocated for the adoption and adaption to western styled democracy including “embracing Pakeha values and beliefs”,²⁴ they probably did not consider the negatives on te reo Māori, as te reo Māori was still a vibrant living language amongst Māori and Ngāti Mutunga communities. In other iwi in New Zealand overall there are 21.3% of Māori who can speak te reo. Ngāti Mutunga therefore falls under the national indicator. Other iwi such as Ngāi Tūhoe, who retained more land and experienced comparatively less pre-war migration than Ngāti Mutunga, has 35.2% of their people who speak te reo. Ngāti Porou, who has a considerably different colonial experience, and experienced little pre-war migration, have 24.1% of their people who can speak te reo. Waikato, despite their huge land confiscations and displacement, resisted and through strong tribal cohesion led by the Kīngitanga, has 29.3% of their people who can speak te reo. By statistical inference then Ngāti Mutunga's current te reo statistics can be related to their population size, displacements, migrations, and educational colonisation.

The loss of te reo amongst Ngāti Mutunga also contributed to the loss of understanding of crucial cultural concepts including those associated with tikanga taurima. An example of loss is the use of the word taurima to explain the custom which

²² ‘Ngāti Mutunga (Taranaki) Languages spoken’. Retrieved from <https://tpk.idnz.co.nz/tpk/language?IwiID=430&es=5&BMMAoriDescentID=0> on 14 May 2018.

²³ ‘Ngāti Mutunga (Wharekauri) Languages spoken’. Retrieved from <https://tpk.idnz.co.nz/tpk/language?es=5&BMMAoriDescentID=0&IwiID=435> on 14 May 2018,

²⁴ Mason Durie (2005). *Indigenous Higher Education Maori Experience in New Zealand: An address to the Australian Indigenous Higher Education Advisory Council*. Palmerston North: Massey University. p.3

has prevailed in the iwi despite language loss. It became easier to describe the custom as adoption, and thereby become acculturated to European ideas of adoption.

Thesis aim two: to inform policy and highlight social inconsistencies

From a policy context, taurima in New Zealand are impacted by governmental, social, and educational policy. It is incumbent on legislative and policy framework writers, academics, iwi and whānau to demand reflection, participation, accountability, and re-alignment between customary practice and public service provision. In conducting this research for Ngāti Mutunga I consider it would be beneficial for other iwi and whānau to re-examine and extend this study from their own perspectives. In particular, other iwi may also share the different types of social inconsistencies encountered by Ngāti Mutunga. Examples of social inconsistencies include health, educational and internal affairs situations. A brief example which is explored later is the creation of a National Health Number (NHN) to access health services, which requires notification from a ‘parent’. It does not require that parent to be the natural parent nor the taurima parent. This NHN can include a taurima child’s name, which may differ from the child’s ‘legal’ name on their birth certificate. This is due to the NHN number being assigned at birth by hospital staff and prior to the generation of a birth certificate.

Subsequently when a parent enrolls their taurima child into a primary school that child must be enrolled under their legal name as outlined in their birth certificate. Problems arise when the taurima child does not recognise or respond to their ‘legal’ name nor has the child formed an identity around their birth name. My own son was raised to respond to his taurima name which differed from his legal name. This small important detail led to people, particularly those who do not understand tikanga taurima, proffering negatively geared statements about him and towards him. My son and I often encounter statements from other people that include: “you can’t call him that” or “that is not his name” or “Let’s just call him....”. These attitudes immediately restrict the child by virtue of being ‘othered’ or not fitting into the ‘normal’ way of doing things. Policy and social inconsistencies such as the example listed above are explored fully in Chapter Eight to meet the outcomes of this thesis aim.

Thesis aim three: to highlight the marginal legal status of taurima children

Another issue faced by taurima children today is their legal status in New Zealand, which is marginal unless accompanied by other legal endorsements such as adoption orders or

parental/guardianship orders granted by a New Zealand Family Court. When these endorsements occur, the taurima relationship ceases to be a purely customary relationship, transformed into a foster or adoptive relationship, quite distinct from taurima. Examples of this kind of marginalisation are outlined in Chapter Eight.

A lack of understanding in society generally, and also by public servants in respect of taurima relationships, contributes significantly to marginalisation of taurima children's status. This is most readily seen in inheritance practices and rules, including where taurima are treated differently with regards to Māori land and general assets. Under the Te Ture Whenua Māori Act 1993, provision can be made for all three of my children (biological and taurima) to make application to succeed my Māori freehold land interests. From a tikanga perspective my preference is that only my biological child succeed those interests; primarily because my taurima children retain their succession rights to their biological parents' rights. This opportunity to succeed more than once provides special treatment for my taurima children who can succeed both their natural parents and taurima parents. This has eventuated in many recorded cases in the Native [Māori] Land Court. High profile Ngāti Mutunga examples are included in the case studies in Chapters Four to Six.

Conversely, taurima children have no legal status in the succession of general land, chattels and assets. The Family Protection Act 1955, which deals with these assets, does not allow for my taurima children to succeed me unless statutory inclusion of them is made, such as in a last will and testament, or formal adoption orders. This thesis explores further details and examples of inconsistencies that exist in Chapter Eight.

The three aims of this thesis demonstrate that the Ngāti Mutunga experiences of taurima relationships have contributed to the social misunderstandings of the taurima custom and the resulting inequities still experienced today. This experience, coupled with the legally marginalised status of taurima children generally, will prove that the impact on taurima relationships by public agencies has impacted the way in which Ngāti Mutunga observe the taurima practice today, as evidenced through interviews with Ngāti Mutunga people in taurima relationships which is explored more in Chapter Eight.

Methodological Approach

Historiography?

In determining an academic methodology for this study, I considered historiography initially, before deciding not to use it as my sole methodological approach. Historiography is described

by the Oxford English Dictionary as “The study of the writing of history and of written histories.”²⁵ Prior to colonisation in New Zealand, examples of written histories included rock drawings, wooden carvings, and other artistic creations. In the case of the tuhituhi tawhito (rock drawings) in the South Island they are estimated to be approximately 700 years old but stemming from a tradition that is 60,000 years old throughout the world.²⁶ As such Māori (including Ngāti Mutunga) histories were maintained by oral, artistic and geographical nomenclature. Colonising motives and perspectives have predominated within much of New Zealand’s written history. Through the colonisation of New Zealand new additions to existing historiography emerged amongst early colonists and subsequent ethnographers such as Arthur Thompson, J.A. Wylde, George Grey, John White, James Stack, and Elsdon Best.²⁷ Their main focus was on the recording of Māori subjects, people, and their customs. The historiographical contributions made by these early amateur historians in New Zealand extended Eurocentric narratives and observations primarily for European audiences.²⁸ Grey’s and White’s contributions can also be argued to have included edited and translated collections of Māori historical narratives written by Māori scholars in a style appropriate to oral traditions. These works indicate a willingness to extend historiographical tradition to be more inclusive of oral traditions. While these works are valuable historical contributions they are not particularly significant to the Ngāti Mutunga or taurima foci of this study.

“Public” history is terminology used to describe government sponsored history works which increased in the early stages of the twentieth century.²⁹ From 1910 to the 1950s government sponsored historical literature added to the historiographical accounts in New Zealand by authors such as James Cowan, Airini Elizabeth Woodhouse, Robert McNab, and Keith Sinclair.³⁰

²⁵ Historiography definition retrieved from <https://en.oxforddictionaries.com/definition/historiography> on 21 May 2018.

²⁶ Te Ana Māori Rock Art retrieved from <https://www.teana.co.nz/about-us/> on 18 June 2018.

²⁷ Examples of early works include: Arthur S Thompson (1859). *The Story of New Zealand: Past and Present – Savage and Civilized*. London: J.Murray; J.A. Wylde (1868). *Geography and History of New Zealand*, Christchurch: Ward & Reeves; George Grey (1929). *Polynesian mythology & ancient traditional history of the New Zealanders : as furnished by their priests and chiefs*, Auckland: H.Brett; John White (1887). *The Ancient history of the Maori: his mythology and traditions (six volumes)*, Wellington: Government Printer; James Stack (1898). *South Island Maoris a sketch of their history and legendary lore*, Christchurch: Whitcome & Tombs Ltd; Elsdon Best (1922). *Spiritual and Mental Concepts of the Maori*, Wellington: Dominion Museum.

²⁸ Bronwyn Dalley & Jock Phillips (Eds.). (2001). *Going Public: The Changing Face of New Zealand History*. Auckland: Auckland University Press. p.9.

²⁹ *ibid.*

³⁰ James Cowan (1922). *The New Zealand Wars: a history of the Maori campaigns and the pioneering period*. Vol.1, Wellington: Government Printer; Airini Elizabeth Woodhouse (1937), *George Rhodes of the Levels and*

As the later stages of the twentieth century emerged in the 1960s, an ascendancy of academic historical literature appeared in New Zealand. The *New Zealand Journal of History*, established in 1967 was used to host historical discussion, publications and serious reviews.³¹ The discussions were led by an increase in the number of university teachers who taught newly formed history classes at tertiary level. So much so that from the “1960s to the 1980s self-directed historians, based in universities, were the moving force in New Zealand historiography.”³²

In the twenty first century, New Zealand historiography has been positively impacted by the Māori protest movement and the establishment of the Waitangi Tribunal in 1975 to investigate Māori historical claims and grievances. Protests and evidential requirements of the tribunal required historical information for their operation. Māori and Pākehā historians have written innumerable reports for these purposes, and Pākehā authors like Dick Scott, Michael King, Anne Salmond, Claudia Orange, Judith Binney and James Belich have contributed significant books on aspects of Māori history in New Zealand.³³

Māori historiography?

Māori historiography, as an extension of the historiography discussed above, is a methodology that also includes an additional lens of Māori focussed narratives. This additional narrative focus extends upon the primarily Eurocentric narratives of traditional historiographical accounts in New Zealand. Examples of Pākehā authors have been given above, and those examples can be strongly complemented by ethnically Māori historians such as Ranginui Walker and Aroha Harris.³⁴

Māori historiography relies upon the written emphasis inherent in historiography. Therefore, any new publications arising from the documentary analysis will still be largely

His Brothers: Early Settlers of New Zealand: Particularly the Story of the Founding of the Levels, the First Sheep Station in South Canterbury. Christchurch: Whitcombe & Tombs Ltd; Robert McNab (1913). *The old whaling days: a history of southern New Zealand from 1830 to 1840.* Christchurch: Whitcombe and Tombs Ltd; Keith Sinclair (1950). *The Maori land league: an examination into the source of a New Zealand myth.* Auckland: Auckland University College.

³¹ Dalley & Phillips, *ibid*, p.10.

³² *ibid*.

³³ Dick Scott (1975). *Ask that mountain: The story of Parihaka.* Wellington: Raupo; Michael King (1977). *Te Pūea, a biography*, Auckland: Hodder and Stoughton; Anne Salmond (1975). *Hui: A study of Maori ceremonial gatherings*, Wellington: Taylor & Francis; Claudia Orange (2015). *The Treaty of Waitangi.* Wellington: Bridget Williams Books; Judith Binney (2009). *Encircled lands: Te Urewera, 1820-1921.* Wellington: Bridget Williams Books; James Belich (2001) *Paradise Reforged: A History of the New Zealanders from the 1880s to the Year 2000.* Honolulu: University of Hawaii Press.

³⁴ Ranginui Walker (1990). *Ka whawhai tonu matou.* Auckland: Penguin Books; Aroha Harris (2004). *Hīkoi: Forty years of Māori protest.* Wellington: Huia Publishers.

predicated upon the documentary evidence available which reanalyses existing documentation and adds new opinions to academic literature. In this thesis, written documentation is not the sole source of inquiry but it remains an important part. For example, later written records by Māori in archival records held by the Native Land Court, Archives New Zealand, and also within unpublished whānau records, are included extensively in the scope of this thesis.

New Zealand's relatively short historiography ushered in numerous amateur observationist publications which reduced Māori to "something different, less, strange, barbaric or savage" in order to satisfy and explain to their primarily European audiences.³⁵ Edward Said, a founder of the academic field of post-colonial studies, described this approach to observationist writing by arguing that:

the Eurocentric culture relentlessly codified and observed everything about the non-European or presumably peripheral world, in so thorough and detailed a manner as to leave no item untouched, no culture unstudied, no people and land unclaimed.³⁶

This kind of othering of Māori people and their histories has produced a rich source of literature (academic and amateur) that runs the risk of being quoted as bona fide historical fact without corroboration. For Ngāti Mutunga in particular, this kind of othering has resulted in a loss of identity within the historical literature, or a subsumption into a wider identity of Ngātiawa or Te Ātiawa (discussed in Chapter Two).

Suzanne Pitama and Fiona Cram consider that this type of research is not unusual from a paradigm that encourages scientific research methods and researchers' inherent right to study, extract and write about people for their own benefit.³⁷ Russell Bishop considers that Māori knowledge has been minimized and misrepresented by "simplifying, conglomerating

³⁵ Dione Payne (2014). *ibid*, p.42. For examples, see Keith Sinclair (1957). *The Origins of the Māori Wars*, Wellington: New Zealand University Press. pp.6-8; F.A Carrington, Letter to Governor Gore Brown, AJHR, Session I, E-No.3e, 21 March 1859, p.2; Gore Browne, Letter to Duke of Newcastle, AJHR, Session I, E-No.6a, 20 September 1859, p.3.

³⁶ Edward Said (1990). 'Yeats and Decolonisation' in Seamus Deane, ed., *Nationalism, Colonialism and Literature*, Minneapolis: University of Minnesota Press, p.72.

³⁷ Suzanne Pitama (2013). 'As natural as learning pathology': *The design, implementation and impact of Indigenous health curricula within medical schools*, PhD Thesis, Dunedin: University of Otago, p.65; Fiona Cram (2001). 'Rangahau Māori: Tona tika, tona pono – the validity and integrity of Māori research' in M Tolich, ed., *Research Ethics in Aotearoa New Zealand: concepts, practices, critique*, Auckland: Longman.

and commodifying Māori knowledge for “consumption” by the colonisers”.³⁸ Therefore, iwi or hapū history is seldom accepted as valid in a historiographical sense as a western lens and Euro-centric contexts are applied to such subjects which are fundamentally different.³⁹

Historians like Aroha Harris contest this space for New Zealand history. Aroha Harris argues that:

Māori historians are involved more and more in writing histories that help Māori escape the past into which they have found themselves written; the dominant historical discourse, which tends to locate Māori in the context of British colonialism and expansionism.⁴⁰

Iwi-centricity has been considered by Harris as Māori contributing to their own histories. Although Māori history cannot escape a colonial past, their starting points are from the centre of their iwi. This is history as seen from their own space, which allows Māori historians to redefine their historical past.⁴¹ This is an approach which has synergy with this thesis however as oral information, and lived experiences are also included in this study there needed to be an extension of my methodological approach.

Kaupapa Māori, Maoritanga, biculturalism and Taha Māori

Kaupapa Māori is a methodological framework that is able to provide the extension to the Māori historiography discussed above. Kaupapa Māori is inclusive of insider researcher approaches. The importance of this insider researcher inclusion became clear following the delivery of my paper at the Australian and New Zealand Law and History Society conference in Perth, 2016. One question from those listening enquired into my research objectivity because of my insider’s approach. Professor David Williams (presenting in the same session)

³⁸ Russell Bishop (1998). Freeing ourselves from neo-colonial domination in research: A Māori approach to creating knowledge, *International Journal of Qualitative Studies in Education*, 11, 2, p.200.

³⁹ Linda Smith (1999). Decolonizing Methodologies: Research and Indigenous Peoples. Dunedin: University of Otago Press. pp.34-5, 55; Eddie Durie (1998). 'Ethics and Values in Maori Research', *He Kupenga Korero: A Journal of Maori Studies*, 4, 1, p.62. Joe Pere (1991). 'Hitori Māori' in C Davis and P Lineham, eds., *The Future of the Past: Themes in New Zealand History*, Palmerston North: Massey University Press, 1991, p.29, 35-36; Tipene O'Regan (2001). 'Old Myths and New Politics: Some contemporary uses of traditional history', in Judith Binney, ed., *The Shaping of History: Essays from the New Zealand Journal of History*, Wellington: Bridget Williams Books, p.20; Michael Belgrave (2002). 'The Tribunal and the past: Taking a roundabout path to a new history' in Michael Belgrave, ed., *Waitangi Revisited: Perspectives on the Treaty of Waitangi*, Auckland: Oxford Unity Press, p.122; Edward Said (1993). *Culture and Imperialism*, New York: Alfred A. Knopf, pp.xii-xiii.

⁴⁰ Aroha Harris (2007). *Dancing with the state: Māori creative energy and policies of integration: 1945-1967*, PhD Thesis, Auckland: University of Auckland, pp.24-25.

⁴¹ Harris, *ibid*, p.25.

supported the strength of Kaupapa Māori as an academically bona fide research methodology for this type of subject and research. I had assumed that Kaupapa Māori was a well-known and accepted methodological framework internationally, but a number of the attendees, not from New Zealand, were unfamiliar with this approach. Later, when reading an address by Moana Jackson I learned that this type of questioning was not isolated. Jackson argued that:

The constant need to justify the legitimacy of the way we see the world. That is a battle which has been waged I believe with tremendous courage and foresight by a number of people. It is part of a greater struggle against the whole colonizing ethic which actually sees little, if any, value not just in our [Māori] intellectual tradition but in our very existence as well.⁴²

Kaupapa Māori creates a methodological space that legitimizes Māori knowledge systems and supports more inclusive outcomes for the communities it serves. It also follows similar discourses known as Māoritanga (in the 1960s and 1970s) and biculturalism/taha Māori (in the 1980s and 1990s).

In 1975, John Rangihau, an eminent Tūhoe Kaumātua, made the following comments about Māoritanga as a concept. He argued that:

Although these feelings are Maori, for me they are my Tuhoetanga rather than my Maoritanga. My being Maori is absolutely dependent on my history as a Tuhoe person as against being a Maori person. It seems to me there is no such thing as Maoritanga because Maoritanga is an all inclusive term which embraces all Maoris [sic]. And there are so many aspects about every tribal person. Each tribe has its own history. And it is not a history that can be shared among others. How can I share with the history of Ngati Porou, or Te Arawa, or Waikato because I am not of those people? I am a Tuhoe person and all I can share is Tuhoe history. To me Tuhoetanga means that I do the things that are meaningful to Tuhoe. But I cannot do the things that are meaningful to other people.⁴³

⁴² Moana Jackson (2011). *Kei tua o te pae: Hui Proceedings. The Challenges of Kaupapa Māori Research in the 21st century. Pipitea Marae, Wellington. 5-6 May 2011.* Wellington: New Zealand Council for Educational Research. p.72.

⁴³ John Rangihau (1975). in Michael King (1975) *Te Ao Hurihuri: Aspects of Maoritanga.* Wellington: Raupo-Penguin Group. pp.189-190; Joe Pere (1991). Hitori Maori in C.Davis, & P. Linham, (eds) *The future of the Past. Themes in New Zealand History.* Palmerston North: The Department of History. Massey University. pp.30-31.

In this way, Rangihau discounted the pan-Māori nature of Māoritanga, which he reinforced by arguing: “I can’t go around saying because I’m Maori [sic] that Maoritanga means this and all Maori have to follow me. That’s a lot of hooey. I have a faint suspicion that Maoritanga is a term coined by Pākehā to bring the tribes together.”⁴⁴

Rangihau’s opinion and those of other iwi kaumātua led to the depopularisation of Māoritanga as a contemporary concept for analysis of Māori issues and themes. Rangihau’s words remain true when considering the use of the word “Māori” whether it be for Māori history or Kaupapa Māori. The inherent meaning and connotations associated with the word “Māori” imply an all-of-Māori approach. This approach does not sit naturally with subjects that are hapū or iwi focused, which in and of themselves run the same risks of generalisation of specific hapū or iwi interests to the detriment of others.

In 1986, Graham Smith edited a “collection of papers reflecting Māori opinions in regard to TAHA MAORI [sic] ideology and philosophy”.⁴⁵ In the introduction to this collection, Smith argues that:

Taha Maori is the Maori dimension or literally the Maori side. In the education process, Taha Maori is the inclusion of aspects of Maori language and culture in the philosophy, the organization and the content of the school...Aspects of Maori language and culture should be incorporated into the total life of the school – into its curriculum, buildings, grounds, attitudes, organization. It should be a normal part of the school climate with which all pupils and staff should feel comfortable and at ease.”⁴⁶

Ranginui Walker in the same collection of papers notes that the rural-urban post-war shift by Māori meant that 71% of Māori children were being educated in public rather than Māori schools by 1958.⁴⁷ This influx of Māori children into the public school system created professional issues for employed staff, and educational outcome issues for Māori who were confronted with teachers not of their culture nor trained in their learning pedagogies. Over subsequent years, Māori teacher training began. The Māori quota for teacher training allowed for over 400 Māori men and women to enter into the teaching profession before the quota

⁴⁴ Rangihau, *ibid*, p.190.

⁴⁵ Graham Smith (1986). ed. *Nga Kete Waananga: Te Kete Tuatahi a collection of papers reflecting Maori opinions in regards to Taha Maori ideology and philosophy*. Auckland: A reader compiled for the use of staff and trainees at the Auckland College of Education by the Maori Studies Department. Cover page.

⁴⁶ *ibid*, introduction page.

⁴⁷ Ranginui Walker (1986). *The Maori Response to Education*. In G. Smith, *ibid*, p.2

was abolished in 1969.⁴⁸ Walker asserts that it was these teachers that increased the teaching content of taha Māori in social studies classes. Linda Smith further argued that: “Taha Maori is about a different curriculum and a different pedagogical relationship”.⁴⁹ A pedagogically transformative opportunity was identified by a number of the authors in the collection Ngā Kete Wānanga papers. Taha Māori and changing New Zealand secondary education delivery enabled transformation to better reflect Māori values, and practices. Graham Smith in his own article about Taha Māori contends that:

Taha Maori further entrenches the Pakeha position of social cultural and political privilege within New Zealand education. It is argued that Taha Maori is an instrument which at one level of influence is perpetuating the status quo within New Zealand schools and thereby maintaining the position of Pakeha dominance in relation to the control of education.⁵⁰

In this way Smith positions Taha Māori as a response to the dominant Pākehā culture in existence in New Zealand secondary education in the 1980s. As such, Taha Māori could not be considered a Māori driven pedagogy, but rather a pedagogy driven to meet a Pākehā and governmental need. Smith argued that “taha Maori rationale has been contrived in statements that hold appeal for the dominant Pakeha majority; this is because Taha Maori is primarily concerned with the education of Pakeha”.⁵¹

Therefore, Māoritanga and Taha Māori (like the examples above) are governmental policies to assist hastened colonisation and acculturation of Māori people in European paradigms. Toon van Meijl considered that “the concept of Maoritanga is based on an objectified and essentialized conception of Maori traditional customs”. This objectification and essentialisation van Meijl attributes to the members of the Te Aute College Students Association in 1898, which was to become the precursor to the Young Māori Party, amongst whom were Āpirana Ngata, Tūtere Wī Repa, Rēweti Kōhere, and three Ngāti Mutunga leaders, Māui Pōmare, Te Rangi Hīroa (Sir Peter Buck) and Edward Pohura Ellison.⁵² Van Meijl asserts that it was James Carroll (Sir Turi Carroll) who in 1920 coined the phrase Māoritanga. Carroll is quoted as saying “Kia mau ki tō koutou Māoritanga. Hold fast to your

⁴⁸ *ibid.*

⁴⁹ *ibid.*, p.7.

⁵⁰ Graham Smith (1985). Taha Maori: A Pakeha Privilege. In G. Smith, (1986), *ibid.*, p.1.

⁵¹ *ibid.*, p.10.

⁵² Toon van Meijl (1996). Historicising Maoritanga: Colonial Ethnography and the Reification of Maori Traditions, *Journal of the Polynesian Society*, 105, 3 (1996). p.331.

Maorihood”.⁵³ The term Māoritanga then became popularized as a non-tribal and pan-Māori expression of holding on to Māori culture and practice as a source of pride.

Biculturalism also had its genesis in the policies advocated by the Young Māori Party.⁵⁴ Biculturalism became the policy mechanism by which its advocates encouraged Māori to undertake Pākehā education and economic development but to also retain their cultural distinction. Biculturalism did not mature as a political policy until the 1980s. Up until the 1962 Hunn Report, assimilation, monolingualism, and monoculturalism remained government imperatives. Every aspect of assimilation and eurocentric changes were to be undertaken by Māori towards European ways of being.⁵⁵ In the 1970s, policy evolved into “integration” of Māori into European society as a result of the Hunn Report, and perhaps as a result of the Young Māori Leaders Conference outlined below.⁵⁶

Aroha Harris recounts the convening of a Young Māori Leaders Conference at Auckland University in 1970. This particular conference produced a report for government submission which contained amongst its chief concerns “the preservation of te reo me ōna tikanga and fostering understanding and respect for Māori and Māori culture amongst Pākehā.”⁵⁷ By the 1970s, Māori people who were by now largely urbanized and marginalized in many of New Zealand’s main centres began to experience heightened levels of racism and unprecedented responses were then organized. Of particular note during this time is an activist group of young and educated Māori in Auckland, named Ngā Tamatoa. Their group grew out of the energy harnessed through the 1970 Young Māori Leaders Conference mentioned above.⁵⁸ Ngā Tamatoa in association with the Te Reo Māori society organized events such as the 1972 petition to government to recognize the Māori language as a national language of New Zealand. This movement gained more strength following the disruption of the Auckland University’s annual haka party by non-Māori students which made a parody of this part of Māori culture.

⁵³ *ibid*, p.335.

⁵⁴ *ibid*, p.331.

⁵⁵ David Robert Thomas, & Linda Waimarie Nikora (1992). From assimilation to biculturalism: Changing patterns in Maori-Pakeha relationships. Chapter 15. In David Robert Thomas & Arthur Veno (Eds.), *Community Psychology and Social Change: Australian and New Zealand perspectives*. Palmerston North: Dunmore. p.3.

⁵⁶ John M. Booth, & Jack Kent Hunn, (1962). *Integration of Maori and Pakeha (Special Studies No. 1)*. Wellington: Department of Māori Affairs.

⁵⁷ Aroha Harris (2004) *Hikoi: forty years of Māori protest*. Huia Publishers. p.44.

⁵⁸ *ibid*, p.48.

The protest movement continued into the 1980s with the 1981 Rugby Springbok Tour. International protests against the apartheid system in South Africa led to sporting boycotts in other parts of the world. By allowing the South African rugby tour to proceed to New Zealand the government positioned itself in condoning South Africa's practices. This is what led to large and localized protests in New Zealand. This protest followed after other significant movements concerning: the te reo Māori petition (1972), Māori land loss hikoi to Wellington (1975), Bastion Point's repatriation to Ngāti Whātua (1977-78), the fight for the repatriation of the Raglan golf course to tangata whenua (1978 onwards).⁵⁹ The rise in appreciation of taha Māori, and Māoritanga now took an ideological place in the social and academic arenas of New Zealand society.

Linda Tuhiwai Smith, and also her husband Graham Smith, two University of Auckland academics, completed their doctoral theses in 1996 and 1997 respectively,⁶⁰ which gave rise to further published articulations of contemporary Kaupapa Māori methodologies. Linda Smith's *Decolonising Methodologies* has become a cornerstone text in the articulation of Kaupapa Māori for academics. The popularity of the methodology was such that it found application and relevance outside of purely academic realms. Leonie Pihama argued in 2002 that:

.....kaupapa Māori is applied across a wide range of sites both inside and outside education. Through the writings of the Auckland Māori academics that intellectual validity of Kaupapa Māori has been established as a bona fide theory of transformation.⁶¹

Kaupapa Māori as an academic methodology is also an evolving framework. Linda Smith presented a keynote address at the Kei Tua o Te Pae Hui in 2011, where she argued that Kaupapa Māori research is:

...a plan; it's a programme; it's an approach; it's a way of being; it's a way of knowing; it's a way of seeing; it's a way of making meaning; it's a way of being Māori; it's a way of thinking; it's a thought process; it's a practice; it's a set of things

⁵⁹ *ibid*; Walker (2004) *ibid*.

⁶⁰ Linda Smith (1996). *Ngā aho o te kakahu matauranga : the multiple layers of struggle by Maori in education*. Unpublished Doctoral Thesis. Auckland: University of Auckland; Graham Smith (1997). *The development of kaupapa Maori: theory and praxis*. Unpublished Doctoral Thesis. Auckland: University of Auckland;

⁶¹ Leonie Pihama, Fiona Cram, Shayne Walker (2002). Creating methodological space: A literature Review of Kaupapa Māori Research. *Canadian Journal of Native Education*.p.31.

you want to do. It is a kaupapa and that's why I think it is bigger than a methodology.⁶²

Fiona Cram has also incorporated inherent Māori cultural values in academic writing and has used these to demonstrate how the Māori world view is located within kaupapa Māori.⁶³

These cultural values are explored below with corresponding narratives demonstrating how this research topic is inclusive of these values.

A respect for people

Cram emphasises the need to allow people to define their own space and to meet on their own terms.⁶⁴ This can be considered to be inclusive of aroha as a key cultural value in tikanga Māori that includes respect for people. Aroha ki te tangata (love and respect for people) is the ability to respect the needs of the community with whom your research project is involved. In my professional career I have worked within Māori values-based organisations that utilize Māori customs and practice to guide themselves. This is a fundamentally privileged place from which to operate and assumes that the people involved in the organisation have high levels of competency in Māori values, their practice, and implementation.

Values are aspirational rather than an expression of the all-encompassing organisational operation. Similarly, Kaupapa Māori research can be considered aspirational in providing opportunities for participation in Māori-values based research. If the researchers or the research participants are not currently conversant in these values, then it is incumbent on the researcher to ensure there is the opportunity for personal development in this space.

Aroha is about having compassion for people who are culturally distanced from the 'privileged' Māori cultural base but still important research participants. Clive Barlow argues that "a person who has aroha for another expresses genuine concern towards them and acts with their welfare in mind no matter what their state of health or wealth".⁶⁵ Aroha is necessary with my research participants, who are products of intergenerational tikanga taurima arrangements within Ngāti Mutunga. Externally, their appearances and physical

⁶² Linda Smith (2011). Opening keynote: Story-ing the Development of Kaupapa Māori – A Review of sorts, *Kei Tua o te Pae: The Challenges of Kaupapa Māori Research in the 21st Century* Wellington, New Zealand Council for Educational Research, Pipitea Marae, Wellington, 5-6 May 2011, Wellington: New Zealand Council for Educational Research. p.10.

⁶³ Fiona Cram (2001). Rangahau Maori: Tona tika, tonono--the validity and integrity of Maori research. in M. Tolich (ed.) *Research Ethics in Aotearoa New Zealand*, Auckland: Pearson Education., pp.42-50.

⁶⁴ *ibid*, p.42.

⁶⁵ Cleve Barlow (2009). *Tikanga Whakaaro: Key concepts in Māori culture*. Auckland: Oxford University Press. p.8.

attributes (e.g. white skin), geographical locations (e.g. outside of NZ), and daily practices (e.g. no Ngāti Mutunga behavioral characteristics, speak another language apart from Ngāti Mutunga reo) would not appear to be inclusive of a Ngāti Mutunga identity. Some of the research participants chose to remain anonymous as a condition of their participation. Respecting that decision was crucial in the ongoing interaction and relationship with these people and the inherent nature of aroha ki te tangata.

He kanohi kitea

Linda Smith describes kanohi kitea as conveying the importance of meeting people face to face. Smith argues that:

...showing your face, turning up at important cultural events – cements your membership within a community in an ongoing way and is part of how one's credibility is continually developed and maintained.⁶⁶

Cram supports Smith's assertion by quoting a well known whakataukī (proverb) amongst Māori people:

'He reo e rangona, engari, he kanohi' (a voice may be heard but a face needs to be seen). An important part of any research process is actually fronting up, face-to-face to the community where the research is being conducted. This might happen, for example, in an office, at a school or on a marae. It is an essential part of the 'ritual of first encounter' described above and is one signal that the researchers are willing to cross that space between researchers and researched.⁶⁷

Meeting with people face-to-face allows for interpersonal communication inclusive of all aspects of communication, verbal and non-verbal. Kanohi kitea allows an interaction to occur with the researched group(s) prior to actual research beginning. For example, initial discussion about this study occurred at informal whānau gatherings, or, by spontaneous one-on-one conversations. These interactions allowed potential research participants to offer their own experiences without any prompting owing to their own interest in the subject. These initial engagements allowed me to invite them formally into research participation at a later time. Background information and consent forms could then be forwarded to them. Once the rapport was built informally a stronger engagement in research eventuated.

⁶⁶ Smith, *ibid*, p.15.

⁶⁷ Cram, *ibid*, p.43.

In the formal research interviews, I emulate Dione Payne’s research which endorsed hui ā kanohi (face-to-face meetings).⁶⁸ This approach allowed the research participant to dictate their own space and kawa (protocol) for participation. The space may have been their own home and in one example the kawa included an elongated eight-hour time frame, whereas, the actual interview was only two hours long. The remaining time was spent in general discussion and whakawhanaungatanga (relationship building activities). After the interview had been completed each participant was given post interview feedback and a transcript of their interview to ensure correct context. Kanohi kitea utilizes these steps for first and subsequent contacts to build mutual trust to ensure that kōrero can flow without barriers.

Titiro, whakarongo...kōrero (to look, listen...speak)

Cram continues in her explanation about this aspect of research and indicated that “the importance of looking and listening so that you develop understandings and find a place from which to speak” is of crucial importance to the researcher.⁶⁹ These criteria require that researchers look and listen before they speak or seek to convey, reinterpret or feedback information.⁷⁰ It suggests that the researched is more knowledgeable about their personal experiences, and that the knowledge should be respected, valued and earned. Coupled with humility, it also has as an inherent function that researchers will not “barge in like the expert and to ensure there is mutual respect”.⁷¹

This was a challenging aspect of the interpersonal interviews with Ngāti Mutunga participants, particularly because as the researcher I had pre-existing interpersonal relationships. As the researcher and as a parent of taurima children, I had to consciously reserve my own opinions and responses when listening to the experiences of my research participants. In my transition between master’s and doctoral study I learned that some of my own pre-existing knowledge was under-developed. That lesson helped balance my approach in this study allowing broader aspects in this subject to appear as they were offered by the research participants and focusing more on titiro, whakarongo, kōrero.

Manaaki ki te tangata – collaboration and reciprocity

⁶⁸ Dione Payne, (2014). *Mai Rangiriri ki Pōkaewhenua: The Confiscation of Pōkaewhenua in the National Interest 1961-1969*. Doctoral Thesis. Wellington: Victoria University. p.59; Cram, *ibid.*, pp.43-44.

⁶⁹ Cram, *ibid.*, p.44.

⁷⁰ *ibid.*, p.45.

⁷¹ Wheturangi Walsh-Tapiata (1998). Research within your own iwi - what are some of the issues? *Te Oru Rangahau Māori Research and Development Conference*, Palmerston North: Massey University. p. 254.

Manaaki is a key concept within tikanga Māori and it means to express love and hospitality towards people (manaaki ki te tangata).⁷² Manaaki, in a methodological sense, embodies its root meaning and does not utilise a one-way information extractive process. It also adheres to reciprocal behaviours. Dione Payne utilised an example of manaaki that explores various articulations. She argues that:

Manaakiis expressed in a number of ways, whether by koha, kai, exchange of ideas and information or ensuring a power balance that acknowledges and cares for the researched.⁷³

It follows that preparations to take something from a person or community will reciprocate something of equal value to the person or community from which it is taken. In the case of this study, a full bound copy of the research will be supplied to each of the interviewees in return for their time and participation. Additionally, the relationships developed through the course of this study are not finite in nature. As my huanga (relatives), each participant in this research will remain a member of my iwi network and the relationships therefore will not conclude with this study.

Kia tūpato – politically astute, culturally safe and reflective practice

Smith articulates the responsibility of insiders in respect of kia tūpato by arguing that “it needs to be humble because the researcher belongs to the community as a member with a different set of roles and responsibilities, status and position.”⁷⁴ It requires researchers to remove all pre-conceptions and analyse information objectively, seeing all the information, not just those parts that will support a better story for the community. Research uncovers inter-whānau (and now inter-generational) contested claims for limited resources (such as land), and the subsequent and willing alienation of these resources by individuals of the iwi. Research may also “contradict the image that some idealistic younger researchers hold of elders”.⁷⁵ This reflective practice is what led me to reconsider the stories I had been told by my Ngāti Mutunga mother.

Linda Smith outlines questions that should be asked before research is undertaken. Those questions seek to define research relevance, research outcomes and accountability by

⁷² Barlow, *ibid*, p.63.

⁷³ Payne, D, *ibid*, p.47.

⁷⁴ Smith, *ibid*, p.139.

⁷⁵ *ibid*, p. 139.

the researcher(s) to the group being studied.⁷⁶ Fundamentally, Smith's questions make it incumbent upon the Kaupapa Māori researcher to remain aware of the mana of the people involved and to take all reasonable steps to avert exerting negative influences in their research undertakings. This idea is expanded upon further as I discuss the noninga kumu framework later in this chapter.

Key to Smith's message is that no all-encompassing methodology exists for how a researcher must study in order for the product to be considered Kaupapa Māori. Shayne Walker, Anaru Eketone, & Anita Gibbs explored the application of Kaupapa Māori research and considered that there were five principles that helped to form a framework for this type of research. The five principles being: tino rangatiratanga (autonomy); social justice; Māori world view; te reo and whānau.⁷⁷

In Ngāti Mutunga's case, Smith and Cram's values have relevance to this study, as do Walker, Eketone and Gibbs' principles. Challenges appear for Ngāti Mutunga in consideration of their physical realities of today. Ngāti Mutunga's realities include its comparatively small population (2,514 Taranaki affiliates and 1,614 Wharekauri affiliates according to the 2013 census). Given the identical whakapapa foundations of each distinct population these two populations are not distinct from each other. Wharekauri Ngāti Mutunga affiliates can be subsumed into the Taranaki identity owing to Taranaki's wider membership criteria of inclusion of the whole Ngāti Mutunga iwi. In addition, the iwi suffers from historically derived cultural, economic, and language impoverishment. Unlike some iwi with multiple marae, Ngāti Mutunga possesses only two: one at Urenui in North Taranaki, and Whakamaharatanga in Te One, Wharekauri, which are 1,000km apart. The various migrations and movements have resulted in the political dismemberment of representation; and intermarriage with other iwi and races.⁷⁸

It can then be difficult to engage prescribed criteria and principles when not all Ngāti Mutunga people themselves are in a position to engage strongly from a Kaupapa

⁷⁶ *ibid*, p. 173.

⁷⁷ Shayne Walker, Anaru Eketone, Anita Gibbs (2006). An exploration of kaupapa Maori research, its principles, processes and applications. *International Journal of Social Research Methodology*, vol 9 No.4, October 2006. p.335.

⁷⁸ 2013 Census iwi individual profiles: Ngāti Mutunga (Taranaki) Key Facts. Retrieved from http://archive.stats.govt.nz/Census/2013-census/profile-and-summary-reports/iwi-profiles-individual.aspx?request_value=24601&parent_id=24598&tabname=&sc_device=pdf and 2013 Census iwi individual profiles: Ngāti Mutunga (Wharekauri/Chatham Islands) Key Facts. Retrieved from http://archive.stats.govt.nz/Census/2013-census/profile-and-summary-reports/iwi-profiles-individual.aspx?request_value=24629&parent_id=24623&tabname=&sc_device=pdf on 17 May 2019.

Māori framework perspective. From this position, I argue that Kaupapa Māori remains aspirational in its application to this study.

Nēpia Mahuika, a historian of Ngāti Porou descent, when discussing ‘Tikanga as Historical Scholarship’ noted that Linda Smith’s Kaupapa Māori approach to research has been increasingly bypassed in favour of iwi-specific ways to research and present outcomes. He argues that in order to undertake ethical research, historians need to immerse themselves in the language and worldviews of the “iwi kaenga (local, home people)” rather than impose an essentialised view of Kaupapa Māori as a template on all Māori research subjects. In view of the topic of this thesis, it is interesting to note that Mahuika promotes a ‘whāngai’ model for research with regard to non-Māori researchers.⁷⁹ This essentially involves the researcher or ‘non-researched’ person into the whānau, hapū and iwi of the research subject to impart the cultural responsibilities of reciprocity in their research relationship.⁸⁰ Although, as a Ngāti Mutunga person, I am not seeking to employ this as a model, it is noteworthy to this study that the whāngai concept is being utilised in an academic sense and may itself serve to further impact on tikanga taurima.

Michael Stevens, a historian of Kāi Tahu descent, argues that kaupapa Māori is undertaken merely to satisfy a pre-determined set of criteria based on a kaupapa Māori framework.⁸¹ I shared similar concerns when first engaging with kaupapa Māori theory particularly as I perceived Ngāti Mutunga’s reality to differ from an essentialised model for kaupapa Māori engagement. Stevens sought through his doctoral study to develop a model of Māori history that provided for the co-existence of change and continuity in Māori knowledge.⁸² It was this idea that best aligned to my challenge around the standard Kaupapa Māori approach as the framework for this research project with Ngāti Mutunga. In the case of Stevens’ whānau they are active and continual practitioners of traditional mātauranga Māori practices related to the harvest and management of tītī (*Puffinus griseus*). The cultural bases of most tītī practitioners are not founded in te reo, nor necessarily Māori ceremonial observances, yet their customs remain vibrant and evolving. Similarly, Ngāti Mutunga as a people continue to perpetuate taurima customs,

⁷⁹ Nēpia Mahuika, (2015). *New Zealand History is Māori History: Tikanga as the ethical foundation of historical scholarship in Aotearoa New Zealand*, *New Zealand Journal of History*, 49, 1. p.17.

⁸⁰ *ibid.*

⁸¹ Michael Stevens (2015). A ‘Useful’ Approach to Māori History. *New Zealand Journal of History*, 49, 1. p.57

⁸² *ibid.*, pp.64-65.

language and customary observances but not in enough population numbers to allow us to participate with vigour in kaupapa Māori research paradigms.

Charles Te Ahukaramu Royal of Ngāti Raukawa, encourages that “one should always be mindful that Māori history is tribal history” and that before the arrival of the Pākehā “there was no such person as a Māori”,⁸³ or as Danny Keenan explains “People were identified by their tribal and sub-tribal affiliations and traditions”.⁸⁴ In extrapolating his opinions Keenan paraphrased Royal’s messages and in doing so omitted some key advice with relevance to this study. Royal’s advice is properly observed in the full paragraph from which Keenan’s quotes are derived. Royal argues that:

There is no such thing as Māori history, only tribal history. Tribes are complexes of families. Therefore, any tribal history is family history. There are a number of sources of tribal and family histories and traditions. These include people as well as books, films and audio tapes. All sources should be co-ordinated with each other in order to develop the best picture of an historical event or tupuna. All sources have their features, problems and strengths. None is perfect.⁸⁵

As a member of Ngāti Mutunga I am aware of these dynamics and like one of those academics referred to by Mahuika above I have opted not to bypass kaupapa Māori but to use it where appropriate. I have also chosen to utilize spoken and written sources of research and consciously include whānau perspectives when discussing Ngāti Mutunga experiences. My addition to these considerations is the added responsibility of writing historical information in an objective manner as possible and where possible not ‘hurting my own’ people in the process. Hurt is an emotional response to information that is contrary to one’s understanding of a situation or historical matter. When dealing with historical human interactions it is entirely possible that hurt can occur but this is not the intention of this thesis. To assist with this intention, I have coined an approach that sits alongside Kaupapa Māori methodology

⁸³ Danny Keenan (1999). Predicting the past: Some directions in Recent Maori Historiography. *Te Pouhere Korero* 1(1): p.30.

⁸⁴ *ibid.*

⁸⁵ Te Ahukaramu Charles Royal (1997). *Te Haurapa: An introduction to Researching Tribal Histories and Traditions*. Wellington: Bridget Williams Books. p.9.

and is specifically designed for Ngāti Mutunga participation in this study. This approach is called ‘Noninga kumu’.

Noninga kumu

Noninga kumu is a Ngāti Mutunga term for a kāinga noho, a residence that is the place where extended periods of occupation are undertaken. While kainga noho, or nohoanga are more commonly known Māori terminology, Ngāti Mutunga has a whakataukī which encapsulates this term. It is:

Ko Urenui te noninga kumu o ngā tūpuna.⁸⁶

This whakataukī (proverbial saying) translates as ‘Urenui is our ancestral home’. Urenui is the name of our ancestral river and settlement in North Taranaki where Ngāti Mutunga has a significant geographical relationship through an extended period of occupation over hundreds of years. I have utilised noninga kumu for this framework as it represents a common historical point for all Ngāti Mutunga people. It is also an acknowledgement of the length of time this study covers.

The noninga kumu approach provides a structure or whakapapa for Kaupapa Māori that is appropriate to historical Ngāti Mutunga experiences. It is another example where “Māori historians are now preferring to work within their own Māori framework preferences...beyond the reach of historiography”.⁸⁷ It is important to localise the application of Kaupapa Māori for Ngāti Mutunga because applying research criteria in isolation of this experience would leave a researcher open to causing unintentional harm to the research participants. For example, the title of this study suggests a singular Ngāti Mutunga identity. From the examples given earlier in this chapter we can see that Ngāti Mutunga’s historical experiences are far from singular. This differentiation amongst the lived experiences of Ngāti Mutunga people continues today. To assume Ngāti Mutunga people share a common historical experience may contribute physical or ideological barriers to research outcomes.

One of my Ngāti Mutunga interviewees was raised in a household which strongly identified with Ngāti Mutunga. However, from adulthood this person has lived in a foreign country experiencing an essentially western lifestyle. She finds it difficult

⁸⁶ Oral tradition held within Ngāti Mutunga.

⁸⁷ Keenan, *ibid.*

to enunciate her experiences of growing up as a taurima child in a Ngāti Mutunga household. The label of “Ngāti Mutunga” was not available for her to classify herself then, or subsequently, as her lived experience was at the whānau not iwi level. It is this study and its criteria for inclusion that is attempting to classify her lived Ngāti Mutunga experience. Being aware of the history leading up to that person’s birth, their taurima arrangement, and also the way in which they view their own world is crucial in maintaining the integrity of the information gathered. The ‘researched’ person is an example of one Ngāti Mutunga viewpoint and it is included as such, as are the other participants. Each is unique and sometimes different, however, still part of the Ngāti Mutunga experience.

A common assumption surrounding Kaupapa Māori is the inclusion of te reo Māori and tikanga Māori as crucial interaction tools in the research process.⁸⁸ In the interview example I have given above, te reo would serve to takahī (trample) on the participant (who does not speak nor is comfortable with te reo) which is in contravention of aroha ki te tangata. Both of these possibilities run contrary to the responsibility I have as an inside researcher to ‘not harm my own’. Conversely, my ability to speak te reo fluently allows me the freedom to utilize both English and te reo should the need arise, as it did in subsequent interviews.

The noninga kumu approach is therefore about putting yourself in the position of acknowledging others. I am just one lived experience of Ngāti Mutunga realities, and when working with my Ngāti Mutunga whanaunga I must acknowledge that my lived experience is not necessarily another person’s experience of Ngāti Mutunga. This approach strongly aligns with the Kawa Whakaruruhau (cultural safety) practice and training offered in New Zealand nursing education. Irihāpeti Ramsden addressed inconsistencies in health service access by Māori, promoting an idea of cultural safety that addressed communication issues where people either knowingly or unconsciously contributed towards barriers for health service access. Self-reflective practices by health professionals (although she focused on nurses) and sensitivity towards people’s histories, particularly, when the patient is not of a culture similar to their own.⁸⁹ Self-reflection, and the application of non-judgmental questioning and analysis, is key to the

⁸⁸ Walker, Eketone, Gibbs, *ibid*, p.334.

⁸⁹ Elaine Papps, Irihāpeti Ramsden (1996). Cultural safety in Nursing: the New Zealand Experience. *International Journal for Quality in Health Care*. Vol.8 No.5 pp.491-497.

interaction with research participants in this study. The noninga kumu approach is about finding common ground through which a discussion can take place with people who have a shared whakapapa base if not a shared knowledge or cultural base. This methodology applies equally in engaging personal interviews as well as in documentary research. Noninga kumu makes it inherently incumbent upon the researcher to provide balanced research that is neither reliant upon documentary evidence, nor on oral histories procured through interview. Noninga kumu, as with all methodological approaches, requires a balanced presentation of arguments for which there is archival evidence, and then correlates that with oral histories maintained by Ngāti Mutunga people, all the while ensuring that each perspective is given its due recognition and consideration. Wheturangi Walsh-Tapiata, in her consideration of kaupapa Māori research, argues that research needs to ensure protection “by the researcher and the institutions supervising the researchers and by the participants themselves. They must feel included in the process.”⁹⁰ The methods and the sourcing of information utilised in this study seeks to achieve these protection aims.

Insider research

I am Ngāti Mutunga and a father of taurima children and therefore an insider to this research. I have experienced official inconsistencies that systematically treat two of my three children differently. New Zealand government departments and their policies have a strong history of mono-cultural development that rarely support or resource Māori customs and practises. For example, Kura Kaupapa Māori and Wānanga educational providers have been restricted from accommodating tikanga taurima into their publicly funded service provision. As publicly funded entities, their systems are orientated towards government aims and processes and as a result, requires those who have lived their life in a taurima relationship, with a taurima name, to register themselves with the name attached to their birth certificate in order to access primary, secondary or tertiary education. The details of that certificate seldom relate to the identity they have formed during their life. Additionally, taurima are routinely and incorrectly categorised as ‘adopted’ children by social agencies. As a result of this mis-classification the dominant European cultural norms are applied to tikanga taurima in New Zealand, regardless of their irrelevance or inappropriateness. In the few instances where the government recognises tikanga, this generally serves a public interest and more likely resembles a

⁹⁰ Walsh-Tapiata, *ibid*, p.250.

standardised version that does not cater to tribal differences. This thesis argues that these cultural misunderstandings continually impact tikanga taurima. The essence of tikanga taurima is now artificially distanced from its more fluid and socially enhancing Polynesian origins, primarily to advance New Zealand legislation and colonial goals.

Methods and Sources

This thesis utilises several methods to research this topic. Archival research and interviews are primary sources of information, as well as examples of lived experiences with taurima children. Archival records include those documents found in the offices of Archives New Zealand and the National Library of New Zealand, as well as leading research libraries including the Hocken Collections in Dunedin. Documentary research often relies upon fragments of records that contain key facts that can be followed to more substantial records. This thesis collates historical case studies derived from interdisciplinary records systems. For example, to build the case study of Apitia Punga in Chapter Six, information from several public agencies, newspaper articles, family archives, Māori Land Court minute books and administration files were utilised.

An example from Apitia Punga's case study (in Chapter Five) is worthy of inclusion here to demonstrate how the case studies were built across Chapters Four to Six. In July 2013, I visited the Aotea Māori Land Court in Wanganui and researched their block order and succession order files. I was looking for information related to the land succession story for Apitia Punga. It was not clear from the initial documentation in the Native Land Court minute books how his succession was ultimately determined. I decided to then follow a tenuous documentary link to his only surviving biological daughter Heni Apitia. An innocuous comment from an evidence statement in a Māori Land Court minute book from Hēni Te Rau, spoke of Apitia's widow remarrying a man named Shearer.⁹¹ I changed my search parameters to look at Apitia's widow, known only as Te Muri in Māori Land Court records concerning the Chatham Islands. Searching 'Te Muri Shearer' and 'Muri Shearer' I found succession records for another Ngāti Mutunga man, Hopa Makama or Malcolm Shearer. Examining his probate file in the Land Court I located his last will and testament. From this document I learned that both Muri, and Muri's daughter, Mihi Apitia were successors to his estate. Mihi Apitia, as Muri's daughter, was a different name to Heni Apitia, but sufficiently near enough

⁹¹ WGAP 27:48, 89.

to encourage my continued investigation.⁹² I needed to corroborate that Mihi and Heni were the same person. I proceeded to the records held at the New Zealand Department of Internal Affairs Births, Deaths, and Marriages division. I located a marriage certificate between Mihi Rangī Apitia and Henry Edward Lawlor Thom. That marriage certificate confirmed Heni and Mihi shared the same parents.⁹³ This information coupled with evidence given by other members of Ngāti Mutunga during Apitia Punga's lengthy succession case (see Chapter Five) then confirmed that Mihi and Hēni were the same person. The marriage certificate also provided Muri's maiden name, Mokaraka. Further searches in Archives New Zealand using both Muri's and Mihi's name variations produced a range of historical documents from the Māori Land Court, online historical newspaper databases (such as Papers Past) and Archives New Zealand itself. All of this investigation served to provide a much fuller story of Apitia Punga who has never been written about in a biographical manner. These documentary investigation methods were repeated for the remaining Ngāti Mutunga rangatira case studies.

Interviews with Ngāti Mutunga people in taurima relationships

Prior to engaging the interviews, I consulted with the University of Otago's Ngāi Tahu Research Consultation Committee who provide guidance on research concerning Māori. Following this consultation, which included submitting my proposed questions to the committee, I gained University ethics approval to proceed with the interviews.

I interviewed four people in Ngāti Mutunga taurima relationships to give this study an appreciation of real and lived taurima experiences from the period 1940 – 2000. The interview participants ranged from descendants of Ngāti Mutunga tūpuna to non-Ngāti Mutunga people who were the parents, grandparents, siblings or relatives of Ngāti Mutunga descendants. I opened the selection of research participants as wide as possible primarily because I was dealing with such a small Ngāti Mutunga population base. Additionally, I discovered very quickly that Ngāti Mutunga taurima relationships are not limited to those with biological descent from our tūpuna. For example, I found a kuia from another iwi with a Ngāti Mutunga mokopuna whom she had taken as her taurima. In this example I saw continued validity in including them in the interview selection pool, because that Ngāti Mutunga person will still form an identity around a taurima relationship. Another reason for

⁹² TAR 49:49.

⁹³ New Zealand Marriage Certificate Registration number 1908003655. Registrar of Births, Deaths and Marriages New Zealand.

widening the pool of potential participants was due to a number of potential interviewees being uninterested in participating.

I advertised for research participants on the Ngāti Mutunga Facebook site, and spoke to Ngāti Mutunga people at hui, or during personal discussions about my area of study. This sometimes led to further specific conversations and information sharing and interview opportunities with research participants. In keeping with the noninga kumu approach, I engaged parameters that were most comfortable for the research participants. In one circumstance, I utilised my work environment in a commercial meeting room as it provided a further level of anonymity and comfort for the participant. Another example required international travel to meet with a participant in their home, taking two years to secure an appropriate interview time and place. It was important from my perspective to conduct these interviews in an organic manner, and in a kanohi kitea fashion.

Each participant was provided with a set of questions prior to their interview to give them an indication of the areas I wished to cover and to allow them time to prepare their thoughts. If during the course of the interviews they volunteered additional information I did not stop that from occurring allowing for open-ended interviews. At the end of the interviews some participants felt they had shared aspects of their upbringing and experiences that they had not previously seen as important. No payment was provided to the participants, however, in terms of reciprocity I agreed to keep them updated on the progress of my study and also provide them with copies of the interview manuscripts once they were transcribed. Anonymity was agreed for some of the participants and their contributions are generalised in terms of their identity in Chapter Eight where societal impacts for Ngāti Mutunga are discussed.

Chapter Outlines

My thesis, through this introductory chapter, outlines the thesis aims, methodological approaches and methods I have used to collate information and make conclusions. The following chapter explains the intricacies and details of tikanga taurima. Included in these intricacies are the cultural bases from which tikanga taurima operates within a Māori world view, including customary rules relating to land management, within which the taurima framework is often discussed and reported upon. This chapter also explores the applicability and observance of the taurima custom throughout Polynesia, before considering the impact of western adoption ideas on the taurima practice. Discussion is then presented on taurima in a

legislative framework and the idea of cultural positioning and representation of Māori terminology in legislation which can prove problematic.

Chapter Three presents a collation of Ngāti Mutunga experiences in detail to give context to the iwi experiences that lead up to the case studies of specific Ngāti Mutunga rangatira in Chapters Four, Five, and Six, and also after that time period within which the taurima custom features prominently. Ngāti Mutunga experiences have often been subsumed into wider iwi identities and narratives concerning an allied iwi called ‘Te Atiawa’ or ‘Ngatiawa’. This chapter extracts the Ngāti Mutunga threads to tell an iwi specific story, without which the case studies would appear less influential for tikanga taurima.

The case studies of Naera Pōmare, Apitia Punga, and Hāmi Te Māunu feature in Chapters Four, Five, and Six, respectively. Each of these Ngāti Mutunga rangatira were biological children of influential Ngāti Mutunga tūpuna of pre-colonial New Zealand. They were also taurima children in their own right to other members of Ngāti Mutunga. These rangatira in turn perpetuated tikanga taurima by taking taurima children of their own. These case studies demonstrate the strength of tikanga taurima amongst Ngāti Mutunga throughout the nineteenth century. The case studies also demonstrate how the taurima custom was manipulated for pecuniary gain.

In Chapter Seven key New Zealand legislation is highlighted to point to the impact on tikanga taurima. Legislation with clear impacts on taurima such as the Te Ture Whenua Māori Act 1993 and its predecessors, the Native Lands Acts 1862-1931 and Māori Affairs Act 1953 are explained in fuller detail. This chapter also introduces lesser known legislation such as the Family Protection Act, several Māori land settlement Acts, and the Adoption Act 1955. The impacts of each Act provide context for Chapter Eight where social impacts in contemporary taurima relationships are explored.

Chapter Eight presents interview findings from Ngāti Mutunga participants regarding their lived experiences with tikanga taurima. Enduring social impacts arising from legislative cases will be outlined in this chapter and the specific policy areas that continue to impact Ngāti Mutunga people.

In drawing conclusions to my study, the final chapter links legislation and policy to enduring social impacts on tikanga taurima. This chapter demonstrates how New Zealand legislation, as practised by public agencies impacts tikanga taurima. Some solutions are offered to any negative impacts to ensure the intent of my noninga kumu approach.

Contributions

My interest in tikanga taurima and the legislative impacts upon it are personally motivated. As a Ngāti Mutunga man, with taurima children, I am perpetuating a customary practice which has occurred in every generation of my whānau since time immemorial. Our whānau has been impacted positively (through enhanced interpersonal relationships) and negatively (through land expatriation to non-blood taurima) and yet the custom persists. Through my own experience of raising biological and taurima children I have been made aware of societal inconsistencies that continue to exist in twenty-first century Aotearoa. This inequitable treatment led me to question why these inconsistencies exist. The inconsistencies related to legislative impositions or exclusions, and misunderstandings and misapplication of tikanga taurima. The contributions I seek to make from this research include informing policy writers and legislators about Ngāti Mutunga taurima experiences.

I am also seeking to update Ngāti Mutunga taurima experiences. Family and Māori land case law continue to provide the basis for informing social policy affecting taurima. This is a flawed approach; however, those areas of case law contain substantial repositories for information on the issues confronting tikanga taurima. My expectation is that this thesis and other academic information begin to grow the knowledge base from which policy writers draw their information. Substantial works concerning taurima/whāngai have been completed by Suzanne Pitama, Erica Newman and Karen McRae and Linda Nikora in recent years.⁹⁴ It is timely that policies and attitudes concerning taurima keep pace with the increasing knowledge bank available.

The final contribution I wish to make through this research is to leave a legacy for my mokopuna. In time, their reference to this study may assist them to gain an understanding about their Pahake. Ngāti Mutunga rangatira such as Te Rangi Hīroa and Māui Pōmare have contributed significantly to Māori academic endeavours in their lifetimes and have provided tangible inspiration for future generations of Ngāti Mutunga. This thesis is a direct result of that inspiration.

⁹⁴ Suzanne Pitama (1996). The effects of traditional and non-traditional adoption practices on Maori mental health. Auckland: University of Auckland; Erica Newman (2007). Maori, European and Half Caste Children; the Destitute, the Neglected and the Orphaned - An investigation into the Early New Zealand European Contact Period and the Care of Children 1840-1852. Dissertation submitted in partial fulfillment of the requirements for the Bachelor of Arts with Honours in Maori Studies. Dunedin: University of Otago; Karen McRae & Linda Waimarie Nikora (2006). Whangai: remembering, understanding and experiencing. *MAI Review* (1).

Chapter Two: Tikanga Taurima

In order to understand taurima, it is imperative that one understands the various practices and customs associated with it. Tikanga taurima describes a complex subset of tikanga Māori. Common vernacular describes tikanga Māori as Māori customs and practices however they are better defined as protocols and processes that give structure to customary Māori behaviours. Tikanga can evolve over time in response to people's environments and through their consideration of what is 'right'. Benton, Frame and Meredith argue that:

Tika has an outer or surface meaning of 'straight, direct, keeping a direct course', tied in with the moral connotations of justice and fairness, including notions such as 'right, correct' Tikanga is the nominalised form of tika.⁹⁵

Tikanga then, when suffixed with a descriptor adjective (such as tikanga Māori), relates to the correctness of operation towards a described activity, situation, or group. According to Royal, "he tikanga tētehi mahi.....e tika ana tērā mahi i raro i tētehi kaupapa" (a tikanga in an activity that is tika under a particular kaupapa [plan, scheme, proposal, policy]).⁹⁶ Tikanga, as used today, derives from the adjective tika, meaning "correct", "just", or "right".

A related term, ritenga, comes from rite meaning "resembling", "equal", "arranged" or "completed". Charles Royal considers that this implies that ritenga could be existing practices that may not, in fact, be tika, although the two terms appear to have been used as synonyms for "custom".⁹⁷ According to Manuka Henare, tikanga are principles, and ritenga are the practices derived from tikanga (but this may be a modern interpretation).⁹⁸ This chapter explores the protocols associated with raising taurima children and the term tikanga taurima describes a system of 'correct' (tikanga) arrangements and responsibilities associated with taurima.

Tikanga Māori encompasses a superset of 'correctness' in all aspects of Māori customs and protocols. Alongside tikanga taurima there can exist other subsets of tikanga Māori including tikanga-ā-iwi, tikanga take whenua, and others. Examples of these subsets as they relate to tikanga taurima are discussed below.

⁹⁵ Richard Benton, Alexander Frame, Paul Meredith (2013). *Te Matapūnenga: a compendium of references to the concepts and institutions of Māori customary law*. Matahauariki Research Institute, University of Waikato. Wellington: Victoria University Press, p.429.

⁹⁶ Ahukaramu Charles Royal (1999). Te Ao Marama, The Māori world view. *Tū mai*, December 1999, p.30.

⁹⁷ *ibid*.

⁹⁸ Manuka Henare (1988). Nga tikanga me nga ritenga o te ao Maori: Standards and foundations of Maori Society. *The April Report: Report of the Royal Commission on Social Policy*, vol.3, part 1. Wellington, p.27.

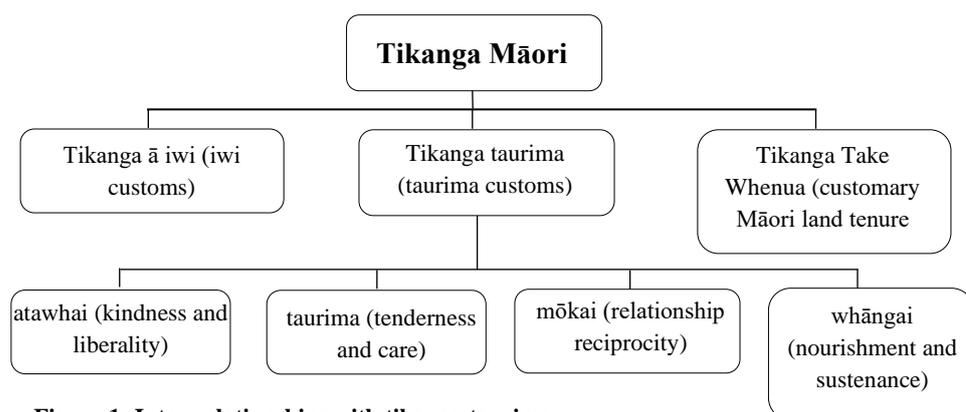


Figure 1: Inter-relationships with tikanga taurima

Tikanga taurima is articulated from customary Māori world views. Māori world views differ according to geographical location as well as individual and hapū interpretations. Taurima as a subject in literature is historically focussed on native land issues. Writers such as Norman Smith, Richard Boast, Suzanne Pitama, Patu Hohepa and David Williams, Hirini Mead, and David Williams discuss taurima in relation to land succession practices in the Māori Land Court.⁹⁹ Other authors extend their analyses to include rights associated with whānau or hapū taonga, identity and other assets, from iwi specific perspectives.¹⁰⁰ These commentators rely heavily on case law sources found in Minute Books of the Native (Māori) Land Court, except for Metge who conducts social research to inform her research. Each of these commentators locate taurima in a position subject to whānau and/or hapū consent and endorsement.

One reason for the heavy reliance on Native Land Court records by public agencies is due to the ready availability of historical archival information concerning taurima and land succession. This chapter introduces the tikanga take whenua system of land management. This system is based on Polynesian practices of communal ownership and management under hierarchical structures and concepts such as rangatira (customary leaders).

Following discussion on tikanga take whenua, this chapter then explores taurima

⁹⁹ Norman Smith (1942). *Native custom and law affecting Native land*, Wellington: The Maori Purposes Fund Board; Norman Smith (1960). *Māori Land Law*. Wellington: Reed publishers; Richard Boast (2008). *Buying the land, Selling the land*. Wellington: Victoria University press,; Pitama, *ibid*; Patu Hohepa, David Williams (1994). *Preliminary Report, Succession Law Reform Project*, Wellington: Unpublished paper, Law Commission.

¹⁰⁰ Joan Metge (1995). *New Growth from old*, Wellington: Victoria University Press,; Tom Bennion (2009). *Maori Law Review* – July, p.5; Takirangi Smith (2003). *Tikanga Whangai in Wairarapa a report for the Māori Land Court in relation to succession to Joseph Teo Anaha and Clarice Anaha*, WAI 56:68, Wellington: Māori Land Court.

custom origins within Polynesia, before considering the impact of western adoption ideas on the taurima practice. The chapter then proceeds to discuss taurima in a legislative framework, and also the idea of cultural positioning and representation of Māori terminology in legislation which can prove problematic.

Tikanga Taurima - Analogous terms and themes

Evolving and organic practices associated with tikanga taurima allowed each hapū to maintain their own terminology, practices and kinship-specific tikanga for expressing the practice in varying ways (see figure one).

Mōkai, for instance, is a term that classifies a type of taurima arrangement. It is also a term of endearment that indicates a relationship of closeness with another person, despite its literal translation as a pet or slave.¹⁰¹ Mōkai can also be a term applied to someone who was shown affection by an adult, and in return for the affection a responsibility of assisting that adult was reciprocated. To external observers this may appear as a slave/master relationship, however, Williams correctly identifies this term as being used in reference to the youngest member of a whānau.¹⁰² In another iwi area, an ancestor named Huikai is recounted as taking as his mōkai a young girl named Riki whose lineage was from a conquered iwi. Huikai raised Riki as his own daughter and arranged a marriage to his son Tautahi when they were of age.¹⁰³ Edward Smith Craighill Handy and Mary Kawena Pukui, who discussed fostering and adoption in Hawaii, also observed this dynamic of servitude in their work concerning Ka'u, Hawai'i discussed further on in this chapter.¹⁰⁴

Atawhai is another term closely associated with taurima. Atawhai is defined by Williams as “show kindness to, be liberal, foster”.¹⁰⁵ Keith Griffiths explains that:

While many atawhai relationships are established at birth and last continuously throughout childhood, the term can also be applied when they are taken later and even when they only last a year or two. It is the quality of the relationship that matters, not its duration. If the relationship is a good one the bond that is developed does not

¹⁰¹ Williams, *ibid*, p.207.

¹⁰² *ibid*.

¹⁰³ Apirana Ngata, Hirini Mead (2007). *Ngā Mōteatea: The Songs part IV*. Auckland: Auckland University Press. pp.198-199; Maurice Gray (2018). Interview.

¹⁰⁴ Edward Smith Craighill Handy & Mary Kawena Pukui (1958) *The Polynesian family system in Ka-'u, Hawai'i*. No. 8. Honolulu: Polynesian Society, p.71.

¹⁰⁵ Williams, *ibid*, p.19.

cease when the tamaiti atawhai (foster child) leaves the home of the matua atawhai (foster parent) but continues throughout life.¹⁰⁶

Joan Metge concurs with Griffiths' opinion and states that for Māori, it is the quality, not the duration, which identifies an association for atawhai relationships.¹⁰⁷ Metge argues that unrelated children taken as atawhai (adopted children) were described as mōkai (wards) rather than atawhai.¹⁰⁸ One of her informants went further to suggest that mōkai were "taken mainly to provide cheap labour and always treated as inferior to atawhai taken from within the kinship circle."¹⁰⁹ Handy and Pukui argued that a similar type of atawhai relationship also existed in Hawai'i. They argued that:

Quite different from the "feeding" relationship is that of "making" someone else's child one's own (*ho 'okama*) through informal adoption because of love between the adopting parent and the child. The adopting parent becomes to the child *makua ho 'okama* (literally "parent making child his own"), while the child is known as *kaikamahine ho 'okama* if it is a girl, or *keiki ho 'okama* if a boy. The relationship comes about as a result of mutual affection and agreement, at first tacit, then unobtrusively discussed, between the child and the older person; the part of the child's true parents, if living, is normally negative; although if there is strong dislike for the would-be adopting parent the true parent is capable of interfering. This is a relationship involving love, respect and courtesy, but not necessarily responsibility of any sort, and rarely a change of residence.¹¹⁰

Taurima, as the fourth descriptor, is the preferred term for Ngāti Mutunga.¹¹¹ Metge supports this opinion with her assertion that the use of taurima predominates in the Taranaki area. Metge argued that:

Atawhai, taurima, and whāngai are alternatives favoured by different iwi: atawhai by the iwi of Tai Tokerau, taurima by those of Taranaki and whāngai by the rest.¹¹²

¹⁰⁶ Keith Griffith (1996). *Adoption History and Practice Social and Legal 1840-1996*. New Zealand, p.454.

¹⁰⁷ *ibid.*

¹⁰⁸ Metge, *ibid.*, p.217.

¹⁰⁹ *ibid.* pp. 217, 219.

¹¹⁰ Craighill Handy & Pukui, *ibid.*

¹¹¹ Interview transcript, 26 September 2018.

¹¹² Metge, *ibid.*, p. 211.

Herbert Williams defined taurima as “to treat with care, tend...tamaiti taurima, adopted child”.¹¹³

Few examples of archival documentary evidence relating to Ngāti Mutunga directly endorse taurima as a term in common usage amongst the people. One notable example relates to a death notice for John Bailey, a Kanaka man born in Hawaii, that through his numerous travels had found himself in Wharekauri amongst Ngāti Mutunga in 1867 from where he took Taitoko ki Ngamotu Bailey as his taurima child. In this example the word taurima is directly used in the Māori text.¹¹⁴ Other more numerous nineteenth century documents mention ‘adoption’, ‘native adoption’, or derivatives of these two terms. In the case of Naera Pōmare’s will (see Chapter Four) the word whāngai was explicitly written but this is not comprehensive or consistent. The preference for taurima remains amongst the iwi, and in this thesis.

In the context of this thesis there are four associated concepts that are variations of the taurima custom. Those concepts include: atawhai (kindness and liberality), taurima (tenderness and care), whāngai (nourishment and sustenance), and mōkai (relationship reciprocity). These four themes are the basis for tikanga taurima which I argue is the platform in which all evolutions and derivations of tikanga taurima have occurred, particularly as the same themes exist across Polynesia. The introduction of western adoption ideologies and associated property rights disrupted the formerly fluid and organic tikanga taurima. The fluidity encompassed by tikanga taurima supports Māori values such as those espoused by Metge who argues that:

The values of aroha, whanaungatanga, mana and whakapapa, so important in the structuring and operation of the whānau, also inform and shape the Māori view of adoption.¹¹⁵

These integral aspects of tikanga Māori provided structure for tikanga taurima including the four themes of atawhai, mōkai, whāngai and taurima. Therefore, despite iwi preferences in terminology, the same themes prevailed amongst those who entered taurima relationships.

¹¹³ Williams, *ibid*, p.402.

¹¹⁴ Tupapaku. *Jubilee: Te Tiupiri*, Volume 2, Issue 68, 21 December 1899. Retrieved from https://paperspast.natlib.govt.nz/newspapers/JUBIL18991221.2.17?query=taurima&start_date=01-01-1899&end_date=31-12-1899&snippet=true on 7 April 2019.

¹¹⁵ Metge, *ibid*, p.210; Donna Durie-Hall and Joan Metge (1992). *Kua Tutū te Puehu, kia mau: Māori aspirations and Family Law*. In Mark Henaghan and Bill Atkin (eds), *Family Law Policy in New Zealand*. Auckland: Oxford University Press. pp.61-64.

Tikanga take whenua

Many have commented on the basic tenets of customary Māori land law. Ethnographers such as Herries Beattie and his informant Teone Tikao, Peter Buck, Raymond Firth;¹¹⁶ historians such as Harry Evison, Hugh Kawharu, Pita Rikys, Richard Boast, Andrew Erueti and Norman Smith;¹¹⁷ lawyers such as Norman Smith, George Graham, Eddie Durie, and Joe Williams;¹¹⁸ and public servants such as George Asher and David Naulls, also provide important information on Māori land law.¹¹⁹ These discussions explore traditional tenets known as take or bases from which resources and land rights were acquired. Take noho (occupational right), take raupatu (confiscatory right), take tūpuna (ancestral right), take taunaha (naming right or right of discovery), and take tuku (gifting right). Each of these take in turn were substantiated by a series of supporting activities or sub-take.

A take noho substantiates a customary claimant's right to land through an unbroken line of noho tuturu or ahikāroa (occupation), mahinga kai (usufructary rights to resources on the land), maara (cultivations) or pā tuna (eel reserves), or tauranga ika (fishing rights). None of these rights were traditionally translated as property rights that could be sold or traded.

Take taunaha is substantiated by someone naming and therefore claiming localities. The types of localities claimed include: pā tangata (places where people lived), urupā (cemeteries), and other geographical features marking boundaries. An example of take taunaha can be found in Akaroa in the South Island where a conquering chief, Te Rakitaurewa, was instructed by his relative Te Ake, to hang his whalebone patu on a headland to signify a boundary point for the land claimed. The site is still known to this day at Te irika o te patu paraoa o Te Rakitaurewa (the place where Te Rakitaurewa hung his patu paraoa).¹²⁰ This act of claiming prevented other people from making claims to that area. Take taunaha appears

¹¹⁶ Herries Beattie, Teone Taare Tikao (1990). *Tikao Talks: Ka taoka tapu o te ao Kohatu* Wellington: Penguin publishers; Peter Buck (1949). *The coming of the Māori* Wellington: Whitcoulls Ltd; Raymond Firth (1972) *Economics of the New Zealand Maori*. Wellington: A.R. Shearer, Government Printer.

¹¹⁷ Harry Evison (1993). *Te Waipounamu: The Greenstone Island: A history of southern Māori during the European colonisation of New Zealand*. Christchurch: Aoraki Press,.; Ian Hugh Kawharu (1977). *Māori Land Tenure* Oxford: Clarendon Press; Pita Rikys (2001). *The Valuation for and Rating of Māori Land* Hamilton: Te Ngutu o te ika, Smith, ibid; Richard Boast, D. Erueti, N. Smith (2004). 2nd ed. *Māori Land Law*, Wellington: Lexis Nexis, NZ.

¹¹⁸ George Graham (1948). Whāngai tamariki, *Journal of the Polynesian Society*, Volume 57 No. 3; Eddie Durie (1996). FW Guest Memorial Lecture: Will the Settlers settle? Cultural Conciliation and Law. *Otago Law Review* Vol.8 Issue 4, Dunedin; Joe Williams (2001). The Māori Land Court – A separate legal system, *Occasional Paper No.4 New Zealand Centre for Public Law*, Faculty of Law, Victoria University, Wellington.

¹¹⁹ George Asher, David Naulls (1987). Maori Land. NZ Planning Council, Wellington, *NZ Planning Council, Planning Paper No 29*, March 1987.

¹²⁰ John White (1897). *The Ancient History of the Māori*. Volume III. Wellington: Government Printer, p.221.

synonymous with tapatapa whenua which Tikao considers was making claim to land through naming it.¹²¹

Take raupatu assigned conquest rights over subjugated people, or by an ancestors' conquest when coupled with take tūpuna. Take raupatu was also considered ringa kaha (taken by force of arms). A subset of take raupatu is muru or muru taua which is a retributory confiscation of another person's property to repay an insult or injury through negligence. In extreme cases the repayment may have been rights to land. Take tūpuna in turn could be claimed through direct descent from a nominated ancestor who held a strong take noho, take raupatu, or take taunaha (or combination of all of these).¹²²

Generally speaking, an individual's or group's right to an area of land or resource was given greater mana as a result of a strong combination of take to the locality being claimed. A person who claimed take tūpuna (an ancestral right) to a locality but had not lived or utilised resources there would not have as strong a right to the same locality as someone who also had take noho. Similarly, if another person arrived and conquered the previous two people (take raupatu) and then lived on the locality uninterrupted, they would then hold a superior right to the two previous examples. Tikanga take whenua represents pre-contact understandings of Māori land management. This system became the premise upon which the government converted the tenurial system to the Torrens system of individualised land ownership, through the Native Land Court. Initially, the Native Land Court awarded land to owners who proved the strength of their claims through tikanga take whenua, albeit haphazardly observed by the Court. By the turn of the twentieth century, the Native Land Court interfered more regularly in tikanga take whenua claims to land.

One notable example of interference is where take tūpuna held in isolation was sufficient to claim a customary land right. This example is illustrated in the Native Land Court's 1915 decision on investigation of title for the 'Whitianga block' in the Te Kaha area. In this case the Court apportioned minor shares to deceased ancestors in respect of take tuku (traditional gifts) of māra (gardens) given to them by the rightful owners of the land.¹²³

Take tuku is considered by Buck to have included lands ceded in compliance with some custom, such as paying a raiding party as recompense for the infidelity of a tribal woman to

¹²¹ Beattie & Tikao, *ibid*, p.129 .

¹²² Asher & Naulls (1987). *ibid*, pp.5-7.

¹²³ TKH 4:306.

her husband. The length of the tenure of the land would depend upon the giftee's military strength of the people to hold it.¹²⁴

The Court commenting in this way on local tikanga is significant, because in doing so it supported or negated tikanga at a local level. This example demonstrates this was particularly so in the Te Kaha region. It was local tikanga that was cited as the reason to award land as outlined below. The Court stated:

In order to understand the position and the contention of the claimants it is necessary here to explain a peculiar feature in connection with the ownership of land on the Coast which as far as the Court can remember is not to be met with anywhere else in New Zealand. It is the general practice to admit gifts of maaras [sic] in blocks to ancestors other than the ancestor to whom the bulk of these blocks belong although in many instances neither the ancestors to whom the maaras [sic] were given nor their descendants have ever occupied or have the probably ever seen the maaras. Still the fact of the gift having been made is handed down from generation to generation and when any particular block in this position come to be investigated the persons entitled admit the right of the descendants of the ancestors to whom the gifts were made to the particular maaras [sic] affected by the gifts and include those descendants in the title shares equivalent to the areas of the maara.¹²⁵

The Court held these gifts as sufficient to establish a right in accordance with local custom. It followed that any descendant of these identified ancestors could claim succession to the ancestors named in the judgement. The Court's continuing imperative in 1915 was land alienation under the auspices of the Native Land Act 1909. The Court's liberalised approach to this isolated Te Kaha example appears to support local tikanga. However, because of the Court's alienation imperatives, it is more likely that this decision was made in the public interest for faster alienation. Faster land alienation from absentee ownership would likely occur by people not directly connected with the land they own.

Under Te Ture Whenua Māori Act 1993 [TTWMA], the imperatives of Māori land management are opposite to those under the Native Land Act 1909. Under this TTWMA, the Te Kaha example concurs with Joe Williams, former Chief Judge of the Māori Land Court,

¹²⁴ Buck (1949). *ibid.*, p.380; Evelyn Stokes (1997). *Māori Customary Tenure of land*. Hamilton: The University of Waikato. p.66.

¹²⁵ *ibid.*, pp.306-307.

who stated that “the pre-eminent right according to tikanga Māori was and remains a take tūpuna or ancestral right”. Therefore, while tikanga appears to have prevailed under both Acts, the legislative permissions in favour of land alienation (under the Native Land Act 1909) or against alienation (under the Te Ture Whenua Māori Act 1993) presents a systematic discrepancy whereby the Court managed the outcomes through its own interpretations. This court management of tikanga gradually replaced the more customarily-led decision-making powers of rangatira, whānau and hapū.

These kinds of discrepancies are further substantiated by Williams who went on to argue that:

All take had, by tikanga Maori, to be consummated by ahikaroa or as it loosely translated into English, occupation. The rule developed by the Native Land Court Judges was that absence from the land for three generations extinguished title. There was of course no such rule in Tikanga Māori. However, the three-generation rule was easier to apply than the more sophisticated analysis of the maintenance of connection with land which Tikanga Māori would have required.¹²⁶

The example in the Te Kaha Minute Book therefore concurs with Williams from a tikanga Māori perspective but differs from the “three generation rule” that was developed by judges. In Te Kaha, neither the three-generation rule, nor consideration of tikanga take whenua prevailed. This case is likely to be a court-imposed exception, and not the overall rule. It illustrates however, the Court’s power in redefining and enforcing aspects of tikanga.

Tikanga take whenua also presuppose take based upon whakapapa or genealogical ties to land. Taurima rights to land are recognised by the same means. The recognition of take rests with a recognition of whakapapa. Eddie Durie argues that:

In terms of cultural expression, life derives from mother earth. The land is her placenta or “whenua”, and the word “whenua” means both land and placenta. Those who belong to the land, the tangata whenua, are those who trace descent from the original peoples by whakapapa or from meticulously preserved genealogies that generally extend over a minimum of 25 generations. The philosophy admits of

¹²⁶ Joe Williams (2001). *ibid*, p.4.

migrants by incorporation. It admits the children of those who, by marrying into the local community, have sown their seed in the whenua.¹²⁷

Durie argues further that:

The essential Māori value with regard to land, I suggest, is that lands are associated with particular communities and, save for violence, do not pass outside the descent group. That land derives from ancestors and passes to blood descendants, is pivotal to understanding the Māori land tenure system.¹²⁸

Eddie Durie's tenure as Chief Judge of the Māori Land Court (1980-1998) and Chairperson of the Waitangi Tribunal (1980-2004), amongst other distinguishing occupations in the legal arena, lends weight to his opinion given he was present in receiving, analysing and adjudicating on many significant issues related to Māori land and its tenure. When discussing the issue of resource use rights of a hapū Durie explains that:

Incorporation was usually effected by marriage and the allocation of use rights. It appears however, there was more interest in the children who held the blood line, for in a sense the spouse was always an outsider. Adoption was another method, although a blood relationship with the adopted person was usual and preferred. The naming of a child at birth, or the adoption of a new name by an adult were further methods for securing ongoing connections.¹²⁹

Durie argues that land tenure and whānau relationships (whether blood or taurima) was only ever associated with a "resource usage right". It was not a tradeable "ownership" right in the European individualised title sense of the tenure. These resource usage rights were incumbent upon the person claiming them to provide reciprocal duties to the hapū or community involved. For Durie:

Land rights were thus inseparable from duties to the associated community from being part of it, contributing to it, and abiding by its authority and law. There was no room for absentee ownership, only the right for absentees to return.¹³⁰

¹²⁷ Durie, *ibid*, p.452.

¹²⁸ *ibid*, p.453.

¹²⁹ *ibid*.

¹³⁰ *ibid*.

Therefore whakapapa and take tūpuna were insufficient in isolation to secure an individual's usage right (except in the Te Kaha example above). Nor was an occupational right (take noho) sufficient for someone without a take tūpuna. Rights associated with Māori land always result from multiple layers of take relating to a locality. The fewer the number of take the weaker a claim to usage rights became.

Regarding outsiders, amongst whom could be classified taurima with no common ancestry to their taurima parents, Durie argues that “to secure to the donees some larger right in the community, marriages were usually arranged, for lineage was central to the Māori system, and marriage gave a stake in the land by ancestry.”¹³¹ Legal scholar, Jacinta Ruru, concurred with Durie's sentiments that associated whakapapa through marriage was central ongoing taurima relationships.¹³² Ruru, in citing the New Zealand Law Commission and Chadwick argued that:¹³³

Whanaungatanga: denotes the fact that in traditional Maori thinking relationships are everything – between people; between people and the physical world; and between people and the atua (spiritual entities). The glue that holds the Maori world together is whakapapa or genealogy identifying the nature of relationships between all things.¹³⁴

It stands therefore that customarily if no such marriage existed a non-kin taurima child's right to enjoy land rights would die with them and not be passed on through succession. This aspect of tikanga Māori makes taurima children's rights secondary to those of blood kin. This relegating aspect of taurima relationships is not universally observed in all Polynesian countries.

Hānai customs in Polynesia

Throughout Te Moananui a Kiwa (the Pacific Ocean), Polynesian peoples have observed an informal kin adoption system strongly resembling tikanga taurima. It is therefore reasonable to assume that the tūpuna of Māori brought the taurima practice to Aotearoa when migrating from other Polynesian Islands. Polynesian legends recall Māui as an early example of taurima in Māori creation stories. Those legends recall that as an infant Māui was cast into the sea, his

¹³¹ Durie, *ibid.*

¹³² Jacinta Ruru (2005). Indigenous peoples and family law: issues in Aotearoa/New Zealand. *International Journal of Law, Policy and the Family* 19, 327-345.

¹³³ New Zealand Law Commission (2001). *Maori custom and values in New Zealand Law: Series Paper 9*. Wellington: New Zealand Law Commission., para 130; John Chadwick (2002) *Whanaungatanga and the family court*. Butterworths Family Law Bulletin 4: 91.

¹³⁴ Ruru, *ibid.*, p.329.

mother believing him to be stillborn. Rescued by his aunts and grandmother, Māui was nursed back to life and lived as their taurima until it was time for him to return home to his parents.¹³⁵ Māui and his antiquity in time (over 1,000 years old) indicates how long tikanga taurima has existed in Polynesian culture. The proliferation of Māui stories across Polynesian countries also lends support to a widespread understanding of the custom amongst Pacific peoples. Of particular interest to this research are the Polynesian peoples of Hawai‘i and Sikaiana. While many Polynesian societies practise informal kin adoption and fostering, Hawai‘i and Sikaiana demonstrate strong affinity to Māori customary cultural and linguistic practices.

Linguistically, these countries refer to their practice as hānai, a dialectal form of whāngai that carries the same meaning. The purpose of engaging hānai is socially enhancing as its core, to ensure close kinship bonds and enhancement of relationships, sometimes between islands. Handy and Pukui argued that in Ka‘u, Hawai‘i:

The child that is taken into the household and reared is known as *kama hanai* (feeding child) and the man and woman who give it hospitality, that is, who foster it, are *makua hanai* (feeding parents). The “feeding child” may be a mere waif taken in out of kindness, who in the course of time automatically assumes a tacitly accepted role of servant in relation to the family and to the true children of its “feeding parents.” This is said to be “*hanai ‘ai i kanaka,*” or reared to serve the true children of the family. It may be, on the other hand, an orphan or the child of a relative or dear friend, formally adopted and for whom the “feeding parent” comes to have affection that may be as great as that for the biological offspring. Under such circumstances the “feeding child” comes to feel more active affection for the family that raises it and in whose home it spends its childhood than for its true parents; consequently, in later years, when the “feeding child” is grown and the “feeding parents” are ageing, the deepest devotion is oft-times felt and shown on both sides in this relationship.¹³⁶

The Hawaiian aristocracy includes many examples of hānai relationships including a high-profile example of Queen Lili‘uokalani who was herself hānai to the royal aristocracy

¹³⁵ Di Pitama, George Ririnui, and Ani Mikaere (2002). *Guardianship, Custody and Access: Māori Perspectives and Experiences*. Wellington: Ministry of Justice. p.25; Hirini Mead (1997). Tamaiti Whangai: The Adopted Child. In *Landmarks, Bridges and Visions*. Wellington: Victoria University Press, p.204; Beattie & Tikao, *ibid*, p.11.

¹³⁶ Craighill Handy & Pukui (1950). *ibid*, p.71.

and then became Queen of Hawai‘i.¹³⁷ This relationship mirrored the ascendancy of taurima relationships by Wi Naera Pōmare in Ngāti Mutunga who became leader for Ngāti Mutunga after the death of Pōmare Ngātata (discussed in Chapter Four).

Sikaiana, a small Polynesian atoll in the Solomon Islands group, has a high rate of hānai amongst its population of 250 people. With its minimal population, Sikaiana is a Polynesian enclave in the Solomon Islands surrounded by Melanesian cultures. For this reason, Sikaiana represents a microcosm of Polynesian society especially in respect of hānai. The number of children residing on Sikaiana with foster parents, as a percentage of all children, was measured in 1981 as 48%, 1982 as 43%, and in 1987 as 47%.¹³⁸ The cultural practice is prevalent as nearly half of all children on Sikaiana are involved in a hānai relationship. The prevalence of hānai is a strong feature of Polynesian culture elsewhere. Some countries can also face issues when observing customary culture and its interface with European adoption. In Tonga for example:

Nearly all adult Tongans have had some experience with adoption, either directly as adopters or adoptees, or indirectly through relationships with kinsmen who have been directly involved in adoption transactions. The Tongan government sanctions only a few of these adoptions. Few applications for legal adoption are made to the courts because the circumstances of Tongan adoption are often incongruent with the European model of adoption.¹³⁹

The incongruence of custom and law experienced by Tongan people in the example above is a theme which extends to Aotearoa with tikanga taurima and is the topic of this thesis. The incongruence relates to a fundamental misunderstanding of differing “adoption” styles between Polynesian and European cultures.

Differing Adoption Styles – Māori vs Western

In 1988, the Māori Perspectives Advisory Committee to the Department of Social Welfare, (comprised of Māori experts from around Aotearoa), inquired into and produced a set of recommendations for the improvement of Social Welfare services to and amongst Māori. This

¹³⁷ Lili‘uokalai Trust History accessed at <http://onipaa.org/pages/her-history> on 30 May 2018.

¹³⁸ William Donner (1999). Sharing and compassion: Fosterage in Polynesian Society. *Journal of Comparative Family Studies*. Vol.30 No.4 (Autumn 1999) p.707.

¹³⁹ Keith Morton (1976). Tongan Adoption in I. Brady (1976) ed. *Transactions in Kinship. Adoption and Fosterage in Oceania*. Honolulu: The University Press of Hawaii, p.65.

report was entitled *Puao-te-atatu* (Dawn Break) and its pages reveal an insight into Māori concepts of *whānau*, including *taurima*. The report states that:

The placement of children was once the means whereby kin groups or *whānau* structures were strengthened. The child is not the child of the birth parents, but of the family, and the family was not a nuclear unit in space, but an integral part of a tribal whole, bound by reciprocal obligations to all whose future was prescribed by the past fact of common descent.

. . . Placements were not permanent. There is no property in children. Māori children know many homes but still one *whānau*. “Adopted” children knew birth parents and adoptive parents alike and had recourse to many in times of need. But it follows too that the children had not so much rights as duties to their elders and community. The community in turn had duties to train and control its children. It was a community responsibility. Discipline might be imposed on a child by a distant relative, and it was a strange parent who took umbrage.¹⁴⁰

Thus the Māori concept of *whānau* is communal, organic and far more inclusive of inter-related kin than the practices of modern Pākehā family units, which traditionally consist of mother, father and children as the family unit. Māori practised an open style of ‘adoption’ and considered *taurima* to be a public act, endorsed by the *whānau* and *hapū* and something to be celebrated. This supported older opinions endorsed in the Native Land Court where they considered “enough of the old custom still remained to justify it in looking with grave suspicion on an alleged adoption which was not well known throughout the neighbourhood where the adoption was supposed to have taken place.”¹⁴¹

One of the benefits of maintaining an open arrangement was the maintenance of *whakapapa* which is central to *tikanga* Māori and *tikanga take whenua* discussed previously. This was achieved through a child knowing all of their *whakapapa* connections and embracing all of these relationships.

¹⁴⁰ Department of Social Welfare (1988). *Puao-te-ata-tu (Day break). The Report of the Ministerial Advisory Committee on a Maori perspective for the Department of Social Welfare*, Wellington: Department of Social Welfare, Appendix 1, pp. 74-75.

¹⁴¹ Frank Acheson (1922). Adoption among the Maoris of New Zealand. *Journal of Comparative Legislation and International Law* 3rd Series, no.4:60; Griffith, *ibid.*, p.456.

However, reciprocal responsibilities are part of tikanga taurima, and are not treated as property rights. Rather within tikanga Māori, any right (especially with land) is maintained through tikanga observance. If tikanga was not maintained then reversion to those who maintain tikanga occurs, as argued by Durie previously. Take tūpuna is the only enduring right amongst take whenua to exist among Māori. This right was biologically sourced from whakapapa or kinship ties to the whānau and hapū. Take tūpuna therefore gave an individual the right to return to resume tikanga observance at a later time.

In contrast to Māori observances of tikanga taurima, Pākehā adoptions were governed by conventions imported by European settlers. These conventions of adoption were later encapsulated in legislation with the advent of the Adoptions Act 1881. Rather than enhancing whakapapa, European-style legal adoptions severed these connections and created a new inorganic whakapapa for the adopted child through the provision of a new birth certificate complete with new parents, and in most instances, a new name.

Birth certificates for adopted children did not include Māori children, and so it is also highly likely that Māori were not adopted under the 1881 Act in its early years of operation. Section 37 of the Registration Act 1847 was explicit in its exclusion of Māori:

Nothing herein contained shall apply to the registrations of the births deaths or marriages of the Native race. Provided that this Ordinance shall come into operation in respect of the births deaths and marriages of such persons in such districts and at such times as the Governor shall by proclamation from time to time appoint.¹⁴²

Later the Registration Act of 1858, and the Registration of Births and Deaths Act 1875 endorsed Māori registrations of birth which should have been fundamental to ideas of inclusion in the public interest of a country. In fact, it was not until the Māori Councils Act 1900 that Māori births needed to be registered as a matter of law. This may be the reason Māori ‘adoptions’ were recorded as part of Native (and Māori) Land Court hearings rather than through the standard registration process.

In contrast, legal adoptions were a very private act that was not advertised widely, nor sometimes even known to the children who were adopted. However, in recent years some scope for open adoption has evolved, perhaps indicating a willingness by Pākehā society to

¹⁴² Registration Act 1847 (11 Victoriae 1847 No.9) An ordinance for Registering Births Deaths and Marriages in the colony of New Zealand [15th October 1847]. Retrieved from www.nzlii.org on 4 June 2019.

incorporate customary Māori values into their adoption practices.¹⁴³ Simultaneously, adoption evolution is borne out of a desire by adoptees to find out their birth parents as evidenced by the Adult Adoption Information Act 1985.¹⁴⁴ Fundamentally, there exists a dichotomy of understanding, application and communication of adoptive customs between Māori and Pākehā. Māori on the one hand entertained an open, organic, and non-permanent system of adoption, whereas Europeans embraced a private, clinical, legal, and permanent system of adoption. Throughout the colonisation of Aotearoa both Māori and Pākehā came to know and use the word “adoption” but the basis of understanding from their respective cultural perspectives led to inter-cultural misunderstandings that impacted both cultures. Griffith argues that:

The content of tamariki whāngai can never be equated to the Western adoption package. The two packages have more irreconcilable differences than points in common.¹⁴⁵

Griffith’s opinion of the New Zealand experience above, mirrors Morton’s experience of Tongan adoption. While the Kingdom of Tonga was never formally colonised by European interests, it became a British “protectorate” from 1900-1970. During this period a British consul gave advice to the King, and it is likely that through this or Christian influences that the King of Tonga emulated Western laws and practices.

Tikanga taurima evolution

Tikanga taurima evolved more quickly with the introduction of New Zealand’s legislation which has a history of inconsistently recognising and nullifying tikanga taurima. Section 71 of The New Zealand Constitution Act of 1852 had the power to recognise and give status to Māori customs (including tikanga taurima) if a Māori district was proclaimed by the Governor for these laws to occur. No such proclamations were ever made.

In 1845, William Martin published *Ko nga tikanga a te Pakeha*. [European customs]¹⁴⁶ This was followed by *He tikanga enei mo te whakarite whakawa kia pai ai* [These are customs

¹⁴³ Anne Else (1991). *A question of adoption: closed stranger adoption in New Zealand, 1944–1974*. Wellington: Bridget Williams Books.

¹⁴⁴ Adult Adoption Information Act 1985. Retrieved from <http://www.legislation.govt.nz/act/public/1985/0127/latest/whole.html#DLM80515> on 30 May 2018.

¹⁴⁵ Griffith, *ibid*, p. 454.

¹⁴⁶ William Martin (1845). *Ko nga tikanga a te Pakeha*. New Zealand: Christopher Fulton.

to guide good judgements] in 1860.¹⁴⁷ Later in 1868 *Ko nga tikanga nui o te ture o Ingarani* appeared.¹⁴⁸ Finally in 1873 he published *He whakamaoritanga tenei no etahi rarangi o etahi whakaaro i kitea e Te Matenga raua ko Te Hotereni hei ture hou mo nga whenua Maori. Ka tukua atu nei hei hurihuri ma nga tangata Maori o te Runanga o Nutireni*. [This is a Māori translation from sentences from thoughts as seen by Marsden and Shortland as good laws for Māori lands.]¹⁴⁹ These volumes were government endorsed guidelines for the adjudication of civil law matters but did not provide any specific consideration for taurima. This is due to taurima (through taurima succession) escaping Court attention until circa 1880 when taurima succession cases proliferated in the Native Land Court.

New Zealand legislation, as evidenced through these guidelines, was more focussed on the liberation of Māori land and assimilating Māori people to effect greater European settlement. The legislative focus did not appear to deliberately impact tikanga taurima from the outset. The resulting impacts for tikanga taurima however are no less important. Successive laws, which will be explored fully in Chapter Seven, had a corresponding impact on tikanga taurima. In this following section, I provide selected examples of legislative references that demonstrate how legislation contributed to the evolution of tikanga taurima.

The first piece of New Zealand legislation (created in New Zealand) was the Constitution Act 1852. Section 71 of this Act reads:

Whereas it may be expedient that the laws, customs and usages of the aboriginal or Maori inhabitants of New Zealand, so far as they are not repugnant to the general principles of humanity, should for the present be maintained for the government of themselves, in all their relations to any dealings with each other.¹⁵⁰

Section 71 allowed the Governor to proclaim Māori districts under tikanga Māori, without fully supporting its legislative authority if it was contrary to colonisation objectives in the long term.

¹⁴⁷ William Martin (1860). *He tikanga enei mo te whakarite whakawa kia pai ai*. New Zealand: Government Printer. Retrieved from <http://nzetc.victoria.ac.nz/tm/scholarly/tei-MarKoNg.html> on 28 May 2018; William Martin (1874). *He tikanga enei mo te whakarite whakawa kia pai ai*. New Zealand: Government Printer. Retrieved from <http://nzetc.victoria.ac.nz/tm/scholarly/tei-MarOutl.html> on 28 May 2018.

¹⁴⁸ William Martin (1868). *Ko nga tikanga nui o te ture o Ingarani*. Auckland: Albert J. Nicholas; William Detmold: Na te Kawanatanga tenei Pukapuka i mea kia taia. Na Arepata J. Nikorahi i ta. Taurarua.

¹⁴⁹ William Martin (1873). *He whakamaoritanga tenei no etahi rarangi o etahi whakaaro i kitea e Te Matenga raua ko Te Hotereni hei ture hou mo nga whenua Maori. Ka tukua atu nei hei hurihuri ma nga tangata Maori o te Runanga o Nutireni*. Auckland: St. Stephen's Press.

¹⁵⁰ New Zealand Constitution Act 1852, [NZCA] Retrieved from <http://magic.lbr.auckland.ac.nz/dbtw-wpd/ml/basic.htm> on 25 November 2012.

In 1858, the Governor proclaimed Māori districts under the Native Districts Regulations Act and the Native Circuit Courts Act. By Orders-in-Council these Acts could constitute rūnanga (local level Māori councils) to provide local management of Māori districts and operate a limited range of powers including the “suppression of injurious customs”. Native districts arising from these Acts appeared in 1862 in Waiuku,¹⁵¹ Bay of Islands,¹⁵² Tokomaru/Waiapu,¹⁵³ Lower Waikato,¹⁵⁴ Mangonui,¹⁵⁵ Bay of Plenty,¹⁵⁶ Ahuriri, Manawatū, Waihou, Rotorua, Tauranga, Waipukurau, Wairoa and Ngaruroro.¹⁵⁷ Lachy Paterson considers this system failed due to a lack of support by Māori for its introduction.¹⁵⁸ Ward’s research identified that: concerns around land and debt; maintaining tribal mana through their own rūnanga; greediness; insufficient compliance resources; and the difficulty of arresting chiefs contributed to the systems decline.¹⁵⁹ Those reasons coupled with changes of government lead to the abolition of the system in 1865. While there was a renewed attempt in 1900 to reinvigorate rūnanga through the Māori Councils Act, they too failed to take hold.¹⁶⁰

By 1865, The Native Land Act created exclusive jurisdiction over the civil rights of Māori in land, and in matters of succession, probate, and administration.¹⁶¹ The object of the legislation was to provide for the determination of disputes among Māori according to their own customs, so far as they “are not repugnant to the general principles of humanity” provided for in the New Zealand Constitution Act.¹⁶²

The “general principles of humanity” was phraseology that had been utilised repeatedly in the creation of colonial governments across British colonies. The same phrase had been used in the establishment of Natal (South Africa). In 1848, instruction to public administrators there declared that customary law would prevail “except so far as the same may be repugnant to the

¹⁵¹ *Maori Messenger : Te Karere Maori*, Volume II, Issue 2, 15 January 1862. pp.1-3.

¹⁵² *ibid*, pp.5-6.

¹⁵³ *ibid*, pp.19-22.

¹⁵⁴ *Maori Messenger : Te Karere Maori*, Volume II, Issue 5, 5 February 1862. p.25.

¹⁵⁵ *ibid*, pp.27-32.

¹⁵⁶ *Maori Messenger : Te Karere Maori*, Volume II, Issue 7, 13 March 1862. pp.21-22.

¹⁵⁷ *New Zealander*, Vol. XVIII, Issue 1664, 29 March 1862 Page 3 Advertisements Column 1 accessed at <https://paperspast.natlib.govt.nz/newspapers/NZ18620329.2.16.1> on 28 May 2018.

¹⁵⁸ Lachy Paterson (2006). *Colonial Discourses: Niuepepa Māori 1855-1863*. Otago University Press. p.181;

¹⁵⁹ Alan Ward (1973). *A Show of Justice. Racial ‘amalgamation’ in nineteenth century New Zealand*. Auckland University Press, pp.130-146.

¹⁶⁰ Richard Hill (2004). *State Authority, Indigenous Autonomy. Crown-Maori Relations in New Zealand/Aotearoa 1900-1950*. Victoria University press. pp. 62-64.

¹⁶¹ Native Land Act 1865. Retrieved from http://www.nzlii.org/nz/legis/hist_act/nla186529v1865n71251/ on 30 May 2018.

¹⁶² NZCA.

general principles of humanity, recognised throughout the whole civilised world.”¹⁶³ In relating his assessment of this colonial language, Thomas McClendon argues that:

The unconscious irony of the phrasing of such clauses (“general principles...recognised throughout the whole civilised world”) was that their application was highly flexible. It was not at all certain just what these general principles of supposed universal application were. The legal realist in me is constrained to say that the clauses meant simply that the colonial governments retained the power to alter or abolish provisions of customary law – or all of it – as they saw fit.”¹⁶⁴

Prior to the imposition of colonial government in Natal and soon after in New Zealand, the general principles of humanity also found providence with Giambattista Vico, a seventeenth century Italian philosopher who claimed to have discovered a new science of humanity which he published as the “Principles of New Science concerning the nature of nations.”¹⁶⁵ Vico considered there to be three general principles of humanity. These were religion, marriage and burial. Vico further asserts that:

Each nation must have these three institutions as its origin in order to be born. They are the necessary conditions for the birth of any nation.¹⁶⁶

The 1852 Constitution Act allowed locally elected representatives to create New Zealand legislation; the British parliament retained the right of veto although in most cases Britain agreed to the legislation without comment or qualification.¹⁶⁷ Laws such as the Native Lands Act of 1862 and its successive legislation are an example of the New Zealand parliament’s intent and are explored fully in Chapter Seven. Taurima became more apparent in the documentary archives as first-generation successions to individualized ownership to Māori land began to occur. It was during this period that Māori land succession by taurima became apparent in the Court’s and Government’s records.

¹⁶³ Thomas V. McClendon (2010). *White Chief, Black Lords. Shepstone and the Colonial State in Natal, South Africa, 1845-1878*. University of Rochester Press. p.50.

¹⁶⁴ *ibid*.

¹⁶⁵ Donald Phillip Verene (1997). Freud’s consulting room archaeology and Vico’s principles of humanity: A communication. *British Journal of Psychotherapy* 13(4). p.500.

¹⁶⁶ *ibid*.

¹⁶⁷ Refusal of assent – a hidden element of constitutional history in New Zealand. New Zealand Parliament Website. Retrieved from <https://www.parliament.nz/en/visit-and-learn/how-parliament-works/factsheets/refusal/> on 15 July 2019.

Māori land succession by taurima

The decisions of the Native Land Court and the Native Appellate Court, according to the Native Land Court Act 1894 (s.93) were considered final and conclusive with regards to Māori Land titles and succession. Inevitably, their work also involved estate issues concerning tamariki taurima.¹⁶⁸ After thirty years of adjudicating Māori land succession cases involving tamariki taurima, and associated difficulties, the Native Appellate Court gathered evidence from several Māori authorities of the time, subsequently published in the *Appendices to the Journals of the House of Representatives* (AJHR).¹⁶⁹ Following this, the Court then confirmed ten principle rules for substantiating a taurima relationship and therefore succession claims with respect to Māori land. These ten rules influenced the creation of the Native Land Act 1909 which formalised these rules in legislation.¹⁷⁰ Overwhelmingly, it is the plethora of Māori land legislation that had the greatest impact on tikanga taurima evolution in the nineteenth and twentieth century.

Of the nine learned people who provided testimony for the AJHR (1907) report, five were from Native Assessors/Native Agents of the Native Land Court, the remaining four were Māori from different iwi. There was a consensus that in all cases of taurima succession it was incumbent upon the whānau and hapū to consent to the arrangement. At this point in New Zealand history taurima children were referred to as ‘foster children’ in the literature, despite there being no equivalent Māori custom to ‘foster children’ other than taurima.

Thomas Fox of Ngāti Porou argued that “a foster child would not succeed to its foster father’s property supposing he had no issue, in preference to the nearest of kin.”¹⁷¹ Josiah Hamlin, another commentator, concurred with Fox’s opinion. The remaining seven commentators of this period considered that foster children could claim land from their parent’s estate as long as an ohaaki (oral will) was made, and/or all other relatives were dead, and/or they shared in common with next of kin. They all concurred that there was no consensus of interpretation over this issue. There were no apparent Ngāti Mutunga views in

¹⁶⁸ Griffith, *ibid*, p. 458.

¹⁶⁹ AJHR (1907) Native Land Court and Native Appellate Court (Decisions of) Relative to Wills in favour of Europeans and the adoption and succession of children, G5, p.11.

¹⁷⁰ Native Land Act 1909. Retrieved from <http://magic.lbr.auckland.ac.nz/dbtw-wpd/ml/basic.htm> on 25 November 2012. See Part IX.

¹⁷¹ Note: Foster child used in this sense refers to a whāngai child; AJHR (1907), *ibid*.

this publication however, the case studies in Chapters Four to Six clearly show that Ngāti Mutunga supported both points of view with regards to succession.

This lack of a strict guideline for taurima continues to be reiterated more than one hundred years later by writers such as Joan Metge.¹⁷² The opinions illustrated in 1907 do not concur with Eddie Durie as they do not mention or take into account connectivity to hapū or reciprocal responsibilities, or tikanga take whenua in general. These factors may have already been taken for granted in 1907 and did not need to be stated. The 1907 documentation only drew on the opinions of nine individuals, whereas Durie's interpretation is informed by his own personal (Māori) background, education and participation over many years in the New Zealand judicial system relating to the Māori Land Court and Waitangi Tribunal claims throughout Aotearoa, and can be considered a more definitive interpretation. The lack of strict guidelines arising from the Native Land Court document may also be attributable to few Māori land cases involving taurima being similar in nature. A taurima child may share whakapapa with both, one or neither of their taurima parents, and as such, the particular circumstances of each case must be taken into account when it came to succession of land. For example, in one complex case heard on 20 December 1893 before Judge A Mackay, Mr Fraser, the solicitor of the opposing claimant, argued:

.... on the ground that the applicant was not the proper successor, as the late Reihana Wahapaukena, if alive, would have been entitled to succeed to the deceased Ngawahie, and, as he left no issue, his adopted child, Reihana Te Ua, was, according to Native custom the proper successor.¹⁷³

This matter started as a seemingly routine succession case to an owner with no natural issue in favour of her nearest kin, a nephew who was referred to as an 'adopted' child. There were, however, no formal adoption orders in place for this relationship and the relationship was instead considered a taurima relationship. The application was then opposed by the taurima child of another of the deceased's nephews, who had predeceased her. By the end of the first sitting, the Court disallowed this opposing claim and apportioned the interests to Ngawahie's living nephew (the blood relative), solely. This was a clear direction of support in respect of take tūpuna by the Court.

¹⁷² Metge, *ibid.*

¹⁷³ AJHR (1907), *ibid.*

Two years later in 1895, and before new judges, the same case was reheard on appeal. The same arguments were placed before the Court, however, in this instance the Court stated:

It was argued that the intention of the special Act under which this land is held is that it should be reserved exclusively for the Ngatihori tribe, and that therefore to allow an adopted child to succeed would tend to defeat that intention. We consider it sufficient answer that both of the disputing parties can claim to be members of that tribe. We think this is a case where the adopted child should share in the succession with the nearest of kin, and our award is in favour of Reihana Te Uamairangi [the blood kin] and Renata Tauihu [the taurima child of deceased nephew] in equal shares.¹⁷⁴

The Court sought to protect the interests of the Ngatihori tribe by only allowing those of Ngatihori descent to be eligible to succeed to this land interest. It did not however seek to maintain the take tūpuna through which Reihana Wahapaukena's interests were derived. The only difference in this case was a separate set of judges with different interpretations to those of the previous judge two years earlier. Both cases dealt with the same land block, and the same potential successors. The appeal decision did not take into account the already existing interests of Reihana Te Ua, the taurima child of Reihana Wahapaukena, who may have had existing large land holdings, whereas the nearest of kin may not.

The prevailing colonial agenda of that period was to alienate Māori land in favour of Europeans. Examples such as this change in judicial decision reflects this colonial agenda, particularly as the Native Land Court was the Government's mechanism to alienate Māori land.

Taurima in a legislative framework

Customarily, before the establishment of the Native Land Court, taurima children could inherit from their taurima parents if they were of the same bloodline and also fulfilled other cultural responsibilities to their parents, such as tending gardens, looking after them in old age, and maintaining ahikā on the land.¹⁷⁵ This was not exclusively the case, and a notable Ngāti Mutunga example is given in Chapter Four that explores how the natural children of

¹⁷⁴ *ibid.*

¹⁷⁵ Smith (1942). *ibid*; Acheson, *ibid.* p.60-61.

Pōmare Ngātata were disinherited in favour of his nephew in succession of mana and authority over resources.

As claims concerning taurima in the Native Land Court escalated, further specific legislative provisions appeared to deal with the special nature of these relationships. A fuller analysis of legislative impact is explored in Chapter Seven to illustrate the types of impact experienced by taurima.

Native Land Claims Adjustment and Laws Amendment Act 1901

This Act provided for claims to “customary Māori adoption”, a new type of terminology to describe taurima relationships. This legislation held that a taurima arrangement could not be recognised unless it was registered in the Native Land Court. This stipulation only applied to mātua whāngai who died after 31 March 1902.¹⁷⁶ To record decisions arising from this and other Acts, separate Adoptions Registers and Minute Books were kept from 1902 to 1964 for every customary Māori adoption that progressed through the Native Land Court. This process then separated ‘customary Māori adoptions’ (taurima endorsed with Court orders) from “taurima” (taurima without Court orders). Few taurima were actually progressed through the Land Court as evidenced in the Adoption Registers and Minute Books referred to above. One possible reason is the lack of impetus for Māori to enter into a legal framework of recognition, particularly where it carried costs associated with court process fees.

The Native Land Court Adoptions’ volumes also recorded details of when adoptions had been annulled, such as Te Nguha’s adoption. The Court, in this appeal case, was of the opinion that:

Adoption requires to be clearly proved. Court is of opinion that it has not been proved in this case. The fact that the widow of Erueti apparently had no knowledge of Te Nguha as an adopted child she was giving evidence in the Courts[sic]...with regard to a claim there being evidence by other alleged adopted children is very strong proving that Te Nguha was not an adopted child.¹⁷⁷

The Court that first admitted Te Nguha’s right previously on *prima facie* evidence, changed its opinion towards the validity of the existence of taurima relationships. The Court now stated ‘adoption’ needed to be clearly proved or substantiated with more than one person’s

¹⁷⁶ N. Smith (1960). *ibid.*, p.42.

¹⁷⁷ ADPT 1:193.

advice as to the validity of the taurima relationship's existence. This example shows the changeable nature of the Court's influence over taurima relationships and associated inheritance of land interests.

The Adoption Register (1902-1910) also records particulars of adoptions and their progress through the Courts. An example of the application form for recording "adoptions" is worded as follows:

Tono Tamariki whangai – Ki te Kooti whenua Maori, Niu Tireni. He tonu tenei naku i raro i nga Tikanga o te ture kia uiuia e tetahi Tiati taku tangohanga iahei tamaiti whangai maku a kia whakaputaina ano hoki e ia tana tiwhikete whakatuturu i te tika o taua tangohanga. Toku kainga kei.....e tata ana ki.....I tuhia i tenei.....o nga ra o.....1904. Na.....¹⁷⁸

Translated this application becomes:

Application for whāngai children – to the Māori Land Court, New Zealand. This is my application under law for a Judge to confirm my taking of.....as my whāngai child, and for him to publish a certificate to this effect confirming this arrangement. My address is.....this is close to.....signed this.....day of1904, By.....¹⁷⁹

The wording of this application is crucial in that it does not differentiate (in the Māori text) taurima (whāngai) and a European adoption. There is nothing stating that it is anything different from what Māori understood the taurima custom to be.

In Ngāti Mutunga's experience there are some recorded examples of children being registered as 'adopted' in the Native Land Court. In 1906, the first recorded example for Ngāti Mutunga in the Chatham Islands was an adoption by Riakiao Wharepā, a daughter of a leading Ngāti Mutunga chief, who possessed large landholdings and who had no biological children. She sought to bequeath her landholdings to her adopted child, Wiremu Rangipupu.¹⁸⁰

In another example that same year, Taare Te Ura withdrew his application to adopt Waipuke Te Ropu, a girl with whom he felt he had no 'tatanga' (closeness). He also felt that

¹⁷⁸ ADRG 1:194.

¹⁷⁹ Author's translation, 12 May 2015.

¹⁸⁰ CIMB 4:185-6.

as his wife had already adopted her formally, then he would not proceed to adopt the girl.¹⁸¹ This example illustrates that married people could taurima children independently of each other.

Ngarere Pamariki, sought to adopt seven children, some were adults, others children, and one was European. All except the European child was related to her by blood, and she wished all of them to inherit her estate after her death.¹⁸² From these examples it was clear that members of Ngāti Mutunga understood the law of the day and some saw it as justifiable to pay the one pound application fee to have the case heard, and taurima arrangements reinforced by law.¹⁸³

Numerous other pieces of New Zealand legislation impacted tikanga taurima and these are discussed more fully in Chapter Seven. It is sufficient to say for this Chapter that legislation impacted tikanga taurima to such an extent that Ngāti Mutunga people, such as Ngarere Pamariki, began to evolve their thinking and practices concerning taurima, particularly where individual assets and succession was involved.

Cultural positioning and representation

Returning to the twenty-first century, a contemporary example of “highly problematic, post-colonial issues of cultural positioning and representation” is discussed concerning the incorporation of Māori concepts and terminology into legislative frameworks. Arnu Turvey considers that western institutions should “properly consider and apply Māori concepts in a way that will promote rather than subvert Māori culture.”¹⁸⁴ Turvey does not consider taurima in his analysis, choosing instead to focus on more recent examples such as kaitiakitanga, which has arisen with the promulgation of the Resource Management Act 1993. The dynamics faced by terms such as kaitiakitanga are equally applicable to taurima as both are tikanga-guided customs that have been incorporated into New Zealand legislation. This type of legislative incorporation opens tikanga concepts and guidelines to interpretation and amendment by those not of the source culture and through this process can dilute or distort important concepts.

¹⁸¹ CIMB 4:253.

¹⁸² CIMB 4:294.

¹⁸³ *ibid.*

¹⁸⁴ Arnu Turvey (2010). Te Ao Maori in a "Sympathetic" Legal Regime: The use of Maori concepts in legislation. *Victoria University of Wellington Law Review* 40. p.532.

One such tikanga concept for taurima was the ability of whānau and hapū to endorse taurima relationships. This is now an optional requirement in a contemporary context. In the 2000 Māori Land Court case re Tukua and Maketu C2B Block, Judge Carter ruled that:

[taurima] custom generally favour a kin based whāngai relationship...but... the lack of blood relationship (is) not fatal to the application.”¹⁸⁵

Interpretations by the Court, especially where cases are heard by different Judges further impacts the operation of tikanga taurima. Judge Carter suggested that if there was a ‘Last Will and Testament’ then inheritance could occur for taurima. Conversely, Judge Ambler argues the Court still had discretion to allow inheritance or not.¹⁸⁶ Cases like this demonstrate there is no consistency in the Court’s practice nor is their strong alignment with tikanga taurima.

Indeed, Government intervention in the application and observance of taurima rights continues into the twenty-first century particularly with tribal and other Māori settlements where Crown insistence of taurima and adoption inclusion in the scope of settlement has been progressed. Kirsty Gover argues that because of Crown pressure, some iwi have included wording to this effect in their settlements while others have not.¹⁸⁷ As a compromise, Māori, via their negotiators for the Treaty of Waitangi Fisheries Commission, acquiesced in the inclusion of “whāngai” in the Māori Fisheries Act 2004 where the legal definition of “whāngai” now reads “as a person adopted by a member of an iwi in accordance with the tikanga of that iwi, but who does not descend from a primary ancestor of the iwi”.¹⁸⁸ This definition can be argued as incongruent with tikanga taurima. This also appears contrary to contemporary writers such as Matiu Dickson who considers that:

Whāngai is described as an adoption according to Māori tikanga or custom. Whāngai children were cared for mainly to relieve stress within a family. The children lived with whāngai parents (usually grandparents but not always) and were given back when the situation as to their care had improved. The whāngai child of grandparents was a favoured child and treated accordingly.¹⁸⁹

Gover argues further that:

¹⁸⁵ Adams’s Land Transfer (NZ) Appendix B: Maori Land Law for Conveyancers – B.6.5.

¹⁸⁶ WH 127:145, In A20060014284, 8 December 2008 per Judge Ambler.

¹⁸⁷ Kirsty Gover (2009). Tribal Constitutionalism and membership governance in Australia and New Zealand: Emerging Normative Frictions, *New Zealand Journal of Political and International Law*, vol.7, p.191.

¹⁸⁸ *ibid*, p.214.

¹⁸⁹ Matiu Dickson (2010). *Te Piringa Waikato Law Review* 18: p.67.

The question remains as to whether persons who are not descendants by law or custom (such as a spouse) can be regarded as beneficiaries of the settlement. If they are, the implication is also that they are included in the class of “all Māori” for whose claims have been settled.¹⁹⁰

Additionally, non-Māori who may be considered taurima in the Māori Fisheries Act definition may then assume a legal identity as a class of Māori defined in Te Ture Whenua Māori Act 1993, where preferred classes of alienee are ranked for succession purposes. No clear legislative framework exists to recognise or limit taurima rights; rather, fragmented approaches over time have been created to reactively respond to specific political issues. The politicisation of taurima rights has an adverse affect on Māori as summarised by Suzanne Pitama who argues that:

.... Māori family systems are left to be interpreted and determined by judges who are not grounded in tikanga Māori, the effects of such have continued to lead to the alienation of Māori land, and the wrongful inheritance of such land by non-kin. The on-going separation of whānau, hapū and iwi from their tūrangawaewae that occurs throughout the Māori Land Court continues to effect Maori well-being as it isolates one from their identity and prevents psychological, emotional and spiritual healing to occur.¹⁹¹

While endorsing Pitama’s statement, I can add that that there are some recent and clear examples of Māori Land Court judges who are grounded in tikanga Māori (e.g. Judge Harvey, Judge Williams). Despite this grounding however, judges remain constrained by case law and legislation that governs their activities. Ultimately, the courts determine outcomes, rather than whānau who practise tikanga, particularly with regard to taurima.

Ōhākī

Ōhākī (also referred to in documentation as Ohaaki or Ohaki) are a customary succession practice utilised by rangatira to impart their dying wishes regarding land and resources. It was usually verbalised in a rangatira’s dying moments with their near relatives close by. Prior to the Native Land Court, an ōhākī delivered by a rangatira was binding on the whānau and hapū regarding their collective land and resources.¹⁹² Of particular interest to this study is the Native

¹⁹⁰ Gover, *ibid*, p.214.

¹⁹¹ Pitama, *ibid*, p.67.

¹⁹² CJAMB 1:173-175. On 16 October 1900, Hamuera Mahupuku, a *rangatira* of Ngāti Hikawera provided an opinion of the native custom of ōhākī.

Land Court's ongoing use of *ōhākī* as a qualifying aspect for taurima children's succession to taurima parent's estates, particularly where the parents have died without natural issue. Numerous summarised Native Land Court cases regarding successions by taurima children (from 1893 – 1906) were provided in the Native Land Court's 1907 AJHR document. To assist them in their work the Native Land Court employed Native Assessors, generally rangatira within their own communities who were seen as friendly to government policies. Assessors undertook a paid role to advise the Judges on evidence given in Māori to substantiate claims.¹⁹³

In 1895 Judges Mair and Edgar, in consultation with two Court assessors, outlined the features of an *ōhākī* as follows:

...the essential features of an *ohaki*: (1) it is the verbal expression of the wishes and intentions of a Native, shortly before his death, regarding the disposal of his property (2) it must be made in the present [sic] of, or be made known to his near relatives.(3) it would seldom or never be made in favour of a complete stranger in residence as well as in blood. (4) By old native custom, an *ohaki* would be held binding and be acted on without question by the relative of the deceased after his death. (5) it has been argued that an *ohaki* must be made *in extremis* or under circumstances when dying depositions would be taken, but we do not consider this an essential condition.¹⁹⁴

With these guidelines, the Native Land Court then applied *ōhākī* with respect to succession cases. In the succession of Apitia Punga (Chapter Five), an *ōhākī* is brought to bear in an effort to support taurima claims for succession in preference to his natural kin.

In conclusion, this chapter has presented tikanga taurima as a subset of tikanga Māori intricately connected to other tikanga Māori, including tikanga take whenua. The imposition of land laws in New Zealand has had an undesired impact on tikanga taurima. Formerly fluid customary practises were now rigid. That rigidity has produced negative impacts for Ngāti Mutunga people in taurima relationships today. Those impacts and further legislative impact examples are provided in Chapters Seven and Eight. However in the next chapter an outline of

¹⁹³ Native Assessors were first empowered under the Native Circuit Courts Act 1858 to assist with a wide-ranging jurisdiction in keeping order as well as assessing land claims. Section 31 (under Part V) provided for: "...the Governor from time to time to appoint Aboriginal Natives, of the greatest authority and best repute in their respective tribes, to be Assessors of the Resident Magistrate for the purposes of this Act, and of an Ordinance of the Lieutenant-Governor of New Zealand, intituled "An Ordinance to provide for the establishment of Resident Magistrates' Courts, and to make special provision for the administration of Justice in certain cases;" and such Assessors from time to time to remove; and every such appointment may either confer a general or local jurisdiction." The jurisdiction of these Native Assessors was greatly reduced with each subsequent incarnation of the Native Lands Acts from 1862.

¹⁹⁴ AJHR, *ibid*, G-5.

Ngāti Mutunga is provided to understand the unique history within which tikanga taurima has persisted.

Chapter Three: Ngāti Mutunga – tōna iti, me tōna rahi¹⁹⁵

Ngāti Mutunga, an iwi Māori, numbers some 4,155 individuals.¹⁹⁶ The iwi claims descent from various ancestors who migrated to Aotearoa aboard the Tokomaru and other waka. They take their name from the ancestor Mutunga from whom tribal members descend. When compared to other iwi, Ngāti Mutunga’s population ranks among the smallest. Ngā Puhi by comparison, is the largest iwi with 125,601 people in the 2013 census, and Ngāti Tama ki te Upoko o te Ika is one of the smallest with just 219 people.¹⁹⁷ The total Māori population in the 2017 census is 734,200 people,¹⁹⁸ so Ngāti Mutunga constitute 0.5% of the total Māori population.

Ngāti Mutunga’s original kāinga is located within geographical areas highlighted by their tribal kāinga ‘Mai i Tītoki ki Te Rau o Te Huia’ (From Tītoki ridge to the Te Rau o Te Huia pā site).¹⁹⁹ Tītoki ridge is on the northern side of the Mīmī river, and Te Rau o Te Huia is just before the Ōnaero River; both rivers are north of New Plymouth on New Zealand’s west coast.²⁰⁰

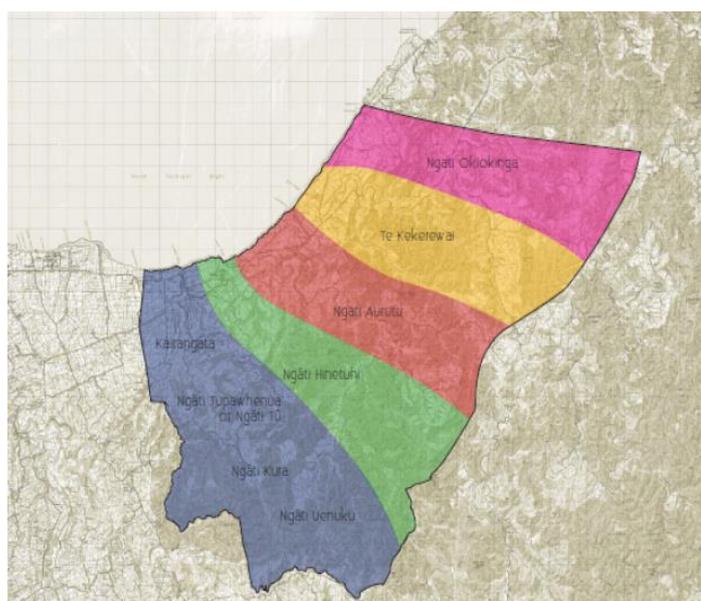


Figure 2: Ngāti Mutunga takiwā (boundaries) in Northern Taranaki, New Zealand. Shaded areas showing approximate hapū boundaries. *Source:* www.ngatimutunga.iwi.nz

¹⁹⁵ “tōna iti me tōna rahi” can be translated as “their small size and their enormity”. The term acknowledges that as a small iwi, Ngāti Mutunga is very well known.

¹⁹⁶ Retrieved from www.stats.govt.nz accessed 4 January 2014. ‘2013 census tables by topic’. The population of Ngāti Mutunga is the combined totals of the Taranaki and Wharekauri affiliated tribal members. There is likely to be some significant duplication in these statistics as most Ngāti Mutunga will affiliate to both places.

¹⁹⁷ *ibid.*

¹⁹⁸ 2017 statistics retrieved from www.stats.govt.nz on 1 June 2018.

¹⁹⁹ From Tītoki ridge to the pā called Te Rau o Te Huia. Author’s translation 5 January 2014.

²⁰⁰ John Bell Condliffe (1971). *Te Rangi Hiroa The Life of Sir Peter Buck*, Christchurch: Whitcombe & Tombs Ltd. p.245.

Ngāti Mutunga has two marae. The first is at Urenui in Northern Taranaki. The second is at Te One in Wharekauri (Chatham Islands). Prior to these marae being established, Ngāti Mutunga occupied pā and kāinga strategically placed around their entire rohe. Two such pā in north Taranaki are known as Arapawanui and Ōkoki and they played an important role in Ngāti Mutunga's eventual exodus to Wharekauri (Chatham Islands) which will be discussed shortly. In Taranaki, Ngāti Mutunga were once made up of interconnected hapū identified as:

Te Kekerewai (also known as Ngati Rangi, made up of the sub groupings of Ngati Te Uruwhakawai, Ngati Korokino, and Ngati Tutewheuru), Ngati Hinetuhi (descendants of Te Hihiotu), Ngati Aurutu (descendants of Aurutu), Ngati Okiokinga (descendants of Okiokinga), Ngati Kura (descendants of Hineno), Ngati Uenuku (descendants of Uenuku son of Ruawahia), Ngati Tupawhenua (descendants of Uenuku son of Ruawahia), and Kaitangata (descendants of Tukaweriri, Hineweo and Te Ito).²⁰¹

Today, Ngāti Mutunga in Taranaki has a singular tribally orientated identity, and do not readily differentiate themselves with hapū identities. Similarly, in Wharekauri there is one singular identity which is distinct from the Taranaki identity. A small population, geographical displacement, loss of te reo me ngā tikanga and land confiscations have contributed to the contemporary issues faced by the iwi.

Ngāti Mutunga connect through whakapapa and association to other iwi and hapū in the Taranaki and Tainui regions (See whakapapa 1, p.70).²⁰² One such association is with Te Ātiawa. The connection is so close that Ngāti Mutunga is often subsumed into a Te Ātiawa identity and is often described as such in many nineteenth-century published narratives.

Te Ātiawa is an iwi with whakapapa attributable to Toi-te-huatahi. According to Te Rangi Hīroa, Toi was the father of many tribes, eight generations prior to the popularized waka migrations of the fourteenth century.²⁰³ Soon after Toi arrived in Aotearoa he established himself at Whakatāne. His descendants increased by intermarriage with the

²⁰¹ Ngāti Mutunga: Our History. Retrieved from http://www.ngatimutunga.iwi.nz/information.php?info_id=6 on 30 July 2014.

²⁰² Eleanor Jeanie Spragg (1996). Two Maori manuscripts and whakapapa. Auckland War Memorial Museum Library. MS 96/17; Ngāti Mutunga whakapapa manuscripts held by author.

²⁰³ Peter Te Rangi Hīroa Buck (1929). *The Coming of the Maori*, Cawthron Lecture, New Plymouth: Thomas Avery & Sons Limited. p 17. Hoani Te Whatahoro, (1915). *Lore of the Whare Wananga or Teachings of the Maori College On their History and Migrations, etc*, Memoirs of the Polynesian Society, Vol. IV, Part II - Te Kauwae-raro, translated and annotated by Smith, S.P. New Plymouth: Thomas Avery & Sons, p.268.

original occupants of the land about Whakātane and further afield and became known as Te Tini o Toi (the multitudes of Toi).²⁰⁴

One of Toi's sons, Ruarangi, married Rongoueroa. She in turn had a liaison with Tamarau-Te-Heketanga-A-Rangi (Tamarau), a celestial guardian from the tenth heaven. Tamarau had a son called Awanuiārangi who is Te Ātiawa's eponymous ancestor. A kīwaha concerning Te Ātiawa states: 'Ko Te Atiawa no runga i te rangi' (Te Atiawa from the heavens above) on account of the superlunary nature of Awanuiarangi's father, Tamarau.²⁰⁵

The descendants of Awanuiārangi were referred to as Ngāti Awa.²⁰⁶ It was during the lifetime of Awanuiārangi that his descendants moved from Whakatāne to Taranaki. They occupied places at Ngā Puke Turua, inland of Mahoetahi, and Puketapu. Te Rangi Hīroa applies the 'Atiawa' name to these people and says that they rapidly spread throughout the area.²⁰⁷

Te Ātiawa and the tribes who resided in northern Taranaki were cordial to each other, initially. However, when Pohokura, a local chief died, the peaceful relationships turned to war.²⁰⁸ Te Ātiawa undertook raupatu over the resident tribes and absorbed them into their identity. Therefore, under the auspices of tikanga take whenua the authority of the land passed to Te Ātiawa. Te Ātiawa's population increased again when the Tokomaru waka arrived in the region circa 1350. It was the Tokomaru which brought the key ancestors of the Ngāti Mutunga and Ngāti Tama to Aotearoa.²⁰⁹ Arapatu Haku corroborated this account in 1894.²¹⁰ Arapata was a Te Ātiawa man who recorded a short story of the Tokomaru's arrival in Taranaki. The reason for the Tokomaru's arrival was because of a dispute between Manaia (of the Tokomaru waka) and Mōtai (of the Tainui waka), the latter having slept with

²⁰⁴ Eldson Best (1977). *Tuhoe: The Children of the Mist*, A Polynesian Society Publication, Vol. I, Wellington: A.H. & A.W. Reed, third edition, p. 62.

²⁰⁵ Joseph Ritai (1991). *Taranaki Muru Raupatu*, Vol. 1, Wai 143, #D1-D10, pp 5 - 6; Whatahoro, ibid, p. 103 and pp.268-269.

²⁰⁶ Buck, ibid, p 24; Whatahoro, p.103.

²⁰⁷ Stephenson Percy Smith (1910). *History and Traditions of the Maoris of the West Coast, North Island of New Zealand Prior to 1840*: Memoirs of the Polynesian Society, Vol. I. New Plymouth: Thomas Avery, pp. 120–121; Buck, ibid, p 24; Whatahoro, p.103.

²⁰⁸ Whatahoro, ibid, p.24.

²⁰⁹ Alan Riwaka (2003). *Nga Hekenga o Te Atiawa: Waitangi Tribunal Report WAI 607 4 July 2000* Edited April 2003, Te Atiawa Manawhenua ki Te Tau Ihu Trust. pp. 4-8.

²¹⁰ Arapata Haku (1894). *Arapata Haku - Ko te haerenga mai o Tokomaru (The coming of the Tokomaru canoe)*. National Library of New Zealand. MS-Papers-1187-070.

Manaia's wife. Upon arrival they claimed the areas still known as Te Ātiawa's takiwā, before conquering and marrying the local people.²¹¹

Alexander Shand and Hirini Mead acknowledge that the name Ngatiawa was commonly used by the Awa people living in Taranaki in the nineteenth century. They also say that the name Te Atiawa was a convenient term used to distinguish Ngatiawa in Taranaki from those of the same name living at Whakatāne.²¹² A point worth noting is that the names Te Ātiawa, Atiawa and Ngatiawa carry the same meaning,²¹³ and gives context to historical narratives which may refer to any of the three names. The complexity of extracting Ngāti Mutunga threads from those records remains in the twenty-first century.

Further examples of inter-iwi connections that exist with Ngāti Mutunga can be found with Tainui tribes like Ngāti Toa whose ancestor Toarangatira was a grandson to Mutunga through Mutunga's daughter, Tūwhareiti, marrying Korokino of the Ngāti Mango. In turn, Toarangatira's grandson, Te Māunu, married Kahutaiki of Ngāti Tūrangapeke and Ngāti Haumia. Mutunga's maternal aunt was also a wife to Maniapoto of the King Country. These few examples (amongst many others) illustrate the kinship bonds in existence between the tribes of North Taranaki and the West Coast of the North Island.

These whakapapa connections created family alliances and obligations that drew Ngāti Mutunga into battles across the North Island. This history can be seen in names given to events and battle locations, such as Hingakākā, Te Arawī, Pukerangiora, and Arapawanui, to commemorate them and to pass knowledge orally through generations. The battles named above are some of the reasons Ngāti Mutunga undertook their migrations in the nineteenth century, first from Taranaki, and later to and from Wharekauri. These battles are discussed below.

Hingakākā (1807)

Early accounts of this battle rely on the published accounts of Pei Te Hurinui Jones', and Leslie Kelly's.²¹⁴ Hingakākā was fought near Te Awamutu in Waikato but was given this name to commemorate great losses of life. Loosely translated, Hingakākā has two potential meanings.

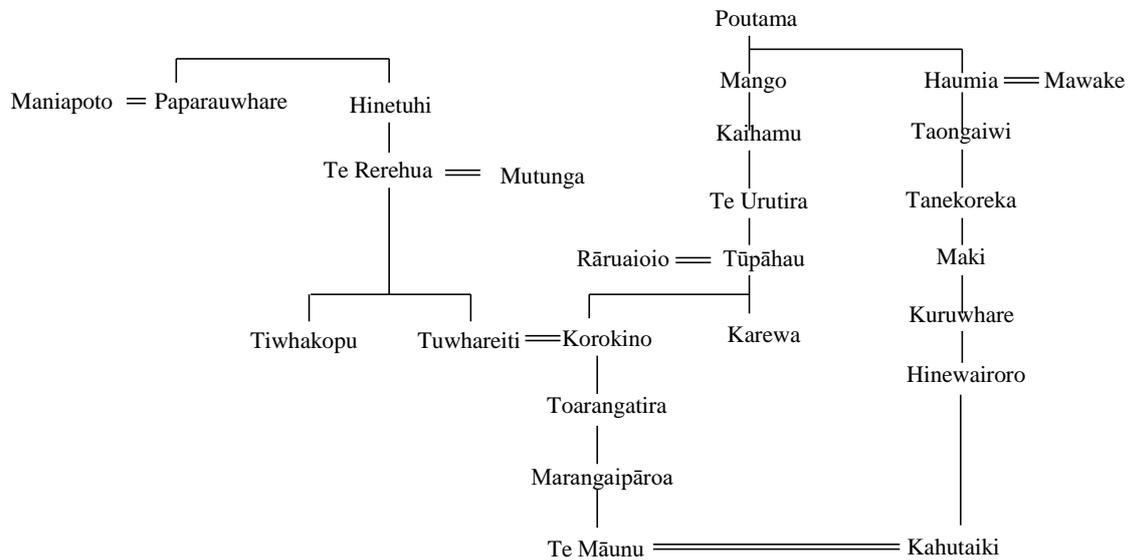
²¹¹ Haku, *ibid*.

²¹² Alexander Shand (1892). *The Occupation of The Chatham Islands By The Maoris in 1835*, *Journal of Polynesian Society*, Vol. 1, p 86; Keith Sinclair (1951). *Some Historical Notes on an Atiawa Genealogy*, *Journal of the Polynesian Society*, Vol. 60, p.61.

²¹³ Richard Barrett, *Extracts from Barrett's Journal*, MS 1736, pp 2, 5 – 9, 15; Shand, *ibid*, p 86.

²¹⁴ Pei Te Hurinui Jones & Bruce Biggs (1995). *Nga iwi o Tainui*. Auckland: Auckland University Press. pp. 348-357; Leslie Kelly (1949). *Tainui: the story of Hoturoa and his descendants*. Wellington: Journal of the Polynesian Society. pp. 287-295.

The first means the “falling of the parrots”; another translation renders the meaning as a harvest of fish using a certain type of fishing net. The allegories associated with both meanings allude to the death of many people in this battle.²¹⁵



Whakapapa 1: Inter-relationships between iwi in Northern Taranaki and West Coast. Sourced from whakapapa recorded by Tamihana Te Huirau held in author’s private collection. c.1920

Kākā are native parrots whose feathers were used to create kahukura, red feather cloaks worn by rangatira. The reason this battle is referred to as the falling of the parrots (warriors or chiefs), was in reference to large numbers of rangatira killed during that battle. Kelly describes Hingakākā as the biggest pre-musket battle of the nineteenth century in which warriors used traditional weapons like patu, taiaha, and tewhatewha in hand-to-hand combat before warfare was changed with the introduction of the musket.

Pīkauterangi, a prominent ancestor of Ngāti Toa and associated with Ngāti Kauwhata, is considered to be the instigator of the trouble that led to this battle, in the year 1804.²¹⁶ At this time two tribes, Ngāti Kauwhata and Ngāti Apakura, lived in the vicinity of Kāwhia and Marokopa on the west coast of the North Island.

Each fishing season, during summer, these two tribes would host hākari (traditional feasts) to celebrate the season’s catch, annually alternating the hosting responsibilities. Pīkauterangi took offence during a feast hosted by Ngāti Apakura. He considered the kahawai (*Arripis trutta*) offered to his people to be of poor quality. In retribution Pīkauterangi killed

²¹⁵ Bruce Biggs in his translation of Jones’s work noted that another commonly held translation was Hingakaka or “gathered up like fish”.

²¹⁶ Jones & Biggs, *ibid*, p.348; Kelly, *ibid*, p.288.

some Ngāti Apakura people and ate them. Pīkauterangi, still angry, proceeded to recruit allied tribes (amongst whom was Ngāti Mutunga) for a war against Ngāti Apakura. Pīkauterangi eventually enlisted approximately 16,000 warriors to support his cause.²¹⁷

Ngāti Apakura and their allies chose Te Mangeo as their battleground.²¹⁸ The Waikato allies (as they were collectively known) numbered approximately 1,600 warriors and were severely outnumbered.²¹⁹ Using their knowledge of local environments to their advantage, Waikato used the fernland and manuka scrub as decoys and camouflage. They tied feathers to the tops of the ferns to resemble warriors' headdresses and also placed cloaks around bushes to create the illusion of greater numbers.

Pīkauterangi's larger allied forces were beaten by Waikato. Pīkauterangi, his brothers and large numbers of their kinsman all lay dead, like fallen parrots, Hingakākā. Pīkauterangi's younger brother Māui, and cousin, Te Māunu Kuaō, were two people killed in this battle. These two tūpuna were the fathers of numerous Ngāti Mutunga people. Hingakākā proved a source of enmity between the Waikato and Taranaki tribes. Despite Ngāti Toa having whakapapa connections to both Waikato and Taranaki they became more strongly aligned with Taranaki owing to their familial and military connections to Ngāti Mutunga.

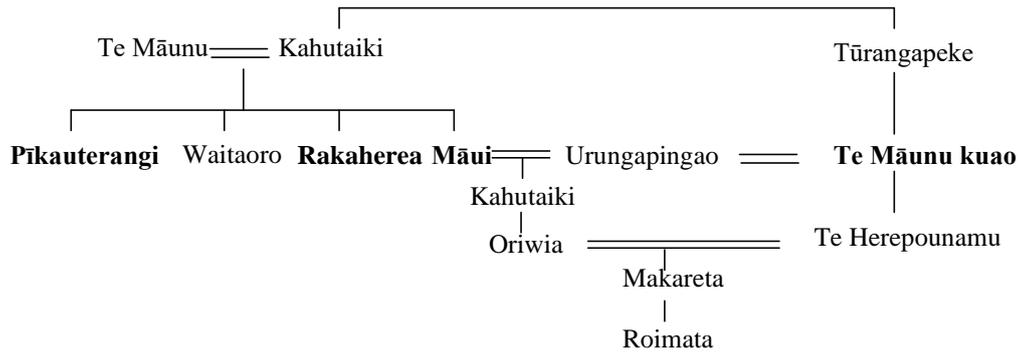
Te Arawā (c1820)

A few years after Hingakākā, the next generation of leadership from the tribes involved with Hingakākā realigned and entered a new conflict. Ngāti Hikairo of Waikato and Ngāti Maniapoto from the King Country were aligned to the victors of Hingakākā. They raised a tauā (the Waikato tauā) and proceeded to Kāwhia to attack Ngāti Toa (Pīkauterangi's people), who, with Te Rauparaha yet to emerge as the new rangatira, were in a state of leadership flux. The Waikato tauā had heard that Ngāti Toa had occupied their old settlements at Whenuapō and Te Arawā where Te Rauparaha, Te Rangihaeata, and Matu of Ngāti Koata were resident. These chiefs were among the natural successors to the leadership that had died in battle at Hingakākā. The Waikato tauā first attacked Whenuapō pā. Te Hiakai, the chief of that pā, wanted to prevent bloodshed and asked the Ngāti Toa chiefs to come forth. When they did, Te Hiakai escorted them so they should not be harmed by the Waikato forces with whom he was also related. By this action, Ngāti Toa were allowed to move on to Te Arawā. Waikato pursued Ngāti Toa to Te Arawā and this time Waikato was successful in killing many Ngāti Toa forces.

²¹⁷ Jones & Biggs, *ibid*, p.354.

²¹⁸ Kelly, *ibid*, p.291.

²¹⁹ *ibid*.



Whakapapa 2: Whakapapa relationship between Hingakākā combatants. *Whakapapa sourced from personal whakapapa records held in the author’s collection and also Spragg, E. Two Maori manuscripts and whakapapa. MS96/17. Auckland War Memorial Museum Library.*

Waikato surrounded Te Arawā; the only possible route of Ngāti Toa escape was a cliff track to the beach which bordered the pā. By morning the remaining Ngāti Toa allies inside the pā realised their numbers were decreasing through escape along the cliff track.

Waikato’s tauā persisted in attacking Ngāti Toa. One night Te Rangitūātea, a Waikato chief reached out to his relation Te Rauparaha inside Te Arawā. They met in secret on the beach below and Te Rangitūātea said:

Maunu! Haere! withdraw, and be off at once before you are attacked and it is too late. Go all that can, and leave only such as are unable to travel; leave them to be made cinders (kongakonga) of. Go to Taranaki; to Te Ati-Awa, for safety.²²⁰

Te Rauparaha took Te Rangitūātea’s advice and escaped with his people to Taranaki. This consideration or koha by Te Rangitūātea is an important moment in Ngāti Mutunga history as it is recalled later at the battle of Te Motunui in 1822, and still later by Māui Pōmare in 1911 when seeking political support from King Mahuta.²²¹

Pukerangiora (1821)

In Te Ātiawa country and closer to Waitara is Pukerangiora pā. It was here another battle impacted Ngāti Mutunga in November 1821,²²² through interaction with an additional tauā called Amiowhenua comprising mainly Ngāti Whātua, Waikato and Maniapoto iwi. This was a second successful tauā from the northern tribes into Taranaki in adjacent years, where local

²²⁰ S.P. Smith (1910), *ibid*, p.336.

²²¹ Michael King (2003). *Te Puea: A Life (New Edition)*. Auckland: Reed Publishing NZ Ltd, p.57.

²²² Smith (1910), *ibid*, p.209.

tribes (including Ngāti Mutunga) were plundered, with captives taken back to Te Taitokerau.

The northern tauā found itself besieged by Te Ātiawa for about seven months, during which time they sent messengers to the north to rally reinforcements. Most messengers were caught, beheaded and their heads placed on poles for the tauā to view. One messenger did make it back to Te Wherowhero of Ngāti Mahuta, a high chief within the ranks of the Waikato iwi, who subsequently raised a tauā of his own to assist his kinsmen at Pukerangiora.²²³ Meanwhile, the allied tribes of Taranaki (including parts of Ngāti Mutunga) continued to wage war at Pukerangiora. This battle occurred simultaneously with the battle of Ōkoki which is discussed below.

Arapawanui (1821)

Adding to the complexity of warfare in Ngāti Mutunga territories at this time is the battle at Arapawanui, a pā which sits on the northern end of the Motunui plain. Ōkoki pā stands at the southeastern extremity of this plain.

Arapawanui was the site of conflict between portions of the allied Ngāti Mutunga and Ngāti Toa, and their foe, the Waikato reinforcements who were en-route to Pukerangiora to assist their kinsmen (discussed above). At least one growing season prior to this event, Te Rauparaha had led Ngāti Toa to his North Taranaki relatives (as discussed in the account of Te Arawā above) for refuge. Hēni Collins explains that Ngāti Toa came to be in North Taranaki as part of Te Heke Tahutahuahi, a migration south as they left their traditional homeland at Kāwhia following disputes and bloodshed there with their Tainui relatives. “The travelers stopped and rested for several months in north Taranaki, growing food and planning the next phase of their journey.”²²⁴

The two sides fought at Arapawanui, with casualties on both sides. Ngāti Mutunga’s allies withdrew to the protection of Ōkoki pā where more of their people were situated. Due to also battling at Pukerangiora, Ngāti Mutunga’s forces were dispersed and depleted. Ōkoki provided a geographical defensive advantage that could support a depleted defensive force.²²⁵

Te Motunui – the battle of Ōkoki (1822)²²⁶

²²³ *ibid*, p.364.

²²⁴ Hēni Collins (2010). *Ka mate Ka ora! The Spirit of Te Rauparaha*. Wellington: Steel Roberts. p.53.

²²⁵ Shand, *ibid*, p.85.

²²⁶ Collins, *ibid*, p.54; In 1822 according to Best. Retrieved from <http://nzetc.victoria.ac.nz/tm/scholarly/tei-BesPaMa-t1-body-d5-d1-d18.html>

Ōkoki pā had better defences, including the Mangatītī gully, in front of the expansive Motunui plain, which Ngāti Mutunga used to ambush Waikato. As a result “the Waikato force lost hope of taking Ōkoki and retreated”.²²⁷ It was from the Mangatītī valley that Ngāti Toa (and Ngāti



Figure 3: Map of Northern Taranaki including Urenui, Ōkoki pā, and Motunui plain

Mutunga) were in a position to finally repel the Waikato war party. Historians differ regarding the next stage in the story. Michael King asserts that Te Wherowhero, leader of Waikato’s tauā, seeing the advantage held by Ngāti Toa called out to Te Rauparaha “E Raha, he aha to koha ki a au” (Te Rauparaha, what is your gift to me?).²²⁸ Te Wherowhero, through his question, sought safe passage out of this battle. Because of Te Hiakai’s and Te Rangitūātea’s acts of chivalry towards him in the past, Te Rauparaha gave similar consideration to Te Wherowhero, telling him to go to Pukerangiora pā to the south, in this way avoiding the returning Ngāti Mutunga and Ngāti Tama people who were coming from the north. Alexander Shand gives a Māori equivalent of the same message as:

E tika ana. E ahu koe ki runga ka ora koe, e ahu koe ki raro ka kati te kauae runga ki te kauae raro. [You are correct. If you go south you will survive. If you go north the top jaw will close on the bottom.]²²⁹

Waikato withdrew to Pukerangiora without further casualty and joined their kin. However, as Waikato had been given safe passage from battle, those people that stayed at

²²⁷ Collins, *ibid*, p.55.

²²⁸ King (2003), *ibid*, p.57.

²²⁹ Shand, *ibid*.

Ōkoki knew it was a certainty that Waikato would eventually return. While the theme of Waikato's withdrawal is consistent in recorded accounts, Alexander Shand's version differs as the person asking the question of Te Rauparaha is different. Shand promotes Te Rangitūātea, the chief from Te Arawā as the proponent of the question not Te Wherowhero.²³⁰ Regardless of who the person was in reality the effect was the same with Waikato's retreat to their own territories.

Te tīmatanga o ngā heke – the southern migrations begin

Following Arapawanui, Te Motunui, and Pukerangiora, discussions began amongst Ngāti Mutunga, Ngāti Toa, Te Ātiawa and other iwi of Taranaki. The threat from Waikato was the main discussion point. The allied tribes decided that the first of many migrations from Taranaki towards Wellington would occur. This first migration, which occurred about 1822, was given the name Te Heke Tataramoa.²³¹ Over the next 11 years further heke took place and the clear majority of Ngāti Mutunga left their tribal homelands and fought their way to the south with their allies before finally reaching the Cook Strait district.

As expected, the advent of a return attack of Waikato in 1831 hastened the migrations. With much of the population having already migrated south, many pā in Northern Taranaki fell to Waikato.²³² Ngāti Mutunga casualties were significant from these raids particularly as the tauā attacked the Urenui, Pohokura, and Onaero pā.

Prior to their Taranaki exodus, Ngāti Mutunga had experienced 25 years of intergenerational warfare. Pre-existing discontent and mistrust amongst the migrating tribes, spawned by battles like Hingākā and Te Motunui, had made Ngāti Mutunga anxious to settle down once again. Because their own homeland in Taranaki was under continued threat from the Waikato tribes and they could not return in the short term, the iwi turned their attention to other places to settle. They considered several Pacific Islands before agreeing to go to Wharekauri.²³³ Paki Whara, a Ngāti Mutunga man who had previously been to the Chatham Islands, informed Ngāti Mutunga that:

²³⁰ Shand, *ibid*, p.84.

²³¹ Richard Boast (2003) *Brief of Evidence of Richard Peter Boast. Part One: Aspects of Traditional History. In the Matter of The claim to the Waitangi Tribunal by Akuhata Wineera, Pirihira Hammond, Ariana Rene, Ruta Rene, Matuawaiwi Solomon, Ramari Wineera, Hautonga te Hiko Love, Wikitoria Whatu, Ringi Horomona, Harata Solomon, Rangi Wereta, Tiratu Williams, Ruihi Horomona and ManuKatene for and on behalf of themselves and all descendants of the iwi and hapu of Ngati Toa Rangatira (WAI 207, 785). Waitangi Tribunal. para 5.9.*

²³² Smith (1910), *ibid*, pp.459-460.

²³³ Alexander Shand (1892). The Occupation of the Chatham Islands by the Maoris in 1835. Part II – the Migration of Ngatiawa to Chatham Island. *Journal of the Polynesian Society* (1) 3:154-155.

There is an island out in the ocean, not far from here to the eastward, which we visited. It is a land of food – he whenua kai! It is full of birds – both land – and sea-birds – of all kinds; some living in the peaty soil; with albatross in plenty on the outlying islands. There is abundance of sea and shellfish; the lakes swarm with eels; and it is a land of the karaka berry – he whenua karaka. The inhabitants are very numerous, but they do not understand how to fight, and have no weapons.²³⁴

Ngāti Mutunga and Ngāti Tama decided Wharekauri would be the location for their next migration. As Te Whanganui ā Tara was a thriving centre of trade, Ngāti Mutunga began negotiations with ships' captains to transport them to Wharekauri. Eventually, they began negotiations with Captain Harewood of the brig *Rodney*. He was known to Ngāti Mutunga as Rapete.²³⁵

The *Rodney* arrived in Wellington on 26 October 1835. Wharepā, a Ngāti Mutunga rangatira, is quoted as saying:

After her arrival, we persuaded the captain to take his boat and go with us to Somes's island – Matiu – where we told him we had a quantity of muka (scraped flax) and pigs. On arrival at the island we seized the crew but did not tie the captain, telling him that we did not wish to injure him, but only desired him to take us all to the Chatham Islands; and that we would pay him well in muka and pigs or even firearms for doing so.²³⁶

The *Rodney* left Wellington on 14 November 1835 and arrived at Whangātētē on the Chatham Islands, three days later. The ship carried Ngāti Tama people in the first journey while Ngāti Mutunga held some of the ship's crew hostage back in Wellington until the Captain returned to pick them up and take them to Wharekauri. Ngāti Mutunga eventually departed Matiu Island on 30 November and arrived on 5 December 1835. Therefore, in a matter of three weeks, an estimated 900 people were transported from Wellington to Chatham Islands. The people were all members of Ngāti Tama, Ngāti Mutunga, Kekerewai and Ngāti Haumia.²³⁷ Kekerewai, a hapū with mixed Ngāti Mutunga and Ngāti Tama whakapapa, were considered to be tangata whenua of the Arapawanui pā on the Mīmī river. Ngāti Haumia were amongst the migrating tribes from Taranaki and their identity persisted until the land court awards on

²³⁴ *ibid.*

²³⁵ *ibid.*, p.155.

²³⁶ *ibid.*, p.156.

²³⁷ *ibid.*, pp.157-8.

Wharekauri in 1870 and 1885.²³⁸ Two main identities, Ngāti Mutunga and Ngāti Tama, subsumed the others. Ngāti Haumia were aligned to Ngāti Mutunga and Kekerewai, but because of their whakapapa they shifted their allegiances between both tribes.

Ngāti Mutunga and Ngāti Tama agreed prior to their departure that there would be no land claiming until all the people had arrived on Wharekauri, but Ngāti Tama and Kekerewai ignored this agreement and set about claiming areas of land for themselves prior to Ngāti Mutunga's arrival.

Ngāti Mutunga hapū identities did not endure on Wharekauri. Following their migration from Te Whanganui ā Tara, hapū identities subsumed into one Ngāti Mutunga identity. Today, despite sharing common ancestry, Ngāti Mutunga on Wharekauri and in Taranaki maintain separate political identities. A tauparapara from Wharekauri represents a takiwā of Ngāti Mutunga there:

| | |
|---|--|
| Tītīa mai ko ōku raukura e toru | Let my three feathers of peace fly up high |
| Hei tohu motuhake mōku | As a sign of importance for me |
| Ko taku katau ko Rangitūtahi | My right feather is the Sisters islands |
| Ko taku mauī ko Motuhara | My left feather is the Forty Fours islands |
| Ko taku waenganui ko Te Whanga here ai ko ngā iwi. | My middle feather is Te Whanga lagoon that binds all people |
| Ko te oneroa a Pōmare | Pomare's long western beach |
| Ko te kakenga nui o Tatua | Tatua's great climb (Motuhara) |
| Hei pare tī, hei pare tā | Completes the halo that surrounds my entire being |
| Tihei Mauri Ora | Tis the breath of life. ²³⁹ |

These extremes of movement and geographical dislocation meant that Ngāti Mutunga missed the opportunity to enter into Treaty of Waitangi negotiations. Their exodus from North Taranaki and Wellington meant they were omitted as signatories. Despite this, it is known that

²³⁸ As evidenced by the New Zealand Gazette No.34 p.913. TN798.

²³⁹ Customary tauparapara of Te Whānau a Te Herepounamu. Author's translation 7 August 2014.

at least one member of Ngāti Mutunga, Kahe Te Rauoterangi, signed the Treaty but under the mantle of Ngāti Toa. This also had ramifications for the tribe as it related to the government's new 1840 rule, which suggested that claims to land could only be substantiated from customary ownership in that year, i.e. when the Treaty of Waitangi was signed. By this stage, Ngāti Mutunga were geographically dislocated in various parts of New Zealand.

Leadership through geographical dislocation 1841-1900

The conquest and colonisation of Wharekauri by Ngāti Mutunga and Ngāti Tama, and the subjugation of the Moriori inhabitants, continued for six years. Prior to their Wellington departure uneasiness existed between the two colonising tribes. Ngāwhairama, a Ngāti Mutunga chief, had thought Ngāti Tama to be an iwi makutu (a bewitching tribe) and should be left behind.²⁴⁰ Tensions built further between the tribes when Ngāti Tama broke their agreement and laid claim to land in Wharekauri ahead of Ngāti Mutunga's arrival. Relationships fractured further through interpersonal disputes between rangatira of both iwi. Roimata Wi Tamehana (grandaughter of Ngāwhairama above) provides one such example concerning the treatment of a European ship at the Chatham Islands. Roimata states that:

The vessel came to Waitangi. The Europeans landed at Mangaoutu to get water. The Maories [sic] objected. i.e N.Tama [sic]. they made an attack on the Europ. [sic] But the Europ. [sic] turned round and captured them. Ngatuna was so captured. They took him on board where he committed suicide. So Tapiri was left as the head man. Tapiri was afterwards taken ill. While so ill he gave Waitangi to Wi Kingi Meremere of N.Tama. [sic]Te Koea the yr. [sic] brother of Ngatuna was not pleased and suggested to my g father[sic] Koteriki to take Waitangi by force. He was living at Whangaroa with all N. Mutunga[sic] Koteriki told Pomare (uncle of Wi Naera Pomare) of this. Pomare agreed to the suggestion and they informed their people. So they attacked Waitangi and defeated N. Tama[sic] who fled to Kaingaroa by vessel where they remained.²⁴¹

Alexander Shand supports Tamehana's evidence to the Native Land Court and notes that this led to the ultimate expulsion of Ngāti Tama from the Chatham Islands in 1841.²⁴² Through these interactions Ngāti Mutunga had a double right of raupatu; the first over Moriori

²⁴⁰ Shand, *ibid*, p.157.

²⁴¹ CIMB 3:14-15.

²⁴² Shand, *ibid*, p.158.

and the second over Ngāti Tama.

Back in the North Island, Waikato chiefs who had converted to Christianity began to release the Ngāti Mutunga people taken captive after the battle of Te Motunui. Some Ngāti Mutunga returned to their sparsely populated homeland in North Taranaki in 1842.²⁴³ By 1843, Ngāti Mutunga populations existed in Te Whanganui a Tara (Wellington), Te Tauihu o Te Waka o Māui (Nelson/Marlborough region), Horowhenua/Kapiti, Wharekauri, and North Taranaki. Each section of Ngāti Mutunga were led by different rangatira from within the iwi. This was necessary owing to the enormous physical distances between the Ngāti Mutunga populations.

Wiremu Kingi Te Rangitāke is an example of such a rangatira who commanded the people in the Wellington/Horowhenua region. Te Rangitāke was a rangatira with Ngāti Mutunga and Te Ātiawa heritage. In response to Pākehā settlers having established a colony at New Plymouth, Te Rāngitāke led a group of 587 Taranaki returnees in 1848 to support the opposition to land sales in Taranaki, which at this stage had not been confiscated.²⁴⁴ By returning and occupying the land again, the sale of land would prove more difficult for anyone who may have been persuaded to do so.

Meanwhile in 1845 in Wharekauri, Ngāti Mutunga sought to attract more Christian influence into their communities. A young Ngāti Mutunga man, Wiremu Tamihana (Ngāwhairama's son and Roimata Wiremu Tamihana's father), wrote a letter to the recently arrived Bishop of New Zealand, George Augustus Selwyn, in which he asked the Bishop to visit Wharekauri to survey the conditions of their kāinga there.²⁴⁵ He also asked for a bell to call the people together for prayer, and for the Bishop to send a minister for Wharekauri to teach the gospel to the people. Wiremu Tamihana by this stage of his life had only been trained as an Anglican Catechist teacher in New Zealand and had subsequently returned to Wharekauri.²⁴⁶ Selwyn duly visited the island in 1848 and again in 1856. On his second visit he observed that the condition of Ngāti Mutunga had degraded as they had “now returned to

²⁴³ Keenan, *ibid*, p.106.

²⁴⁴ Keenan, *ibid*, p.159.

²⁴⁵ Letter from Wiremu Tamihana to Bishop Selwyn (1845) Letters in Māori to Bishop Selwyn collection, University of Waikato Library.

²⁴⁶ Notes contained in the historical bank book for Taiawhio Te Tau held in the author's collection taken from dictation by Wiremu Tamihana's daughter. Wiremu Tamihana changed his name from Te Matawhitu after the death of this first son and when he became the Catechist. In order for this letter to have been signed as Wiremu Tamihana it would have been after this change in his life.

evil works and to drinking of rum.”²⁴⁷ Ngāti Mutunga renewed their request for a minister and assented to Selwyn’s stipulation that they must provide for his maintenance.²⁴⁸

Communication amongst Ngāti Mutunga in North Island and Wharekauri

Movement and communication between Wharekauri and North Island Ngāti Mutunga populations remained regular. One reason for the regularity was the maintenance of land rights in all of the places that Ngāti Mutunga held. An example of this can be seen in a letter, written on 4 March 1856, by Hariata Horomounga and Tiopira Te Mira, two Ngāti Mutunga resident in Taranaki, to Hariata’s son, Pamariki Raumoia, then resident in Wharekauri.²⁴⁹ There was a dual purpose to the letter: to inform Pamariki Raumoia that his father Raumoia had drowned while on a wood collecting expedition; and to explain the reason why Raumoia was in the locality that he drowned. Hariata Horomounga explains that:

E Taa e te Pamariki kia rongo mai koe Nohona ano te he no te reta a Raumoia i tuhituhi atu I Poneke kia a te Meihana ko te take tena i haere mai ai a Ngatiteao ki runga i te oneone he tango i nga whenua a Raumoia ka tae mai ki konei ka ruia ko Maruati ko Waewaeone ko Kauaeroa ka puta te kupu a Hera Hinerae noku ano toku whenua, no Raumoia no Ngati Mutunga ka pana e Nopera Te Aho, noku ano toku whenua no Parekarau ka whakahokia mai a Ngati Mutunga ki te Kaweka a Raumoia. No te rongonga o Raumoia ha haere ki te komiti ko nga take enei o te he no runga i nga pukapuka a Raumoia kaputa te kupu whakatutua a Karepa Tetiohuka mo Raumoia he tutua he taurekareka ka rongo matou kahaere ki te komiti ki te waiiti mo aua kupu mahiti kua he ano matou ki reira haere atu matou kua purua a ratou [?] a kahore i paku kia matou hoki mai a na matou i taua raano ka noho no te turei o te toru o nga wiki i to matou hokinga mai i te waiiti ka mate a Raumoia no konei ka mohio a Pukere na te Ahiwera raua ko te tama a Raumoia i makutu no te haerenga mai ki te uhunga ka patua e Pukere horo atu ana.²⁵⁰

.... Pamariki you need to know it was of his own doing owing to Raumoia’s letter that he sent from Wellington to Te Meihana. The reason was because Ngati Te Ao had come on to the land and taken Raumoia’s whenua, when he arrived here Maruati, Waewaeone and Kauaeroa had been scattered and Hera Hinerae asserted the land was hers. She said

²⁴⁷ Account of Bishop Selwyn’s visit to the south. *Maori Messenger: Te Karere Maori*. Vol.2, Issue 5. 31 May 1856, *ibid*.

²⁴⁸ *ibid*.

²⁴⁹ Te Pukapuka a Pamariki Raumoia. unpublished manuscript, p.86.

²⁵⁰ *ibid*.

that Raumoia and Ngāti Mutunga were banished by Nopera Te Aho and she owned that land through Parekarau. She said that Ngāti Mutunga and Raumoia moved to Te Kaweka. When Raumoia heard the news he went to the committee responsible for these issues. His letters soon revealed the derisive words of Karepa Tetiohuka about Raumoia being a slave. We went to the committee at Te Waiiti concerning these insults, we met with no results there as they were prejudiced against our visit. From that day we stayed from Tuesday of the third week from our return from Te Waiiti. This was when Raumoia died. From here Pukere knew that it was Te Ahiwera and Raumoia's son who conducted makutu [sorcery]. When they arrived at the burial Pukere killed them.²⁵¹

Communications from Taranaki to Wharekauri continued and on 5 October 1856 Tiopira Te Mira wrote to Pamariki Raumoia, Wiremu Kingi Meremere and Riwai Taupata to advise them of the wars that were beginning to occur in Taranaki. One such battle, suggests that Pukere led a battle where Panapa had died. Tiopira Te Mira felt that if Raumoia had not died then it is unlikely that Pukere would have gone to battle the way he did.²⁵² This letter and others in the collection recall the deaths of the people, which was clearly an important aspect of Ngāti Mutunga tikanga this period of time. The distance between the populations was clearly felt amongst the people and was poignantly expressed by Hariata Horomounga to her son on 4 April 1857. Hariata lamented that:

ahakoa kei konei toku tinana kei a koutou taku wairua he tangi nui taku ko te mamae hoki kei toku ngakau e kore e mutumutu.²⁵³

Even though my body is here [in Taranaki] my spirit is with you all. I lament as the pain in my heart is unending.²⁵⁴

Similar sentiments are expressed by men and women to and from their relatives in Taranaki and Wharekauri for the remainder of the 1850s. On 5 August 1859, a particularly poignant letter was written by Wiremu Kingi Te Rangitāke to his relatives Wiremu Tamihana (who had written to Selwyn earlier), Te Warihi, and Ngāmate who were resident on Wharekauri.²⁵⁵

²⁵¹ Author's translation, 29 October 2018.

²⁵² Letter from Tiopira Te Mira to Pamariki Raumoia, Wiremu Kingi Meremere, and Riwai Taupata. 5 October 1856. Te Pukapuka a Pamariki Raumoia. Unpublished manuscript., pp.90-91.

²⁵³ Letter from Hariata Horomounga to Pamariki Raumoia. 4 April 1857. Te Pukapuka a Pamariki Raumoia. unpublished manuscript. p.88.

²⁵⁴ Author's translation, 29 October 2018.

²⁵⁵ Copied letter from Wiremu Kingi Te Rangitāke to Wiremu Tamihana and Ngāmate, 5 August 1859. Te Pukapuka a Pamariki Raumoia. Unpublished manuscript, pp.91.

E Koro e Wiremu Tamihana e te Warihi e te iwi i te mate ite ora tena ra koutou e aku matua e aku taina e aku kuia. Ka nui toku aroha atu kia koutou na te mea kua tae mai ta koutou reta ki au tena hoki taku aroha e aku matua te kau atu na i te wai. Ko ta koutou kupu e ui maina kia au ki te tikanga mo te oneone, e tika ana, ta koutou ui mai kia au e Wi i rongo ano koe i te kupu a to tuakana kei reira ano tēnei e haere ana. Koia tenei e te iwi me tango tu te oneone tena me hoatu e au nga iwi o koutou ui atu e kore ara te oneone. Engari e aku matua ko au ki mua ko te oneone ki muri whai ake ai i au Ma koutou e titiro mai kia te Rakatau raua ko Pape kua tae mai nei ki runga ki te oneone taihoa e kata mai ki tae ki Tihema kia tae ki te Makariri hei reira koutou kata mai ai.

Whakarongo mai e te iwi he kupu ano tenei kia rongo mai koutou ko nga runanga o Niu Tireni nei he runanga pupuru i te whenua kei mea mai koutou he teka taku kupu nei kaore he pono e kore hoki e huna atu e au kia koutou te terenga o te oneone ki te moana kei te tika ano te tikanga i rongo maina koutou he tangata kotahi ko te Teira kaore ano i rite.

He kupu ano kia rongo mai koe e Wi e Ngamate, e te iwi, ko te oneone kua hoatu ki te ringaringa o te Kingi Potatau e hara i au nana i hoatu na te iwi i hoatu tokotahi tokona ko Wiremu Ropiha Te Rakataha nana i hoatu te oneone a Waitaha a Waiongana a Waitara Onaera a Urenui a Te Kaweka a Mimi a Poutama kei Mokau te rohe mai i hoatu ai kia rarahu katoa nga ringaringa o tera iwi o tera iwi ki te whenua katoa a Taranaki a Ngatiruanui a Ngatiraukawa tae noa ki Poneke kia Wi Tako. Na kia pai te titiro mai kei rongo koe ki te kupu o te tangata e whakahua ana ki taku ingoa mo te Kingi Potatau. Na whakarongo mai e Wi raua ko Ngamate ko Ketu ko Te Wharaunga e taku tipuna ko taku kupu ki roto ki te runanga mo te Kingi kei te kia atu au kia kaha na te mea kei waho au na te runanga au i pana ki waho hei okiokinga mo ta ratou kupu me ka he mai i runga i te Kingi ko au e noho atu ana hei mana mo ta ratou kupu. Whakarongo mai e aku matua ko te houhangarongo kia Ihaia raua ko Nikorima. Kua oti kua taea to koutou hoa a Matiu Te Waero raua ko Ihaia te Wharepa heoti kua mau te rongo ko au nei kei te noho noa iho kaore ano au i kite i a Ihaia raua ko Nikorima kei runga nei au nei e noho ana. He kupu ano tenei te ki te rere te Pakeha ki a au ka aro atu ki te Pakeha me ka rere mai ki a au ara ki te oneone.

E Wi me whaki mai hoki ta korua na tikanga ko Ngamate kia mohio atu ai au.²⁵⁶

²⁵⁶ *ibid.*

My elder, Wiremu Tamihana, Te Warihi and all the people, deceased and living. I greet you all my parents, my younger siblings, my elder women. Great is my love for you all. Your letter to me has arrived and I send my love swimming back to you across the water. In your letter you asked me what we should do about the land. Your question is right Wi and you will pay heed to the words of your elder brother as to where this is going. Firstly, we must stop the taking of land, then I will distribute to you all who have no land. But, my elders I will go ahead and the earth will be behind me following my lead. You can all watch Te Rakatau and Pape who have arrived on the soil. Wait until December, and then the cold season and then you can have a laugh.

My people hear this message and know that there are now rūnanga in New Zealand that possess land now and incase you think I am joking or my words are not true or that I am hiding from you the the custodianship of the earth to the sea. This is the right message. There is only one person who is not thinking this way now and that's Te Teira. There is also another message Wi, Ngamate and all the people. The lands that have been given to King Potatau were not given by me. It was done by Wiremu Ropiha Te Rakataha he gave the land at Waitaha, Waiongana, Waitara, Onaera, Urenui, Te Kaweka, and Mimi, and Poutama at Mokau the area he handed over to seize the lands of all the tribes of Taranaki, Ngati Ruanui, Ngati Raukawa all the way to Wellington to Wi Tako's area. Look kindly upon this message in case you hear from someone that my name is associated with King Potatau. Listen to me Wi, Ngamate, Ketu and Te Wharaunga my ancestor my advice in the King's runanga was be strong because I am banished outside of that runanga so that I don't bring incorrect consequences towards the King. I stay outside of the runanga to support their message. Listen to me my elders, the peace that was instituted towards Ihaia and Nikorima and I has ended. Your friend Matiu Te Waero and Ihaia Te Wharepa has arrived and that peace rests with them. I am just occupying here and I have not seen Ihaia or Nikorima while I have been here. You should also know that if the Pakeha pursues me, I will face them, especially if they rush towards me and the land.

Wi and Ngamate, let me know your thoughts about these matters that I may know.²⁵⁷

I doubt whether the recipients of this letter would have understood its historic significance that we are able to understand in hindsight. This letter demonstrates that despite

²⁵⁷ Author's translation, 29 October 2018.

the geographical dislocation, the rangatira of Ngāti Mutunga remained in regular contact with each other and a strong network of communication proliferated throughout the 1850s and 1860s through letters such as this. Ngāti Mutunga were active participants in the events that led up to what is now known as the beginning of the New Zealand wars that started with the Waitara purchase.

The Waitara purchase

The Waitara purchase was an ill-fated sales attempt between one party of Te Ātiawa chiefs who in 1859 offered a 600-acre wheat field to Governor Thomas Gore Browne. This wheat field was situated on the southern bank of the mouth of the Waitara River in North Taranaki, south of Ngāti Mutunga's recognized tribal border with Te Ātiawa at Te Rau o Te Huia pā. This area was still significant to Ngāti Mutunga owing to the close alliance of the Te Ātiawa collective of tribes (Ngāti Mutunga, Ngāti Tama, Ngāti Maru, and Te Ātiawa), and because of the intermixed genealogy of leading rangatira, like Wiremu Kingi Te Rangitāke [Te Rangitāke], and Raumoa (see whakapapa 3).²⁵⁸

The history of the Waitara purchase is extensively described through volumes of the AJHR and later by various historians, including James Cowan, Danny Keenan, James Belich, Chris Pugsley, Nigel Prickett, Tim Ryan and Bill Parham.²⁵⁹ The Waitangi Tribunal also analysed extensive evidence presented to it concerning this transaction and published its findings in 1996.²⁶⁰

The events leading up to the Waitara transaction began in 1854 when a pro-sale Te Ātiawa chief, Rāwiri Waiaua, first proposed the sale of this block to the Crown. He invited surveyors to lay their lines in preparation for the sale. Unfortunately for Rāwiri, not all of Te Ātiawa were in favour of his sale. One of the dissenters was Te Rangitāke who had indicated his disagreement to his Ngāti Mutunga kin in the letter above. Rāwiri and a couple of his

²⁵⁸ Spragg, *ibid.*

²⁵⁹ James Belich (1986). *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*, Auckland: Auckland University Press; James Cowan (1983). *The New Zealand Wars*, 2 volumes, Wellington: reprinted by Government Printer; Danny Keenan (2009). *Wars without End: The Land Wars in Nineteenth Century New Zealand*, Auckland: Penguin; Chris Pugsley (1995). 'Walking the Taranaki Wars: the Battle of Waireka', *New Zealand Defence Quarterly*, Number Nine, pp. 26-30; Chris Pugsley (1995). 'Walking the Taranaki Wars: the Battle of Puketakauere', *New Zealand Defence Quarterly*, Number Ten, pp. 35-40; Chris Pugsley (1995). 'Walking the Taranaki Wars: Maori Defeat at Mahoetahi', *New Zealand Defence Quarterly*, Number Eleven, pp. 32-36; Chris Pugsley (1996). 'Walking the Taranaki Wars: Pratt's Sap at Te Arei', *New Zealand Defence Quarterly*, Number Twelve, pp. 30-34; Nigel Prickett (2002). *Landscapes of Conflict: A Field Guide to the New Zealand Wars*, Auckland: Random House; Tim Ryan & Bill Parham (2002). *The Colonial New Zealand Wars*, Wellington: Grantham House.

²⁶⁰ Waitangi Tribunal (1996). *The Taranaki Report: Kaupapa Tuatahi: WAI 143 Muru me te Raupatu. The Muru and Raupatu of the Taranaki Land and People*, pp.57-78.

supporters were challenged by other members of Te Ātiawa, and a few days later Rāwiri was mortally wounded and died.²⁶¹

The dissenting, non-selling (pupuri whenua) portions of Te Ātiawa were led by Te Waitere Katatore who, along with Te Rangitāke and other chiefs, were resisting the sale of Māori land. Te Waitere's sanctioned attack on Rāwiri Waiaua caused fear throughout the local Te Ātiawa and settler communities. For the next four years, Te Waitere had to ensure no retribution occurred to him for his part in sanctioning the attack on Rāwiri.

In 1858 Rāwiri Waiaua's death was avenged when Te Waitere Katatore was returning home to Waitara from Ngāmotu. Pukere wrote to his Ngāti Mutunga relative, Pamariki Raumoā, on 24 January 1859 telling him of the news of Te Waitere's death. Pukere wrote:

E hoa e te Pamariki Raumoā na he kupu ano tenei naku kia koe kei mea koe he kohuru a Te Waitere. Kaore titiro iho ko Rawiri ma he kohuru tera ko te waitere e hara i te kohuru nana ano i kerī he rua mona a taka iho ana ia ki te rua i keria ai eia ara e Te Waitere. Na koia ano hei utu mo taua tangata i patu ai.²⁶²

My friend Pamariki Raumoā, this is another message to you in case you think Te Waitere was murdered. He wasn't, it was Rawiri and the others who were murdered. Te Waitere dug his own grave and fell into the hole he dug for himself. He was the reciprocal death for the person he killed.²⁶³

The avenging section of Te Ātiawa was led by Ihaia Kirikumara. A newspaper article from 3 May 1858 in *Te Karere o Poneke* made mention that Katatore had been induced to drink by Ihaia Kirikumara and Ihaia had killed him while he was drunk.²⁶⁴ Whatever the method of his death, with Katatore out of the way, another chief allied to Ihaia called Te Teira (mentioned in Te Rangitāke's letter above) renewed Rāwiri Waiaua's offer to sell the Waitara block to the Crown.²⁶⁵

At a public meeting in Waitara in March 1859 Te Teira symbolically placed a woven blanket at the feet of Governor Gore Browne to indicate his willingness to continue to sell the land in question. Gore Browne conditionally accepted this offer from Te Teira pending

²⁶¹ Keenan, *ibid*; Waitangi Tribunal, *ibid*.

²⁶² Letter from Pukere to Pamariki Raumoā. 24 January 1859. Te Pukapuka a Pamariki Raumoā, *ibid*, pp.89-90.

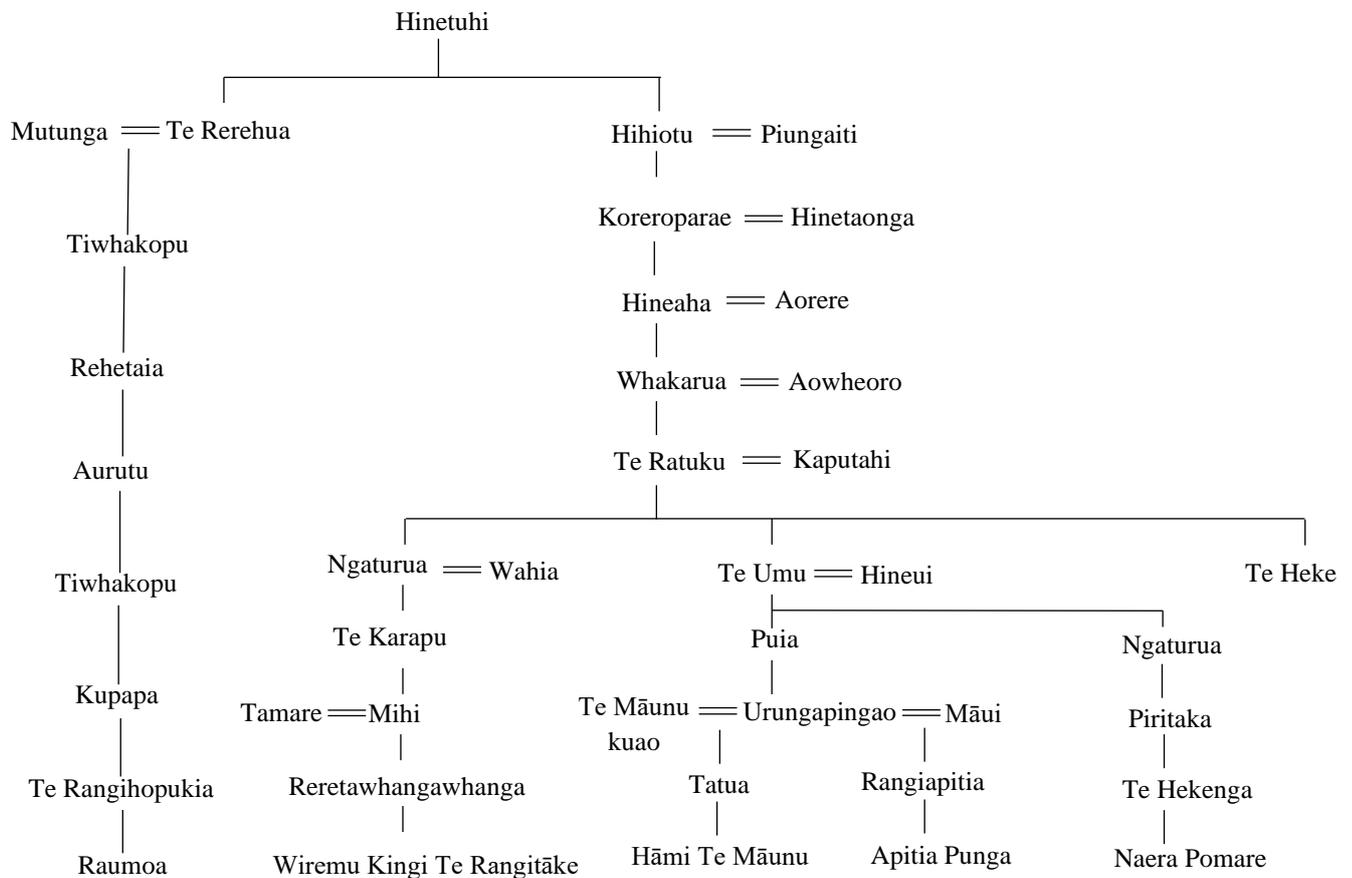
²⁶³ Author's Translation, 29 October 2018.

²⁶⁴ *Te Karere o Poneke*, 3 May 1858, p.3.

²⁶⁵ AJHR (1860) E-1, p.3.

evidence of satisfactory title. This act was witnessed by many of Te Ātiawa including Te Rangitāke. Te Rangitāke and his supporters left the meeting without saying a word, however they were still clearly in opposition to Te Teira’s proposition.²⁶⁶ Te Rangitāke wrote to his relatives in Wharekauri stating:

Whakarongo mai e te iwi he kupu ano tenei kia rongu mai koutou ko nga runanga o Niu Tirenī nei he runanga pupuru i te whenua kei mea mai koutou he teka taku kupu nei kaore he pono e kore hoki e huna atu e au kia koutou te terenga o te oneone ki te moana kei te tika ano te tikanga i rongu maina koutou he tangata kotahi ko te Teira kaore ano i rite.²⁶⁷



Whakapapa 3: Ngāti Hinetuhi (hapū of Ngāti Mutunga) whakapapa of leading rangatira. Whakapapa sourced from records held in author’s personal collection; also from Tables AD, AE, AF, & AG. in MS96/17 Auckland War Memorial Museum.

My people hear this message and know that there are now runanga in New Zealand that possess land now and in case you think I am joking or my words are not true or that I am hiding from you the the custodianship of the earth to the sea. This is the right

²⁶⁶ *ibid.*

²⁶⁷ Letter from Wiremu Kingi Te Rangitāke to Wiremu Tamihana, Te Warihi and Ngāmate, *ibid.*

message. There is only one person who is not thinking this way now and that's Te Teira.²⁶⁸

Originally, historical commentators, and even Crown officials of the period, suggested that Te Rangitāke asserted mana over the land at Waitara for which he resisted sale. The Waitangi Tribunal concluded that Te Rangitāke's involvement in the negotiation was more than that. The Tribunal concluded that:

In our view, this was the wrong question. First, Kingi [Te Rangitāke] had an interest in possession and his consent was required in that capacity. Secondly, as a rangatira, Kingi was expressing not a personal veto but the majority view.²⁶⁹

The Government did not support the type of mana being exercised by Te Rangitāke. While its actions aligned with the colonial imperative of expediting land alienation, the decision to purchase was contrary to its established practice for land sales that required an iwi to reach consensus for a sale to proceed. These same protocols were reaffirmed by Governor Browne when he visited Taranaki (discussed below).

Te Rangitāke's association and leadership in the migrations to and from Wellington in the 1830s saw him rise to prominence amongst his contemporary rangatira in Te Ātiawa, as the leader of the anti-sale sections of Te Ātiawa, particularly after the death of Te Waitere Katatore.

As rangatira, Te Rangitāke embodied the customary responsibilities associated with this role. The Waitangi Tribunal concluded that:

...rangatira were not merely the leaders of the people – they were the people. They were inclined to say 'I' where others would use 'the people' or 'we'. They owned everything and yet might claim nothing personally. They were entitled to be first and yet might put the least within the tribe ahead of themselves. They placed importance on honour and were keen to honour others but were most insistent on maintaining their own. As part of keeping honour, they would not demean themselves by doing less than was expected of them. As the name 'rangatira' implies, their primary function was to unite the people as one body. In our view Wiremu Kingi [Te Rangitāke] was the epitome of a rangatira. It was not possible for him to countenance a division of land or to accept that one person could take unilateral action to the detriment of others.²⁷⁰

²⁶⁸ Author's translation, *ibid*.

²⁶⁹ Waitangi Tribunal report, *ibid*, p.79.

²⁷⁰ *ibid*, p.73.

In early March 1860, Governor Browne travelled again to New Plymouth in an effort to settle the unrest at Waitara. His prior visit to the region (where Te Teira had placed the blanket at his feet) contained announcements of government policy that included:

- (a) any person committing violence or outrage within ‘European boundaries’ would be dealt with under the criminal law; and
- (b) he [the Governor] would not buy land with a disputed title and ‘would buy no man’s land without his consent’; but
- (c) he would allow no one to interfere in the sale of land, ‘unless he owned part of it’.²⁷¹

This second visit by the Governor was preceded by his agent Robert Parris. Parris, a career public servant, was accompanied by John Rogan of the Native Department. Their intent was to engage Te Rangitāke and invite him to New Plymouth to talk.²⁷² Te Rangitāke was wary of the Governor’s intentions, especially after his unwillingness to abide by established practices and continuing to negotiate the sale of the disputed Waitara block. Predictably, negotiations between the parties failed and Te Rangitāke and his men occupied Te Kohia pā at Waitara and refused to evacuate.

Waikato (Kīngitanga) involvement in Taranaki

Te Rangitāke had also indicated to his Wharekauri relatives in his letter to Pamariki Raumoā above that Waikato allies had become involved with their situation. This was reinforced by Hariata Horomounga who wrote to Pamariki Raumoā on 27 Oct 1858 stating:

Na te pakanga tana homaitanga koia tana e noho nei i te Motunui ma nga runanga nga rangatira o Waikato o te kawa kawanatanga o te ture o te atua o te kuini wiktoria.

Mana te iwi nei e whakahoki ki Waitara ki Turangi. Kia rongō mai i te matenga ano o Raumoā mahue ake au ia Taumaihi a mate tonu atu ki runga ki te pakanga....

...Konga tangata enei o Ihaia i mate i te whawhai Ko Taumaihi, Ko Hakaraa ko te kina te onemihi, Ko Hoeta ko Hamapiri ko Eruera ko Poharama ka mutu o Ihaia tangata i mate i te pakanga. No Wiremu Kingi enei tangata i mate. Ko Te Waitere, Ko Rawiri, Ko Heke, Ko Hoeta, Ko Te One, Ko Wiremu, Ko Mohi, Ko Kaitana, Ko Hohepa, ko Tamati Takua konga tangata enei o Wiremu Kingi i mate i te pakanga.²⁷³

The battles brings its own consequences that is why he is staying at Te Motunui. The

²⁷¹ *ibid*, p. 68.

²⁷² Keenan, *ibid*, p.192; Belich, *ibid*, p.76.

²⁷³ Letter from Hariata Horomounga to Pamariki Raumoā, 27 October 1858. Te Pukapuka o Pamariki Raumoā. *Ibid*, pp.88-89.

different runanga the Waikato chiefs use to administer the law of god and Queen Victoria. He also brought their people to Waitara and Turangi. When they heard of Raumoa's death they left me with Taumaihi but he too died in the war.

These are Ihaia's men who died: Taumaihi, Hakaraa, Te Kina, Te Onemihi, Hoeta, Hamapiri, Eruera and Poharama. Wiremu Kingi lost the following men: Te Waitere, Rawiri, Heke, Hoeta, Te One, Wiremu, Mohi, Kaitana, Hohepa and Tamati Takua.²⁷⁴

Reinvigorating the Rūnanga system

The rūnanga system rose to prominence at the same time as the creation of the Kīngitanga (Māori King Movement) in Waikato in 1854. Despite being former enemies with Waikato, a common threat, colonization, now required Taranaki iwi to park old disagreements in order to preserve Māori authority and land ownership. The rūnanga referred to in the letters above confirmed Ngāti Mutunga's participation in resurrecting the rūnanga system of the 1850s, which were Māori initiated and controlled.

Rūnanga are customary mechanisms for communal decision making and sanction amongst whānau and hapū groups. Although it was generally acknowledged that rangatira were leaders and decision makers, "it was not possible for chiefs to declare war or peace or do anything affecting the whole of their community, without the express sanction of the rest of the group".²⁷⁵ That sanction was procured in tribal assemblies known as rūnanga.²⁷⁶

Ngāti Mutunga and Te Ātiawa's participation in the rūnanga system is almost certainly a political response to the threat of individuals selling parts of the hapū and iwi land base. Vincent O'Malley echoes the sentiments of F.D. Fenton in 1857 where he described the revival and reinvention of rūnanga as "a fixed determination to discover and establish a system of order and combination to advance in the social scale and preserve them from a state of total subserviency to their European brethren".²⁷⁷

The Government did not take long to try to appropriate the rūnanga system and bring it under government control in the 1860s (discussed in Chapter Two, see p.53). In Taranaki and Waikato it does not appear that the government-funded system took hold, although Ngāti

²⁷⁴ Author's translation, 29 October 2018.

²⁷⁵ Vincent O'Malley (2009). *Reinventing Tribal Mechanisms of Governance: The Emergence of Maori Runanga and Komiti in New Zealand before 1900*. *Ethnohistory*. American Society for Ethnohistory. p.72; James Buller (1878). *Forty years in New Zealand: Including a personal narrative, an account of Maoridom, and of the Christianisation and Colonisation of the Court*. pp.240-241.

²⁷⁶ O'Malley, *ibid*.

²⁷⁷ O'Malley, *ibid*, p.76; Francis Dart Fenton (1860). "Report as to Native Affairs in the Waikato District, March 1857" *AJHR*, E-1C, II.

Mutunga in Wharekaui are recorded as engaging in the new system.²⁷⁸ Such instances of Māori self determination and government interference were part of the backdrop to Crown attempts at appropriating land in Taranaki which ultimately led to the outbreak of the first war in Taranaki.

First Taranaki war begins

The first shots of the Taranaki war were fired on 17 March 1860 when British troops tried to repel Te Rangitāke and his men from Waitara. Te Rangitāke was soon reinforced by Ngāti Ruanui warriors, which strengthened their position. Governor Browne attempted to end hostilities in April 1860 because of their inability to subdue Te Rangitāke and also because of the increasing threat of further intervention from Kīngitanga (the Māori King movement) allies. Waikato's presence near Te Motunui (just north of Waitara) would have indicated to Gore Browne their proximity and availability to participate in potential battles. In response the government built military redoubts at Urenui, Waiiti (both on pā sites), and Papatiki thereby enforcing the Crown's military presence in Ngāti Mutunga's takiwā.²⁷⁹ By doing this, it also ensured that any imminent Waikato attack would be defensible.

Following initial conflict at Waitara, further battles occurred at Waireka and Puketakauere before an uneasy peace was brokered between Donald McLean, Wiremu Tarapīpī Tamihana of Ngāti Haua, and Hapurona of Te Ātiawa on 18 March 1861. Te Rangitāke refused to sign the declaration of peace and remained in opposition to land sales. This "peace" saw the government maintain its hold on Waitara as it progressed sales with willing parties. The remaining Te Ātiawa people and allies settled at Tātaramaka close by. They waited for the Waitara purchase to be investigated which was part of the peace settlement. Tātaramaka, previously sold, had been seized by Te Ātiawa as a bargaining chip in the negotiations.

Peace was short lived. Governor Grey had investigated the Waitara sale and found it had been faulty, and as such, Māori anticipated the return of Waitara to them. While waiting for this to occur the government troops reoccupied the Tātaramaka block. A stand-off then occurred for a month before Māori attacked soldiers at Ōākura which reignited the war in Taranaki. On 12 March 1863 government troops evicted Te Ātiawa, Taranaki, Ngāti Ruanui,

²⁷⁸ O'Malley, *ibid*, p.79.

²⁷⁹ NMCSA, Preamble clause (5).

Ngā Rauru and Whanganui from Tātaraimaka. The war then moved away from Waitara to the south.

Government strategy by this stage had changed and military campaigns turned away from Taranaki as they prepared plans to invade Waikato in 1863. With the Government's military assault in Taranaki halted, public attention shifted to additional legislative weapons to remove Māori sovereignty and land ownership in the Crown's favour. One such piece of legislation was the New Zealand Settlement Act 1863.

New Zealand Settlement Act 1863

Following these initial Taranaki wars, and to facilitate faster settler expansion into economically valuable areas such as Waikato, Bay of Plenty and Taranaki, the Government enacted the New Zealand Settlements Act 1863. This Act enabled the government, through proclamation, to confiscate lands of 'rebel' tribes. Section two of the Act reads:

Whenever the Governor in Council shall be satisfied that any Native Tribe or Section of a Tribe or any considerable number thereof has since the first day of January 1863 been engaged in rebellion against Her Majesty's authority it shall be lawful for the Governor in Council to declare that the District within which any land being the property or in the possession of such Tribe or Section or considerable number thereof shall be situate shall be a District within the provisions of this Act and the boundaries of such District in like manner to define and vary as he shall think fit.

For Ngāti Mutunga, this section of the Act had real consequences for them on 2 September 1865 when the Governor in Council, Sir George Grey, declared in the New Zealand Gazette:

...that the lands described in the said schedule are required for the purposes of the said Act and are subject to the provisions thereof, and doth reserve and take such lands for such purposes, and doth hereby further declare with the advice and consent aforesaid, that no land of any loyal inhabitant within the said districts, whether held by Native custom or under Crown Grant, will be taken except so much as may be absolutely necessary for the security of the country, compensation being given for all land so taken, and further that all rebel inhabitants of the said districts who come in within a reasonable time and make submission to the Queen, will receive a sufficient quantity of land within the said district under grant from the Crown.²⁸⁰

²⁸⁰ New Zealand Gazette (1865) Issue 35, p.266.

The lands in the said schedule related to the entire area that was confiscated in Taranaki. The area of most significance to Ngāti Mutunga was referred to as the “Ngatiawa coast”. This was defined in the schedule of the same Gazette notice as:

Bounded on the north-west and north by the sea, from the mouth of the River Waitara to the tunnel at Parininihi, and thence by a straight line in a direction due east (true bearing) for a distance of twenty miles on the south-east by a straight line drawn from the eastern extremity of the said northern boundary in a direction south 39 degrees west (true bearing) till intersects the straight line between the summit of Mount Egmont and Parikino On the Wanganui River; on the south by the said last named straight line from its intersection with the said south-eastern boundary to its intersection with the Kairoa and Waimate Road; on the west by the eastern boundary of the District of Middle Taranaki, proclaimed under ‘The New Zealand Settlements Act, 1863’ from the point last named to the commencing point at the mouth of the River Waitara.²⁸¹

The entire Ngāti Mutunga estate of 156,000 acres was confiscated upon publication of this gazette notice.²⁸² The majority of Ngāti Mutunga were resident on the Chatham Islands at this time.

The New Zealand Settlements Act also allowed for Compensation Courts to be established determining compensation for “loyal” inhabitants. “Loyal” Māori were those who signed an oath of allegiance to Queen Victoria upon application to the Compensation Court. By September 1866 when the Compensation Court sat to hear claims on the Ngatiawa block which contained the Ngāti Mutunga takiwā, out-of-court agreements had already been made with those Ngāti Mutunga still resident in Taranaki for the three key areas to which they had claims. The claims were: Claim A, Ngāti Awa Coast, Pukearuhe; Claim B, Ngāti Awa Coast, Mimi, Urenui, Onaero; Claim C, Urenui, Onaero, Rau o te huia.²⁸³ These were considered the compensation awards.

²⁸¹ *ibid.*

²⁸² NMCSA, Preamble clause (4).

²⁸³ AJHR (1880). ‘Reports of the Royal Commission appointed by his Excellency under “The Confiscated Lands inquiry and Maori prisoners Trials Act, 1879 together with Minutes of Proceedings and evidence, and appendices’, G-2, Appendix E, p.1.

Compensation Courts and awards

Compensation awards consisted of financial payments or meagre land apportionments to people who made application to the Compensation Court, which was specifically constituted for this purpose in 1865. Richard Boast explains that the Compensation Courts “ran in parallel with the Native Land Court” in the first few years of the Native Land Court’s existence in areas where confiscation had occurred.²⁸⁴ Hazel Riseborough describes the Compensation Court as a disorganized compensation system underpinned by political interference over an extended period of time.²⁸⁵

Disorganisation in concert with a succession of Native Ministers renewed instructions to the Taranaki Civil Commissioner, Robert Parris, between 1865 and 1872 which created an environment of confusion for the presiding Commissioner, and most certainly for Ngāti Mutunga and other iwi affected by confiscation.²⁸⁶

When Charles Brown replaced Robert Parris as Commissioner in 1876 (11 years after the Court’s establishment) further instructions were issued to frugally settle outstanding claims and “everything like extravagant concession.... should be carefully avoided”.²⁸⁷

During this period of time eighty-seven members of Ngāti Mutunga had made agreements with Robert Parris and the Crown agent (Mr. Atkinson) under three separate agreements to relinquish their claims for compensation in return for 13,358 acres in the three claim areas.²⁸⁸ This was 8.5% of Ngāti Mutunga’s former estate. These were considered the land compensation awards for Ngāti Mutunga. None of those payments were made to Ngāti Mutunga communally and neither were any of the land apportionments vested in Ngāti Mutunga communally, further denying Ngāti Mutunga from operating customary forms of ownership and management, such as the rūnanga system explored earlier in this chapter.

Other members of Ngāti Mutunga, not resident in Taranaki, did not react well to this news:

When the non-resident Natives heard that they were excluded by the Court, they threatened to return at once to Taranaki in order to maintain their rights. This

²⁸⁴ Richard Boast (2013). *The Native Land Court. A historical study, cases and commentary*. Wellington: Brookers Ltd, p.19.

²⁸⁵ Riseborough, *ibid*, pp.47-48.

²⁸⁶ *ibid*.

²⁸⁷ *ibid*, p.48.

²⁸⁸ New Zealand Gazette (1867). Issue 61, pp.443-444; AJHR (1880). G-2, p.xlviii.

promised a new and dangerous complication, and the Government were compelled to take the matter up.²⁸⁹

In September 1867, a meeting took place between the absentees and the Crown in Wellington. This was the government's attempt at discouraging the potential further return of Ngāti Mutunga and other tribes to the Taranaki district. The government promised to satisfy absentee claims at 16 acres each if they did not return to Taranaki. This was a much smaller offer than if they had been resident in Taranaki (at least 50 acres each).

The efforts of the Government to prevent them were of no avail, and the first party of the re-migration (about 120) landed at Taranaki in January 1868, the rest (about 150) following in November.²⁹⁰

Despite promises being made to the resident Ngāti Mutunga that they would be granted land in 1866, it was not until the commission sat in 1880 that parts of the promises were given legal effect through land titles.²⁹¹ The returning Ngāti Mutunga had not been catered for in the Crown's original calculations and this caused the government some concern. The government then directed the Native Agent, Parris, "to make the best arrangement he could for settling them."²⁹² Parris arranged to locate the Ngāti Mutunga returnees on land at Mimi and Urenui, two of their traditional papakāinga areas. The commission noted in its 1880 report that:

It will not be easy finally to settle their claims, for there is a prior claim on nearly 10,000 acres of court awards to be satisfied between the White Cliffs and Urenui: and Mr. Parris in his evidence estimates that adding this amount to the area required for the Chathams Islanders, 20,000 acres will have to be provided.²⁹³

The commission further alluded to the potential problem this caused as there was not enough open land in the area between White Cliffs and Urenui to satisfy these claims as awards had also been made to military settlers and through land sales.

Government awards (in addition to the compensation awards) were alluded to in the 1880 commission's report. These included a probable amount of land for the Chatham Islanders of 10,000 acres; and a further 3,000 acres for Ngāti Mutunga absentees. If all promises were kept Ngāti Mutunga would have hoped to retain 26,358 acres or 16.8% of their traditional

²⁸⁹ AJHR (1880). Vol.2, G-2, p.xxxvii.

²⁹⁰ *ibid*, p.xxxviii.

²⁹¹ *ibid*.

²⁹² *ibid*.

²⁹³ *ibid*.

takiwā.²⁹⁴ The reality however was that when the reserves were finally apportioned in 1880 they were vested in the Public Trustee in perpetual trust for Māori owners. Māori lost access and control of their lands. The Public Trustee had full power to sell or lease the alienable reserves, and lease the inalienable ones under “peppercorn” terms imposed by statute. The West Coast Settlement Reserves Act 1892 provided for perpetually renewable leases with rent based on the unimproved value of the land.²⁹⁵

Inviting the Native Land Court to Wharekauri 1869

In an effort to lure more Ngāti Mutunga back to Wharekauri and to weaken their influence in Taranaki (and potential land claims) the Crown accepted invitations from Ngāti Mutunga rangatira who remained in Wharekauri to initiate land title investigations for the Wharekauri islands through the Native Land Court.

Apitia Punga first wrote to Te Penetana (Fenton) the Chief Judge of the Native Land Court on 13 March 1869 from Waitangi in Wharekauri to inquire as to whether the Native Land Court would sit in New Zealand or in Wharekauri for local claims.²⁹⁶ Punga’s enquiry of Fenton was followed up with a more direct letter from Toenga Te Poki, another Ngāti Mutunga rangatira on 21 June 1869. Te Poki was of the opinion that hearings concerning the land on Wharekauri should be conducted on Wharekauri and not in New Zealand.²⁹⁷ Owing to the slow speed of communication, correspondence had crossed over between these letters. Fenton had replied to Punga on 19 April 1869 confirming that the Land Court would be held at Waitangi, and Punga replied to him on 22 June confirming receipt of his letter.²⁹⁸ On 20 December, Te Poki followed up with a near identical letter to Fenton disagreeing entirely with the notion of the Native Land Court being held in New Zealand to discuss Wharekauri claims. Perhaps the people had heard alternative plans being spoken of amongst the iwi. This re-issued letter from Te Poki was written on behalf of 150 Ngāti Mutunga people still resident (although unnamed) on Wharekauri under the banner of Te Rūnanga o Waitangi.²⁹⁹ On 19 January 1870, Fenton

²⁹⁴ AJHR (1880). G-2, p.xlviii

²⁹⁵ NMCSA, clause 13.

²⁹⁶ Letter from Rangi Apitia Punga to Te Penetana (dated 14 March 1869) contained within Archives New Zealand, Reference number: BAPP A1721 4309 Vox 246/dc. Record number: 1869/663.

²⁹⁷ Letter from Toenga Te Poki to Te Penetana (dated 21 June 1869) contained within Archives New Zealand, Reference number: BAPP A1721 4309 Vox 246/dc. Record number: 1869/663.

²⁹⁸ Letter from Rangi Apitia Punga to Penetana (dated 22 June 1869) contained within Archives New Zealand, Reference number: BAPP A1721 4309 Vox 246/dc. Record number: 1869/663.

²⁹⁹ Letter from Toenga Te Poki to Fenton (dated 20 December 1869) contained within Archives New Zealand, Reference number: BAPP A1721 4309 Vox 246/dc. Record number: 1869/663. The names written in support of this letter included: Rangi Apitia, Na Pomani Terangakatothau, Kereopa Paratene, Te Pania Te Umu, Ngawharewiti, Uru pa, Tapae, Na Henere Harawira, Na uhi mereki, No te katiwatene, Pahittoa, te Teira, Ihakara, Remihana Tiro, te Hutana, Wiremu Wharepa, Pangupangu te Ringa, Teoti, Enoka te Poki.

replied to Te Poki with a copy of the gazette notice for the Wharekauri land claims which were to be held on Wharekauri.³⁰⁰ In his reply to Fenton, Te Poki expressed his praise for this decision and he further cautioned Fenton concerning his Ngāti Mutunga relatives who were complaining that their claims would not be heard in New Zealand. Te Poki was resolute in his position:

Kahore he ritenga ia ratou kei a matou te ritenga kei nga tangata e nohoana i Wharekauri Ko te Kooti kei Wharekauri ki te pai ratou ki te haere mai e pai ana ki te kore e paia ana na ratou ano i haere atu ki Nui tireni, kahore ratou i noho marire kia mutu te kooti ki reira tika ai te haere atu ki Nuitireni.³⁰¹

They have no say, we have the say, we the people who stayed on Wharekauri. The Court will be at Wharekauri, if they come that is good, if not, then that is also good. It was they who decided to go to New Zealand. They chose not to wait until the Court's work had finished before going to New Zealand.³⁰²

In June 1870, Judge John Rogan (who had been involved with the Waitara Purchase as an employee of the Native Department) held the first sittings at Waitangi and took evidence from Māori and Moriori as to who held customary title to the Chatham Islands. A small number of Ngāti Mutunga individuals (not the iwi as a whole) were confirmed as the owners of 97% of the Chatham Islands total land holding of 239,743 acres.

The Government's strategy to incentivise more Ngāti Mutunga towards Wharekauri (and away from Taranaki) was minimally successful. Those returnees also had alternative reasons for going to Wharekauri, such as cultivating, harvesting and sending food supplies back to Taranaki where land was no longer readily available for uninterrupted use.

Land sales continued in Taranaki and Wharekauri and unfulfilled promises to Ngāti Mutunga of land apportionment persisted. By 1878, Ngāti Mutunga who had become sympathetic to Te Whiti and Tohu's message of passive resistance to land sales and to their supporters at Parihaka pā, faced a further challenge:

...the Government began surveying the central Taranaki district in which the Parihaka block was located. When the survey neared Māori cultivations, Te Whiti and Tohu introduced a policy of passive resistance to the surveyors and

³⁰⁰ Letter from Te Poki to Fenton (dated 31 January 1870) contained within Archives New Zealand, Reference number: BAPP A1721 4309 Vox 246/dc. Record number: 1869/663.

³⁰¹ *ibid.*

³⁰² Author's translation, 10 April 2019.

European settlers who followed. Ngāti Mutunga and other iwi supported this policy. These passive resistance campaigns led to more than 420 “ploughmen” and 216 “fencers” being arrested. Most were denied a trial and many prisoners, including people of Ngāti Mutunga, were held in the South Island. Prison conditions were harsh and included hard labour.³⁰³

An example of Ngāti Mutunga imprisonment included Tahana Kawhe who gave first hand testimony to the Native Land Court in 1898. Tahana explained that:

I was one of the ploughman [sic] and was captured. It was in 1881 or 1882 I was released. Was captured in 1879. Was one year at Lyttelton and one year at Dunedin. I went to Parihaka after being released....there was about 100 of us released at the same time.³⁰⁴

Following three years of passive resistance to land surveying in Taranaki, the Crown led a heavy-handed operation against the inhabitants of Parihaka:

On 5 November 1881, more than 1 500 Crown troops invaded and occupied Parihaka. Over the following days, some 1 600 Māori were forcibly expelled from the settlement and made to return to their previous homes. Houses and cultivations were systematically destroyed, and stock was driven away or killed. Taranaki Māori assert that women were raped and otherwise molested by the soldiers. The leaders of Parihaka, Te Whiti o Rongomai and Tohu Kākahi, were arrested, and held until 1883. Special legislation provided for their imprisonment without trial.³⁰⁵

Ngāti Mutunga themselves had an opportunity to recount for themselves key ancestors that were included in the incarcerations. The 23 indentifiably Ngāti Mutunga people incarcerated included:

Te Rangipuahoaho, a prominent Rangatira. Other Ngāti Mutunga people arrested and imprisoned were: Heta Namu, Tahana Kawhe, Pitiroi Paekaha, Tiemi Hohepa, Hare Te Paea, Tapihana, Tamihana Te Karu, Wi Pukere, Takaweriri, Turangapeke, Wi Watikini, Harawira Wharetutaki, Te Kooti, Hira Tomo,

³⁰³ NMCSA, clause 8.

³⁰⁴ WN 8:83-84.

³⁰⁵ NMCSA, clauses 9, 10.

Matene, Te Whao, Wiremu Neera, Wharemate, Te Rehumarangai, Te Peina, Tupoki, and Pene.³⁰⁶

This list was not exhaustive as not all of the names were listed in government records have been cross referenced against whānau and hapū records of people taken into incarceration. For example, Te Muri, the widow of Apitia Punga, mentions in her evidence to the Native Land Court that she was previously married to a man named Rangiwahia who was incarcerated in 1879 and sent to Lyttelton.³⁰⁷ He did not return. It remains unclear whether Rangiwahia was of Ngāti Mutunga lineage and a potential additional person not included in the data above. Other omissions potentially include names like John Hough, Arapata Haku, and Te Manu who were published amongst the list of people incarcerated in the *New Zealand Gazette* in 1880.³⁰⁸ Rangiwahia's name was not listed among those incarcerated in 1880.

Leadership Vacuum in Ngāti Mutunga (1900 – 2000)

Ngāti Mutunga has an evolved ability to rally to rebuild leadership with their available resources when leadership vacuums occurred, such as those induced by mass migrations, imprisonment, and premature deaths as mentioned above. For example, in the battle of Hingakākā, significant numbers of Ngāti Mutunga's leadership (e.g. Te Māunu kuaō, Māui) were killed by virtue of the foe's victory. New and younger leadership came through and guided Ngāti Mutunga to the south towards Wellington. Rangatira such as Patukawenga, Te Poki, Ngāwhairama, Herewini Pātea, Pōmare Ngātata, Raumoa, Koteriki (Tatua), Rangiapitia, Ngāwharewhiti Kawau, Te Rangitāke, and Wiremu Kingi Meremere provided that leadership. As those leaders became displaced through the decisions associated with protecting the land in Taranaki or finding new territories to live, like Wharekauri, or maintaining the already won areas (like Wellington) Ngāti Mutunga leadership rallied once again and split to ensure all areas were covered. Te Rangitāke, Raumoa, and Patukawenga chose to remain in the North Island, while Pōmare Ngātata, Ngāwhairama, Herewini Patea, Raumoa, Koteriki (Tatua), Rangiapitia, Te Poki, Ngāwharewhiti Kawau (amongst others) led the migrations to Wharekauri and resided there.

³⁰⁶ Ngāti Mutunga Iwi Authority (2005) Ngāti Mutunga. Our Journey to a Crown settlement offer. Te Manu Kōrero Special Edition June 2005, p.11.

³⁰⁷ WN 8:95.

³⁰⁸ New Zealand Gazette, 12 August 1880, p.1197.

The premature deaths of Pōmare Ngātata and Raumoa presented Ngāti Mutunga with further challenges to their organisation as a people. Despite being geographically dislocated from each other, Ngāti Mutunga in all localities still sought leadership from their rangatira throughout the country.

The next generation of leadership then stood to take their place. Identities such as Wi Naera Pōmare, Apitia Punga, Hāmuera Koteriki, and Pamariki Raumoa assisted the remaining and aging leadership in Wharekauri at least until Ngāti Mutunga returned to Taranaki in 1867 leading to a dispersal of leadership across all of the iwi's areas. It was a sign that the previously large pool of leaders available to Ngāti Mutunga was fragmenting and reducing the total iwi leadership.

Female leadership prominence

By 1901, and following the deaths of Pamariki Raumoa, Apitia Punga, Naera Pōmare and Hamuera Koteriki, a further leadership vacuum eventuated in Ngāti Mutunga, one that could not be readily filled with replacement men from the iwi. Most of the emerging male leadership were still young children. The patrilineal leadership structure within Ngāti Mutunga evolved to allow a more prominent matrilineal influence. Wahine rangatira such as Mere Naera (Naera Pomare's widow), Hēni Te Rau (Apitia Punga's taurima, and Mere Naera's elder sister), and Roimata Wi Tamehana (Hamuera Koteriki's niece) played significant roles in leading Ngāti Mutunga for the period 1900 – 1930. Mere and Hēni were both daughters of Kahe Te Rau o te rangi (the Treaty of Waitangi signatory). Other factors such as disease epidemics contributed to Ngāti Mutunga mortality,³⁰⁹ as did the forced incarcerations from Taranaki from 1879.

In 1900, Mere, Hēni, and Roimata led counterclaims to the 1870 Ngāti Mutunga awards on Wharekauri. The original owners confirmed by the Native Land Court were now deceased male Ngāti Mutunga rangatira whose debts were forcing sales in order to settle the arrears. For the first time, claims were presented not only on individual grounds, but also on behalf of the iwi. Despite this, the Land Court persisted in reapportioning land to individuals with minimal apportionments to iwi.³¹⁰ It was through these processes that Mere, Hēni and Roimata became

³⁰⁹ Geoffrey Rice (2005). *Black November: the 1918 influenza pandemic in New Zealand*, Christchurch: Canterbury University Press.

³¹⁰ Notable exceptions include the Waitangi Kainga (Kekerione no.52) which was apportioned to Ngāti Mutunga and Ngāti Haumia in whose ownership it remains today.

beneficiaries of large tracts of land which gave them resources to support their emerging leadership.

The new female leadership did not ostensibly seek to supplant male leadership in Ngāti Mutunga as each of them were grooming new generations of Ngāti Mutunga men. Examples of this groomed male leadership included Māui Pomare (b.1876), Te Rangi Hīroa (b.1880), and Henry Grennell (b.1884). These young men were ushered into pursuing formal European education with the support, encouragement, and financial backing of their influential matriarchs of Ngāti Mutunga: Mere Naera (Māui's mother), Hēni Te Rau (Māui's aunt) and Roimata Wī Tamihana (Henry Grennell's mother). All of these women were mentors to Te Rangi Hīroa and are mentioned in his biography and in numerous pages of the Native Land Court minute books.³¹¹

Developing the new leadership required education. From 1889, with Māui Pōmare's enrolment at Te Aute College in Hawke's Bay, an ideological and educational colonisation of Ngāti Mutunga people emerged amongst individual iwi members.

The Te Aute College Students Association (including old boys, such as Te Rangi Hīroa and Māui Pōmare) began strong advocacy for the integration of Māori people in European ways and customs. This ideology, "resocialisation", was coined by John Thornton, the first principal of Te Aute College.³¹² T. K. Fitzgerald states that, through Thornton's leadership at the college, he applied the theory of resocialisation, arguing that: "previous socialisation in the kainga (villages) was 'inadequate' for adjustment to New Zealand society. The dominant idea of education being the production of "brown-skinned Pakehas."³¹³ Fitzgerald further posits that:

.....most of the Thornton boys were well disposed toward the idea of cultural assimilation. Maui Pomare was a good example of this attitude; he constantly fought against what he felt were 'Maori superstitions' and advocated a higher and nobler way of life. He believed that the Maori would be absorbed by the Pakeha racially and culturally. His attitude was explicit.³¹⁴

³¹¹ Condliffe, *ibid.*

³¹² Thomas K. Fitzgerald (1977). *Education and Identity; a study of the New Zealand Maori graduate.* Wellington: New Zealand Council for Educational Research, p.26.

³¹³ *ibid.*

³¹⁴ *ibid.*, p.29; Joseph Frederick Cody (1953). *Man of two worlds: Sir Maui Pomare.* Wellington: A.H. and A.W. Reed, p.53.

Māui Pōmare, himself a by-product of Thornton's indoctrination, is quoted as saying: "Kua kotia te tai-tapu ki Hawaiki, there is no returning to Hawaiki".³¹⁵ He also argued that "there was no alternative but to become a Pākehā".³¹⁶ Pōmare described the tangi (funeral) process as a "pernicious custom, as the relatives from near and far congregate to weep for the dead, to eat the family out of house and home, and they spread diseases of all descriptions."³¹⁷ The ideology of resocialisation was taken up amongst other Te Aute students, who later graduated from Te Aute and attended universities. Three key alumni of Te Aute who went on to University and later into Parliament were Apirana Ngata (of Ngāti Porou), Māui Pōmare, and Te Rangi Hīroa.

Apirana Ngata earned a Bachelor of Arts (BA) in 1893, later a Bachelor of Laws (LLB) in 1897 and a Master of Arts (MA) was added later.³¹⁸ Māui Pōmare graduated in 1899 in USA as a Doctor of Medicine (MD).³¹⁹ Te Rangi Hīroa gained a Bachelor of Medicine (MB) and Bachelor of Surgery (ChB) in 1904, and by 1910 he had also achieved his Doctor of Medicine (MD) degree.³²⁰

The qualifications earned by the young Ngāti Mutunga men assisted the government in appointing Māui Pōmare as Māori Health Officer in 1901 and also Te Rangi Hīroa when he started working with Pōmare in 1905.³²¹ These appointments saw the resocialisation ideology given national prominence. Te Aute College, through Thornton's leadership, had successfully prepared young Māori men for matriculation and higher education.³²² Despite its educational success in this manner, the official response from the Department of Education was less supportive. Openshaw, Lee and Lee noted that "As early as 1897, Pope had told his Inspector General (Habens) that the curriculum and Te Aute focused too narrowly on 'literary work' to the exclusion of instruction in practical subjects such as "agriculture, market gardening, stock farming, poultry keeping, and bacon curing."³²³

³¹⁵ *ibid.*, p.34; van Meijl, *ibid.*, p.332.

³¹⁶ Michael King (1981). *Between two worlds*, in W.J. Oliver & B.R. Williams (eds), *The Oxford History of New Zealand*. Wellington: Oxford University Press, pp. 279-301; van Meijl, *ibid.*

³¹⁷ Maui Pomare (1908). *The Maori*. Melbourne: Government Printer, p.10.

³¹⁸ Te Tari Taiwhenua (1996). *Ngā Tāngata Taumata Rau 1901-1920*. Auckland: Auckland University Press, pp.101-102.

³¹⁹ Te Tari Taiwhenua (1996), *ibid.*, p.139.

³²⁰ Te Tari Taiwhenua (1996), *ibid.*, pp.11-12.

³²¹ *ibid.*

³²² Openshaw, Lee, *ibid.*, p.52.

³²³ *ibid.*

The Inspector-General's successor, Hogben, convened a Royal Commission in 1906 to inquire into the last of manual and technical instruction in the Te Aute College curriculum and the expedience of establishing agricultural classes.³²⁴ In the evidence taken by the Commission, Thornton defended his position in respect of Te Aute's curriculum retaining the status quo, and this was supported by evidence given by parents of boys at the school. Buck and Ngata, both in Parliament by now, supported Thornton's curriculum but also saw benefit in adopting agricultural instruction at school. Pōmare on the other hand suggested that instruction should be in practical subjects only.³²⁵ The resulting Commissioner's report enabled the inclusion of an agricultural programme at Te Aute College which did not attract high enrolment rates. The high-profile matriculation pathway remained a favored pathway for Māori parents.³²⁶ The focus on practical training for young Māori continued to be an educational focus of successive New Zealand governments from the 1930s onwards.

Māori Land Boards influences

Māori Land Boards that were established under the Maori Lands Administration Act 1900 and the Maori Land Settlement Act 1905 were mechanisms by which Ngāti Mutunga land owners became further dispossessed of their land. These boards actively facilitated alienations (by lease or sale), confiscations for compulsory rates, and Public Works Act acquisitions became common business for the Māori Land Boards. There could be no Māori majorities in the membership of the Boards. Two of the three members were to be Pākehā and were usually the Native Land Court Judge and his registrar. The third member was a Crown-appointed Māori person, not necessarily from the iwi or hapū concerned with the land.³²⁷

The South Island Maori Land Board was charged with administering Ngāti Mutunga land in Wharekauri. Another of its functions was to receive applications from anyone who may have wished to purchase a Māori land block that was unutilised and considered 'idle'. In the 1910s and 1920s this occurred in earnest for Ngāti Mutunga land interests. Roimata was faced with the forced sale of two blocks she was an owner in: Kekerione 57 in which she was a co-owner with her cousin (and the subsequent site of the Te One Marae in Wharekauri), and

³²⁴ AJHR (1906). Te Aute and Wanganui School Trusts (Report and Evidence of the Royal Commission on the), Session II, G-05, pp.1-257.

³²⁵ AJHR (1904). Public Health Statement (15th September 1904) By the Minister of Public Health. The Hon. Sir J. G. Ward, K.C.M.G., Session I, H-31, pp.58-59.

³²⁶ Openshaw, Lee, Lee, *ibid*, p.55.

³²⁷ Richard Hill (2004). *State Authority, Indigenous Autonomy. Crown-Maori Relations in New Zealand/Aotearoa 1900-1950*. Auckland: Auckland University Press, p.78.

Kekerione 72 in which she was the sole owner of a large block above Waitangi township in Wharekauri.

On 11 February 1929, the Land Board received an application seeking the transfer of one of Roimata's land blocks, Kekerione 57, to David Holmes for £60. Following this, the Māori Land Board commissioned a valuation for the block, and by 1 July 1929 facilitated the sale to Holmes. On the face of it, this transfer appears to be a willing transaction between all parties. Further research into the alienation of Kekerione 72 reveals additional circumstances that indicates the owners were unlikely to have been aware of its sale.

Coincidentally, a valuation was confirmed for Kekerione 72 on the same day as Kekerione 57 indicating that the Land Board had commissioned valuations for a range of blocks while the valuer was visiting the Chatham Islands. On 11 August 1921 the Board received an application seeking the transfer of Kekerione 72 from Roimata to Ada Trail for £910. Almost two years passed before the Land Board reconsidered the settlement of this sale. By 10 September 1923 solicitors acting for Ada Trail sought a new, lower, price of £800. The Land Board replied on 2 October 1923 noting that Ada Trail had defaulted on her previous agreement and they would not support an application less than the original price proposed. Nowhere in this negotiation is Roimata consulted regarding the application. Rather, the Land Board actively negotiated to alienate her land and then presented documents for her signature to confirm the arrangements which were being made independently of her. This is clearly evidenced in a letter from the Land Board to Roimata's son, Henry Grennell, inquiring as to where Roimata was living in order to sign the documentation. Ultimately it was Henry Grennell, acting on her behalf, who acquiesced to the transactions occurring, perhaps as it appeared a *fait accompli*.³²⁸

Government-initiated policies (separate to the Land Boards) seeking to utilise 'idle' Māori land persisted at least until 1939 when two Ngāti Mutunga land owners in Urenui, Tiko Tauru and Karewao Ruteru, had their interests in a town section alienated. This section was not a large section, one rood (quarter acre) in area. The Native Land Court stated it was in the 'public interest' that the land should be alienated and authorised the Public Trustee to undertake this. The only justification was that the owners could not be found.³²⁹

³²⁸ Archives New Zealand, Reference: CH270, 15/2/483, Kekerione no.72 Land Alienation File.

³²⁹ TAR 51:172. In the matter of section 540 of the Native Land Act 1931 and in the matter of that parcel of land containing 1 rood 00 perches more or less and known as section 69 Township of Urenui. Decision document in the block order files of the Wanganui Māori Land Court.

‘Public interest’ and ‘National Interest’ are terms that pervade Ngāti Mutunga experiences, as well as those of other iwi such as Waikato. Dione Payne explored the alienation of Pokaewhenua 512 in the national interest in 1961-1969, and concluded that the ‘national interest’ and ‘public interest’ were inherently embedded in western European concepts of land utilisation; where land was considered ‘idle’ or ‘waste’, there was an imperative (dating back to Anglo-Saxon England) to move the land into production.³³⁰ This was the cultural norm that informed Pākehā parliamentarians, and the New Zealand ‘public’ at large (discussed in Chapter Seven).

However, Dione Payne argues that the ‘public’ and ‘national’ interest did not include Māori (and by implication Ngāti Mutunga) ideas of utilisation. The same dynamic was seen in the recent review of the Te Ture Whenua Māori Act 1993 where the Government argued that Māori land law should be less restricted to enable greater Māori land productivity. The Hon. Chris Finalyson announced in 2012 that:

“Improving the performance and productivity of Māori land would provide tremendous economic benefits to its owners and to the country as a whole.”³³¹

This same sentiment was expressed by New Zealand politicians in 1862 when discussing the implementation of the Native Lands Act 1862 (see Chapter Seven).

Ngāti Mutunga has entertained positive engagements with colonists and colonial agendas since Pōmare Ngātata sought to create a relationship with early colonists with the marriage of his sister to Captain John Blenkinsopp in the 1820s (discussed in Chapter Three). Ngāti Mutunga, through Hēni Te Rau, asserted their loyalty to the Crown at Urenui when the Taranaki wars occurred in 1861. Hēni Te Rau argued that:

This is what the Government said, "Remain loyal, live under the protection of the Queen, and your land will be looked after and protected, for yourselves and your descendants." A few of them resided upon that patch of land. From that date 1866 they remained loyal and did not take up arms unless against the Maoris.³³²

³³⁰ Dione Payne (2014), *ibid.*

³³¹ Te Ture Whenua Māori Act review announced. 4 June 2012. Retrieved from <https://www.beehive.govt.nz/release/te-ture-whenua-m%C4%81ori-act-review-announced> on 17 April 2019.

³³² AJHR (1905). Claims of Heni Te Rau and Others; Report of Mr. Commissioner James Mackay on the claims of Heni te Rau (Mrs Brown) on behalf of certain of the Ngatimutunga hapu to Section 6 Block VIII, Waitara Survey District. G-07, p.7.

Later Ngāti Mutunga actively engaged European systems of authority including the Native Land and Compensation Courts, particularly with Toenga Te Poki and Apitia Punga inviting the Native Land Court to sit in Wharekauri in 1869 as discussed earlier in this chapter.

Ngāti Mutunga, through relationships with European authority, and with educational systems and policies, were strongly committed to the idea of following a pathway of Europeanisation which permeated Ngāti Mutunga communities from 1900. Examples of this are evident with Hēni Te Rau who ‘europeanised’ herself under the Native Lands Act 1913 and changed her name to Jane Brown (discussed in detail in Chapter Five), later her son also followed this pathway of Europeanisation.³³³

Roimata’s son, Henry Grennell also perpetuated this idea by virtue of his education at Te Aute College and the educational ideologies embodied there. When his children were still very young he and his Kāi Tahu wife chose not to speak to their children and mokopuna in Māori. All of his children were given a strong European education at Catholic colleges in Christchurch (St Bedes, and Sacred Heart). Their youngest daughter, Linda Lewis, remembered vividly being caned if she was caught speaking Māori while at school. Corporal punishment influenced Linda to stop speaking te reo as a language of communication and as an adult she professed to not being able to speak or understand te reo.³³⁴ The communities in which the Grennell children grew up were Māori speaking communities and until their entry into schooling, the children continued to speak Māori with their cousins and friends at home in the pā.

As colonisation continued to impact Ngāti Mutunga people, land alienations continued, particularly for those Ngāti Mutunga who were no longer resident in the tribal takiwā. Mere Naera, Hēni Te Rau, and Roimata Wi Tamehana and their respective descendants have overseen alienations of Māori land whether it was state imposed (as it was with the Land Boards) or self-initiated through whānau transfers or self-interested purposes.

Proletarianisation

As the Ngāti Mutunga estate continued to decline through alienation, iwi members turned to other endeavours in order to sustain themselves. Those other endeavours included farming, fishing and and commerce. Proletarianisation amongst Ngāti Mutunga resulted in movement towards urban centres of work and was hastened by the Emergency Regulations Act 1939 and

³³³ Archives New Zealand, Reference id: R22405572, ACIH-16036-MA1-1136/-1914/3521. Received: 29th October 1914. - From: Registrar, Waikato-Maniapoto district, Auckland. - Subject: Europeanising. Duplicate of application by George Brown of Auckland to be declared a European (under Section 17/1912).

³³⁴ Airini Payne (2000). Personal recollections by Airini Payne, daughter of Linda Lewis 2000.

other wartime regulations. Young people ineligible or waiting for enlisting in active service during World War II took up work in urban centres. For Urenui and Wharekauri, this meant a larger urban population drift away from rural homelands to centres like New Plymouth, Hamilton, Napier, Wellington, Christchurch, Dunedin, and Auckland where paid jobs could be procured.

Within three generations, Ngāti Mutunga had moved from landowners capable of self sustenance to a people largely bereft of an asset base from which to grow food, or draw an income from. This also perpetuated the ongoing dislocation and continual movement of Ngāti Mutunga people all over New Zealand.

Ngāti Mutunga presented themselves for New Zealand military service in World War I and World War II. In 1911, New Zealand's Māori population was 49,844. Of that population, just 219 Māori were resident in Wharekauri.³³⁵ Ngāti Mutunga's contribution to World War I from Wharekauri was seven soldiers and from other areas another three Ngāti Mutunga soldiers enlisted.³³⁶ Similarly in World War II Ngāti Mutunga men enlisted again.³³⁷ The list of soldiers from Ngāti Mutunga is far from complete. The online database of the Auckland War Memorial Museum has not been fully researched and compiled from a Ngāti Mutunga perspective.³³⁸ In fact, there are only two people who have been classified on the database as being from Ngāti Mutunga yet information held externally shows more enlisted men on the database were from Ngāti Mutunga. The list also does not include the likes of Henry Grennell who had enlisted in World War I as a reserve in the Chatham Islands.³³⁹

³³⁵ "NOTE.—The Maori population of the Dominion (not included above), according to the result of a separate census taken in April, 1911, amounted to 49,844. Of these, 46,632 persons were found to be in the North Island, 2,681 persons in the South Island, 63 at Stewart Island, and 219 Maoris and Morioris at the Chatham Islands. There were 249 Maori wives of European husbands enumerated in the European census." Retrieved from https://www3.stats.govt.nz/historic_publications/1911-census/1911-results-census.html on 1 June 2018.

³³⁶ WWI names were: Peter Rangihiroa Buck, George Bertrand, Peter Rua, Jackson Whitiri, Henry Tengi Daymond, Robert Hough, Tahatu Whitiri, Raumoia Hough, John Joker, Pahia Piwari. WWII names were: Mana Ashton, Jackson Whitiri, Alfred Preece, Peter Kamo, Joe Tuanui, Tom Tuuta, George Bertrand, Edgar Grennell Retrieved from <http://www.aucklandmuseum.com/war-memorial/online-cenotaph/record/91795?n=Coffee&ordinal=1&from=%2Fwar-memorial%2Fonline-cenotaph%2Fsearch> on 6 May 2017.

³³⁷ *ibid.*

³³⁸ <http://www.aucklandmuseum.com/war-memorial/online-cenotaph>

³³⁹ The record in the New Zealand Army WWI reserve rolls reads: "D, Grennell, Henry, Farmer, Owenga, Chatham Islands". The D denotes the classification given to married men with three children. Reserves were classified according to their family situations. Information was retrieved from <https://search.ancestry.com/search/db.aspx?dbid=1834> on 20 January 2019.

Post World War II leadership

At the conclusion of the war in 1945, the Ngāti Mutunga soldiers who returned ushered in a return to male leadership. Māui Pōmare who had died in 1930 enabled his brother Piritaka to rise to prominence as a community leader in Wharekauri. Te Rangi Hīroa had completed his medical degree at University of Otago in 1904, prior to going to World War I. He became a health officer in Northland and later engaged in ethnographical research and became a distinguished academic researcher living abroad in Hawai‘i. Henry Grennell opted to live with his wife’s people in Banks Peninsula after leaving Wharekauri following his youngest daughter’s birth in 1919. Henry was a successful entrepreneur operating fishing, farming, launch transport, and postal businesses.

All three Ngāti Mutunga men exhibited leadership qualities within the communities they lived however none of them provided this leadership to the traditional takiwā of Urenui and Wharekauri. Rather, the traditional roles of community leadership were undertaken by their relatives who still resided in those areas such as Hamiora Raumati, Tahana Coffee, Te Kapinga McClutchie, and Te Keepa Tuuta, in Urenui and Piritaka Pōmare, Tīwai Pōmare, Henare Reriti, Henry Hough, and Inia Daymond amongst others in Wharekauri.

Conflicting ideas of leadership within Ngāti Mutunga re-appeared in the period 1910-1930 between Taranaki and Wharekauri. This dynamic was first seen in public records when Toenga Te Poki insisted on the Native Land Court hearings for Wharekauri not being held in New Zealand (discussed above) in 1869. Michael King refers to a conversation between Maui Pōmare and Henry Hough in 1919, where Pōmare, then Minister of Health took exception to a petition that had been organised by Moriori leader, Tommy Solomon. Pōmare rebuked Hough (who had presented the petition to Pōmare) for putting Moriori interests ahead of Ngāti Mutunga. Hough reminded Pōmare that they no longer lived in a competitive environment with Moriori, and that on the Chatham Islands at least, Ngāti Mutunga and Moriori worked and lived together.³⁴⁰ This was perhaps another indication of a separation in leadership ideologies amongst Ngāti Mutunga on Wharekauri and elsewhere in the modern era.

Economic Impact Post World War II

New Zealand became a strong proponent of Keynesianism in the economic environment after the conclusion of World War II. John Maynard Keynes was an economist who advocated

³⁴⁰ Michael King (2000). *Moriori: A people rediscovered*. Auckland: Penguin Publishers, p.178.

government monetary and fiscal programmes designed to increase employment and stimulate business activity. This approach saw more work programmes, social assistance, and housing assistance programmes materialise. Some programmes were facilitated by the Department of Māori Affairs and were centrally funded. This approach also served to increase the reliance of Ngāti Mutunga and Māori on their recently acquired proletarianistic (working-class) lifestyles in the urban centres.

Food rationing which was commonplace during the war persisted up to 1950 in New Zealand. During these years:

... tea, sugar, butter, eggs and certain types of meat were rationed so they could be sent to Britain and to American troops stationed in the Pacific. This did not cause people on the home front to go hungry, but it did restrict the variety of their diets and forced cooks to think creatively about meals. Most rationing ended in 1948 – dairy products and eggs followed in 1950.³⁴¹

Macroeconomically, New Zealand had participated wholeheartedly in the war-effort sending soldiers and also large amounts of primary produce to Britain who had agreed to take all that could be produced.³⁴²

During World War II the New Zealand government incentivised farmers to bring more land into production. These incentives were targetted towards those farmers who could prove experience in farming and also a formal record of education in the industry.³⁴³ While Ngāti Mutunga had relative success educationally, their two university graduates (Te Rangi Hiroa and Pōmare) had chosen medicine as their preferred vocation. Therefore, Māori land development, by Māori, was largely inaccessible to Ngāti Mutunga people who remained distanced from access to tertiary education, and because commercial banks would not loan to Māori, nor on inalienable Māori land.

³⁴¹ Rationing during the Second World War. Retrieved from <http://www.teara.govt.nz/en/eating/page-3> on 9 May 2017.

³⁴² Department of Agriculture (n.d). *Farming in New Zealand*, pp.285-288.

³⁴³ Department of Lands and Survey (1976). *The Department of Lands and Survey: 1876-1976*, Wellington: Department of Lands and Survey, p.7, the additional references are: Department of Lands and Survey (1979) *Land Development in New Zealand*, Wellington: Department of Lands and Survey, p.14; See also Department of Lands and Survey (1977). *Land Settlement Scheme: Crown Farms for Allotment by Ballot*, Wellington: Department of Lands and Survey, p.2; and from 1976 onwards, the criteria increased so that all applicants had to have five years farming, training in husbandry and farm management, an Advanced Trade Certificate in farming, and an appropriate Diploma from either Massey or Lincoln University. See Department of Lands and Survey (1974). *Land Settlement Scheme: Crown Farms for Allotment by Ballot*, Department of Lands and Survey.

Land alienations, facilitated by the Department of Māori Affairs and local councils in favour of European farmers, therefore became the vehicle to bring more Māori land into production in the national interest.³⁴⁴ This attitude towards incentivising farmers for production endured into the 1960s when the Department of Lands and Survey focussed on ‘young landless farmers’. The criteria ascribed to a “young landless farmer” included (a) being at least 25 years of age; (b) 12 months prior experience in farming and (c) been trained in a farm management course.³⁴⁵ A farm management course at that stage equated to an appropriate Diploma from either Massey or Lincoln Agricultural colleges, based in Palmerston North and Christchurch respectively. Accompanying the focus of the Department of Lands and Survey was the Marginal Land Act of 1950 and its accompanying Marginal Lands Fund that was targetted at these young farmers. Māori, and especially Ngāti Mutunga, were excluded from participation through the urbanisation effects of the Emergency Regulations Act 1939 and its associated regulations. Their conscription in the WWII war effort, and Māori land development was also restricted to limited assistance under the Māori Purposes Act. Faced with the effects of mass confiscation (in the 1860s), land sales (via land boards and individual ownership), urbanisation and proletarianisation, Ngāti Mutunga were unable to participate effectively in the economic boom that New Zealand entered into during this period. Their Pākehā counterparts, particularly in Taranaki, prospered as the province become well known for its dairy productivity.

After twenty or thirty years in urban centres with little to no contact with their cultural base, or hau kāinga, interviews with Ngāti Mutunga people confirmed that they more regularly encountered negative social circumstances including drugs and alcohol addiction, racism, family violence, broken families, youth suicide, and shaming associated with extra-marital child birth.³⁴⁶ These circumstances ushered in taurima practices, that tended to focus on care arrangements for young children within the whānau and iwi or, in some circumstances, moving between urban centres. One Ngāti Mutunga person recalls moving from Urenui to the Waikato as part of their taurima arrangement.³⁴⁷ This utilisation of the taurima custom within the urban environment during the 1950s and 1960s, in hindsight, is the second indication that the custom was being utilised amongst Ngāti Mutunga to meet the

³⁴⁴ Department of Lands and Survey (1979), *ibid*, p.14.

³⁴⁵ *ibid*.

³⁴⁶ Interviews undertaken with Ngāti Mutunga participants through the course of this study.

³⁴⁷ *ibid*.

changing needs of the iwi. The first indication arose with taurima occurring between Taranaki based and Wharekauri based kin in the 1860-1900 period.

By the 1960s, economic developments were occurring on Ngāti Mutunga's doorstep without any direct benefit to the iwi. The Kāpuni and Māui gas fields in Taranaki were brought into production from the 1960s, and in the early 1970s a number of downstream plants were also established. The pipelines associated with these gas plants were run across Ngāti Mutunga lands in Urenui, or at least, rights to do so were asserted and inserted onto the land titles themselves.³⁴⁸ While it can be argued that Ngāti Mutunga had not ceded the seabed (as the seabed was not confiscated until 2004), no input, participation or economic contribution was made to, or with, the iwi. Owing to the highly technical nature of the plants' work, and the lack of industry-specific education for Ngāti Mutunga people in this vocation, few, if any, of the iwi benefitted from direct employment there either.

All of the preceding circumstances and impacts became the collective foci for Taranaki iwi (including Ngāti Mutunga) as they prepared their claims to the Waitangi Tribunal. The years of research, hearings, and negotiations lasted until 2006 when the Ngāti Mutunga Claims Settlement Act was passed into New Zealand law. This Act was a small acknowledgement of Ngāti Mutunga's historical loss and its focus was primarily on economic repatriation to the iwi. Social issues, including impacts on traditional practices, like taurima, were not addressed.

Three nineteenth-century case studies of Ngāti Mutunga rangatira are discussed in the following chapters (Pōmare, Punga, and Koteriki) to illustrate in more detail the intricacies associated with taurima and the impact of the relationships after their death particularly as it pertained to their succession cases. These case studies allow an opportunity to view how public agency impacted tikanga taurima for Ngāti Mutunga, and also contributed to internalised attitudes towards taurima that exist today within the iwi.

³⁴⁸ See memorial schedule and superceded titles for the Māori land block now known as Urenui Pā accessible at www.maorilandonline.govt.nz, and in the superceded block order files of the Wanganui Māori Land Court office.

Chapter Four: Naera Pōmare



Image 1: Hēmi (James) Pōmare – biological grandson of Pōmare Ngātata and biological cousin to Naera Pōmare. No photographic images exist of Pōmare Ngātata or Naera Pōmare, this image is the closest representation to them for this chapter. Hēmi is discussed more on the following page. *Alexander Turnbull Library. Ref A-340-042.*

Naera Pōmare

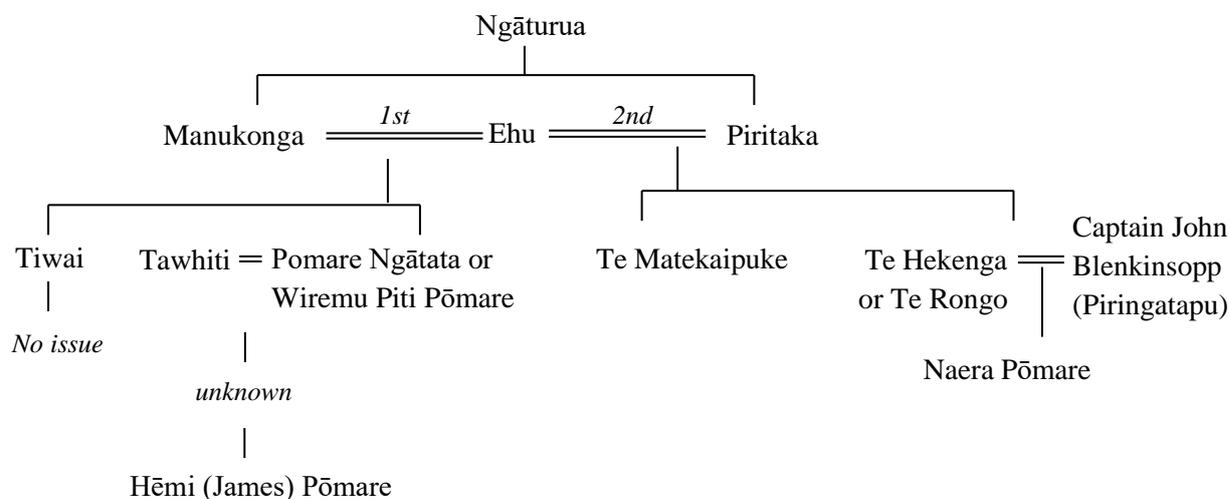
Naera was the biological son of Te Hekenga (also known as Te Rongo) and Captain John Blenkinsopp (a European). He died prematurely at Wharekauri surrounded by his people, whānau and children on 15 August 1885, aged 50 years.¹ Naera died eleven days prior to his cousin Apitia Punga (who is discussed in Chapter Five).³⁴⁹

Māori people were often known by several names, as reflected in some archival records. Cross referencing of those archival documents confirms that Naera’s mother was known by at least two names: Te Hekenga and Te Rongo. Most published historical references favour the name Te Rongo as below:

Wi Naera Pomare, leading chief of Ngāti Mutunga, was a son of Te Rongo – of Ngāti Toa - by her first marriage to a whaler named Blenkinsopp; her second marriage was,

³⁴⁹ Mathematical calculations undertaken from information contained in the *Collingwood* passenger manifest that took 176 Ngāti Mutunga to Taranaki from Wharekauri; TAR 7:156.

of course, to Te Rangihaeata: she was killed by a stray bullet at the Wairau and for her sake Te Rangihaeata exacted utu on the New Zealand Company captives.³⁵⁰



Whakapapa 4: Naera Pomare's natural and taurima connections, Whakapapa sourced from Spragg, E. Two Māori manuscripts and whakapapa. MS96/17. Auckland War Memorial Museum Library.

Naera Pōmare (c1835 – 1885) carried alternative names throughout his life: Wiremu Naera Pōmare and Wī Naera Pōmare. He grew up in post-contact period New Zealand and his life story influenced Ngāti Mutunga leadership and taurima practice in the nineteenth century. As a taurima child of his biologically maternal uncle, Pōmare Ngātata, Naera grew to have a whānau that included biological children (Kingi, Hiko, Tūrei, Tiare, Tiwai, Māui, Piritaka, Te Hia and Pahi), step-children (Inia, Hone, Ngaropi and Rangihanu) and a taurima son (Te Rua Herata). Naera's authority (which gave rise to a large estate) arose from his taurima father who was one of Ngāti Mutunga's rangatira in the years 1800 – 1850. Naera's authority was not by direct birthright as Pōmare Ngātata had biological children of his own, one of whom had a son, Hēmi Pōmare, pictured on the previous page in image 1 (see whakapapa 5 above).³⁵¹ When Naera died in 1885 he had amassed a large land estate of formerly iwi land by virtue of his rangatiratanga, and at succession, it was the first time that Native Land Court had to deal with such a large amassing of individualised Ngāti Mutunga lands.

Tikanga taurima as discussed in previous chapters has endured within Ngāti Mutunga and was commonplace amongst Ngāti Mutunga rangatira in the eighteenth and nineteenth centuries. For example, Hāmuera Koteriki endorsed taurima practice at a 1870 Native Land

³⁵⁰ Boast (2003), *ibid*, p.9.

³⁵¹ Children he shared with Tawhiti, discussed later.

Court hearing when he described his own relationships:

.... Apitia [Apitia Punga] was a child of Toenga's [Toenga Te Poki]. I was also called a child of Toenga and others according to Māori Custom.³⁵²

In reality both Hamuera Koteriki and Apitia Punga were considered taurima to Toenga Te Poki. Koteriki and Punga's biological parents were contemporaries of Toenga Te Poki who migrated to Wharekauri. Koteriki, Punga and Pōmare were all closely related members of Ngāti Mutunga (see Whakapapa 3, page 85). They all had taurima relationships; they all had large land holdings, and they all died within 16 years of each other. These dynamics are discussed in this and the following two chapters to give examples of Native Land Court impacts upon Ngāti Mutunga taurima relationships.

Ngāti Mutunga placed trust in the leadership of Naera Pōmare and other rangatira when the Native Land Court sat at Wharekauri in 1870. This was when land was individualised for the first time in the iwi's history. It was generally considered by a majority of Ngāti Mutunga and Judge Edger in 1900 that these rangatira held the land on behalf of all the people, which was consistent with tikanga Māori as discussed in Chapter Two.³⁵³ Despite the general considerations that were held, the actual Crown Grants to those trustees imparted full ownership rights from a Eurocentric understanding of title. Unfortunately for Ngāti Mutunga, the full effect of individualisation would be realised upon Naera's death as succession occurred to 'his' assets.

As the first of three nineteenth-century examples, this account of Naera's succession introduces several key characters (Hēni Te Rau, her sister Mere (Naera's wife), and step-son, Hone Tuhata) who appear in all three situations. Their participation in all three case studies indicates strong connectivity and influence in each case.

Pōmare Ngātata and his brother Tīwai

Pōmare Ngātata (Naera's uncle and taurima father) also utilised alternative names including Wiremu Piti Pōmare and Pōmare Manukonga. For the purposes of this study I will refer to him as Pōmare Ngātata. When Patukawenga (an earlier Ngāti Mutunga rangatira) died, Pōmare Ngātata succeeded him to lead Ngāti Mutunga in the mid-nineteenth century.

Pōmare Ngātata and his brother Tīwai were influential in the battles that occurred during the migrations from Taranaki to Wellington (described in Chapter Three). Tīwai was

³⁵² CIMB 1:317.

³⁵³ CIMB 2:147.

killed at the battle called Haowhenua. Following his burial, Pōmare Ngātata's brothers-in-law exhumed Tīwai's body to get access to the tobacco that had been interred with him. Pōmare Ngātata saw this as a desecration and became enraged at them. In retribution he abandoned Tawhiti, his wife, sending her and their two younger children back to their Ngāti Toa people.³⁵⁴ He kept their eldest son with him.³⁵⁵ The desecration of Tiwai's grave created an enduring estrangement between the families. Following this estrangement Pōmare Ngātata continued in his leadership of Ngāti Mutunga and was among the rangatira who led the migration to Wharekauri in 1835.

Hemi (James) Pōmare, pictured at the beginning of this chapter (Image 1), was the grandson of Pōmare Ngātata. Although not recorded, his parent is most likely to be one of the children of Pōmare Ngātata and Tāwhiti given the year of the painting (between 1844 and 1846). The artist George French Angas visited New Zealand in 1844 when he painted this picture, and then took the young James Pōmare to Sydney at the end of November 1844. James was enrolled in school there until late 1845 and was then taken to Britain and presented to Queen Victoria and Prince Albert in April 1846.³⁵⁶

Pōmare Ngātata and Pre-Land Court Succession

Ngāti Mutunga had emigrated *en masse* from Te Whanganui a Tara (Wellington) to Wharekauri in 1835 and tensions with their former allies, Ngāti Haumia and Ngāti Tama, escalated towards 1839. As discussed in Chapter Three, these latter tribes had reneged on an agreement with Ngāti Mutunga to withhold prior land claims until Ngāti Mutunga arrived in the Chatham Islands. The advantages they gained by claiming the most fertile and accessible parts of the country to the south around Waitangi township inevitably caused tensions. Pōmare Ngātata was listed as one of those who led the battle against Ngāti Tama at Waitangi in 1840.³⁵⁷ His leadership in this and previous conflicts saw Ngāti Mutunga rise to prominence on Wharekauri and his mana increased. Pōmare Ngātata viewed his taurima son, Naera Pōmare, as his successor and groomed him for leadership particularly as he remained estranged from his biological children, or perhaps as his eldest son may have died in battle.

Ngāti Mutunga succeeded in ejecting Ngāti Tama from Wharekauri and consequently

³⁵⁴Smith (1910). *ibid*, pp.47-83; Patricia Burns (1980). *Te Rauaparaha: A new perspective*. Wellington: Penguin Publishers, p.315. Spragg, *ibid*, Ngati Toa whakapapa Table 8.

³⁵⁵ Smith (1910), *ibid*, p.523.

³⁵⁶ National Library of New Zealand (n.d). Information sourced from text associated with Angas, George French, 1822-1886 : Hemi, grandson of Pomara [sic], Chief of the Chatham Islands [Between 1844 and 1846], Reference Number A-340-042.

³⁵⁷ CIMB 3:14-16. Roimata's list.

redistributed the resources amongst themselves. Cultivations were planted across the islands and from a Ngāti Mutunga perspective solidified occupational rights afforded to them through take raupatu and take noho. For the next twenty years, Ngāti Mutunga lived continuously and in large numbers on Wharekauri while still returning to Taranaki to ensure their ahikā there was also maintained.

Pōmare Ngātata died on 29 January 1851 and was buried in the Wesleyan churchyard at Waitangi.³⁵⁸ Naera Pōmare succeeded to Ngātata's mana on Wharekauri, an honour he was to hold until his own death in 1885. Pōmare Ngātata's choice of successor exemplified an example of taurima succession in a non-legislative context. It is the best known example of pre-Māori Land Court tikanga by Ngāti Mutunga concerning taurima succession. Pōmare Ngātata's succession also illustrates that a rangatira could bequeath family titles and responsibilities to their taurima, in preference to his own direct blood kin.

Despite Pōmare Ngātata's choice of successor, Wi Naera Pōmare's age (26 years old) saw the leadership of Ngāti Mutunga on Wharekauri continue to be shared across the iwi. Raumoā, a veteran rangatira and contemporary of Pōmare Ngātata, assumed leadership for Ngāti Mutunga on Wharekauri until his own eventual return to New Zealand in 1857 which, according to his wife Hariata Horomounga, was to settle competing land disputes with another iwi.³⁵⁹ Raumoā drowned while on a firewood gathering expedition and Hariata wrote to her son Pamariki Raumoā advising him of his father's death and that he was now his father's representative in Wharekauri. Pamariki Raumoā assumed leadership and kept immaculate records concerning Ngāti Mutunga in the 1850s and 1860s. In 1867 Naera Pōmare returned to Urenui with his wife Hēni and their children. It was not until 1870 that Naera Pomare resumed his leadership responsibilities for Ngāti Mutunga on Wharekauri in concert with Pamariki Raumoā until Pamariki died in 1879, six years prior to Naera Pōmare.

Captain John Blenkinsopp

Naera Pōmare's paternal biological whakapapa was through Captain John Blenkinsopp, a European trader, whose own history in early New Zealand was intricately connected to Ngāti Mutunga during their migrations from Urenui to Te Whanganui a Tara.

John Blenkinsopp had an entrepreneurial trait inherited by his son Naera. Blenkinsopp's history in early colonial New Zealand is well recorded. He is alleged to have

³⁵⁸ Wiremu Piti Pomare retrieved from <http://www.teara.govt.nz/en/biographies/1p22/pomare-wiremu-piti> on 13 Aug 2014.

³⁵⁹ Horomounga, *ibid*.

been of French and African American extraction.³⁶⁰ He captained a whaling ship, the *Caroline*, and began trading in Cloudy Bay, in the upper South Island in 1830.

In 1829, Blenkinsopp first encountered Ngāti Mutunga near Pipitea stream in Wellington. While retrieving water from the stream without permission, a local chief ‘Go-the-rig’ [Koteriki – the father of Hamuera Koteriki] threatened to seize his boat and destroy it unless payment was made for the water they were taking. Blenkinsopp, not prepared to make payment, ordered his oarsmen to retreat to his ship which was anchored just offshore. Ngāti Mutunga gave chase in their waka and armed with firearms and traditional weapons soon surrounded the *Caroline*. Eventually Koteriki and ‘Bumari’ [Pomare Ngātata] were invited on board for negotiations. The newspaper article from 1875 records:

Ample supplies were promised, freedom from future aggression was guaranteed and unhesitatingly accepted and when the chiefs left a mutually good understanding existed between them and the officers of the *Caroline*.³⁶¹

While this newspaper article states the lives of the chiefs were held hostage while Blenkinsopp’s crew fetched water, this was extremely unlikely given Ngāti Mutunga and their allies held the superior population and exercised military supremacy in this location and time. It is important to note that this interaction between Blenkinsopp and the two Ngāti Mutunga chiefs in all likelihood led to the union of Blenkinsopp and Pōmare Ngātata’s sister, Te Rongo.

Blenkinsopp had two Māori ‘wives’: one in Wellington (Te Rongo) and one in Te Taihu (the upper South Island), Hēni Te Hauhau, who were related to each other through their shared Ngāti Toa and Ngāti Mutunga whakapapa. The unions with these women of rank were important to Blenkinsopp and to the Māori of the time. By being ‘married’ to two Ngāti Toa/Ngāti Mutunga women, Blenkinsopp gained preferential access to resources and status above other Pākehā traders who had not married into local iwi. The children of the two relationships represented enduring connections between Māori and Pākehā, something akin to take tūpuna discussed in Chapter Two. Given that Māori controlled the economy at this point the ‘marriages’ were strategic. Hēni Te Hauhau, his first ‘wife’, gave him access to Te Taihu and the Cloudy Bay area and his relationship with Te Rongo ensured his safety and access to resources in the Wellington and West Coast regions of the North Island. Ngāti Toa

³⁶⁰ CIMB 3:170.

³⁶¹ *Wanganui Chronicle*, 8 May 1875, p.2. Retrieved from <https://paperspast.natlib.govt.nz/newspapers/WC18750508.2.6?query=Blenkinsopp> on 18 May 2017.

and Ngāti Mutunga benefitted through these relationships by accessing Pākehā technologies earlier than their competitors. The relationships also provided access to ships and transportation which features strongly for both tribes in the mid-1830s.

In 1832 Blenkinsopp entered into an arrangement with rangatira from Ngāti Toa, Te Rauparaha amongst them. This written agreement (from a Ngāti Toa perspective) permitted Blenkinsopp to have access to wood and water in Cloudy Bay, although he allegedly changed the wording of the agreement to include purchase of the Cloudy Bay and Wairau area.³⁶² For this arrangement, Blenkinsopp offered payment of a ship cannon which was later found to have been rendered useless as a spike had been driven into its flint device. Ngāti Toa signed his agreement, and with this in hand, Blenkinsopp then departed for South Australia to raise funds and gather settlers to colonise Wairau. He found support from a solicitor named Unwin who loaned Blenkinsopp £200 on the strength of this deed. Between 1833 and 1837, Blenkinsopp continued to trade between Cloudy Bay and South Australia while also establishing whaling stations in South Australia.³⁶³ Blenkinsopp's expansionist and entrepreneurial agenda was truncated when he drowned through a maritime misadventure at the Murray River mouth in December 1837.³⁶⁴

Blenkinsopp's relationships with Hēni Te Hauhau (Jane), the daughter of Ngāti Toa chief Te Pēhi Kupe, and with Te Rongo bore two children. With Hēni Te Hauhau he fathered Irihāpeti Rore and with Te Rongo, he fathered Naera Pōmare. The ages of these children are approximated from cross referenced archival material which suggests that Blenkinsopp's union with Hēni Te Hauhau was the older relationship. It is not clear from documentary evidence whether the women were aware of each other's relationship with Blenkinsopp nor whether they were aware that towards the end of his life he had married another woman, Ann McGowen, in Sydney on 15 December 1836, just prior to his death the following year.³⁶⁵ Blenkinsopp's and other captains' attempts to find suitable colonists for the Wairau area were reported positively in newspapers like the *Hobart Town Colonial Times* in October 1833.³⁶⁶

³⁶² Collins, *ibid*, p.117; Burns, *ibid*, pp.185-186.

³⁶³ Pat Akerblom (2012). *Captain John William Dundas Blenkinsopp*. Blenheim: Pat Akerblom publisher. p.37.

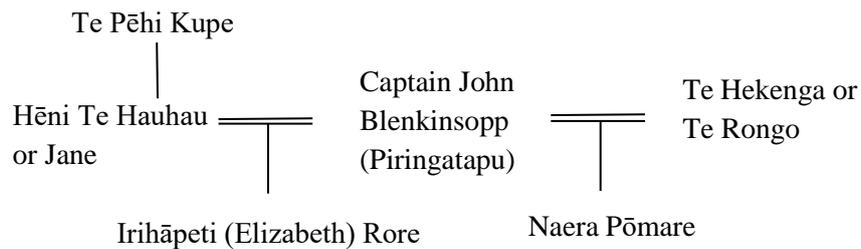
³⁶⁴ Akerblom, *ibid*, p.56.

³⁶⁵ Akerblom, *ibid*, p.28; J.W.D Belkinsopp Marriage Notice in *Sydney Morning Herald*, 22 December 1836, p.2. Retrieved from

<https://trove.nla.gov.au/newspaper/article/12855678?searchTerm=%20%20%20%20%20%20%20%20%20%20%20%20%20&searchLimits=l-publictag=John+William+Dundas+Blenkinsop> on 19 January 2019.

³⁶⁶ An account is reported favourably in the *Hobart Town Colonial Times* on 26 October 1833 accessed at <https://trove.nla.gov.au/newspaper/article/8647240?searchTerm=hobart%20colonial%20times%20october%201833%20AND%20%22cloudy%20bay%22%20%20%20%20%20%20%20%20%20%20%20%20%20&searchLimits=exactPhrase=%22cloudy+bay%22||anyWords||notWords||requestHandler||dateFrom=1830-01->

The advertisements looked for colonists to farm and supply whalers with produce but warned that they must be prepared to use a musket and repel attacks. He also required them to observe the Sabbath (presumably as Christians). Despite Blenkinsopp's death in 1837 the recruitment of colonists continued, with Unwin (Blenkinsopp's solicitor and creditor) sending a small party of colonists to Wairau in June 1840. This colony had only started to establish themselves when they all disappeared, assumed to have been lost when crossing the Wairau river bar or due to localised conflict.³⁶⁷



Whakapapa 5: Māori descendants of Captain Blenkinsopp

The Wairau incident

Simultaneously, Te Rauparaha, Te Rangihaeata (Te Rauparaha's nephew, and second husband to Te Rongo, Naera's mother) and Ngāti Toa strenuously objected the right for non-Māori to settle in the Wairau area. The New Zealand Company initiated new negotiations with Ngāti Toa and with Te Ātiawa to purchase the Wairau area. It was in the following June that the colonists (mentioned above) were sent by Unwin and perished. After that, a further party of surveyors commissioned by the New Zealand Company arrived at Wairau to begin their work. Te Rauparaha and Te Rangihaeata, still unsatisfied with the negotiations, departed for Wairau and arrived in May 1843. To delay the surveyors work they burned their raupō huts, which subsequently led to a charge of arson being laid against Te Rauparaha.

In an effort to arrest Te Rauparaha and Te Rangihaeata a largely civilian and inexperienced militia undertook that task. The group arrived on the eastern side of the Tuamarina Stream on 17 June 1843. Ngāti Toa were assembled on the other side of the river and their numbers were twice that of the militia. The Ngāti Toa group included women and children. Discussions with Te Rauparaha and Te Rangihaeata ensued but the Ngāti Toa chiefs would not submit to be arrested. This caused tension between the parties, and while the

[01||dateTo=1837-12-31||sortBy=dateAsc](#) on 20 January 2019; Robert McNab (1913). *The Old Whaling Days: A History of Southern New Zealand from 1830 to 1840*. Christchurch: Whitcombe & Tombs Ltd. pp. 61-68.

³⁶⁷ Akerblom, *ibid*, pp.8-9.

discussions continued a musket shot was fired. The shot was fired from one of the Europeans and hit Te Rongo, Blenkinsopp's Ngāti Mutunga widow and now Te Rangihaeata's wife. Te Rongo's death initiated the conflict which led to the deaths of Māori and European that day.³⁶⁸

Impact on Naera Pōmare

The conflict at Wairau inevitably necessitated a rearrangement of custody for the young Naera Pōmare. Naera Pōmare was born in 1835, two years prior to Blenkinsopp's death. As such he would have been 8 years old when Te Rongo was shot at Tuamarina. Blenkinsopp's daughter, Irihāpeti, was 20 years old in 1843 and likely had her own whānau,³⁶⁹ and her circumstances would have made it unlikely she would be able to raise Naera Pōmare. Given Naera's age when Te Rongo died, it is likely that he was present at the Tuamarina conflict, making it unsafe for him to remain in the locality in case of retributory attacks. In the end the iwi decided that Te Rongo's brother Pōmare Ngātata would take Naera Pōmare as his taurima.

Naera Pōmare's families

As a frequent traveller between Wharekauri and New Zealand, Pōmare Ngātata took Naera Pōmare to Wharekauri. As an adult, Naera first married Hēni Tatua. Together they had five children.³⁷⁰ Hēni died about 1874 in Urenui after the family relocated there in 1867.³⁷¹ Upon her death, her sole surviving child, Tīwai Pōmare, was taken by Hēni's brother, Hāmuera Koteriki, as his taurima.

By 1868, Ngāti Mutunga, fearing further displacement from their Taranaki home base, lodged claims for lands in the Urenui district. These claims facilitated a mass return of Ngāti Mutunga people to Urenui, where they occupied confiscated lands awaiting the outcome of Compensation Court hearings. Naera Pōmare, now 32-years-old, returned to Urenui on the *Collingwood* in 1868.³⁷²

On Naera Pōmare's return to Taranaki he came into regular contact with his future second wife, Mere Nicol (Mere Hautonga), and her sister Hēni Te Rau. At this time Mere was married to her first husband, Inia Tūhata, with whom she shared four children. Mere and Hēni were two daughters of Jock Nicol, a Scottish entrepreneur, and Kahe Te Rauoterangi.

³⁶⁸ Burns, *ibid*, pp.239-243.

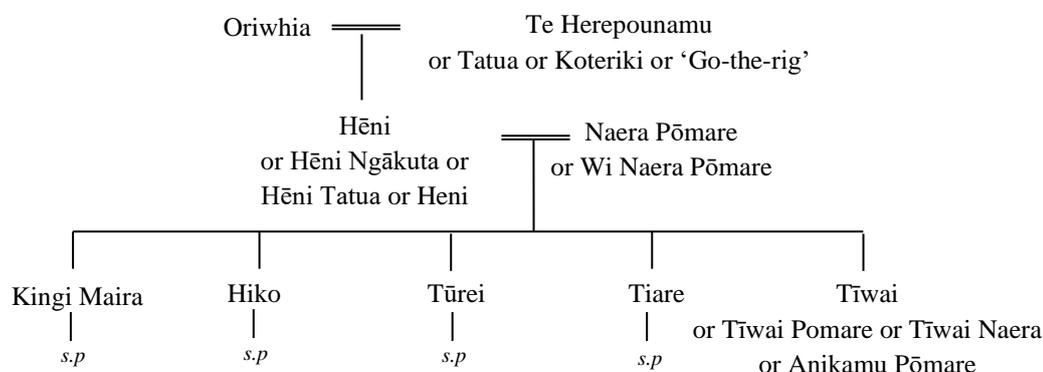
³⁶⁹ Mathematical calculations taken from obituary notice.

³⁷⁰ AJHR (1905). G-7, p.32-33.

³⁷¹ Manifest for the *Collingwood* held by Museum of City and Sea, Wellington, New Zealand; Te Pukapuka a Pamariki Raumoā. *Unpublished Manuscript*, 10 December 1867, pp.135-138

³⁷² Manifest for the *Collingwood* held at the Museum of City and Sea, Wellington, New Zealand.

Both Mere and Hēni were highly educated in both tikanga Māori and European culture and became influential in their own right in later years. Inia Tūhata, Mere’s husband, died in 1871 or 1872,³⁷³ a few years prior to Naera’s wife in 1874.



Whakapapa 6: Children of Hēni and Naera Pōmare. Whakapapa sourced from *Appendices to the Journals of the House of Representatives* (1905), G-7, p.32-33.

By early 1875, the recently widowed Naera Pōmare and Mere Hautonga were in a relationship, and their eldest of four children, Māui Pōmare, was born on 13 January 1876.³⁷⁴ Additionally, Naera Pōmare also became the step-father for Mere’s elder children: Rangianu, Hone, Inia and Ngāropi Tuhata (Daymond also known as Damon). Naera Pōmare’s will, written to his dictation and approval approximately one month prior to his death, is reproduced below with a free English translation.

Karewa Wharekauri Hurai 22nd 1885

Ko te Ohaki whakamutunga tenei oku o Wiremu Naera Pomare o Waitangi Wharekauri nei. E tino whakakoua ana i konei nga wira katoa o mua atu tu pewhea ranei.

Ka whakaritea e au a Louis Walter Hood o Waitangi Wharekauri nei me Mere Naera taaku wahine hei kai whakahaere i aku tikanga katoa mo aku tamariki a e mea ana au ki utua aku rongataima tika i te mea e taea ana i muri tata i taku matenga.

Ka tukua e au aku taonga me aku rawa katoa me taaku whenua katoa i Wharekauri me taaku whenua katoa i Nutirani ki aku tamariki tokorwaru ko nga ingoa enei o aku

³⁷³ OTI 11:16; WG 8:326-327; TAR 3:61.

³⁷⁴ Eleanor Spragg (2012). 'Te Rau-o-te-rangi, Kahe', from the Dictionary of New Zealand Biography. Retrieved from <http://www.TeAra.govt.nz/en/biographies/1t73/te-rau-o-te-rangi-kahe> 20 November 2015.

tamariki Maui Pomare. Ko Piri taka Pomare Te Hia Pomare Te Pahi Pomare ko aku tamariki tipu enei toko wha ko William Damon ko John Damon Ko Rangihanu Maria Damon ko Nga Rope Damon ko enei tamariki no Mere Naira taaku wahine tokowha ko aku whenua katoa kia rite rite tonu mo enei tamariki ko aku hipi mo aku tamariki tokowha ko Maui ko Piritaka ko Te Hia ko Te Pahi kia rite rite ko aku kau ko aku hoiho kia rite rite ki aua tamariki.

Kotahi rau eka o taku pihi whenua ki Whangaroa ka hoatu eau hei kai oranga mo taku tamaiti whangai ko Te Rua Herata ma Mere Naera e whakaatu taua pihi whenua kiaia mehemea ka tahuti taua tamaiti kua kore noho tahi ki aku tamariki e Maui raua ko Piritaka e kore e hoatu te whenua kiaia.

I muri i au ko Mere Naera he kai whakakapi i taku ingoa. Ko Thomas Ritchie tetahi kai whakahaere tikanga no aku tamariki. Wiremu Naera Pomare.

In addition to his written will a codicil was also produced:

Karewa Wharekauri Akuhata 3rd /85

Kia mohio nga tangata pakeha maori ranei he kupu whakamarama tenei naku no taku kupu i whakatau ai i te aroaro ote kooti whenua i tu ki Wharekauri nei i te marama o Pepueri 1885 taua kupu aku i hoatu e au ki taku wahine kia Mere ko haua whenua ko Whangamarino nama 1 Ko te Tikitiki nama 1A.

Wiremu Naera Pomare.³⁷⁵

A translation of Naera Pōmare's will reads:

This is the last will and testament of me, Wiremu Naera Pōmare of Waitangi, Chatham Islands. I cancel all previous wills made by me. I appoint Louis Walter Hood of Waitangi Chatham Islands and Mere Naera, my wife as trustees of my wishes for my children and to pay all outstanding debts left by me if these should arrive after my death. I give all of my possession and lands at the Chatham Islands and my land in New Zealand to my eight children. These are the names of my children: Maui Pomare, Piri taka Pomare, Te Hia Pomare, Te Pahi Pomare these are my natural children. The next four: William Damon, John Damon, Rangihanu Maria Damon, and Nga Rope Damon are Mere Naira's children my wife's four children. My land should still be divided for these children. My sheep are for my four [natural] children Maui, Piritaka, Te Hia and Te Pahi my cattle and horses will also be divided amongst these children.

³⁷⁵ Archives New Zealand, Reference: R22206312, AAOM, 6029, W3265, 45 / 2476.

One hundred acres of my land at Whangaroa will be given to sustain my taurima child, Te Rua Herata. Mere Naera will show where this piece of land is for him. If he should run away and not stay connected to my children Maui and Piritaka the land will not be given to him.

After me, Mere Naera will carry my name. Thomas Ritchie will act as a trustee for my children. Wiremu Naera Pomare.

Karewa Chatham Islands August 3rd 1885

May all people know of this my explanation about the decision made before the Native Land Court at Chatham Islands on February 1885. I gave authority to my wife to Mere regarding land at Whangamarino block number 1 called Te Tikitiki number 1A Wiremu Naera Pomare.³⁷⁶

In this will Naera Pōmare elevates his step-children to sit with the same succession rights as his natural children from his union with Mere. His eldest surviving son from his first marriage to Hēni was completely excluded and this is discussed later. His taurima child, Te Rua Herata, had conditions placed upon his inheritance that required his continued allegiance and connection to the family. Contemporary thinking suggests that this succession did not follow regular Ngāti Mutunga tikanga, because it excluded some blood-kin and included non-kin. Roimata asserted in 1949 that Naera was unduly influenced by his wife Mere and her sister Hēni Te Rau to exclude Tīwai Pōmare.³⁷⁷ Examining the role of these two women in respect of Naera Pōmare is crucial to understanding how his succession occurred the way it did.

Mere Hautonga Pōmare

Details concerning Naera's wife, Mere Hautonga, are quite minimal with only fragmented references in Native Land Court and archival records. As a younger sister of Hēni Te Rau, it was certain that she was born after 1835 and was younger than Naera Pōmare. Mere died in September 1890 on Wharekauri, just five years after her husband.³⁷⁸

In her lifetime, Mere advocated strongly for land rights arising from her own and from her husband's whakapapa. One provision of Naera Pōmare's will ensured that Mere could carry his name Pōmare, which lent an extension of his mana to Mere post-humously,

³⁷⁶ Author's translation, 7 January 2018.

³⁷⁷ TAR 56:396, Paragraph F. Declaration in support of petition to have evidence by Roimata Tamehana heard at New Plymouth contained in the Wiremu Naera Pomare's succession application file, Maori Land Court, Christchurch NZ.

³⁷⁸ WN 5:275-276.

following Naera's death.

In the Motuhara case for the Forty Fours Islands, Mere Pomare continued to negotiate directly with Hamuera Koteriki over the proposed ownership of those islands. Koteriki would only agree to the proposed ownership if Tīwai Pōmare was included, which was reluctantly accepted by Mere Pōmare.³⁷⁹

She is remembered as being a physically large and strong woman. Recollections from an unidentified book excerpt entitled "Chatham Islands" recall the following details of a man who worked for the Pōmare whānau:

When the Naera Pomares [sic] first came to the Chathams they settled on the promontory that runs into the big lagoon from the western shore. There they employed St. Helens Tom to work for them. Tom was a coolie [sic] brought from India by the John Company to St. Helena to fulfil the agreement with that island's government that if the island would grow potatoes and other food, especially pigs, to victual the company's ships the John Company would bring at least one coolie each trip to provide labour. Tom either stowed away on or was shanghaied [sic] to a whaler coming to the Chathams and there he managed to escape ashore. One night Tom was left in charge of the establishment while the Pomares were away. A fire broke out and burned the fowlhouse and potato shed. As Tom had no money to pay for the damage done Naera said Tom must spend the rest of his life there working for nothing to discharge his debt. Naera was good to him. Mrs Naera led him an awful life. She was big and strong; he small and weak. She sometimes picked him up and threw him into the lake. Tom used to run away but kind friends always returned him. After Naera's death in 1886 [sic] he was free and sometimes worked at Wharekauri.³⁸⁰

After Mere Pōmare's death, her sister Hēni Te Rau became trustee to her minor children and grandchild. As trustee, Hēni Te Rau, consented to the sale of Mere's residue interests in Māori land, including her land block in Kinohaku West M block, to the Crown.³⁸¹ Hēni Te Rau's influence over the beneficiaries of Pōmare's estate was significant particularly as most of the children remained minors at their mother's death in 1890.

³⁷⁹ CIMB 1:91-134.

³⁸⁰ Unidentified book excerpt photocopied and attached to the back of a photo of St Helena Tom held in the Canterbury Museum pictorial archives, pp.158-159.

³⁸¹ WN 5:280-281.

Hēni Te Rau (Jane Brown)

Hēni Te Rau was the same age as Naera, born in 1835. Her family was closely associated with Sir George Grey, governor of New Zealand, who took two of Hēni's other siblings as his taurima. One he placed in school at Auckland, and a sister, he kept in his own house as one of his wards. Both of these children died young. Later when Grey was posted to South Africa, Hēni's mother, Kahe Te Rauoterangi, and another sister travelled to South Africa with him, although the sister died and was buried there.³⁸² Hēni and her sister Mere were the remaining children of Kahe Te Rauoterangi and Jock Nicol. They both



Image 2: Hēni Te Rau (Jane Brown)
Auckland War Memorial Museum

inherited their parents' entrepreneurial drive and also their affinity for new technologies, European education, and alignment with Pākehā culture, so much so that both Hēni and Mere promoted Pākehā education as the pathway for the young people in their iwi. Great examples of this advocacy include Māui Pōmare, the first Māori medical practitioner, and Hone Tūhata who became a public clerk and licensed interpreter for the Native Land Court. Pōmare and Tūhata were both Mere's sons and Hēni's nephews; Māui Pōmare was Naera Pōmare's son. Hēni personally pursued European education and is known to have achieved at least the 'fourth standard' at school as this was a pre-requisite for her application to become a 'Europeanised Māori' in 1913.³⁸³ This classification, that is, a 'Native declared to be a European', was a person of Māori descent who made application to the Native Land Court to have their legal status changed from Māori to European, as per the Native Land Amendment Act 1912 (subsection 12 of section 17). Paul Meredith's paper discusses the background and process this legislative provision and its relative lack of success given that only twenty-seven Māori were ultimately successful in their Europeanization.³⁸⁴ Hēni Te Rau was one of the first to seek Europeanization and use it to progress her own autonomy in a New Zealand society that was dedicated to European assimilation. A Europeanized Māori had to demonstrate a good grasp of the English language, have attained at least Standard Four in the Education system, and demonstrate that

³⁸² *ibid*, p.16.

³⁸³ AJHR (1913) G-1.

³⁸⁴ Paul Meredith (2006). Pakeka by Law: The Europeanization of Maori 1912-1931. *New Zealand Universities Law Review* 22 NZULR 103.

they had enough land (Māori or European) to sustain themselves in society. In addition to this they needed to pay a large application fee (£3.3.0 which equates to NZD\$713.93 in today's money³⁸⁵) to the Native Land Court.³⁸⁶ Even then, the application might be opposed by the Native Minister who was required to approve all such applications.³⁸⁷ Hēni's longstanding relationship with Governor George Grey gave her enough political nouse to know how to manoeuvre around political decisions such as this, as did being married to a lawyer. It would certainly have assisted her cause to have her nephew Māui Pōmare as part of the Executive Council of Government representing Māori in 1912.

Hēni wasted no time in utilising her newly acquired European status to petition the New Zealand House of Representatives to have her Waitara lands, then vested in the Public Trustee, removed and reinstated in her new European self.³⁸⁸ Neither Hēni Te Rau nor her descendants appear as current owners in the Māori Land Online system, (which records all current owners of Māori land) which lends weight to Hēni's success in europeanising all her Māori land interests.

Hēni married Henry Brown, a European lawyer and immigrant from England. Together, Henry and Hēni had three children: George, Louisa and Jessie. George died with his brother in law William Turnbull (Louisa's husband) while crossing the Mohakatino River in 1893.³⁸⁹ Henry died on 9th April 1908, and Louisa followed her husband William in death on 6th March 1916. All of the whānau members were buried together at Te Hēnui cemetery in New Plymouth. The final inscription on the family headstone reads "Also Jane wife of Henry

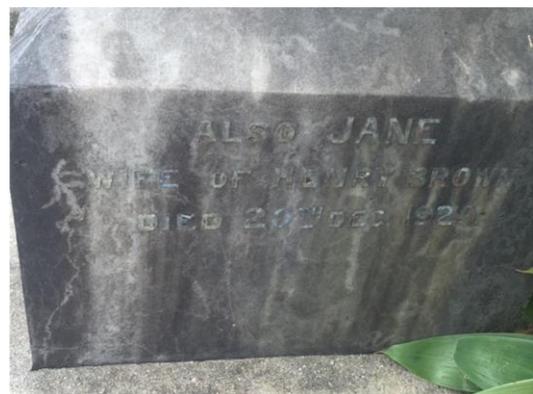


Image 3: Tombstone of Hēni Te Rau, Te Hēnui cemetery, New Plymouth *Matiu Payne*

³⁸⁵ Currency converter. Retrieved from https://www.google.co.nz/search?q=366.09+pounds+in+NZD&rlz=1C1EJFA_enNZ787NZ787&oq=366.09+pounds+in+NZD&aqs=chrome..69i57.6493j0j4&sourceid=chrome&ie=UTF-8 on 4 November 2018.

³⁸⁶ Meredith, *ibid*, p.9.

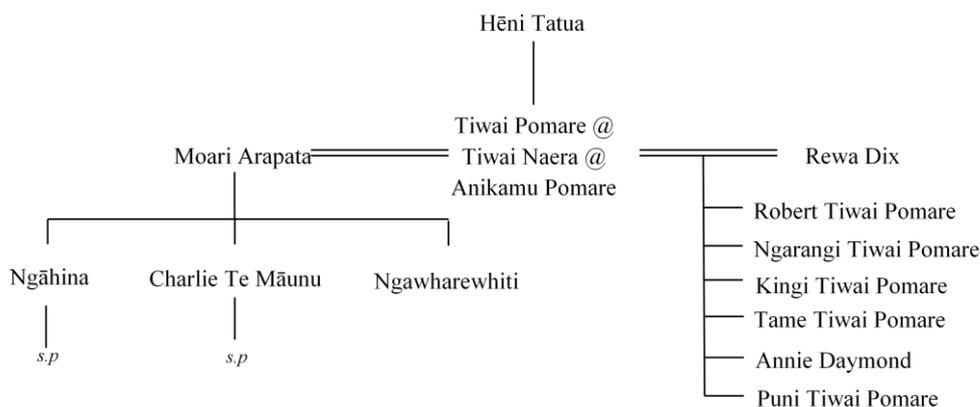
³⁸⁷ *ibid*.

³⁸⁸ Archives New Zealand, Reference: R22405024. Received: 9th August 1913. - From: Native Affairs Committee, House of Representatives. - Subject: Petition No. [Number] 138/13 Jane Brown. Having been declared a European prays that her interests in Waitara Sections be withdrawn from control of Public Trustee and vested in her. Also asks that legislation be passed providing that lands belonging to persons Europeanised be vested in them.

³⁸⁹ "Late drowning fatality at Mohakatino. The Inquest". *Taranaki Herald*, Volume XLII, Issue 9845, 3 November 1893, Page 2. Retrieved from <http://paperspast.natlib.govt.nz/cgi-bin/paperspast?a=d&cl=search&d=TH18931103.2.15&srpos=3&e=-----10--1---0drowning+at+mohakatino--> on 11 January 2016.

Brown Died 29th Dec 1929”. The inscription, while confirming Hēni’s final resting place gives no indication of her former Ngāti Mutunga identity as Hēni Te Rau.

Hēni’s youngest daughter Jessie married George Brownlee, and their daughter, Eleanor Spragg, became the contributor of the “Spragg Manuscript” held at the Auckland War Memorial Museum Library.³⁹⁰ This manuscript is significant as it is one of two publicly available primary records of Ngāti Mutunga narratives and whakapapa concerning their own history. Paul Meredith describes that for some Māori it was not necessarily their own volition that moved them to make an application for Europeanization, rather, it may have been a person with a conflicted interest who could benefit from an application on the behalf of the applicant.³⁹¹ It seems unlikely that Hēni Te Rau fitted into this category. Her keen intellect, networks, and knowledge of the Native Land Court system saw her utilise her Europeanization to her financial benefit, and presumably that of her immediate whānau. It may also have been her husband’s death in 1908 that encouraged the application as an additional means to support herself as a widow. Alternatively, Hēni’s documented desire to free herself of the restraints of the Native Lands Acts, and the Public Trustee, gives strong support to her desire for rangatiratanga over her affairs on her own terms, and certainly in line with what she saw as equality with Pākehā people. This form of rangatiratanga, coupled



Whakapapa 7: Descendants of Hēni Tatua and Tiwai Pōmare. Whakapapa sourced from various Native Land Court minute book records.

with a strong desire for land to support herself for Europeanization purposes, would have encouraged Hēni to seek succession rights where they did not naturally exist. Her influence over the younger members of her whānau (e.g. Māui Pōmare and Hone Tūhata) would have also encouraged this behaviour. Hēni died on 20 December 1929 aged 94.

³⁹⁰ Spragg, *ibid.*

³⁹¹ Meredith, *ibid.*

Tiwai Pōmare

Tiwai Pōmare grew up with Hamuera Koteriki's family in Urenui. As Koteriki's own children began to die and because Tiwai's own health was not good, he travelled between his biological father (Naera Pōmare) and his taurima father in his lifetime.³⁹² Because Koteriki believed Wharekauri would be a better environment for Tiwai to be raised in, he grew up on the island and in Urenui as he moved with Koteriki between these places. As an adult he spent the majority of his time on Wharekauri. Tiwai married twice and fathered a large family.



Image 4: Photo formerly [sic] identified as Tiwai Pōmare
National Library of New Zealand

Hēni Te Rau later recorded some detail of the events that led up to the time Naera Pōmare wrote his will.³⁹³ According to Hēni she was present when Naera was preparing his will, and it was Naera Pōmare who insisted that Mere's children from her first husband be included in the will owing to their close whakapapa relationships with him. Mere asked for only three children to be included because two other (Inia and Rangihanu) had been provided for in the Waikanae block. Hēni asserted that Rangihanu had been better to Naera Pōmare than his own child [referring to Tiwai Pōmare], resulting in Rangihanu's inclusion and Tiwai's exclusion. The succession to Naera Pōmare's estate was finalised in 1911 with Tiwai remaining excluded. In applying for probate for Naera's will in the Supreme Court, Louis Walter Hood declared Naera's estate to have debts of £1,605, and a succession duty of £169. Hood also suggested that it was necessary to sell or mortgage some of his estate to pay these bills. Naera's estate, according to Hood, was solely based in Wharekauri with land held under

³⁹² TAR 9:306.

³⁹³ Hillary and John Mitchell (2014). *Te Tau Ihu o Te Waka A history of Nelson and Marlborough Volume IV. Nga whanau rangatira o Ngāti Tama me Te Atiawa*, Nelson: Wakatu Incorporation, p.268; Heni Te Rau-o-te-Rangi: To the Chairman of the Native Committee, 29 October 1897. Petition 259 Hone Tuhata 1897.

subdivision orders or as a tenant in common with other owners.

Government Petition to return lands

In 1939, Tiwai Pōmare's children petitioned the government to relitigate the probate of Naera Pōmare's will and succession. Tiwai Pōmare had died in 1933. Ngāwharewhiti and Ngāhina Tiwai Pōmare, as Tiwai's elder children, asserted that Naera originally held land in trust and on behalf of his first wife Hēni Tatua who held customary rights to land in her own right.

As Naera had acted as Trustee for Hēni the whānau now asserted that Naera had no right to bequeath lands the way he did. The petition ultimately sought an inquiry in the Native Land Court:

...as to what interests belonged to Pomare and what to his first wife Heeni, and also an inquiry as to the alienation by Pomare of his own lands away from his own issue to person not of his blood.³⁹⁴

On 9 September 1943 the Chief Judge of the Native Land Court referred the case to the lower court for inquiry and to report in respect of this petition's claims.³⁹⁵ By Christmas the same year, solicitors representing Rangihanu Reynolds (nee Tūhata – step granddaughter to Naera Pōmare) and Te Hia Pōmare (daughter) notified the Land Court of their intention to defend their interests. Over the next few years, research into the claims particularly around Hēni's interests was undertaken.

On 22 October 1947 Douglas Seymour, solicitor for the petitioners, prepared an affidavit by Roimata Wi Tamihana. Roimata was an elderly kuia of Ngāti Mutunga then 78 years old, and the last living person present at the time of Naera's death in 1885. Roimata recounted living in Pomare's household throughout both of his marriages. Pōmare's first wife Hēni was Roimata's mother's younger sister. At age 16, Roimata returned to Wharekauri (c.1883) and a year later married her husband. She stayed in Wharekauri until 1918 when she returned to Urenui to live. Roimata recounted that Pōmare's second wife was hostile towards the children of the first marriage. When it became known that Pōmare was dying Roimata went to live at Pōmare's house again the week prior to his death. The provisions of Naera's will were freely discussed by those present in the house.

³⁹⁴ Māori Land Court (n.d). Succession application file of Wiremu Naera Pomare, Petition no 1939/39 of N.T. Pomare, Christchurch, NZ.

³⁹⁵ *ibid.*

We all knew that Te Hautonga [Mere] and her sister Jane Brwon [sic] [Hēni Te Rau] had persuaded Naera [Pōmare] to leave the children of Heeni out of the will.³⁹⁹

| Land Block | Where | Acres – Roods - Perches | Succeeded by |
|----------------------------|------------|----------------------------|---|
| Te Awapatiki 1A1A | Wharekauri | 1580 | Māui Pomare. |
| Te Awapatiki 1A1B | Wharekauri | 1580 | Piri Pōmare. |
| Te Awapatiki 1A2 | Wharekauri | 1135-1-0 | Te Hia Pōmare. |
| Te Awapatiki 1A3 | Wharekauri | 2864 | Pahi Pōmare. ³⁹⁶ |
| Kekerione 1A | Wharekauri | 117 | Pahi Pōmare. ³⁹⁷ |
| Kekerione 1B | Wharekauri | 415-1-29 | Rangihanu Tuhata, Pahi Pōmare, te Hia Pōmare, Piritaka Pōmare, Māui Pōmare. |
| Kekerione 1C | Wharekauri | 2502 | Rangihanu Tuhata and Pahi Pōmare. |
| Kekerione 1D | Wharekauri | 2918-2-00 | Wiremu Te Matoha Damon and Ngaropi Tuhata. |
| Kekerione 1E | Wharekauri | 1338-0-16 | Rangihanu Tuhata. |
| Kekerione 1F | Wharekauri | 530-2-24 | Te Hia Pōmare. |
| Kekerione 1G | Wharekauri | 61-2-00 | Rangihanu Tuhata, Māui Pōmare, Pahi Pōmare, Te Hia Pōmare, Piritaka Pōmare. |
| Kekerione 1H | Wharekauri | 415-1-29 | Wiremu Damon and Pahi Pōmare. |
| Kekerione 1J (Tikitiki) | Wharekauri | | Pahi Pōmare. ³⁹⁸ |
| Total acreage | | 15455-11-18 | |

In 1949 Seymour presented his case to the Native Land Court on behalf of the petitioners. He asserted that (1) *prima facie* Hēni would be entitled to lands as the daughter of a conquering chief; (2) her interests would pass to her only child; (3) Hēni's interests were never identified; (4) Disposition in Naera's will was unlawful and Hēni's child should have inherited *pari passu* (in equal step) with those of the second marriage.⁴⁰⁰ For two years further legal processes ensued and counter evidence was gathered. On 8 March 1951, the Native Land Court reported back to the Chief Judge, stating:

It may well be that had Heeni been alive in 1870 she would have been awarded certain interests in Chatham Island lands but this is pure speculation and is not supported by any evidence or record before the court. It may also be true that the

³⁹⁶ The acreages of the Te Awapatiki blocks are sourced from WN 17:340.

³⁹⁷ CIMB 4:183.

³⁹⁸ Archives New Zealand, Reference: R11838786. The acreages from the Kekerione blocks were sourced from Petition No. 61/1930 from Tiwai Pomare contained in Maori Successions - Petition 104/1936 - Ngahina Tiwai Pomare and two others - Succession to Wiremu Naera Pomare; CIMB 4:183.

³⁹⁹ 56 TAR 396, *ibid.*

⁴⁰⁰ WN 37:221-222.

award to Wiremu Naera Pomare took into account the claim of his first wife Heeni, but this is entirely unsupported in any way.⁴⁰¹

Quite contrary to this opinion, in the Native Land Court's own minute book, Hēni Naera is recorded as one of the original claimants for Wharekauri in 1870.⁴⁰² Judge Whitehead continued to report to the Chief Judge in the following terms:

There is a definite possibility that the descendants of Heeni have suffered hardship but whether or not the possible hardship had been cause by the failure of Wiremu Naera Pomare to properly present his deceased wife's claim to the court in 1870 or by the Court in failing to record any Trust or by the exercise of any undue influence over the deceased when he made his will, it is quite impossible for the court to express an opinion on the evidence now available. Under these circumstances the Court can only recommend that no further action be taken in the matter.⁴⁰³

The Chief Judge proceeded to confirm the recommendation as his decision on the matter and this was published in the AJHR in 1951.⁴⁰⁴ In this way, the Court perpetuated its impact on Ngāti Mutunga people, just as Hamuera Koteriki had identified in his 1870 statement: "nā te kōti i tatari." To this day the descendants of Tīwai Pōmare remain excluded from Naera Pōmare's estate. Two of Tīwai's children however were beneficiaries to the estate of Ngāmoni Ngāwharewhiti, another Ngāti Mutunga matriarch who wished to taurima two children from Tīwai Pōmare's first marriage.

Ngamoni Ngāwharewhiti adoption case

In 1920 the Chief Judge of the Native Land Court published his decision in respect of Ngāmoni Ngāwharewhiti, the daughter of Ngāti Mutunga rangatira, Ngāwharewhiti Kawau, and Tīwai's children. Ngāmoni wished to legally adopt three Ngāti Mutunga children, two of whom (Ngāwharewhiti and Te Māunu Tīwai Pōmare) had originally been taurima to her parents prior to their deaths. In 1907 Ngāmoni Ngāwharewhiti made application to adopt these three children. Her views on the matter were quite revealing as below:

...I desire to adopt those three children, and wish them to succeed my lands after my death as though they were my own children.....I say that two of them were

⁴⁰¹ Māori Land Court (n.d.). Recommendation report to the Chief Judge of the Native Land Court held in the succession application file of Wiremu Naera Pōmare, Christchurch, NZ.

⁴⁰² CIMB 1:1-4.

⁴⁰³ *ibid.*

⁴⁰⁴ AJHR (1951). Report and recommendation on petition no.39 of 1939 of Ngāwharewhiti Tīwai Pomare and another, praying for an inquiry in relation to the estate of Wiremu Naera Pomare, deceased. G-6, pp.1-2.

previously adopted by my mother, and I wish to adopt those three children so that the may succeed to my father's lands...it is true that the children I am adopting are related to me on my mother's side but I claim I have the right to dispose of my father's lands as I may think proper.⁴⁰⁵

Despite challenges to Ngāmoni's application her application was confirmed in 1913, and a petition to set aside her adoption orders was denied by the Chief Judge who confirmed the orders in 1919. The significance of this case is that in 1907, it was clearly understood by Ngāti Mutunga people that if they wanted their taurima children to succeed their land interests then they needed to have the 'adoption' formalized in the Native Land Court. This evidence potentially removes any ambiguity (at least within Ngāti Mutunga) surrounding taurima succession in the next two case studies where the rights of taurima children were argued to have superior succession interests. In this situation Ngāmoni was clear that she wanted to formally adopt them for succession purposes.

What about Naera's Taurima son?

In 1922, Te Rua Herata remained absent as a beneficiary of Naera Pōmare's will. One minute book reference ascribed Kekerione 1C1 (containing 661 acres, 2 roods, 4 perches) to Te Rua Herata before it was crossed out and replaced with Pahi Pomare's name.⁴⁰⁶

Having made a conditional provision for his 'tamaiti whāngai', Naera Pōmare made an important distinction between his children. He clearly regarded Te Rua Herata in a category separate from that of his step-children, whom the Court could have also considered as his taurima children. It appears in the evidence from Roimata Wi Tamihana above that it was due to Mere Pōmare's and Hēni Te Rau's influence, that Mere's children's rights were elevated in succession. Te Rua's right to inherit land from Naera Pōmare was contingent upon his staying connected with Naera Pōmare's sons Māui and Piritaka.⁴⁰⁷ In the Māori text of Naera's will it explains that as long as Te Rua did not 'tahuti' (run away), he was entitled to 100 acres from Naera's estate. Naera's desire therefore indicated that Te Rua's rights were incumbent upon an enduring connection with his children after Naera's death. This condition subjugated Te Rua's right of inheritance and was in total contrast to the original inheritance Naera Pōmare received from Pōmare Ngātata.

⁴⁰⁵ AJHR (1913). Native Land amendment and Native Land Claims Adjustment Act 1919. Report and recommendation on petition 293 of 1919 relative to validating order of adoption made by the Native Land Court on 25th April 1913 with regard to Ngawharewiti Tiwai and others. G-5F, p.1.

⁴⁰⁶ WN 23:214.

⁴⁰⁷ Wiremu Naera Pōmare (1885). Last Will and Testament, *ibid*.

Born in 1876, Te Rua Herata was nine years old when Naera Pōmare died.⁴⁰⁸ He was the same age as Māui Pōmare. As an adult Te Rua Herata was remembered as a key personality on Wharekauri for the organisation of the tuna (eel) harvest, and preparations for sending food to Taranaki.⁴⁰⁹ He married twice in his lifetime and had issue of his own.⁴¹⁰ While the Naera Pōmare family were distributing his lands amongst themselves, Te Rua Herata's interests were notably absent from those distributions. It was not until the death of Pahi Pōmare in 1931 that Te Rua Herata surfaced in the Māori land records. Pahi Pōmare wrote a will leaving her Kekerione 1C1 section of 662 acres to Te Rua Herata. This was subsequently partitioned off and currently remains in the hands of Te Rua Herata's mokopuna today. Pahi's other land interests were given to the children of Māui Pōmare.⁴¹¹ Therefore, while it took longer for the apportionment to occur to Te Rua Herata (approximately 46 years), his ultimate apportionment was much larger than originally intended from Naera's will which allowed for 100 acres rather than the 662 acres he received from Pahi.

Naera Pōmare's status amongst Ngāti Mutunga was based on his taurima relationship to his maternal uncle. Without this relationship, it is highly likely that primary leadership of the iwi would have passed to other male contemporaries of Pōmare Ngātata, or arguably his biological descendants. Ngāti Mutunga suffered significant land loss as a result of Naera Pōmare's individualised 'ownership' that was exploited in succession, individualised and separated amongst his successors and also alienated to pay for debts that Naera Pōmare had accrued later in life. The inconsistent treatment of taurima amongst Ngāti Mutunga is no better demonstrated than in this case. Pōmare's life story showed the empowerment taurima relationships could attract and similarly the disenfranchisement they could also represent for people like Tiwai Pōmare and to a lesser extent, Te Rua Herata. Te Rua Herata's conditional provisions under tahuti supports the idea that taurima had to stay connected to the whānau in order to benefit. This idea was to be incorporated later in 1907 when the Native Land Court codified rules concerning taurima succession (see Chapter Seven). The case study that

⁴⁰⁸ Mathematical calculation made from Te Rua Herata's death certificate.

⁴⁰⁹ David Holmes (1993). *My Seventy Years on the Chatham Islands*. Christchurch: Shoal Bay Press, p.91.

⁴¹⁰ His first marriage was to Mabel Hough in 1923 and later Mary Budge in 1929. Te Rua Herata died on 22nd February 1942 and is buried at Te Roto on the Chatham Islands. According to Te Rua's death certificate he is survived by a son and a daughter. Te Rua's parent's were not identified on his death certificate as they were 'unknown'. Te Rua's son, Peter Rua (Tipene Herata Rua) served in World War II in the Māori contingent with the 21st reinforcements. He returned from service and lived to an old age dying on 22 November 1970 and is buried in the Ruru Lawn Cemetery in Christchurch. Cenotaph database record for Peter Rua retrieved from <http://www.aucklandmuseum.com/war-memorial/online-cenotaph> on 8 August 2014.

⁴¹¹ WN 27:165-166.

follows concerns succession to Apitia Punga, a contemporary rangatira of equal status to Naera Pōmare.

Chapter Five: Apitia Punga



Image 5: Apitia Punga and his wife Te Muri (Rea Mokaraka) *Canterbury Museum*

Connecting the tahuti concept from Naera Pōmare to Apitia Punga

Hēni Te Rau had spent a considerable amount of time in Wharekauri during the build up to Naera Pōmare's death and the writing of his will. She returned to Urenui immediately after Naera's tangi. After her arrival she learned that Apitia Punga had died in Wharekauri eleven days after Naera Pōmare. Hēni Te Rau considered herself taurima to Apitia Punga and despite just arriving home to Urenui, the idea of tahuti would have been fresh in the minds of Ngāti Mutunga people on Wharekauri, especially given Hēni Te Rau's influence over Naera Pōmare's will.

Tahuti (running away or neglecting your responsibilities) was a strong theme that is reflected in all three succession case studies concerning taurima. It was implied through Naera's will that should his "tamaiti whāngai" then "tahuti" he would lose his succession rights to land willed to him. This customary thinking was passed down from pre-land court times and was the reason, alongside whānau estrangement, that led to Pōmare Ngātata disowning his biological children in favour of Naera Pōmare. Tahuti is entirely consistent with take noho where occupation solidified rights to land. If you vacated your occupation you could expect to lose your inheritance right. This is particularly so if your take noho was not supported by a pre-existing take tūpuna.

Therefore, Hēni Te Rau embarked on a return trip to Wharekauri, and while en-route there to maintain her responsibilities towards Apitia Punga, Ngāti Mutunga people were

already discussing what was to become of Apitia Punga's assets. This is explained at length below.

Te Whānau a Apitia (Apitia's family)

Apitia died on the eastern side of Wharekauri at Ōwenga. The close and relatively premature departures of Naera Pōmare and Apitia Punga (both were mid-late 50s in age) impacted the iwi heavily, primarily because the children of both rangatira were under twelve years old and not old enough to assume leadership immediately.

As a boy, Apitia Punga along with Hāmuera Koteriki travelled with the original migrations from Taranaki, and is identified as leaving in 1831.⁴¹² The conquest of Wharekauri occurred in 1835 when he was eight years old. It was this take raupatu that gave rise to Apitia Punga's substantial land holdings on Wharekauri. He also witnessed the subsequent colonisation periods by Māori and by Pākehā in Taranaki and Wharekauri. He could be considered a contact-period rangatira who knew the old customary ways and was learning the new world appearing in New Zealand.

In adulthood, Apitia Punga fathered many children all of whom, except a biological daughter, predeceased him. Apitia Punga held a strong affinity for his cousin Hēni Te Rau and considered her his taurima. This relationship is an example where taurima relationships did not always relate to children much younger than the taurima parent. Apitia was eight years older than Pōmare who was the same age as Hēni Te Rau, as stated in the previous chapter. This is an important distinction for taurima relationships as other publications refer to Hēni Te Rau as Apitia Punga's adopted daughter.⁴¹³ An eight-year age difference does not fit ideas of a father-daughter relationship.

Apitia's mother was Wehe of Ngāti Mutunga/Te Ātiawa while his father was Rangiapitia of Ngāti Mutunga, through whom he was a close whanaunga to Naera Pōmare and Hāmuera Koteriki. Apitia Punga eventually died following an extended illness induced by asthma on 26 August 1885.⁴¹⁴ The Native Land Court minutes describe him as an old man, however, he was only about 58 years of age when he died.⁴¹⁵ Tahana Kawhe, a Ngāti Mutunga

⁴¹² This coincides with the Tamateuaua heke referred to in Boast (2003), *ibid*, para 5.9.

⁴¹³ Richard Boast (1995) *Ngāti Mutunga and the Chatham Islands: A report to the Waitangi Tribunal*. Wai64 J006. Waitangi Tribunal, Department of Justice, NZ, p.9.

⁴¹⁴ TAR 7:156; WN 8:84.

⁴¹⁵ Manifest of the *Collingwood* held by Museum of City and Sea, Wellington; Bill Carter (2009) *Taranaki to Wharekauri (and back): an account of the family of Wikitoria and James Coffee presented to the hui-a-whanau at Urenui Marae, 4 April 2009*. Paraparaumu: Champion Associates, p.39.

contemporary of Apitia's, describes his physical attributes:

He was tattooed and had a light coloured skin carried his age well he was not of the old men of those who went from NZ...When I last saw Apitia he was big strong man but he suffered from Asthma.⁴¹⁶

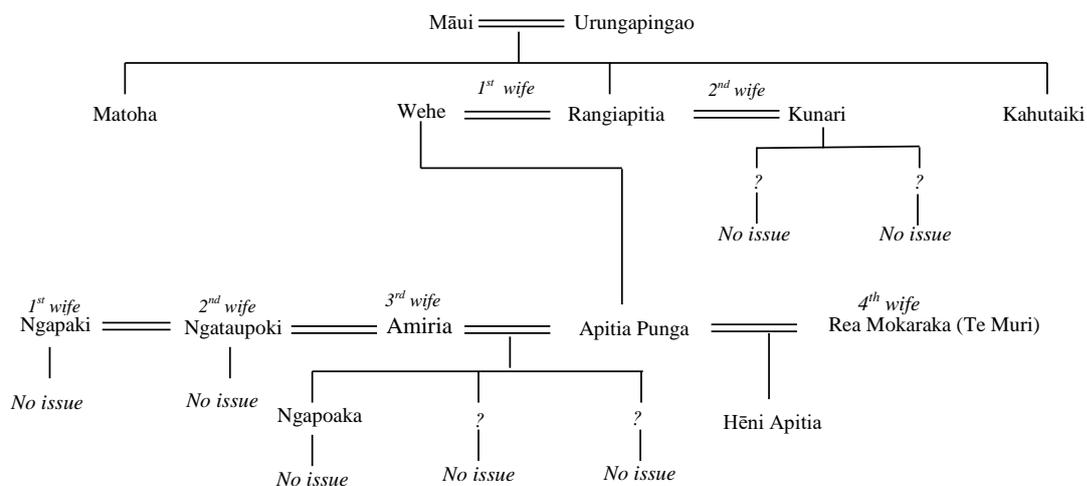
Rangiapitia (Apitia's father) was an ally of Te Rauparaha and participated in the invasions of the Wellington and Tauihu regions. Eruera Pakauwera described an event surrounding Rangiapitia's journey from Wellington and of his taking a second wife. Eruera stated that:

Apitia (senior) [Rangiapitia] was of the Ati-Awa tribe of Waitara; he first married Wehe, a woman of the same Taranaki hapu as the well-known chief Kukutai. They had a daughter named Ripeka Te Urunga-pingao and a son Apitia. When Apitia (senior) joined the expedition under Te Rau-paraha he captured and took to wife Kunari, former wife of Pakau-wera of Ngati-kuia. They afterwards [sic] lived at Wai-ariki, Te Rimurapa (Sinclair's Head, near Wellington), which country fell to Apitia's share at the conquest (1825). It was here that Apitia took Kunari to wife, much to the anger of his first wife Wehe. When Ati-Awa removed to the Chatham Islands in 1835, Apitia went with them, leaving Wehe and her daughter at Wai-ariki, but taking the boy Apitia with him. Shortly after the death of Te Hiko (of Ngati-Toa) at Porirua, Wehe died at Wai-ariki. When Apitia heard of this he returned from the Chatham Islands, and for a time lived with us all at Wai-ariki. Now about Kunari: When Apitia first went to the Chatham's, it was not long after that Kunari had a daughter, who grew up to be a fine woman. When the tribe of the first wife saw her [Kunari's daughter] they bewitched her, and she died. A son was also born to Kunari and Apitia, and he was also killed by makutu (witchcraft). Immediately afterwards Kunari died through the same means, and had not been buried a month before Apitia himself succumbed to the same influence—all on account of his taking a second wife, which is a serious offence amongst us Maoris" (Te Whetu, 1894). There must have been circumstances in this case which differed from the ordinary—probably Wehe, the wahine-matua, or senior wife, was entirely displaced by Kunari; for it was no uncommon thing for a Maori chief to have a dozen wives, one always being the principal one.⁴¹⁷

⁴¹⁶ WG 27:246.

⁴¹⁷ S.P. Smith, *ibid*, pp.183-204.

Like his father before him, Apitia Punga had several marriages. His marital affairs were necessitated as each of his first three wives predeceased him along with any issue they produced. Apitia Punga's first wife was Ngāpaki, the second a Moriori woman named Ngataupoki. His third wife was Amiria. Apitia's son's name by Amiria was Ngapoaka.⁴¹⁸ Only Amiria, amongst his first three wives, bore him children. Amiria died of tuberculosis in 1840 aged 25 and this led Apitia Punga to marry again. This fourth relationship was with Rea Mocaraka (Te Muri) from Ngāti Wai.⁴¹⁹ Te Muri had previously been married to Paina Te Poki and Rangiwahia before marrying Apitia Punga.⁴²⁰ It was not uncommon for such high rates of coupling amongst Ngāti Mutunga.



Whakapapa 8: Marriages and children of Rangiapitia (snr) and Apitia Punga. *Whakapapa sourced from Wanganui Native Land Court Minute Book 8.*

Apitia's estate is described in first hand testimony from Hamuera Koteriki as the area which their parents first took possession on Wharekauri following invasion:

The rohe of the part that our matuas [sic] took possession of Ka timata i te Awapatiki ka haere ki kainga rahui tae awiro mai Ouenga haere ki te Awatipu tae atu ki te Pere haere ki Wairarapa haere ki te Ihu tae atu ki te Awainanga. Part of this block was taken from the Ngatitama this as the only part of Wharekauri that belonged to our Matuas [sic].⁴²¹

⁴¹⁸ WN 8:85 and 91.

⁴¹⁹ New Zealand Death Certificate registration number 1880004197 for Amelia Apitia. New Zealand: Department of Internal Affairs.

⁴²⁰ WN 8:94.

⁴²¹ CIMB 1:319-320.

This area encompassed large areas of the Awapātiki and Ōtonga blocks at the southern end of Wharekauri and came to be regarded as incredibly valuable property. This area was rich in fertile pastoral land and natural resources for food harvesting.

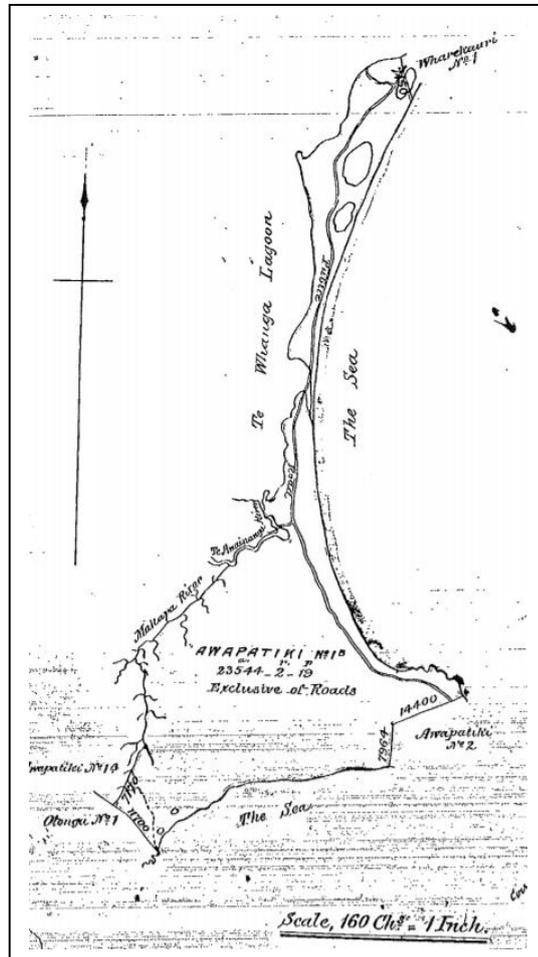


Image 6: Te Awapātiki 1B block co-owned with Apitia Punga, Hamuera Koteriki and Pihuka Māori Land Court, Wanganui.

Apitia Punga spent much of his time traveling between Ngāti Mutunga centres of activity at Urenui, Wellington, Parihaka and Wharekauri. He was regarded by Te Whiti and Tohu (from Parihaka) as the “tangata whakahaere o nga huahua” the person responsible for organizing and distributing the preserved food from Wharekauri at Parihaka.⁴²² He was likely assisted by the younger Te Rua Herata who was regarded with the same affection by the Parihaka people.

In the late nineteenth century, competition for land resources increased. As land titles were individualised from 1870 onwards, some Ngāti Mutunga did not wish to make

⁴²² WN 8:153.

Wharekauri their permanent residence, many choosing to return to Taranaki. However, Apitia Punga remained at Wharekauri. Hamuera Koteriki and Naera Pōmare originally returned to Taranaki; however, Naera returned to Wharekauri in 1870. Koteriki was pro-sale on Wharekauri and successfully sold many of his interests there. His attitude towards sales may have led to conflict amongst the rangatira on Wharekauri, or perhaps it was due to interpersonal conflicts caused by other reasons as cited by Huriana Te Kati who testified in 1893 that:

Hamuera and Apitia quarrelled and the latter took a gun to shoot Hamuera because he did not wish Apitia to live with the Moriori women [Apitia’s second wife was Moriori]. It is possible that they bore ill will to each other at the time of the Court (Hei noho kino ano raua).⁴²³

Whatever the case, and despite the close whakapapa relationships of all of the Ngāti Mutunga rangatira, conflict was inevitable due to the competition amongst them and their whānau for the limited and static land resource, a situation exacerbated by the advent of the Native Land Court on Wharekauri. This tension increased as rangatira died and those left behind competed for their assets, particularly where there were large valuable estates (such as Naera Pōmare’s). Shortly before his death in 1885, Apitia invited his cousin, and taurima, Hēni Te Rau, to come and see him, presumably as he felt his time of death was near. Having only recently returned to Urenui from Wharekauri she arrived too late.⁴²⁴

Ngā rawa o Apitia (Apitia’s estate)

Apitia Punga issued an ōhākī expressing his final wishes to his wife Te Muri. Customarily all of the people would then support the ōhākī of the rangatira which was considered binding. In Apitia’s case, his ōhākī was expressed in the following terms by his widow:

kei a Hēni te ritenga o aku mea katoa [Hēni has the right over all of my affairs].⁴²⁵

This singular statement presented a problem for Ngāti Mutunga because there were two “Hēni’s”: the first Hēni was Apitia’s infant biological daughter; the second Hēni was Hēni Te Rau, his adult taurima. Without Apitia alive to clarify his ōhākī’s intent, a long-contested series of succession hearings eventuated in the Native Land Court .

When he died, Apitia Punga’s estate consisted of:

| Name of land block or asset owned | Quantity |
|-----------------------------------|----------|
|-----------------------------------|----------|

⁴²³ CIMB 1:323.

⁴²⁴ WG 27:246.

⁴²⁵ CHAT 2 :126-127.

| | |
|---|-----------------------------|
| Otonga 1C. | 200 acres. ⁴²⁶ |
| Awapatiki 1B. ⁴²⁷ | 7,848 acres. ⁴²⁸ |
| Matarae No.1. ⁴²⁹ | 1,000 acres. ⁴³⁰ |
| Rangiauria 3B (Pitt Island). ⁴³¹ | 2170 acres. ⁴³² |
| Urenui. ⁴³³ | 20 acres. |
| Total acres | 11,238 acres. |

Figure 5: Schedule of assets owned by Apitia Punga at this death

Additionally, Apitia Punga is recorded as owning sheep and horses although exactly how many of each could not be determined after extensive research.

Original succession to Apitia Punga

Hēni Te Rau lodged an application to the Native Land Court to succeed Apitia Punga. The initial case was heard on 19 January 1886 in Wanganui.⁴³⁴ In her opening address she confirmed that Te Muri (Apitia's wife) and daughter were living with her in Urenui. She sought a succession order in accordance with Apitia's alleged written will which Hēni Te Rau had presented to the Court. Hanikamu Te Hiko, another Ngāti Mutunga rangatira, was present in the Court waiting for another case to be heard. He challenged Hēni Te Rau on her evidence, enquiring why she had been made the sole devisee under Apitia's will. Hēni Te Rau argued that it was on account of his biological daughter being sickly and not likely to live until adulthood. She also asserted that Apitia did not want his assets going to another tribe (that of his wife, Te Muri). At the case's conclusion the Court appointed both Hēni's as successors, though their relative shares remained undefined. Additionally, the Court appointed Hēni Te Rau as Trustee for Hēni Apitia who was asserted by Hēni Te Rau to be 2 years old (although at the start of the case evidence suggested she was 7 years old).

Selling land before determining shares

After nine years as Hēni Apitia's trustee, Hēni Te Rau sold Apitia's valuable land in Awapātiki

⁴²⁶ CIMB 2:3.

⁴²⁷ WG 7:546-549.

⁴²⁸ Calculation made from the Partition Title Order of Te Awapatiki 1B dated February 1885 held at the Māori Land Court in Christchurch, New Zealand. Three owners in this block were Apitia Punga, Hamuera Koteriki and Haurangi Pihuka. All three owners sold this block before individual interests were determined. An equal distribution of land area is the calculation to arrive at this Apitia Punga's total interest in this block.

⁴²⁹ *ibid.*

⁴³⁰ WG 27:249.

⁴³¹ WG 7:546-549.

⁴³² CIMB 1:182.

⁴³³ WN 8:66; TAR 7:156.

⁴³⁴ WG 7:546-549.

and Rangiauria (Pitt Island) in 1895, noting that the Awapātiki section had attracted £1,000, which she used to pay Apitia's outstanding debts of £820 (see Image 6, p.139). The Rangiauria section sold for £185/17/6. Hēni Te Rau mentions that she paid half of the balance remaining from Awapātiki and half of the proceeds of Rangiauria to Hēni Apitia (£180 approximately). In Hēni Te Rau's opinion this was more than was due to the child.⁴³⁵ Hēni Te Rau had also offered to sell the 1,000 acres at Matarae previously at 10/- per acre but the sale was not completed. Over time the value of the land dropped to between 4/- to 5/- per acre. The Court hearing where this information was presented was called to determine the relative interests between the two Hēni's, which had been left undefined from the original succession hearing mentioned above. Both Hēni Te Rau and Hēni Apitia had separate counsel representing them at this hearing. Relative interests were determined in the two remaining blocks with the Court awarding 199 of the 200 acres at Otonga and 999 of the 1,000 acres at Matarae to Hēni Te Rau, who was also to deposit £50 to the public trustee upon trust for Hēni Apitia.⁴³⁶ The latter's lawyer made no attempt to cross examine Hēni Te Rau's evidence.

Collecting further evidence

Two years later in 1897, the Public Trustee made application for letters of administration for Apitia Punga's estate, representing Te Muri and her daughter Hēni Apitia. Further evidence from the Chatham Islands was directed by the Court to be collected at the next available sitting. Hēni Te Rau's lawyer attempted to seek costs from the Public Trustee but the Court denied the application and held the case over until evidence had been collected from the Chatham Islands.⁴³⁷

The Chatham Islands Court opened on 20 January 1898 to hear evidence from Ngāti Mutunga and European residents regarding Apitia's death.⁴³⁸ The first person called to give evidence was Robert Ritchie who lived in close proximity to Apitia at Owenga in 1885 when he died. Ritchie had assisted Te Muri when Apitia had fits. Ritchie recalled penning a will for Apitia in Māori which was read back to him wherein Apitia made body movements that he approved of the content. He also made movements that caused Ritchie to think that he wanted something else added to the will. Apitia by this stage in his illness had lost his power of speech.

⁴³⁵ WG 27:249.

⁴³⁶ WG 27:250.

⁴³⁷ WN 6:18-19; WN 6:331-332; WN 6:347-348.

⁴³⁸ CIMB 2:91-128.

The will Ritchie made out was in favour of Hēni Apitia not Hēni Te Rau (known as Mrs Brown), although it remained unsigned to his knowledge.⁴³⁹ Ritchie further recalls that:

I think it was after Mrs Brown came to the Chathams that he had his final seizure....I recollect the first time Mrs Brown and her husband came to the island but I don't remember the date. Mrs Brown told me that Apitia had made over his property to her and that she could sell or dispose of it in any other way but that she would not do so. Apitia was in New Zealand at the time and Mrs Brown said if he returned to the island he could live and die on the property or words to that effect. I understood that the property was hers. I inferred this from what she said. I don't know whether Mrs Brown received any rent moneys under the authority of the document she held. Apitia told me that he had asked Mrs Brown to return his document whatever it was. In course of conversation with Apitia I said what was the good of his improving property that was not his he asked me why it was not his property. My reply was that Mrs Brown told me he had made it over to her. He said did she say so. I said yes. Then he told me that he went to Mrs Brown in Taranaki before returning to the Chathams and told her he was returning to the island and asked her to give him the document. He told me that she said in reply I have been paid for the stores for which I went security for you and I have burnt the document.⁴⁴⁰

Hare Nikau, the next witness, was a relative of Apitia's who had been brought to Wharekauri from Urenui for at least a year prior to Apitia's death.⁴⁴¹ Hare attested that there was no ill will between Apitia and Te Muri or directed at his infant child. He assisted Mrs Brown to visit Apitia by providing her a horse on her arrival and stated he never heard Apitia say his last words to Te Muri.⁴⁴²

After a full day of evidence refuting Hēni Te Rau's earlier evidence in Wanganui, Mr Shand brought a concerning matter to the Court's attention. Shand alleged that Hēni Te Rau was intimidating and bullying witnesses outside the Court, but the allegations were denied by Hēni Te Rau in open court.⁴⁴³

Te Oka, another of Apitia's relations, was next to give evidence that corroborated Hare Nikau and Robert Ritchie's evidence. Hōri Muraahi followed the next day, adding his

⁴³⁹ CIMB 2:93.

⁴⁴⁰ CIMB 2:93-94.

⁴⁴¹ CIMB 2:96-98.

⁴⁴² *ibid.*

⁴⁴³ CIMB 2:101.

recollection of a verbal conversation with Apitia where the latter confirmed that Hēni Apitia was to be the rightful heir.⁴⁴⁴ At the end of this testimony, Hēni Te Rau's representative Mr Chapman then called witnesses.

The first defence witness was Reta Ngāmate, a Ngāti Mutunga person and close associate of Hēni Te Rau. Predictably, Reta refuted the previous evidence with her own version, asserting that the reason Apitia did not sign any of his wills was because they did not include his 'tamahine' (daughter) in New Zealand, referring to Hēni Te Rau.⁴⁴⁵ She then wrote a letter to Hēni Te Rau telling her to come to the Chatham Islands. Reta further recounted:

Wi Tahuu asked Te Muri to tell us his last words as to the disposition of his property real and personal. Te Muri said Apitias [sic] last words to me were "kei a Hēni te tikanga o aku mea katoa kei te mohio a Hēni." Wi Tahuu said that being so...and I will return Apitias [sic] horse and sheep to Hēni Te Rau. Hēni said we could keep any property of Apitias that we had in our possession. There were many of us in the room when this took place. It was full. Parehanga, Roimata, Te Kiato, Paina, Tipunauia, Kerehi, Ngawai, Parehanga, Remihana, Panirau...⁴⁴⁶

This list of people given by Reta Ngamate then read as the list of people who were called to give evidence in support of Hēni Te Rau. Parehanga Paina was the first to refute Te Muri's evidence by arguing there was doubt regarding the paternity of Hēni Apitia. Roimata gave short testimony having heard that Mrs Brown (that is, Hēni Te Rau) was to be the recipient of Apitia's estate, but also noted that she did not know if the child was not to be provided for.⁴⁴⁷ Te Kiato followed, with similar evidence. Mitai Pupu then gave evidence as to the accuracy of who owned the horse that Hare Nikau took to Mrs Brown when she arrived on Wharekauri, as if, to discredit Hare's entire testimony. Te Ruahuihui supported this assertion.⁴⁴⁸

Thomas Ritchie then gave evidence that it was common knowledge prior to Apitia's death that he had made over his entire estate to Hēni Te Rau.⁴⁴⁹

Robert Shand was then subpoenaed to the Court and gave the following evidence:

I remember Mr Hood giving me instructing me to go to Ouenga and draw up a will

⁴⁴⁴ CIMB 2:107-109.

⁴⁴⁵ CIMB 2:110.

⁴⁴⁶ CIMB 2:111.

⁴⁴⁷ CIMB 2:120-121.

⁴⁴⁸ CIMB 2:122-123.

⁴⁴⁹ CIMB 2:124.

for Apitia on Mrs Brown behalf. Mr Hood gave me the message in his store at Waitangi. It was very bad weather. I could not go after the weather cleared I had other business and did not go as there was no time stated when the will was to be drawn. I distinctly remember Mr Hood andit was to be drawn in your favour. I was present at Naeras [sic] [Naera Pōmare] funeral. I remember message coming that day that Apitia was seriously ill. Karena, brother of Te Muri bought the message. Apitia said if you to complete your business. I went to Ouenga that day with you. Mr Deighton and Mr Hood. When we arrived Apitia was lying prostrate and speechless. He was lying by the fire in what was then his. Te Muri made a voluntary statement of Apitias last words to her that all his property belonged to Hēni Te Rau. The Maori words she used “Kei a Hēni te ritenga o aku mea katoa” I am quite certain you had no opportunity to converse privately with Te Muri. I remember writing Te Muris words subsequently in the form of a declaration. I wrote them in the presence of Mr Deighton probably at the Court house.⁴⁵⁰

Having heard all available evidence at Wharekauri, the Court adjourned to report back to New Zealand.

Every witness called to give evidence was required to pay 2/- to the Court. Hēni Te Rau, already affluent from the sales of Apitia’s lands, and her access to other income through her trusteeship of Apitia’s estate, was better able to cover the costs. The Public Trustee, representing Hēni Apitia’s interests, was meagrely funded and had only £50 in trust for Hēni Apitia from the Wanganui judgement and the £180 as proceeds from the sales of Awapātiki and Rangiauria (discussed above). It did not take long for those funds to be exhausted and consequently, to stop contesting the estate. Hēni Te Rau had a superior resource to call on, more experience and education in legal systems from her own education, as well as her husband’s experience as a lawyer, all of which many in Ngāti Mutunga were aware. Hēni Te Rau took advantage of this situation and her whānau connections, which resulted in few people willing to openly challenge her case.

The Court case continues March – June 1898

Mr Chapman, representing the Public Trustee, opened his case again on 29 March 1898 by stating his belief that Hēni Te Rau had dealt with Apitia Punga’s estate illegally and without a warrant of authorisation. As such he did not believe that Hēni Te Rau was the right person to

⁴⁵⁰ CIMB 2:125-127.

act on behalf of the estate. Given her knowledge and experience in such matters he urged the Court not to look leniently upon her actions to date.⁴⁵¹ The Public Trustee in this case was not looking to focus on the land successions that had occurred, but rather, the personal assets associated with the estate. Chapman then called upon Louis Hood who gave evidence as to Hēni Te Rau's assertions that Apitia had made his property over to her prior to his death. Hood also recounted the total amount of debt due to him by Apitia's estate, which was considerably less than the £820 alleged by Hēni Te Rau in Wanganui. Tahana Kawhe was then called to attest to the quality of the relationship between Te Muri and Apitia and also to the paternity of Hēni Apitia.

Alexander Shand also gave evidence as to the relationships between Apitia, his wife and daughter. He also recollected paying Hēni Te Rau rent for land since Apitia's death and recollected a statement made by Reta Ngamate at the Wharekauri Court sitting:

The words I heard used were Ma Hēni Te Rau hei wakahaere e tiaki pai i ana rawa katoa. When Reta made this statement Mrs Brown interrupted and said that Apitia did not say this. Reta then began to fence and contradict what he had said. He said he had not used the words wakahaere or tiaki pai but Judge Butler said that he had.⁴⁵²

The implications of this were significant. Wakahaere or whakahaere means to administer or act as a trustee for something.⁴⁵³ This was different to exclusive ownership as was indicated in the first statement alleged to have been said by Apitia.

Alexander Shand continued his evidence and explained that he had cautioned Apitia prior to his death about the proxy he had given to Hēni Te Rau and that he should retrieve it lest it cause trouble after his death. Shand understood that Apitia had tried to retrieve this only to be told by Hēni Te Rau that it had been burnt. Shand also gave evidence relating to all of Apitia's marriages, their children and subsequent deaths.

On the 30th March 1898, Te Muri was finally called to give evidence, something that had not occurred since Apitia's death. As his wife, it would have been preferable to have heard

⁴⁵¹ WN 8:67-68.

⁴⁵² WN 8:87.

⁴⁵³ Dictionary definitions of Whakahaere today includes: 1. (verb) (-a,-hia,-ngia,-tia) to organise, cause to go, conduct, operate, lead, execute, direct, manage, control, administer, institute, implement, perform. accessed from <https://maoridictionary.co.nz/search?idiom=&phrase=&proverb=&loan=&histLoanWords=&keywords=whakahaere> on 11 April 2019.

her testimony in advance of the other witnesses. Predictably, and naturally, Te Muri's evidence was in favour of her own daughter, Hēni Apitia.

The next two years: 1899-1900

Hēni Te Rau continued to assert that Apitia would not have sent for her had he not intended her to be the rightful "Hēni". Te Muri, Apitia's widow, and her supporters asserted that their daughter Hēni was the rightful heir. Over the years, and after many court appearances, and special witnesses, Hēni Te Rau eventually prevailed and became the successor to Apitia Punga's assets, so long as she provided for Hēni Apitia. From his expansive estate, Hēni Apitia had two one-acre sections reserved to her.⁴⁵⁴ Hēni Te Rau, in Court evidence, states that she also provided land and money from her own pocket to Te Muri and the infant child, until the time when Te Muri entered into a relationship with a man named Shearer. The date of their union is unknown.⁴⁵⁵

Te Muri starts again

A superceded block order file provides further information of Te Muri's new relationship to a Ngāti Mutunga/Ngāti Maniapoto man named Malcolm Shearer (also known as Hopa Makama). In his will, Makama left a life interest in his estate to Muri, his wife, and also to Mihi Apitia (Hēni), and Bella Waamu. This probate case in the Native Land Court demonstrated that Muri did in fact marry Shearer, and also, that Hēni Apitia, the infant daughter, was now known as Mihi Apitia.⁴⁵⁶

Mihi Apitia remains a current owner in the wāhi tapu known as Whangaruru Whakaturia No.1D No.2 (Te Paihere Wahitapu) and Part Whangaroa-Ngaiotonga 4A3 in Northland. On 8 February 1910, Mihi Apitia wrote to the Government land purchasing officer seeking to sell her lands at Whangaruru (near Whangarei) and Kaihiki (near Kororāreka) that she had inherited through her mother's whakapapa. In return for those lands Mihi was seeking land at Kawhia where she was resident with her husband Henry Edward Lawlor Thom. In her letter to the land purchasing officer, Mihi noted that she was the daughter of Rea Mokaraka (Te Muri), and that the name she was known by in the land records was Mihi Apitia.⁴⁵⁷ Richard Williams, a Thom family descendant, argues that Mihi

⁴⁵⁴CHAT 2:91-128; WN 7:113-132; WN 7: 138; WN 6: 18-19; WN 8: 56, 65-122, 138, 149-156, 167-175, 190-199, 205-219, 221-225, 298-315, 334, 336-349; WN 9:113-115; 10 WN 210; WG 27:244-250.

⁴⁵⁵ WG 27:48, 89.

⁴⁵⁶ TAR 31:31-49.

⁴⁵⁷ Archives New Zealand, Reference: R22402949, MA1 1014 / 1910/4165. Received: 23rd February 1910. - From: Mrs Mihi A thmas [sic] (Mihi Apitia), Kawhia. - Subject: Wishes to sell her lands at Whangaruru and Kihikihi or exchange for Kawhia lands.

and Henry “had one issue, ether [sic] Heeni or Hemi Apitia Thom. (This family is not known to the writer [Williams].)”⁴⁵⁸

Further searches of the Māori land online website under the name Rea Mocaraka (Mihi’s mother) reveals unsucceeded ownership in Northland in the areas mentioned by Mihi Apitia in her letter to the Government Land purchase officer.⁴⁵⁹ This indicates perhaps that Mihi was not successful in her bid to sell land to the government. The Church of Jesus Christ and Latter Day Saints published a newspaper called *Te Karere* in the early 1900s. One edition of this newspaper provided further corroborating evidence of the names, aliases and relationships of the Apitia whānau.⁴⁶⁰

Archives associated with the land records of the Mocaraka whānau provide whakapapa evidence of their pedigree that supports this article in *Te Karere*. Waikato did indeed travel to England with Hongi and after he returned lived at Kaihiki in Whangarūrū.⁴⁶¹ His son Mocaraka (Tamati Mocaraka) was to become Rea Mocaraka’s father, giving Te Muri (Rea) a strong pedigree in the north. Hēni Te Rau on the other hand did not share the same respect in her treatment of Te Muri in Apitia’s succession case, labelling her as “just a

⁴⁵⁸ Thom-Williams Family retrieved from <https://www.genealogy.com/forum/regional/countries/topics/australia/70441/> on 13 June 2018.

⁴⁵⁹ Maungaturoto D1A and others (aggregated) & Ngatihine H2B are the current names of land blocks where Rea Mocaraka is a current owner. Retrieved from <http://www.maorilandonline.govt.nz/gis/owner/interestSearch.htm> on 13 June 2018

⁴⁶⁰ *Te Karere* (1937), Wahanga 33, Nama 7. p.227. I te tahi o nga ra o Mei nei, i te ata, i te waru o nga haora ka mate to matou tupuna matua a Tamati Mocaraka. He kaumatua rangatira tenei. He Kaiwhakahaere hioki no Ngati-Wai, te Ngaupaiaka Ngatitauhi e noho nei i roto i tenei awaawa i Whangaruru. Ko tona tino hapu ko te hikutu i whakaturia ia ki Kaihiki Kerikeri. Ko tona tupuna ko Waikato. Koia tetahi o nga tangata i tae ki Ingarani. I a ia i reira ka whakapirinihatia ia e Kingi Hori Tuawha. Ka huaina tona ingoa ko Piriniha Waikato. Ka homai e te kingi he tohu mo tona pirinihatanga he pu, he mea tuhi ki runga i te raparapa o taua pu te ingoa o Waikato me to te kingi. He paraihe kei te raparapa, he koura hoki Ka tukua mai e te Kingi raua ko te Kuini Wikitoria kotahi kara me te peneti me te potae hei hipoki mo taua pu. Ko te kara no te matenga o Harowe Mocaraka ka tanumia ngatahi me ia. Ko te potae he mea kawae tahi atu me Piriniha Waikato ki te torere kei Pokaroka. Ko te pu me te peneti kei nga whanaunga o te tupapuku o Tamati Mocaraka. Ko tenei kaumatua ko ia te whakamutunganga o nga uri o te Mocaraka. I mate uri kore katoa ratou ko ona tuakana. Ko tona tuahine i moe atu i te tane ki Taranaki. Kei te rapua nga uri o taua wahine. Ko tona ingoa ko Rea Mocaraka. Ko tana tane ko Apitia. Ko te mutunga i mohiotia ko Mihi Apitia. [On 1 May 1939 at 8am, Tamati Mocaraka a chief of the Ngāti Wai, Te Ngaupaiaka, Ngāti Tauhi and Te Hikutu from Whangaruru and Kaihiki, died. His ancestor was Waikato, a chief that was given the title of Prince by King George IV when he visited England. To commemorate his being made a Prince, the King gave him a gun inscribed with Waikato’s and the King’s names. It had a gold and silver handle. The King and Queen Victoria gave him a flag, cutlass, and hat to accompany the rifle. The flag was buried with Harowe Mocaraka. The Hat was taken by Prince Waikato to the torere at Pokaroka. The file and cutlass is in the hands of Tamati’s relations. Tamati was the last of Mocaraka’s descendants. All of his brothers died without issue. His sister married a Taranaki man. We are searching for that woman her name is Rea Mocaraka. Her husband is Apitia. The last known name of their issue was Mihi Apitia].

⁴⁶¹ *ibid.*

Ngapuhi” and that Apitia would not want his land to go to a Ngapuhi.⁴⁶² It is likely that Rea Mocaraka (Te Muri) came to live in Taranaki through the migrations of people from the north to Taranaki perhaps as they came to live at Parihaka in the late 1870s.

Insult to injury

One full century after Apitia’s death, on 30 January 1985, Hēni Apitia had remained an unsucceeded owner for two one-acre sections on Wharekauri, the residue of the relative interests determined by the Court mentioned above. The Māori Land Court made an order under section 447 of the Māori Affairs Act 1953 declaring Hēni Apitia to be a ‘missing owner’. The implications of this order are very significant.

Section 447 of the Māori Affairs Act 1953 reads:

447. (1) If and whenever the Court is satisfied with respect to any Maori freehold land or to any European land owned by Maoris that any beneficial owner cannot to execute be found, may, on application of any person interested, make an order directing the Maori Trustee to execute, as the agent of the missing owner, any instrument of alienation in respect of that land.

(2) On the making of an order under this section the Maori Trustee shall have authority, in accordance with the terms of the order, to execute any instrument of alienation on behalf of the missing owner as effectually as if he were the owner.

(3) Every such instrument shall be subject to confirmation by the Court as if it were an instrument of alienation executed by the owner.

(4) Every instrument so executed by the Maori Trustee shall recite the authority pursuant to which it is executed, and shall, when confirmed by the Court, have the same force and effect and may be registered in like manner as if it had been duly executed by the missing owner, and as if he had been fully competent in that behalf.

(5) The foregoing provisions of this section as to missing owners shall apply in the case of any owner who is dead or is presumed by the Court to be dead if the successors of the deceased owner cannot be found.

⁴⁶² WN 8:121, Hanikamu Te Hiko in his evidence against Hēni Te Rau stated: “She said that Apitia’s wife belonged to Ngapuhi and that he did not wish his land to go to another tribe. I asked her what the difference was between a Scotchman and a Ngapuhi to Apitia”. By referring to a Scotchman, Hanikamu Te Hiko was referring to Hēni Te Rau’s Scottish parentage.

The purpose of the Court's extraordinary order became clearer later in 1988 when the Māori Trustee acting as agent for the 'missing owner' sold a one-acre section for \$500 to Albert Daymond.⁴⁶³

Hēni Apitia remains an unsucceeded owner in Otonga 1C1. It is inconclusive whether Hēni Apitia's line of mokopuna has died out over the generations. Should that be the case, then the next of kin would be entitled to succeed. This facilitated alienation in the 1980s further exemplifies how Ngāti Mutunga interests continue to be undermined and alienated by public agencies through the Māori Trustee and by the Māori Land Court. Dione Payne successfully argues that this facilitated alienation is tantamount to government confiscation.⁴⁶⁴

Concluding remarks

In the 10 to 15 years of succession cases for Naera Pōmare and Apitia Punga, a clear pathway of litigation in the Native Land Court demonstrated to Ngāti Mutunga people that personal proficiency with the Native Land Court system could effect the greatest influence over succession outcomes. In Naera Pōmare's case, the taurima child's right was comparatively small so as to be insignificant. Yet in Apitia Punga's case, the taurima was able to assert a dominant and disproportionate succession right to appropriate another rangatira's assets. For Ngāti Mutunga people watching the outcomes of these succession cases, this was likely to have caused a state of confusion as the outcomes did not reflect customary practice (as evidenced by Naera Pomare's succession to Pōmare Ngātata before the Land Court era), nor did it reflect commonly held beliefs and practice whereby blood-kin held a superior succession right.

The idea of tahuti in respect of tikanga taurima, which was previously so important so as to be included in the last will and testament for Naera Pōmare, was conspicuously absent in this second case study. Hēni Te Rau as taurima was an adult, able to assert her own interests in this case to the detriment of Hēni Apitia. Previously, Te Rua Herata as taurima to

⁴⁶³ See Matarae No 3 Section 1 memorial schedule retrieved from http://www.maorilandonline.govt.nz/gis/title/21888.htm?feedback_URL=https%3A%2F%2Fconsultations.justice.govt.nz%2Foperations-service-delivery%2Fmlc-customer-survey&helpDoc_URL=https%3A%2F%2Fmaorilandcourt.govt.nz%2Fabout-mlc%2Fpublications%2F%23other-guides&mlc_URL=https%3A%2F%2Fwww.maorilandcourt.govt.nz&moj_URL=https%3A%2F%2Fwww.justice.govt.nz&nzGovt_URL=http%3A%2F%2Fnewzealand.govt.nz&contactUs_URL=http%3A%2F%2Fwww.maorilandcourt.govt.nz%2Fcontact-us on 27 May 2017.

⁴⁶⁴ Payne (2014), *ibid*, p.136.

Naera Pōmare was restricted to a relatively small succession right contingent upon tahuti. In retrospect, the representatives of Hēni Apitia could have utilised the tahuti principle in respect of Hēni Te Rau who could have been considered to have vacated her responsibilities for caring for Apitia Punga, who was sick for weeks prior to his death. She knew that he was not well when she left Wharekauri to return to Urenui after Naera Pōmare's tangi. This did not deter her departure. This idea of deserting mātua taurima (taurima parents) in their illness is drawn upon in the next case study concerning Hāmuera Koteriki. Along with tahuti, desertion of your matua taurima was a key concern for Ngāti Mutunga.

Hāmuera Koteriki, who died six years after Naera Pōmare and Apitia Punga was comparatively less well endowed with assets at his death. Competition for assets however remained a consistent theme across all three case studies.

Historically, more has been written of government land confiscation arising from the 1863 legislation (discussed in Chapter Three) and its subsequent impacts on Ngāti Mutunga and other iwi. This case study shows that for Ngāti Mutunga, the Māori Land Court and the Māori Trustee (both public agencies) were party to confiscation of Ngāti Mutunga land in 1985 with the sale of Hēni Apitia's land. In this way, the public agencies actions recall Hāmuera Koteriki's 1870 statement: "Nā te kōti i tatari".⁴⁶⁵

⁴⁶⁵ CIMB 1:316.

Chapter Six: Hāmuera Koteriki (Hāmi Te Māunu)



Image 7: Hāmuera Koteriki (Hāmi Te Māunu) *Matiu Payne*

The case study of Hāmuera Koteriki’s succession differs from the previous two because this tipuna had no biological descendants at his death. Neither had he accrued large debts that needed to be cleared by his estate in order for succession to occur. Despite his lack of biological issue he had a niece (Roimata), and a nephew (Tīwai Pōmare) who was also his taurima. Additionally, Hāmuera had another taurima, Ngāropi Tūhata, who was Mere Pōmare’s daughter and successor to Naera Pōmare (see whakapapa 11, page 155).

Hāmuera (also known as Hāmi Te Māunu) died a kaumātua aged 78, in 1901.⁴⁶⁶ Similar to Apitia Punga, he left Taranaki as a child and followed Ngāti Mutunga’s migratory pathways to Wharekauri, where his father (also known as Koteriki, as well as Te Herepounamu and Tātua) led Ngāti Mutunga alongside other rangatira. In 1870 when the Native Land Court sat at Wharekauri he secured his take whenua with large land grants before returning to live at Urenui to secure his original papakāinga there. Hāmuera remained in Taranaki and was a key figure for Ngāti Mutunga in the period 1870-1901. As a rangatira of Ngāti Mutunga in Taranaki he was influential in his tribe remaining “loyal” to the Crown after confiscation had occurred. Ngāti Mutunga’s loyalty was strenuously reiterated in 1905 by Hēni Te Rau before the Mackay Commission which had been set up to investigate native claims to confiscated lands in

⁴⁶⁶ “TAR 9:294-295. Evidence given that Hāmi died at Urenui October 1901. His age was calculated using this information and the birth order and ages of his sisters recorded on the passenger list of the *Collingwood* ship in 1867. This passenger list also recorded the date they left Taranaki.

Taranaki.⁴⁶⁷ Loyalty was a subjective term to describe Māori of the period as it was only through demonstrating “loyalty” that Māori, including Ngāti Mutunga, had better hopes of receiving land through the Compensation Courts in the 1880s.

Hāmuera’s immediate whānau

Hāmuera’s father, Koteriki, and mother, Oriwhia, were two leading figures in the 1835 heke to Wharekauri. Hāmuera grew up on Wharekauri and it was there that he married Maea Tarata, a Ngāti Mutunga woman. Together they had five children, Horiana, Te Ata Hamuera, Hēni Hamuera, Rakera Hamuera, and Whakaheke Te Herepounamu.⁴⁶⁸ Unlike Pōmare and Punga, Hāmuera is only known to have had one wife.

All of Hāmuera’s biological children predeceased him. Later in life he took Ngāropi Tūhata and Tīwai Pōmare as his taurima. His reasons for doing so were exacerbated by the death of his own five children, but also to cater for the family dynamics of Tīwai Pōmare and Ngāropi Tūhata’s own situation. As detailed in Chapter Four, Mere Pōmare (Naera’s second wife) was hostile towards Tīwai Pōmare, and Ngāropi Tūhata was the youngest of Mere’s first marriage to Inia Tūhata. When blended families occur, even today, it is not uncommon for taurima arrangements to eventuate.

By taking taurima children of his own Hāmuera perpetuated tikanga taurima and was able to again have children that would care for him in his old age, a role that would previously have been undertaken by his biological children. Hamuera also replicated the care he had received as a younger man as taurima to Toenga Te Poki, an elder Ngāti Mutunga rangatira.⁴⁶⁹

Hāmuera’s case study is significant for four main reasons. The first reason is that Ngāropi Tūhata, is confirmed to have had two taurima parents, Hāmuera and his sister, Makareta Te Māunu; and a step-father (non-taurima) arrangement with Naera Pōmare. Ngāropi Tūhata (through her representative) pursued claims against the estates of only one taurima parent (Hāmuera) in addition to her own natural parents (Mere Pōmare and Inia Tūhata) to whom she also succeeded. The second reason is that Hāmuera had two taurima children: his nephew, Tīwai Pōmare, and the more distantly related Ngāropi Tūhata. The third reason arises from an undated decision of the New Zealand Supreme Court, when they adjudicated on

⁴⁶⁷ AJHR (1905) ‘James McKay. Claims of Heni Te Rau and Others: Report of Mr commissioner James Mackay on the claims of Heni Te Rau (Mrs Brown) on behalf of certain of the Ngatimutunga hapu to Section 6, Block VIII., Waitara Survey District.’ Vol.1, G7.

⁴⁶⁸ CIMB 1:2; TAR 7:188-9; CIMB 1:2 Rakera is included in list of claimants to Wharekauri in 1870; OTO 43:156-7.

⁴⁶⁹ CIMB 1:317.

Hāmuera’s succession, that restricted land claimed by Ngāropi must revert to the next of kin; a decision the Native Appellate Court subsequently ignored.⁴⁷⁰ The final reason arises from the numerous pages of Court evidence given by Ngāti Mutunga kaumātua who asserted Ngāropi failed to fulfil her customary responsibilities to Hāmuera, including disobedience regarding marriage, abandoning him in his old age, and failing to arrange his tangi (mourning custom). The kaumātua felt therefore that she had abandoned (tahuti) her right to Hāmuera’s interests.⁴⁷¹

Hāmuera’s estate

Hāmuera’s estate was small when compared to those of Naera Pōmare and Apitia Punga. This was possibly because he lived longer and was able to alienate his interests through his lifetime. At his death, Koteriki was possessed of the following assets:

| Name of land block or asset owned | Quantity |
|--|------------------------------|
| Waitara Block 3 Sec 2, Block 4 sec 24 and 25 | 19 acres |
| Urenui Marae block | Undefined |
| Motuhara | 4.6 acres |
| Kinokau East No.2 Sec 6B2 | 126 acres |
| Kinohaku West E1D2B4 | 124 acres |
| Kekerione 1W | 80 acres |
| Total acres | 353.6 acres (approx.) |

Urenui (Ngāti Mutunga) lands

In 1902, Roimata and Tiwai Pōmare sought succession orders for Hāmuera’s Ngāti Mutunga land interests in Urenui. To achieve this, the Native Land Court examined adoption evidence and blood relationships and found in favour of a 50% split of his interests in favour of blood-kin (quarter shares to Roimata and Tiwai Pōmare), and the remaining half to his taurima, Ngāropi.⁴⁷² No reason was given in the decision.

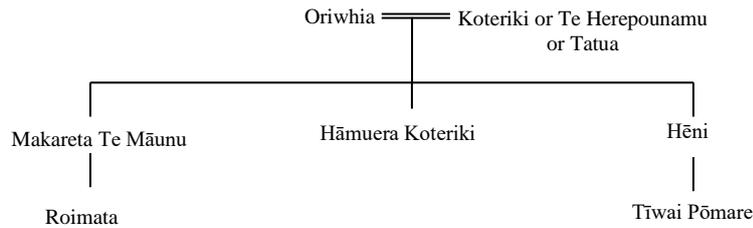
The following year, in 1903, Ngāropi’s biological brother, Hone Tūhata, lodged an appeal on her behalf to reallocate Hāmuera’s Urenui estate solely in her name, based entirely on an adoption claim.⁴⁷³ The Native Land Court referred the case to the Supreme Court for an opinion regarding adoption claims to restricted land.

⁴⁷⁰ Supreme Court of New Zealand (n.d) In the matter of the succession to the interest of Hāmi Te Māunu, deceased, in section 2 Block III and sections 24 and 25 Block IV Waitara Survey District.

⁴⁷¹ TAR 9:301-309. See Court Evidence given by Henare Ngarongo Tarata, and Hurimoana.

⁴⁷² TAR 7:192. Waitara Block 3 Sec 2 and Block 4 sec 24 & 25. 21st November 1902. Court awarded Hāmi Te Māunu’s [Hāmuera Koteriki’s] interests to Ngāropi Tūhata ½ share, Makareta Maunu ¼ share, Tiwai Pomare ¼ share.

⁴⁷³ WGAP 8:222-223.



Whakapapa 9: Whakapapa showing inter-relationship of Hāmuera Koteriki and his blood-kin.
Whakapapa sourced from unpublished records held by Matiu Payne

The Supreme Court disagreed with Ngāropi’s succession and recommended that all of Hāmuera’s Urenui interests pass to his blood-kin. In contravention to this Supreme Court opinion, the Native Appellate Court proceeded to award Hāmuera’s Urenui estate to Ngāropi, entirely excluding blood kin from succession.⁴⁷⁴

Hamuera’s Urenui land interests centred on a Crown grant number 5238 [compensation grant] which included titles to sections known as Waitara Block 3 Section 2 and Block 4 sections 24 and 25. Koteriki’s equivalent land area totalled 19 acres. The land titles issued by the West Coast Commission for these sections contained a title restriction which read:

Upon condition that the said land shall be inalienable by sale, gift, or mortgage, **or in any other way** [emphasis added] except as follows, that is to say, first, by exchange for other lands of at least equal value, such lands taken in changes being held in fee simple; secondly, by lease for any term not exceeding twenty-one years to take effect in possession and without taking any fine, premium, or foregift, or other benefit in the nature thereof. Provided that no such exchange or lease shall be valid or effectual, unless previously to the execution thereof or to the making of any agreement therefor,

⁴⁷⁴ WGAP 8:256-7. 19th April 1904. Chief Judges Room, Wellington. Court reserved its decision pending submission of a case to the Supreme Court as to the right of an adopted child to succeed restricted land. Chief Judge Davy, the case was submitted but the public trustee having failed to go on with it, it has been formally withdrawn, and the Court is now free to give its decision. The decision is that the whole of the interest of the deceased in the block in question be awarded to the appellant, Ngāropi Tūhata, and that the judgement of the Native Land Court be varied accordingly.

the consent of the Governor-in-Council shall have been obtained to such exchange or lease as the case may be.⁴⁷⁵

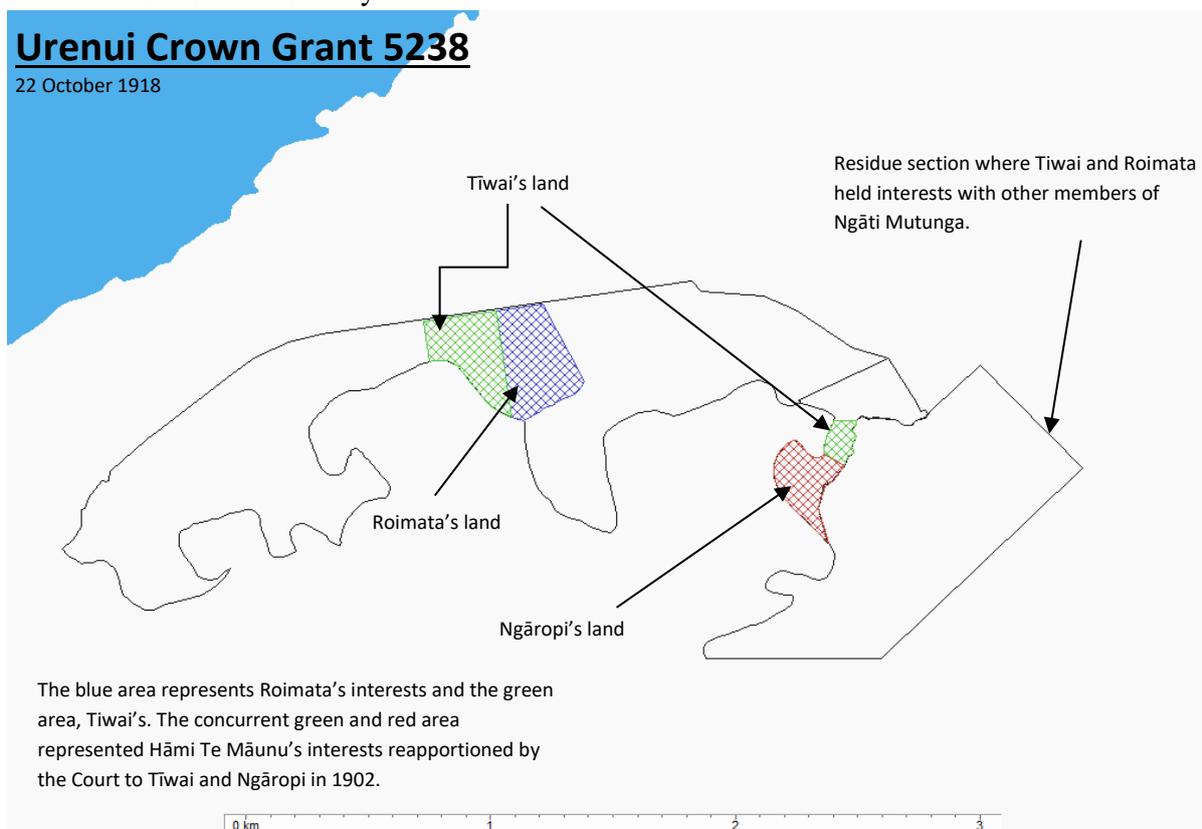


Figure 6: Urenui crown grant 5238

Therefore, unless the land was alienated by way of lease, after seeking consent from the Governor-in-Council, the Urenui land could not have been alienated in “any other way” such as succession by non-blood kin, or a taurima child who was not kin. The Supreme Court continued to state that:

...an appeal from the order of the Native Land Court was lodged on behalf of the said Ngaropi Tuhata on the ground that as the deceased died without issue, she, as adopted child, was entitled to succeed to the whole interest of the deceased in preference to the next of kin, who were only remotely connected. This contention is in accordance with decisions of the Native Land Court and of the Native Appellate Court in case of lands not restricted. In the present case however, it is contended that in view of the restriction beforementioned [sic] the custom **so far as it extends to confer a right to succeed is inapplicable and is repugnant to the terms of the restriction** [emphasis added], and that the recognition of such a custom in dealing with succession is to

⁴⁷⁵ Supreme Court of New Zealand, *ibid*, p.1.

enable the deceased by a voluntary act to alter the course of devolution and to dispose of the land in favour of a person selected by himself as effectually as if by Will. On this ground it is claimed that the order of the Native Land court **awarding a half interest to the adopted child should be annulled, and the whole interest awarded to the next of kin** [emphasis added].⁴⁷⁶

However, because the Supreme Court opinion is undated it is difficult to know exactly when it was proclaimed. The Supreme Court's opinion is hand-signed by the Judge and stamped with the Appellate Court's seal indicating it had been received by the Appellate Court. The Supreme Court gave its opinion between 1903-1904, the period of time when Hone Tūhata was pursuing an appeal, and the Native Appellate Court was seeking a Supreme Court legal opinion on the title restrictions.

The Supreme Court supported the preferential right of blood-kin to succeed Hāmuera's estate in Urenui because of the title's restriction. Ngāropi was not included. However, it appears that a clerical error (or a private arrangement) on behalf of the Public Trustee enabled the lower Court (the Native Appellate Court) to proceed with awarding the entire interest to Ngāropi. As we see in the Wanganui Appellate Minute Book records, which states:

[Native Appellate] Court reserved its decision pending submission of a case to the Supreme Court as to the right of an adopted child to succeed restricted land. The case was submitted but the Public Trustee having failed to go on with it, it has been formally withdrawn, and the Court is now free to give its decision. The decision is that the whole of the interest of the deceased in the block in question be awarded to the appellant, Ngaropi Tuhata, and that the judgement of the Native Land Court be varied accordingly.⁴⁷⁷

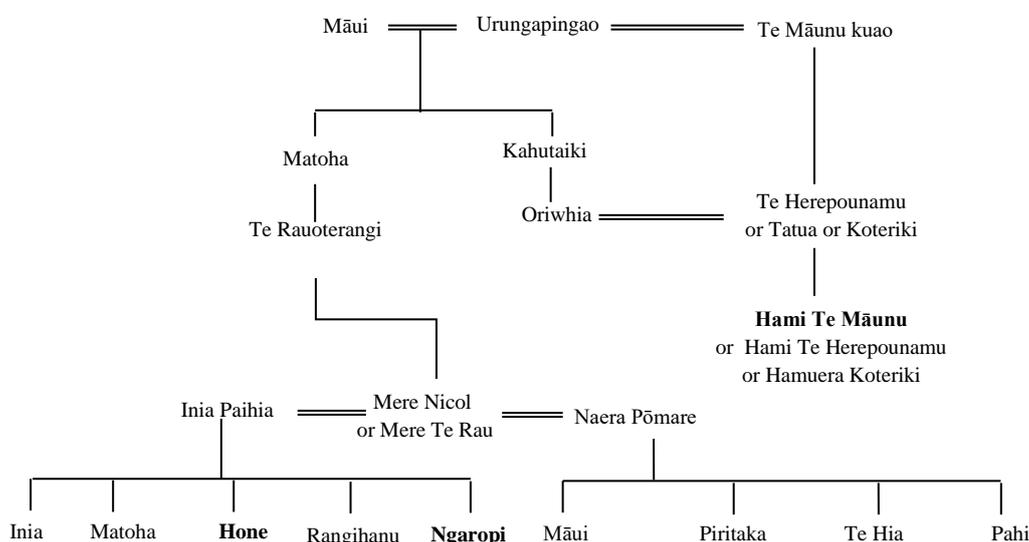
Although the Supreme Court found in favour of the blood-kin, the Native Appellate Court continued to award these interests to a taurima with less whakapapa ties. This particular point was tested in 2005 by an application brought under section 45 of Te Ture Whenua Māori Act 1993 by the descendants of Roimata. Section 45 of Te Ture Whenua Māori Act 1993 at that stage allowed for:

45 Applications for exercise of special powers

⁴⁷⁶ *ibid*, p.2.

⁴⁷⁷ WGAP 8:256-7.

- (1) The jurisdiction conferred on the Chief Judge by section 44 shall be exercised only on application in writing made by or on behalf of a person who claims to have been adversely affected by the order to which the application relates, or by the Registrar.⁴⁷⁸



Whakapapa 10: Relationship between Hamuera Koteriki and Naera Pōmare successors.
Whakapapa sourced from unpublished records held by Matiu Payne

Section 44 of the same Act prescribed the powers of the Chief Judge once an application had been received. Section 44 reads as below:

44 Chief Judge may correct mistakes and omissions

- (1) On any application made under [section 45](#), the Chief Judge may, if satisfied that an order made by the court or a Registrar (including an order made by a Registrar before the commencement of this Act), or a certificate of confirmation issued by a Registrar under [section 160](#), was erroneous in fact or in law because of any mistake or omission on the part of the court or the Registrar or in the presentation of the facts of the case to the court or the Registrar, cancel or amend the order or certificate of confirmation or make such other order or issue such certificate of confirmation as, in the opinion of the Chief Judge, is necessary in the interests of justice to remedy the mistake or omission.
- (2) Subject to section 48 but notwithstanding any other provision of this Act, any order under this section may be made to take effect retrospectively to such extent as the

⁴⁷⁸ Te Ture Whenua Māori Act 1993, *ibid*.

Chief Judge thinks necessary for the purpose of giving full effect to that order.

- (3) Notwithstanding anything to the contrary in this Act, the powers conferred on the Chief Judge by this section may be exercised in respect of orders to which the provisions of section 77 would otherwise be applicable.
- (4) The powers conferred on the Chief Judge by this section shall not apply with respect to any vesting order made under Part 6 in respect of Maori customary land.
- (5) The Chief Judge may decline to exercise jurisdiction under this section in respect of any application, and no appeal shall lie to the Maori Appellate Court from the dismissal by the Chief Judge of an application under this section.⁴⁷⁹

The powers of the Chief Judge were therefore wide ranging, with the ability to correct historical mistakes if they so considered it was necessary to do so.

For seven years, there were numerous court appearances, several face-to-face hui, and a significant volume of correspondence with the Māori Land Court was compiled. In 2013 the Chief Judge dismissed the section 45 application based on a lack of evidence on behalf of the applicant to substantiate a change to the standing Court orders. The Chief Judge's decision did not say that the argument was incorrect, rather that the burden of proof required was not satisfied in order to make a change. The court further endorsed that as the original orders had stood for over 100 years then they must be presumed to be correct.⁴⁸⁰

Of particular interest in this case study was the Supreme Court decision that was referred to above. In the decision affecting the section 45 application, Chief Judge Isaac considered the following evidence:

Was the Court erroneous in not following the Supreme Court decision?

[62] The applicant submits that the document on file relating to a case stated to the Supreme Court is a decision of the Supreme Court. The applicant submits that it is a signed and sealed Supreme Court opinion and that the Native Appellate Court has ignored its findings.

[63] The applicant also submits that the reason the Public Trustee withdrew the case was because of the signed and sealed Supreme Court opinion that the lands were

⁴⁷⁹ Te Ture Whenua Māori Act, *ibid*.

⁴⁸⁰ CJMB 2013:598, *Reserved Judgement of Chief Judge W W Isaac. In the Maori Land Court of New Zealand, Aotea District. A20050001426 under section 45 in the matter of Hāmi Te Māunu between Matiu Payne Applicant. Judgement 12 August 2013.* Māori Land Court, Wellington.

inalienable to anyone but the next of kin...

Recommendations

[70] My findings on the three issues identified in this report are:

(a) There is insufficient evidence to determine with certainty whether it was intended that Hami Te Maunu [Hāmuera Koteriki] hold the Māori land interests on trust and/or in common with his siblings. (b) There is insufficient evidence to establish that the Native Appellate Court orders complained of were erroneous. (c) No Supreme Court decision was ever issued for these proceedings. Therefore there was no decision for the Native Appellate Court to follow.

[71] The standard of proof required in determining Chief Judge applications as per s 45 of Te Ture Whenua Māori Act 1993 has not been met. There is in my opinion insufficient evidence to rebut the presumption that, in the absence of a patent defect in the order, the order made was correct and that the evidence given at the time of the order was made, by persons more closely related to the subject matter in both time and knowledge, is deemed to have been correct.⁴⁸¹

As I had submitted this application to the Court, I became privy to a large number of section 45 applications submitted around other historical issues that were dismissed for the same reasons. Subsequent amendments of Te Ture Whenua Māori Act 1993 saw the inclusion of subsection 2 of section 45 which required all applicants to deposit money for costs. This new subsection created a further barrier towards people pursuing this avenue of restitution, not unlike the 2/- evidence fee in Apitia Punga's succession case. As such, the Court's practice remains strongly colonial in its approach to Māori land.

The role of the Public Trustee

Hāmuera Koteriki's land in Urenui was compensation land, issued by the West Coast Royal Commission in 1880.⁴⁸² All commission granted lands in Taranaki "were vested in the Public Trustee in trust for Māori owners, with Māori thereby losing legal ownership and control of their lands".⁴⁸³ As such, when the Native Appellate Court referred to the Public Trustee "having failed to go on with it" above, the Court refers to the Public Trustee's decision not to continue with the Supreme Court case, thereby allowing the Native Appellate Court to make any

⁴⁸¹ CJMB 203:608-609.

⁴⁸² AJHR (1884). William Fox West Coast Royal Commission. Final Report of the Commissioner appointed under The West Coast Settlement (North Island) Act, 1880, Vol. 1, A5B, p.16.

⁴⁸³ NMCSA, preamble (13).

decision or outcome that it chose to do.

The decision to award Ngāropi Tūhata all of Hāmuera's Urenui land interests set the precedent for all successive Native Land Court successions to his estate. In chronological order, Hāmuera's estate was succeeded in four successive sittings: Urenui in 1904, Kekerione in 1905, Waikawau in 1905 and 1919, and finally Pakeho in 1924. In every case, the Urenui decision was cited as the reason to award the estate to Ngāropi.

Kekerione 1W (Ngāti Mutunga) lands, Chatham Islands

At the beginning of 1905, one year after successfully re-apportioning the Urenui estate to Ngāropi, Hone Tūhata applied to the Native Land Court to gain succession for Ngāropi in respect of Hāmi's Wharekauri (Chatham Islands) interests. The Kekerione 1W land block contained 80 acres and was the main promontory of the Waitangi township, that is, the site of the sole commercial port of the Chatham Islands. Tūhata argued that as the Native Appellate Court found in his favour over the Urenui land, the same outcome should be applicable in this case. Other Ngāti Mutunga kaumātua were present at the opening case and asked the Court to stand over until the next-of-kin could be notified and allowed to attend the hearing. The next day, Roimata arrived and after giving evidence concluded her statements with the following:

I was taken by surprise on hearing Tuhata's claim. I certainly will not consent to Ngaropi having this 80 acres let it come to me and Tiwai as some compensation for our loss.⁴⁸⁴

It is clear that Roimata was aware of the succession order in favour of Ngāropi in Urenui, which would constitute the 'loss' Roimata refers to. At the end of the sittings, the Court received word from Māui Pōmare (by this stage, a doctor with political aspirations) who wished to be heard in this application. However, Pōmare had two clear conflicts of interest. He was a half-brother to both Ngāropi and Hone Tūhata as they shared the same mother. Pōmare was also a half-brother to Tīwai Pōmare as they shared the same father. It should also be stated that Hone Tūhata assisted in Pōmare's political campaign to win the Western Māori electorate in the 1911 election.⁴⁸⁵ The Court confirmed:

that it received a communication from Dr Pomare begging to be allowed to make a statement on behalf of Tiwai Pomare and asking for case to be kept open for this purpose. The Court decides to call Dr Pomare as a witness of the Court further

⁴⁸⁴ TAR 9:306-7.

⁴⁸⁵ Bay of Plenty times, 18 December 1911.

consideration of this case will therefore be adjourned to Wellington to await Dr. Pomare's return from the Gisborne Conference if either Hanikamu [Tīwai] or Hone Tuhata wish to be present. Notice will be given them.⁴⁸⁶

It was another two months, in March 1905, when the Court reconvened to hear Māui Pōmare's evidence as follows:

Evidence of Maui W.N.P. Pomare. M.D. Opposes claim of both Roimata and Tiwai. Ngaropi is half-sister and already provided for by Hamuera's Waitara land, and also by Pomare's father. Ngaropi received 1400 acres from Pomare's father to the exclusion of natural kin being Tiwai. Tiwai has no land that he knows of. About 6 months before Hamuera's death. Pomare visited Hamuera to purchase his 80 acre section. Hamuera refused stating "Kei te aroha ahau ki to tuakana, kaore ona whenua" [I feel compassion for your elder brother, he has no land]. His wife Maea and his sister [Makareta] were both present at that interview. Concerning Roimata, Pomare asserted Roimata already had several thousand acres at Chatham Islands. Pomare thinks whole 80 acres should go to Tīwai Pomare alias Hanikamu Pomare solely.⁴⁸⁷

Having heard this evidence, the Court then turned its attention to its own judgement of the situation.

The Court states she [Ngāropi] may have been so adopted but the evidence shown that she was far from being a dutiful daughter. Tiwai Naera Pomare nephew of deceased was also adopted by him and it is somewhat discreditable that she [Ngāropi] should now attempt to deprive the others, particularly as she had already obtained Hamuera's valuable interest at Waitara and inherited 1400 acres at Chatham Islands under the will of Tiwai's father [Naera Pōmare] where Tiwai was left landless.⁴⁸⁸

The Court then apportioned the Kekerione 1W interest to Tīwai Pōmare to the exclusion of Roimata, and Ngāropi. Two years later, a further appeal was lodged by Hone Tūhata whereby Tūhata and Māui Pōmare, separate from blood-kin or their representatives, came to an arrangement where Tīwai's children and Ngāropi (personally) would share equal interests in this block. The Court facilitated this arrangement and amended the orders accordingly.⁴⁸⁹

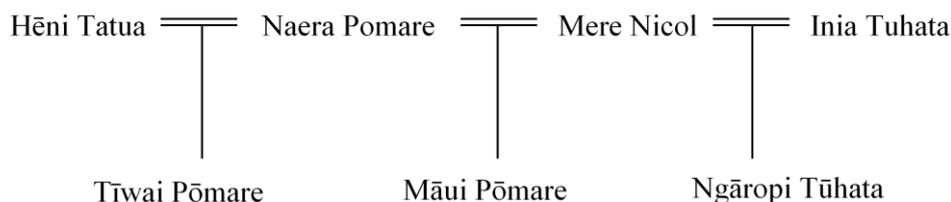
⁴⁸⁶ TAR 9:308-9.

⁴⁸⁷ TAR 9:348-9.

⁴⁸⁸ TAR 9:382.

⁴⁸⁹ WTAP 1:102-3.

The only person excluded from this decision was Roimata.



Whakapapa 11: Māui Pōmare's relationship to Tīwai Pōmare and Ngāropi Tūhata.
Whakapapa sourced from unpublished records held by Matiu Payne.

Later in 1905, Roimata and Tīwai succeeded Hāmuera's Waikawau (Ngāti Hamupaku) interests; they had already been excluded entirely from Hāmuera's Urenui lands, and only Tīwai and Ngāropi had shared in the Kekerione 1W block.

Waikawau (Ngāti Hamupaku) lands

Waikawau lands fall under the tribal areas of Ngāti Hamupaku, a hapū of Ngāti Kinohaku and Ngāti Rārua geographically based in the Waikawau valley, King Country, where Hāmuera and his child Whakaheke were apportioned land in the Kinohaku West E1D2B2B4 block. Together they held approximately 248 acres. It is significant that only Hāmi and his son were apportioned interests on behalf of the entire whānau, to the exclusion of other blood-kin including Hāmuera's sisters and their children. This exclusion meant that as Hāmuera's interests were systematically reapportioned to Ngāropi in 1919 all blood whānau connections to this land title ceased.⁴⁹⁰ No appeal was progressed by the Tūhata whānau for the interests of Hāmuera's child, Whakaheke Te Herepounamu, which was succeeded simultaneously in 1905. Because of this, Roimata and Tīwai were able to maintain their connection to land title in Waikawau, albeit with a reduced shareholding. Hone Tūhata by this stage was acting as Trustee for Ngāropi's children and sold Ngāropi's portion of this block to another local whānau who owned a neighbouring block.

Pakeho (Ngāti Kinohaku) lands

The final part of Hamuera Koteriki's land title estate was in the Pakeho block known as Kinohaku East No.2 Section 6B2. Pakeho is land in Ngāti Kinohaku's tribal area. This hapū is associated with Hāmuera's great grandmother, Te Hauwhāngairua. This lineage was distinct from Hāmuera Koteriki and his kin and was not a lineage shared with Ngāropi Tūhata (see Whakapapa 13, p.165). Hāmuera was the only member of the whānau to receive a

⁴⁹⁰AAPD 10:292-3.

land grant in Ngāti Kinohaku rohe. His total area in this block equated to approximately 124 acres. Hāmuera’s blood kin appeared to be unaware of this interest. No succession attempt occurred prior to 1924 when Hone Tūhata successfully applied for succession in favour of Ngāropi’s five minor children (Ngāropi having died in 1912)⁴⁹¹ citing the Urenui decision and then seeking to appoint himself as their trustee to control these interests on their behalf.⁴⁹²

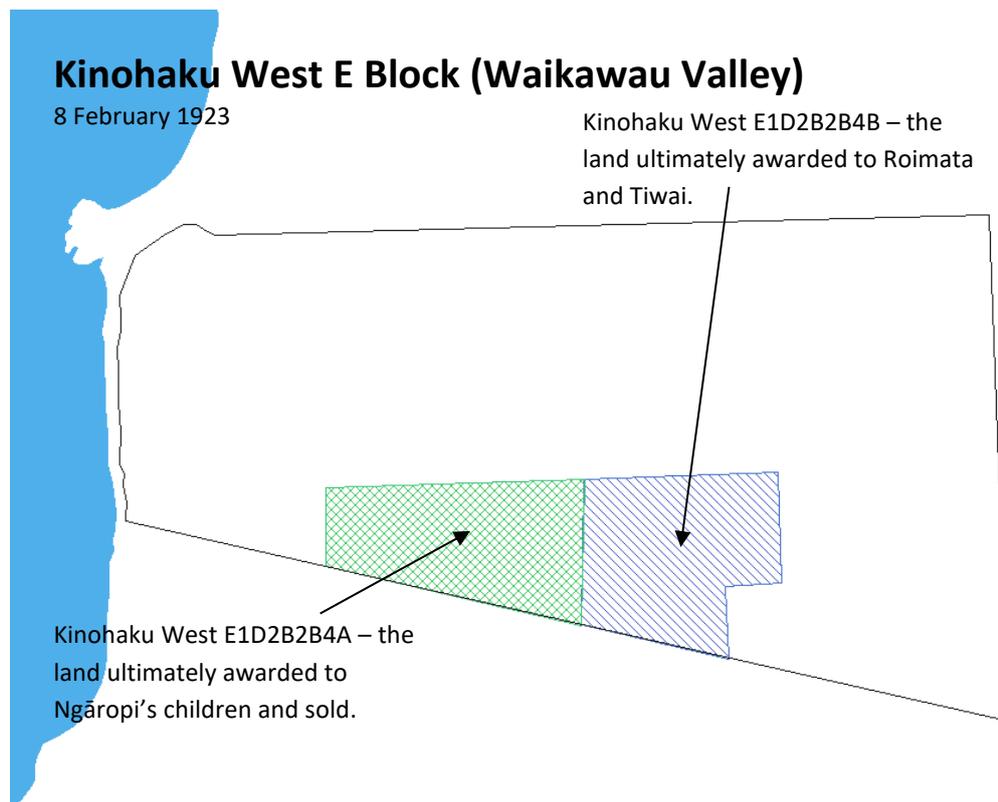


Figure 7: Map of Kinohaku West E Block with Hāmuera Koteriki and his son’s shares highlighted.

Use of take to apportion land

The Native Land Court used title investigations to individualise the title to Māori land. Title investigations involved evidence to support ancestral take held in the locality being investigated, as previously discussed in Chapter Two. In apportioning the original individualised land interests in Kekerione, Pakeho and Waikawau, the Native Land Court supported customary tikanga take whenua. Without these original take the individualised titles held by Hāmuera Koteriki would not have eventuated. Take were fundamental to individualised land titles, at least in block investigation cases. However, at Urenui, the land in Hāmuera’s name resulted from Compensation Court awards from the West Coast

⁴⁹¹ AAPD, *ibid.*

⁴⁹² TAR 36:35. In 2019, these interests remain in Ngāropi’s children’s names, unsuccessful.

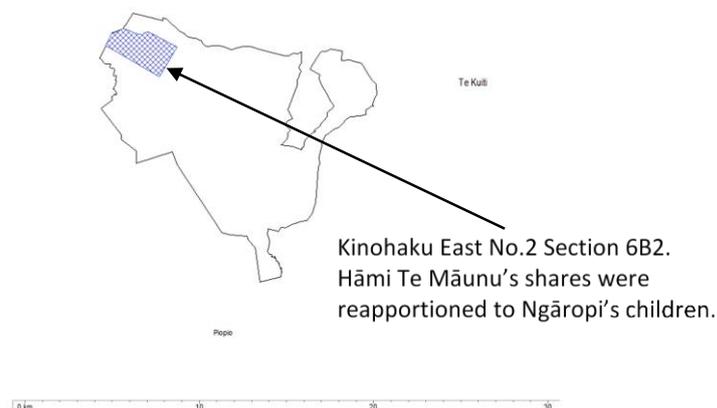
Commission of 1880. As such, the commission did not utilise take to investigate and award titles. It is known from customary history of the area that the compensation awards rested upon the original take whenua of Ngāti Mutunga in Urenui, but this was not investigated in the Compensation Court records.

The Native Land Court, and Native Appellate Court, in this case study demonstrated that the strength of take did not endure into first generation successions. For example, the Court did not investigate nor inquire into the strength of the take held by Ngāropi Tūhata when her claims to Hāmuera's estate were presented. Tūhata clearly stated they were not next of kin.⁴⁹³

The whakapapa table (see Whakapapa 13, p.165) illustrates that take tūpuna was shared by

Kinohaku East No.2 Block

19 December 1897



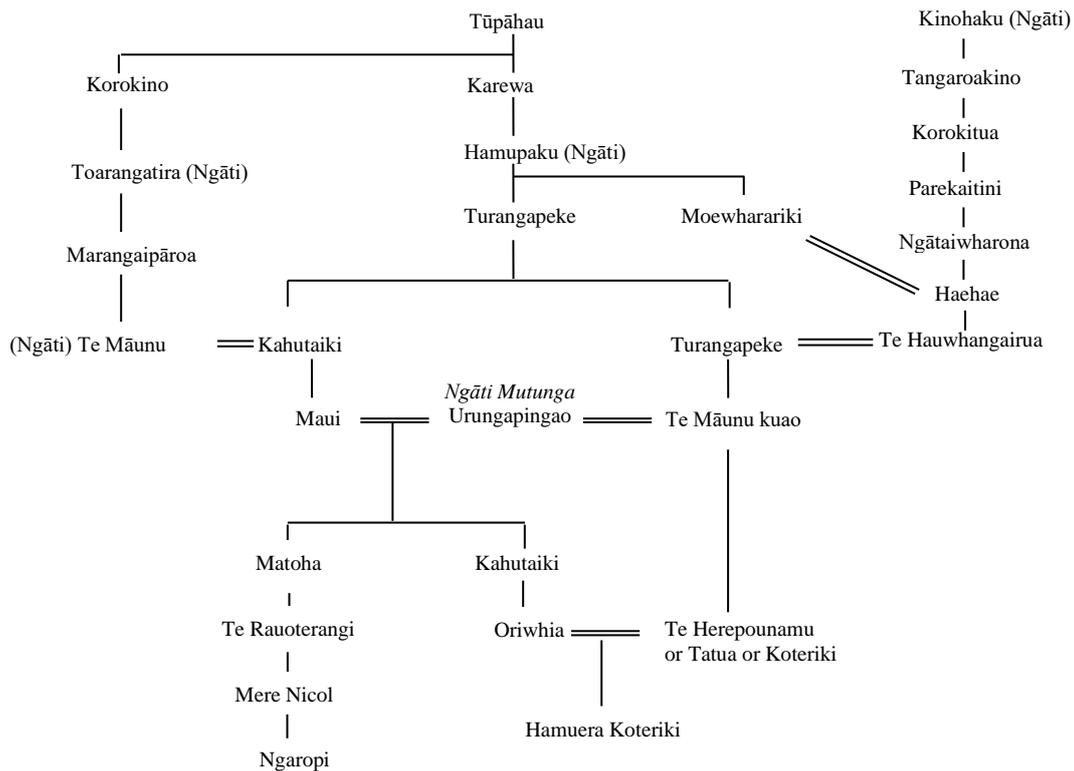
Ngāropi and Hāmuera in areas like Kekerione and Urenui where their shared ancestry to Urungapingao of Ngāti Mutunga prevailed over the customary take whenua. Areas like Pakeho (where Te Hauwhāngairua of Ngāti Kinohaku held take whenua) were distinct from the whakapapa of Hāmuera Koteriki not Ngāropi. Had the relative strength of take associated with Hāmuera Koteriki and the Tūhata whānau been considered by the Courts, it is unlikely Tūhata's appeals would have been successful. Such was the imposed impact on Ngāti Mutunga tikanga of the Court.

Renouncing natural whakapapa

The Court neither inquired nor invited Ngāropi Tūhata to renounce her succession rights through her natural whakapapa. Instead, Ngāropi succeeded her natural, step-, and taurima parents (except Makareta). Ngāropi Tūhata became a successor to Inia Paihia (also known as

⁴⁹³ WGAP 8:222-223.

Inia Tūhata, her natural father) and his relatives,⁴⁹⁴ Mere Te Rau (natural mother),⁴⁹⁵ Naera Pōmare (step father),⁴⁹⁶ and Hāmuera Koteriki (taurima father). An importance can be attached to Ngāropi's exception of Makareta Te Māunu in succession. It may have been due to Makareta's biological daughter, Roimata, who objected strongly to Ngāropi's inclusion in Hāmuera's estate being ready to object to such an eventuality.



Whakapapa 12: Ngāti Kinohaku whakapapa of Hāmuera Koteriki

Optimum levels of land

Native Land Court records from 1901-1923 show Hone Tūhata, when presenting evidence, made references about the quantities of land already owned by individuals. He stated in relation to the Urenui interests:

I apply to [Native Appellate] Court to award whole interest to her [Ngāropi Tūhata]. She is related to deceased but not next of kin. Her claim is entirely by adoption. It is only a very small interest if it had been large I would not have objected to nearest of

⁴⁹⁴ TAR 32:262-265, 306-308; WN 37:116-118.

⁴⁹⁵ WN 37:116-118.

⁴⁹⁶ Pomare (1885), *ibid*, p.1 states: “I bequeath all my goods and all my lands in New Zealand to my eight children:- Maui Pomare, Piri Taka Pomare, Te Hia Pomare, Te Pahi Pomare, these are my four children; William Damon, John Damon, Rangihanu Maria Damon, Ngarope Damon, these are the four children of my wife Mere Naera.”

kin being included with my sister who lived on the land from infancy up to time she was married. The adoption was admitted in the lower court. Respondents have ample land elsewhere for their support. My sister had no other home before she married. If her husband died she will have none. On these grounds I ask that the whole interest be awarded to my sister.⁴⁹⁷

It would appear that Tūhata sought to differentiate the taurima right based on a perception of an optimum level of land that was appropriate for an individual's maintenance. Hāmuera Koteriki's succession suggests that the blood-kin's land holdings were sufficient for their needs and that Ngāropi's land holdings were less than sufficient for her maintenance. On closer inspection, Ngāropi's land holdings were already significant in Taranaki and Wharekauri where she was an equal successor to the interests of Naera Pōmare. The succession claim by Hone Tūhata is not only baseless on the first point of land for maintenance, but also that she was not next of kin and abandoned her responsibilities (tahuti) as an 'adopted' child. Hāmuera's succession was fraught with inconsistencies that appear to be at odds with the 'ten key rules' for taurima succession which were convened in 1907, six years after Hāmuera had died. It is likely that cases similar to Hāmuera's succession had encouraged the Native Land Court to develop the ten rules for taurima succession to assist with succession complexities.

As a clerk in the Native Land Court, Hone Tūhata, exerted enormous influence in this case. Hone Tūhata's involvement in claims such as Hāmuera's was not isolated. In 1901, Hone Tūhata succeeded Epiha Te Hahenga as his taurima.⁴⁹⁸ Hone spent much time as a conductor and witness in Native Land Court cases, and in 1894 became licensed as a native interpreter for the Court.⁴⁹⁹ In 1905 while Hone Tūhata was acting in opposition to Roimata Wi Tamehana in the Hamuera Koteriki case (Hamuera was Roimata's maternal uncle), Hone was simultaneously working for Roimata to succeed her paternal uncle's interests in her favour.⁵⁰⁰ By 1903, when the first appeal for the succession to Hāmuera Koteriki occurred, Tūhata had significant resources in order to press the claim. Not only was he experienced in Native Land Court matters, he was Hēni Te Rau's nephew, and he had access to financial reserves by virtue of that support. An example of their connection can be found in a letter written by Hone Tūhata to the Public Trustee on 9 May 1904 whereby he enquired as to whether any funds were still being held on behalf of Hēni Apitia. In response the Public Trustee stated that £189.17.6 had

⁴⁹⁷ WGAP, *ibid.*

⁴⁹⁸ TAR 8:305.

⁴⁹⁹ Taranaki Minute Books volumes 8 to 10 contain many examples of Hone Tūhata's involvement in cases; *Evening Post*, 6 July 1894 for his appointment as a licensed interpreter.

⁵⁰⁰ TAR 10:31-34.

been paid to Hēni Te Rau on 22 July 1892. This payment represented the entire amount due to Hēni Apitia and as such no further funds were held on her behalf.⁵⁰¹

Given that Ngāropi died during the process of appeal to Hāmuera's interests, Hone became her infant children's trustee for their land interests. As trustee he sold key land areas away from any chance of repatriation to blood-kin. It is unclear if the funds were used for self-interest or for benevolent purposes for his young wards.

Concluding remarks

Ngāti Mutunga people clearly presented evidence to the court on the notion of tahuti, alleging that Ngāropi had not been a dutiful daughter and as such had vacated her claim to Koteriki's estate. Despite the pre-existing case law in this respect of Naera Pōmare's estate, and the fact that Ngāropi had benefitted significantly (as had Hone Tūhata) from that succession, the Native Land Court worked with legislative permissions, and persuasive arguments to apportion Hamuera Koteriki's estate entirely to Ngāropi's children. Despite this decision acting against their own rules for taurima successions and understanding of take whenua and tahuti, the Māori Land Court today still refuses to remedy the situation, as evidenced in the outcomes of the Section 45 application.

The end of Koteriki's succession case in 1925 had solidified Ngāti Mutunga's view that the Court and its public agents (including Hone Tūhata) were influential authorities in adjudicating matters of tikanga related to taurima. I argue that this historical practice of taurima land succession set up a template for Ngāti Mutunga (and other Māori) to seek guidance and leadership for taurima affairs in those arenas, rather than the customary arenas of hapū and iwi. This enforced and ingrained reliance upon public bodies to determine taurima issues is further examined in the next chapter as I examine legislative and public agency and then argue the impacts on tikanga taurima.

Ngāti Mutunga had learned through these case studies that adherence and competition within legislative boundaries could yield significant benefit or loss to those involved. This compounded the experiences resulting from the mass confiscation of Taranaki land in 1865 and the apportionment of Wharekauri land in 1870; both situations were considered legal in their times, as much as taurima succession was in these case studies.

⁵⁰¹ Archives New Zealand, Reference: MA-MT1 82 1904/825. Letter by J.H. Damon to Public Trustee, dated 9 May 1904.

Chapter Seven: Legislation and Public Agency influences

Ngāti Mutunga has been significantly influenced by the impact of legislative and public agency on tikanga taurima. The most obvious influences started with land inheritance in the Native Land Court followed by a range of other legislation affecting family relationships such as formal adoption and custody, general inheritance, and also incentivised monetary state assistance. This thesis argues that several influences, including the introduction of the Native Land Court, wholesale legislative confiscation, individualised land titles, and their subsequent succession, irrevocably affected Ngāti Mutunga people. All these factors were justified in the public or national interest. In many instances those influences rewarded competitive iwi members with more land and punished those who were less competitive or less capable of arguing their case.

The taurima custom also changed in certain circumstances. Ngāti Mutunga still continued with the practice, but tikanga taurima began to be reinterpreted by Māori and non-Māori so as to fit imposed Western legal notions regarding property. Māori have thus been required to submit to governmental systems and structures in order to gain endorsement for taurima relationships. Nowhere is this evidenced more than in the minute books of the Native Land Court in the nineteenth and twentieth centuries. Colonial assimilationist agendas promoted Government intervention as it hastened the alienation of Māori land. People who succeeded to whenua with no close blood connection to it were more likely to alienate quickly. This dynamic presented itself in each of the preceding case studies.

Enduring impacts on tikanga taurima arose from short term colonial outcomes such as land alienation. For Ngāti Mutunga, large personal estates created by the original Native Land Court grants faded as first-generation succession created smaller ownership shares or where succession itself facilitated faster alienation. For example, the table below demonstrates that Hamuera Koteriki's entire 353.6-acre estate was reduced to 127 acres (35.9%) by 1930. Similar trends can be seen in the estate of Apitia Punga and Naera Pomare. The difference with the latter two estates is that blood kin were included in succession. In the case of Apitia Punga subsequent alienations were not by blood-kin successors; his taurima alienated his entire estate except two hundred acres by 1900, and 2 acres by 1930. Similarly, only 2,049 acres of Naera Pōmare's land holdings remain in Māori ownership amongst his

descendants and successors today. Hāmuera Koteriki’s estate by comparison was small but this was probably due to his longer life span. As such, he was party to sales of land (e.g. Te Awapatiki) where very large interests (7,000 acres approximately) were sold at the same time as Apitia Punga’s interests in the same block. Hāmuera’s interests in Otonga and Rangiauria were also sold during his lifetime and as such did not form part of his estate for succession.

| Tūpuna estate succeeded | Acres at succession | Acres in 1900 | Acres in 1930 | Acres in 1970 | Acres in 2019 | % of succession acres |
|-------------------------|---------------------|---------------|---------------|---------------|-------------------------|-----------------------|
| Naera Pomare (1885) | 15,455 | ? | ? | ? | 2,049.57 ⁵⁰² | 13.26% |
| Apitia Punga (1885) | 11,238 | 200 | 2 | 2 | 1 | <1% |
| Hamuera Koteriki (1901) | 353.6 | - | 127 | 127 | 127 | 35.9% |

Comparison with pre-Native Land Court alienations

During the 1850s in South Auckland, the Crown adopted a policy of systematic land acquisition through purchasing. Paul Husbands, Kate Riddell, and Alan Ward in analysing the alienation of South Auckland lands recall several transactions where hapū and Māori offered land for sale with only a partial or shaky claim to the area being sold.⁵⁰³ This policy is what initiated the Waitara purchase in Taranaki in 1859. In exercising the right of pre-emption (a governmental Treaty of Waitangi right) the onus was upon the Crown to determine who the appropriate sellers should be. Husbands and Riddell note that:

A thorough investigation to ascertain the owner of a particular block prior to its alienation was of crucial importance in an areas as contentious as South Auckland, where parties of landowners were not, as in the example of the offer of sale of the Pukekohe block by Ngatiteata in August 1842, above attempting to pass off to the government land to which they had only a tenuous or partial claim.⁵⁰⁴

The Government in this case still proceeded with the sale only to find that the principal owners of the land objected immediately after they were notified. However, rather than

⁵⁰² Acreage calculated from remnant derived blocks still identified as Māori land with owners in the Pomare family. The blocks remaining are identified as: Kekerione 1C1, 1F1A, 1F1B, 1F1C, 1F2B1, 1F2B2A, 1F2B2B, 1D1, 1G, and 1H2 accessible at www.maorilandonline.govt.nz. The “?” indicators for acreage in 1900, 1930 and 1970 respectively reflect the inaccessibility of block order records of the Māori Land Court, Christchurch Office. These records were damaged in 2017 through sewage contamination and remain inaccessible to the public as at 12 May 2019.

⁵⁰³ Paul Husbands, Kate Riddell, Alan Ward (1993). *The Alienation of South Auckland lands*. Wellington: Waitangi Tribunal Research series 1993/9, p.18.

⁵⁰⁴ *ibid.*

cancelling the sale, the Crown continued to negotiate with other owners to complete the transaction. When the principal owner would not accept sales terms, the Crown continued to subdivide and sell sections as if the sale had been sanctioned. Faced with no alternative, the principal owners accepted terms ten years afterwards, having seen the land already sold on to third parties.⁵⁰⁵

The enduring result of this kind of Crown attitude showed that those who were able to get Crown endorsement for land transactions first were able to assert a greater right to resources even if their customary claim was much weaker than principal owners. Such is the example of succession and fast alienation of taurima interests to the rangatira outlined above. Once alienation had been effected, the resulting payments could be reinvested or repurposed to other land or resources. No right of repatriation for blood-kin successors or owners existed once this had occurred.

Legislation used as colonial bridging tool

Public attention towards taurima intensified with succession to large estates of deceased rangatira such as those mentioned and summarised in the table above. The case studies in this thesis are only three examples within Ngāti Mutunga, where this dynamic replicated itself. As those first-generation successions fractured individualised titles and shares became less valuable through the generations. Public attention in assisting with land alienation became less necessary as existing legislation and now case law supported hastened land alienation in perpetuity.

Further attention on taurima returned at the beginning of the twentieth century when difficulties surrounding taurima relationships presented themselves in a range of forums. Areas included: succession to general assets, general adoptions, and inter-racial taurima practice, all of which fell outside of existing legislative permissions for taurima relationships, primarily because of dichotomies in cultural understanding. Western legalistic ideas related to succession, adoption, and taurima practice generally were rigid, inorganic, and exclusive. Conversely, Māori ideas related to these areas were more fluid, organic, and inclusive.

In order to bridge the dichotomies in cultural understanding, and in the spirit of cultural assimilation by Māori of Pākehā cultural norms, public administrators utilised and amended legislation to try and bridge the divide. Only this time, land alienation was not the

⁵⁰⁵ *ibid*, p.19.

focus, it was cultural assimilation. Public agency via government departments, policy incentivisation, and public interest arguments are the key foci of this chapter.

New Zealand's ongoing colonial agenda requires Māori ideas and practices to conform with western norms in order to gain social support, resourcing, and recognition. Contemporary examples of this can be found in the Foreshore and Seabed Act 2004 where the risk of Māori confirming their legal ownership to the New Zealand seabed saw the government legislate these rights away from Māori.⁵⁰⁶ Another example is the recent review of the Te Ture Whenua Māori Act 1993 where increasing Māori land productivity was the primary rationale. Māori land productivity has been a political focus of the New Zealand Government since at least 1862 when the Hon. Mr Crawford supported the introduction of the Native Lands Act 1862 in the interests of national productivity.⁵⁰⁷ Māori land productivity is one of the longest enduring colonial agendas in New Zealand. Conversely, New Zealand's conservation estate and general land owned in New Zealand are not required to meet the same productivity imperative nor do those areas attract special legislative reviews to compel such imperatives. The Foreshore and Seabed Act and the review of Te Ture Whenua Māori Act 1993 compel Māori to conform with Crown ideas and norms that prioritise the public or national interest. The public or national interest does not include Māori or Ngāti Mutunga interests, as was discussed in Chapter Three.

Key examples of the greatest impacts on tikanga taurima in New Zealand are presented in this chapter before examining how internalised ideas of tikanga taurima authenticity have developed amongst Māori in environments where they are incentivised to conform with western 'adoption' norms. These examples are set against a backdrop of Ngāti Mutunga people over five to six generations being systematically re-oriented towards government structures and funding to legitimise, in western terms, customary taurima relationships. This reorientation is reminiscent of the resocialisation ideology promoted by John Thornton at Te Aute College in the 1890s, and signifies an ongoing desire by the Crown to assert its authority over Māori interests.

What is Public Agency?

Public agency as a term has had academic provenance over a long period of time. It has its

⁵⁰⁶ Foreshore and Seabed Act 2004. Retrieved from <http://www.legislation.govt.nz/act/public/2004/0093/latest/whole.html#DLM319839> on 13 April 2019.

⁵⁰⁷ NZPD (1862), p.685.

roots in Aristotle, the ancient Greek philosopher. Camilla Stivers argues that public agency originates from the polis, an idea sourced from Ancient Greece, which linked ideas of ‘active citizenship’ and ‘public agency’ as symbiotic when discussing ideas like public interest.⁵⁰⁸ Stivers considers that in Aristotle’s mind an active citizen is one who, exercising practical wisdom in the public interest, joins in rendering decisive judgement about some aspect of governance.⁵⁰⁹ Essentially, you would be considered to have a public interest if you took an active interest in being a citizen of your country.

Stivers argues that public agency draws on and develops the highest human capacities and active citizenship constitutes the good, or virtuous life.⁵¹⁰ Stivers argues that:

Public agency therefore represented a form discretionary judgement, or practical wisdom expressed in organisational mode. Public administrators are trustees, whose entitlement to govern is grounded in accountability: in the practice of giving public interest reasons for their actions an interactive link that in addition to laws and regulations is the real source of legitimate administrative authority.⁵¹¹

Peter Bowler argued that Victorian age Britons saw themselves and their civilisation at the cutting edge of progress.⁵¹² In contrast then, anyone who was less civilised would be viewed as being in need of assistance and guidance to reach Western ideals of civilisation. By default, the idea of active citizenship and public interest could theoretically extend to Māori, however their interests were expected to be the same as Pākehā, or not in conflict with Pākehā interests. Should a conflict exist between Māori interests and public interests, the latter would always apply. In New Zealand then, the idea of ‘public interest’ was introduced with colonial government and over time became synonymous with ‘national interest’ and ‘common good’.⁵¹³ These terms have repeatedly proved themselves exclusive of indigenous interests when stated by colonial authorities in New Zealand. Public agency therefore, is the progression of public interest (and all of its derivative terms) by publicly funded (e.g. Government funded) agencies, departments and their staff, including the Courts.

⁵⁰⁸ Camilla Stivers (1990). *The Public Agency as Polis: Active citizenship in the administrative state. Administration and Society*. Vol.22. No.1, p.86.

⁵⁰⁹ *ibid.*

⁵¹⁰ *ibid.*

⁵¹¹ *ibid.*, p.90.

⁵¹² Peter. J. Bowler (1989). *The Invention of Progress: The Victorians and the Past*. Oxford: Basil Blackwell, p.18.

⁵¹³ I consider these terms synonymous with each and can be used interchangeably with respect to their impact on Ngāti Mutunga.

Even though public interest activities drew their income from Māori assets (through confiscation) and tax income, Dione Payne argues that ‘national identity’ [and therefore national interest] was derived from a desire by European settlers to establish a colony linked inextricably to England.⁵¹⁴ The nation (from which national interest derives) therefore was about settler (European) interests. Roger Maaka and Augie Fleras support Payne’s contention, arguing that national interests link directly to colonial practices.⁵¹⁵ Nepia Mahuika argues that Pākehā society was the centre of nation building in New Zealand and indigenous or Māori interests were peripheral to Pākehā society.⁵¹⁶ Taiaiake Alfred and Jeff Corntassel, also consider the national interest (or common good) becomes whatever is defined by the ‘shape-shifting colonial elites’.⁵¹⁷ Public agency has also influenced taurima arrangements to align with the monocultural western cultural norms associated with adoption that are at polar opposites of tikanga taurima (see Chapter Two).

Public Agency in an evolving colonial agenda

New Zealand’s colonial agenda has evolved significantly since the 1850s and much of the legislative and public influence affecting Ngāti Mutunga (and taurima generally) centred on land alienation. Land alienation towards European ownership was fundamental to securing an economic base from which a public agenda could be controlled and financed. This enduring agenda is evident through the review of the Te Ture Whenua Māori Act 1993 where terms like the ‘public interest’ and ‘national interest’ were argued as being the reasons for the review to bring more Māori land into production, which consequently affected the role and rights taurima had to land.

In the nineteenth century the idea that Māori were marginal to the public interest can also be seen in land commissioners’ reports. One example from the early 1860s speaks of “purchases made on terms the most advantageous for the public interests”.⁵¹⁸ Considering the purchases were made from Māori it can only be concluded that public interest did not include them.

⁵¹⁴ D. Payne, *ibid*, p.80.

⁵¹⁵ Roger Maaka, Augie Fleras (2005). *The Politics of Indigeneity: Challenging the State in Canada and Aotearoa New Zealand*. Otago University Press, pp.30-32.

⁵¹⁶ Nepia Mahuika (2009). Revitalising Te Ika-a-Maui: Maori Migration and the Nation, *New Zealand Journal of History*, 43, 2, p.136.

⁵¹⁷ Taiaiake Alfred & Jeff Corntassel (2005). Being Indigenous: Resurgences against Contemporary Colonialism. *Government and Opposition* 40(4), p.601.

⁵¹⁸ AJHR (1861). See Reports of the Land Purchase Department relative to the Extinguishment of Native title. Session I, C-01, p.211.

In the twentieth century, the term “public interest” began appearing in New Zealand legislation affecting Māori, the first example in the Native Land Act 1909. This Act carried two provisions:

s110: Court may refuse to exercise this jurisdiction if it thinks partition would be against **public interest [emphasis added]** or the interests of the owners;

and;

s348: If a resolution is passed, the [Māori Land] Board shall consider the **public interest [emphasis added]** and the interest of the Native owners and shall confirm or disallow the resolution or else postpone the matter so that some owners may apply to Native Land Court for a partition.

Public interest in the context of this Native Lands Act allowed Judges of the Native [Māori] Land Court to assume a paternalistic authority with respect to the way title partitions of Māori land were granted. Section 348 also reinforced the colonial perception of public interest’s exclusivity from “the interests of Native owners.”

Later, in the Native Land Amendment and Native Land Claims Adjustment Act 1930, section 14 of the Act provided:

Upon application of Native Minister the Native Land Court may readjust boundaries between Native land if satisfied that it is in the **public interest [emphasis added]** or the interests of the owners. By consent, Crown or European land may be included in such a scheme of subdivision.

This section extended the public interest authority to include Crown or European land in the adjustment of boundaries between Māori and General land. The additional imposition was that the Native Minister could make application to the Courts’ independently of the land owners.

By 1931 the amended Native Land Act carried a new (albeit similar) section. Section 425 provided for:

On any resolution being passed the Board shall consider it in regard to both the **public interest and [emphasis added]** the interest of the owners and confirm or disallow the resolution.

In the Acts prior to this, the wording regarding public interest was relegated to an either/or situation. That is, applications could be considered in regard to the public interest, or, the

interests of the owners. The Native Land Act 1931 was the first imposition of compulsory regard for both interests, public and owners. This by implication took discretion away from the Native Land Court and elevated the public interest to the same level as the owners' interests.

This compulsion was perpetuated in the Maori Affairs Act 1953 when it described the authorities associated with land consolidation schemes. Section 194 of that Act read as follows:

“194. (1) In preparing a consolidation scheme under this Part of this Act the Court shall always have regard to the main purpose thereof, which shall be the consolidation and, so far as may be necessary to effect such consolidation, the redistribution of the interests of the several Maori owners in the Maori freehold lands to which the scheme primarily relates so that, as the result of the scheme, the lands will be held by the several owners in suitable and convenient areas that may be profitably used to their advantage and in the **public interest [emphasis added]**”.

Ideas of public interest prevail in New Zealand today, largely as a call to action to administer population wide decisions. For example, the confiscation of the foreshore and seabed through legislation was undertaken in the public interest.⁵¹⁹ Terminology associated with the public interest has also evolved to include the national interest.

Ngāti Mutunga as willing sellers – before the Native Land Court

From the 1830s, British agents (such as the New Zealand Company in the 1850s) had attempted to ‘purchase’ Māori land from iwi and hapū. Māori initially were keen to sell some land in the first decade after the Treaty, but this changed over time, as we saw in the prelude to the Waitara purchase.

An advertisement placed in the *Otago Daily Times* on 15 October 1868 indicated that three Ngāti Mutunga tūpuna: Naera Pōmare, Hare Patere, and Toenga Te Poki wished to sell or lease 20,000, 6,000, and 6,000 acres respectively on Wharekauri as they intended to leave

⁵¹⁹ Section 3 of the Foreshore and Seabed Act 2004 reads: “The object of this Act is to preserve the **public foreshore and seabed** in perpetuity as the common heritage of all New Zealanders in a way that enables the protection by the Crown of the **public foreshore and seabed on behalf of all the people of New Zealand**, including the protection of the association of whānau, hapū, and iwi with areas of the public foreshore and seabed **[emphasis added]**. Retrieved from <http://www.legislation.govt.nz/act/public/2004/0093/latest/whole.html#DLM319839> on 16 April 2019.

the locality. They also offered large numbers of drystock for sale as well.⁵²⁰ In the nineteenth century, particularly for Ngāti Mutunga, capital in terms of money was important. In 1868 when this land was offered for sale or lease, it confirmed that selling land was not the priority. If it was it would have merely been an advertisement for sale. It needs to be remembered that Ngāti Mutunga had their entire original homeland in North Taranaki confiscated by the Government in 1865. In order to relocate to Taranaki (as large numbers of Ngāti Mutunga did in 1867) it required payment for passage, money to buy provisions in Taranaki as they would not have had a growing season to gather food there, and also money for legal costs to try and reclaim their tūrangawaewae. Culturally, the tūrangawaewae in Urenui was paramount to Ngāti Mutunga identity, as it is today.

Despite this advertisement, Ngāti Mutunga was handicapped by economic attention that was drawn to the recently confiscated lands in Waikato and in Taranaki. Very few people, and certainly not the Crown, were interested in buying land in Wharekauri that was significantly separated from the mainland and more lucrative areas of development. Title to the land had also not been confirmed and this was likely the reason Toenga Te Poki invited the Native Land Court to sit on Wharekauri in 1869. The Court sat in 1870, and it was not until 1886 that the first land titles were issued to their new owners.

When land sales were resisted

For Ngāti Mutunga and other iwi, land sales started to become less attractive and were actively resisted through mechanisms such as rūnanga. With the conflict in Waitara arising from resistance to land sales, the government had discussed at length the ‘Waitara problem’ and how they (the politicians) could liberate Māori from the constraints of Māori (aboriginal or customary) title to their land.

In 1862 the Government passed the first Native Lands Act, with the intent of setting up the Native Land Court whose role was to determine land claims and transform customary tenure to the readily transferrable and individualized torrens land title system.⁵²¹ In the New Zealand parliamentary debates leading up to the passing of this Act into law we can see that there was far more at stake. The Hon. Mr Tancred on the second reading of the Native Lands Bill is quoted as saying:

⁵²⁰ Page 4 Advertisements Column 5. *Otago Daily Times*, Issue 2089, 15 October 1868. Retrieved from <https://paperspast.natlib.govt.nz/newspapers/ODT18681015.2.19.5?query=naira%20pomare&snippet=true> on 16 April 2019.

⁵²¹ The Torrens system was a Government administered register that relied upon individualized land titles.

The one great principle of the Bill may be expressed in a very few words: it is not only to recognize the Native right of ownership in Native Lands – this is already done by the Treaty of Waitangi – but also to give effect to that right, and to make it something more than the mere delusion that it has been hitherto.⁵²²

This Bill was produced to ease transfer of land from Māori to European, rather than for the benevolent purpose of empowering Māori to sell. The intention is further elaborated through Mr Tancred’s continuing statement where he argued that:

Now, I think that, if the experience of the last few years teaches us anything, it teaches us this: that the land question lies at the root of the Native difficulty; and that, so long as this question remains unsettled, so long as the territorial right of the Natives are not placed definitely on a firm and satisfactory basis, we shall in vain endeavor to raise and civilize the race.....the...native question hinges directly or indirectly on matters connected with their lands.⁵²³

So strong was the colonial imperative that Mr. Tancred suggests that “the evil we wish to remove is the jealousy felt by the Natives at their lands being locked up, and the danger to be guarded against is the indiscriminate and improvident alienation of their lands.”⁵²⁴

In reality, Māori already had a fully operational land tenure system that had operated successfully for hundreds of years. The only “question” about its operation was from Pākehā politicians and speculators who could not easily convert that title to their own purposes, and yet the language in these debates asserts that it was in fact Māori who had the problem. This type of language is typical of a colonial discourse.

“Amalgamation of the races” was also seen as a primary driver for this legislation:

It will create a community of interests, which will form the basis of a more real amalgamation of the races – a truer and more natural union – that forced an artificial combination which we have heard advocated.....This will make them feel more keenly their responsibility, and will more surely create a desire in them to raise

⁵²²NZPD (1862), p.682.

⁵²³ NZPD (1862), pp.682-683.

⁵²⁴ NZPD (1862), p.683.

themselves in the scale of civilization that any we can do by a forma Act of the assembly.⁵²⁵

“Active Citizenship” was also advocated:

There is one aspect of the Native question which appears to me to have obtained less consideration than its importance deserves; but it is one which, to my mind, constitutes a cardinal point of difference between civilized and savage life. The one implies a busy, active, bustling life; the other, a life of indolence and inactivity.⁵²⁶

Mr Sewell supported this notion and argued that no community could settle down into a state of order without a settlement of their rights to land. Land was the foundation upon which every organized political system was based.⁵²⁷

“Productivity” (also an enduring driver for the recent review of the Te Ture Whenua Māori Act 1993), is described thus:

They will look upon their property, not in the light of an unavailable and undefined right, but as something tangible, that they can deal with or improve.⁵²⁸

The Hon. Mr Crawford, while not a full supporter of the Bill, did agree with the productivity imperative. He stated that:

The North Island is, in its natural state, of very small value, but brought into cultivation by a due combination of labour and capital, it will become one of the richest countries in the world.⁵²⁹

Mr Crawford also suggested another driver for the Bill was the fact that provincial governments were in debt, and that a million-pound loan had been mooted. This was a powerful motivator to free up the Māori land estate.⁵³⁰ Mr Stokes seconded the Bill, making it clear that the former system of purchasing land (in Taranaki) had to change.⁵³¹ Perhaps the biggest concession in these debates was the point conceded by Mr. Sewell who noted that:

⁵²⁵ NZPD (1862), p.684.

⁵²⁶ *ibid.*

⁵²⁷ NZPD (1862). p.689.

⁵²⁸ NZPD (1862). p.684.

⁵²⁹ NZPD (1862). p.685.

⁵³⁰ *ibid.*

⁵³¹ NZPD (1862), p.686.

We have never looked at Native lands from the Native side of the question. We have regarded them solely from our point of view – with reference to the progress of colonisation.⁵³²

Colonisation then was the primary driver for the Native Land Bill and its promulgation would expedite these purposes. Mr Sewell prophesied colonisation's objectives when he argued that:

In fulfilling the work of colonisation, we are fulfilling one of our appointed tasks. It is our duty to bring the waste places of the earth into cultivation, to improve and people them. It was the law laid upon our first parents – to be fruitful and multiply, and replenish the earth and subdue it – to restore the wilderness to its original gardenlike condition....I utterly deny that the lands of these favoured Islands were meant by Providence to be retained in a state of waste – that a territory as large in extent and possessing as great natural advantages as the British Island was to be rendered for ever inaccessible to civilization and forbidden to the use of man by an imaginary title vested in fifty or sixty thousand semi-barbarous inhabitants scattered thinly over the country in miserable villages in a few scarcely perceptible spots....in conformity with these truths the work of colonisation proceeds.⁵³³

The biblical references to being “fruitful and multiply” and to “restore the wilderness to its original gardenlike condition” are obvious references to the garden of Eden. The freedom with which these views were expressed in parliamentary debate indicates how commonplace this idea was in 1862. In the first two decades of government, the same messages were promoted to Māori in the Māori language.⁵³⁴ Any impediment towards colonisation would therefore have had the added consequence of being considered sacrilegious, which for Ngāti Mutunga, who had their own catechist teachers amongst them (like Wiremu Tamehana), would have been an encouragement to sell land.

Mr Sewell proved extensively opinionated in these debates and he connected the Bill's intention to counter the circumstances occurring in Taranaki:

⁵³² NZPD (1862), p.689.

⁵³³ NZPD (1862), p.690.

⁵³⁴ *Maori Messenger: Karere Maori* 30/11/1860, pp.1-6.

And then came the Taranaki war, with all its surrounding circumstances. That was he had totally changed the aspect of affairs. It has altered the relations between the two races, and thrown up a barrier between them. The Native mind is estranged from us. They desire – at least a large portion of them desire – to withdraw from contact with us. They fence round their land rights with impassable lines, and King movement is agitated, and Land Leagues are formed, again which the work of colonisation can make no head.⁵³⁵

Sewell's prophetic expressions would prove correct as later the work of the Land Court (established by this Act) was interrupted by the second war in Taranaki, entrenching Māori unwillingness to surrender their lands.

David Williams analyses key policy elements of the Native Lands Act 1865, an Act which replaced the original Native Lands Act 1862. Williams drew upon the wording of the preamble to the Act to explain three policy drivers contained within it as:

- i) to provide for the ascertainment of 'owners' of customary Maori land; with a view to
- ii) the *extinction* of Maori custom, which would be replaced by titles to land derived from the Crown; and, to ensure the ongoing impact of tenure reform,
- iii) to regulate succession to those lands which had been converted to Crown-derived titles but not sold out of Maori hands.⁵³⁶

To this end, the advent of this Act saw the replacement of Māori judges (under the 1862) Act and the appointment of Pākehā judges from 1865 onwards.

Richard Boast notes that the process of the Native Land Court was supposedly voluntary, and Māori could opt in or out of the process of title investigation. However, if they did opt out but still wanted to sell their land or raise capital against it, the only alternative was to sell to the Crown who maintained its pre-emptive treaty right to buy land from Māori.⁵³⁷ This seriously limited Māori options for development and self sustenance. Development required engagement with the Native Land Court.

⁵³⁵ NZPD (1862), p.691.

⁵³⁶ David Williams (1999). *Te Kooti Tango Whenua. The Native Land Court 1864-1909*. Wellington: Huia Publishers, p.142.

⁵³⁷ Boast (2013), *ibid*, p.59.

The New Zealand government's land acquisition strategy in the first two decades after the signing of the Treaty of Waitangi was to enact the pre-emption right of the Crown to buy land and on-sell it to settlers. Government representatives had relied upon Māori adoption of Christian ethics and values. By doing so, and in framing colonisation and land productivity with Christian intent, the government persuaded Māori into selling land. There was limited success in this strategy, as some Māori did sell land in the years between 1840 and 1860. However, as Māori began to resist land selling, examples of conflict such as the Waitara war signified a change in Government strategy from one of persuasion to more violent means. As the first Taranaki war was nearing its conclusion the Government turned its attention to invading Waikato with a view to legislatively confiscating their land.

The Waikato invasion began with a proclamation to Māori in South Auckland to pledge allegiance to the English Queen and give up their arms or go to war with the Crown. This proclamation was followed by government invasion on 12 July 1863 when the Crown invaded Waikato by crossing the aukati (cut-off) line at the Mangatāwhiri River. The invasion resulted in the murder and expulsion of Waikato hapū from their home lands, and it subsequently involved the confiscation of 1.2 million acres of land.⁵³⁸

The imperative for invasion and confiscation was national interest. We learned through the debates associated with the development of the Native Lands Act 1862 that national interest, as represented by provincial government, was exclusive of Māori. Mr Sewell stated that the "Provincial Governments", represented "the settlers' interest".⁵³⁹ Up until this time Waikato, through the influence of Kīngitanga, had completely resisted not just land sales but Pākehā involvement in their affairs. Land confiscation was not confined to Waikato. Through gazette notices the government confiscated millions of acres of land in Taranaki and the Bay of Plenty. Confiscation, it seemed, proved a blunter and more efficient tool for acquiring Māori land to serve the national interest.

An incredibly large amount of land was now available for on-selling to settlers who continued to arrive in New Zealand. This land, through confiscation, was not encumbered by customary Māori title and was easily transferable. For the remaining Māori land across the country, the Native Land Court was redesigned through the Native Lands Act 1865. The

⁵³⁸ See Parts 2 and 3 of Vincent O'Malley (2018). *The Great War for New Zealand: Waikato 1800-2000*, Wellington: Bridget Williams Books.

⁵³⁹ NZPD (1862), p.690.

Court was given more powers of inquiry to deal with the Māori land estate that was not directly confiscated. It also placed the power of adjudication over land matters in the hands of Pākehā judges where previously, Māori judges and assessors had fulfilled those roles under the 1862 Act. The court could also grant succession orders to deceased owners. It is through this jurisdiction that the Native Land Court came into regular contact with taurima circumstances.

Many iwi remained suspicious of and aloof from the work of the court and the process of land title individualization. From 1864-1881, the Kīngitanga (Māori King Movement) officially advocated the exclusion of the Native Land Court from its remaining area as well as any Pākehā intrusion into their affairs. Ngāti Mutunga had no opportunity to engage the Native Land Court in Taranaki owing to confiscation. In 1869, Ngāti Mutunga chiefs invited the Court to sit and hear their claims in Wharekauri (discussed in Chapter Three).⁵⁴⁰ The ability to alienate land in this way was constrained by the lack of surveyed areas and defined ownership which could facilitate legal arrangements for leases or title transfers. It is likely Ngāti Mutunga was favourable to the Land Court's intervention for these reasons.

By the 1880s, the Native Land Court succeeded in apportioning many individualized land interests through land grants to Māori. Ngāti Mutunga who had originally been victims of the mass confiscations in North Taranaki in 1865 were to become the beneficiaries of the mass apportionment of individualized land ownership rights in the Chatham Islands in 1870, although they still had to wait until 1886 for title orders to be produced. The advantages offered by individualized land titles were temporary as governing legislation continued to assist and hasten land alienations to support colonial imperatives and productivity on euro-centric terms.

Native Appellate Court and its 'ten rules'

By the turn of the twentieth century, Ngāti Mutunga people were experiencing title succession issues as competition amongst likely successors included biological and taurima claims in common. The growing competition necessitated an attempt by the Native Land Court to codify its approach to dealing with taurima or Māori adoptions in respect of Māori land succession. On 19 June 1895 Judges Edger and Mair established ten 'general' rules to

⁵⁴⁰ Letter from Rangī Apitia Punga to Te Penetana (dated 14 March 1869), *ibid.*

reassess recent succession decisions in respect of taurima and to also assist future succession cases.⁵⁴¹

These Native Appellate Court rules attempted to cover all aspects of taurima succession eventualities. A taurima child would be allowed to succeed a land interest if the child met defined criteria. The first rule provided that taurima adoption in the eyes of the Court would only occur where an adopting parent had taken a young child from early infancy to live with them until the child reached adulthood or entered matrimony.⁵⁴²

The second rule applied to situations where the first rule did not apply, and indicated that surrounding circumstances also needed to be considered. For example, if a taurima arrangement was entered into later than early infancy, but was still endorsed by the hapu, it would be considered legitimate. Under rule three no special ceremonies or formalities needed to be observed in order for a taurima relationship to be established provided that taurima arrangements were endorsed by their hapū communities.⁵⁴³

Rule four reinforced the need for the taurima relationship to be by blood connection between the parties. The fifth rule stated hapū consent was integral to the arrangement; if this consent existed, then the child would be entitled to share the hapū lands. If the hapū consented in accordance with rule five, then rule six also stipulated that the taurima child could succeed to the interest of the taurima parent.⁵⁴⁴

Rule seven provided that if there were no near relatives, and the taurima child had fulfilled their duties to their taurima parent, then they could succeed to the entire interest. If there were near relatives, then rule eight said that they would ‘share in the succession’ with them. The taurima child would lose their rights under rule nine if they neglected their adoptive parent or they ceased to act with the hapū. Ōhākī or oral verbal wills could modify any of the previous rules under rule ten, if such a bequest had been made and could be proved.⁵⁴⁵

As a result of these established rules, Judges Edger and Mair reopened previous decisions and in some cases reapportioned rights in respect of taurima children where previously they had been excluded. This would have undoubtedly had an impact on the

⁵⁴¹ AJHR (1907). Native Land Court and Native Appellate Court (Decisions of) Relative to Wills in favour of Europeans and the adoption and succession of children, G5, p. 11.

⁵⁴² *ibid.*

⁵⁴³ *ibid.*

⁵⁴⁴ *ibid.*

⁵⁴⁵ *ibid.*

succession of Hāmuera Koteriki as outlined in Chapter Six. By codifying and increasing the rights for taurima children to succeed Māori land, the Native Land Court and its legislation made alienation inevitable. The Native Land Court empowered taurima children (and/or their representatives) to alienate land interests that they received from taurima relationships. This proved true with each of the case studies presented in this thesis. Naera Pōmare's wife, and step children were able to alienate interests for payment of debt and personal interests. Apitia Punga's taurima sold his estate to finance her own purposes, and Hāmuera Koteriki's taurima daughter (strictly speaking, her representative) sold land inherited from him.

The Native Land Court therefore played a significant role in the lives of Ngāti Mutunga people in the later part of the nineteenth century. As the land estate began to fracture through succession and alienation, taurima within Ngāti Mutunga also became affected by other tools of public agency, such as the Adoption of Children Act 1895.

Adoption of Children Act 1895⁵⁴⁶

While the Native Land Court was codifying its approach to taurima land successions, the law governing the adoption of children in New Zealand was being reconstituted. Until 1895, Māori adoption was managed through the Native Land Court and non-Maori adoptions governed by the English Adoption Act of 1881. The wording in this Act made it possible for certain classifications of people to make application for an adoption order. Criteria for application included: (1) husband and wife jointly; (2) a married woman or man alone with the consent of their spouse; (3) An unmarried woman who, in the opinion of the judge, was at least 18 years older than a girl adoptee or 40 years older than a boy adoptee; (4) an unmarried man who in the opinion of the judge was at least 40 years older than a girl adoptee or 18 years older than a boy adoptee.⁵⁴⁷

Before making an adoption order, a judge was empowered to receive evidence to satisfy himself that the person(s) making the application was of 'good repute', a 'fit and proper person' and of 'sufficient ability to bring up, maintain and educate' the child.⁵⁴⁸ If the child was over twelve years old then they had to provide consent.⁵⁴⁹ Biological, parental or

⁵⁴⁶ Adoption of Children Act 1895. Retrieved from http://www.nzlii.org/nz/legis/hist_act/aoca189559v1895n8268/ on 31 July 2019.

⁵⁴⁷ s.3 of Adoption of Children Act 1881 (45 VICT 1881 No 9). Retrieved from http://www.nzlii.org/nz/legis/hist_act/aoca188145v1881n9268/ on 28 May 2017.

⁵⁴⁸ *ibid.*

⁵⁴⁹ *ibid.*

guardian consent was also necessary where those people were still alive and where they had not deserted the child.⁵⁵⁰

While Ngāti Mutunga people were not specifically excluded from this legislation, the colonial language contained in the Act inherently dissuaded Māori from utilising this legislation. Being of ‘good repute’, a ‘fit and proper person’ and of ‘sufficient ability to bring up, maintain, and educate’ a child were all subjective terms when coupled with European norms of adoption. European attitudes towards Māori were not necessarily conducive to supporting taurima arrangements and a thorough investigation has not located any formal adoption orders for Māori or Ngāti Mutunga under this Act. Taurima arrangements appear to have been confined to whānau or the Native Land Court.

By the turn of the twentieth century, Māori land legislation and its operation had presented numerous problems for public administrators and Māori alike. The Government’s response was to try and clean up administrative complaints through the introduction of the Native Land Claims Adjustment and Laws Amendment Act 1901.

Native Land Claims Adjustment and Laws Amendment Act 1901⁵⁵¹

This Act, *inter alia*, attempted to clarify how taurima claims were to be progressed through the Native Land Court. Section 50 provided that:

No claim by adoption to the estate of any Native dying after the thirty-first day of March one thousand nine hundred and two shall be recognized or given effect to unless such adoption shall have been registered in the Native Land Court in accordance with regulations to be made as hereinafter provided.

Every revocation of an adoption registered as aforesaid shall be registered in like manner and proof of such registrations shall be sufficient evidence of the fact of such adoption or revocation as the case may be.

The Governor in Council is hereby empowered to make such regulations as to the form and manner of such registration and the fees to be payable in respect thereof as he may deem necessary or expedient.

⁵⁵⁰ *ibid.*

⁵⁵¹ Native Land Claims Adjustment and Laws Amendment Act 1901. Retrieved from http://www.nzlii.org/nz/legis/hist_act/nlcaalaa19011ev1901n65521/ on 31 July 2019.

The added imposition to taurima practitioners was that if they wanted their taurima children to succeed their land interests, they first had to register their ‘adoption’ in the Māori Land Court after first paying a fee. The Adoption Minute Books of the Māori Land Court record the circumstance of these adoptions, but Māori did not always choose to follow this route, perhaps not seeing the need to formalize what was an informal arrangement.

Counter influences existed to reduce the numbers of ‘adoptions’ through the Native Land Court. Some Māori did not believe their taurima children should inherit and thus would not have sought to register their taurima children. There was also no restriction on who could be adopted in a taurima arrangement. For example, it was entirely feasible for a Māori person to taurima a Pākehā child, as with Ngarere Pamariki, the Ngāti Mutunga woman, who successfully adopted seven taurima under this Act, some of whom were adults, others children, and one a European child. Everyone except the European child were related to her by blood, and she wished all of them to inherit her estate after her death.⁵⁵²

Adoption of Children Amendment Act 1906⁵⁵³ & Infant Life Protection Act 1907⁵⁵⁴

Five years after the 1901 Act, the western adoption style legislation was experiencing difficulties in respect of Pākehā adoptions resulting in the introduction of the Adoption of Children Amendment Act 1906. Adoptions legally and automatically attracted financial support under the previous Act, but this law removed a loophole that allowed people to profit from adoption. It gave judges making the orders discretion to award financial support if they thought it necessary rather than by automatic support triggered by the previous legislation. This Act does not appear to have directly affected Ngāti Mutunga who made no subsequent adoption applications. The following year, the Infant Life Protection Act 1907 contained a provision dispensing with the need to get consent from a child’s parent or guardian in order to make an adoption order. No corresponding financial incentive or support was made available to Māori adoptions.

⁵⁵² CIMB 4:294.

⁵⁵³ Adoption of Children Amendment Act 1906. Retrieved from http://www.nzlii.org/nz/legis/hist_act/aocaaa19066ev1906n37385/ on 31 July 2019.

⁵⁵⁴ Infant Life Protection Act 1907. Retrieved from http://www.nzlii.org/nz/legis/hist_act/ilpa19077ev1907n42325/ on 31 July 2019.

Infants Act 1908⁵⁵⁵

The Infants Act 1908 provided for the licensing of homes, the supervision of infants placed in those homes, and for the legal adoption of children. Part 111 of this Act encompassed and embodied the provisions outlined in the 1906 and 1907 legislation mentioned above.

Western adoption in New Zealand to this period was highly regulated and state funded regimes consequently strengthened Pākehā beliefs that adoptions had to meet certain criteria in the public interest. Ngāti Mutunga and taurima practices either did not meet these ideas of public interest or were completely invisible to the lawmakers of the day.

Native Land Act 1909⁵⁵⁶

Problems associated with Māori land administration and utilization continued to negatively impact Māori and the work of public administrators. In 1909, this new Act was enacted “to consolidate and amend the Law relating to Native Land” and was the first comprehensive attempt to bring more order and structure to the Native Land Court system.

A number of sections of this Act also overhauled the legislative influence on taurima arrangements. Section 161 of the Act unilaterally nullified all customary taurima arrangements made before or after this Act had come into effect, even if those arrangements had been previously registered in the Native Land Court under s.50 of the Native Land Claims Adjustment and Laws Amendment Act 1901. This provision made it incumbent on anyone wanting a taurima relationship recognized, to apply or reapply to the Native Land Court under the 1909 Act for that relationship to be recognized in the Court.

Conversely however, an ‘adoption order’ that was in force, under the Adoption of Children Act 1895 or the Infants Act 1908, would continue to have legal effect. This Act therefore allowed judges in the Native Land Court to decide all “Māori” adoptions. Western adoptions were thus protected under legislative amendment while taurima were nullified. This example of legislative amendment showed that taurima were viewed differently from western adoption. On the surface this would encourage people to seek the legal protection of western adoption rather than a taurima arrangement. Furthermore, Section 163(2) only allowed for a ‘husband and wife’ to make an application for adoption. This prevented

⁵⁵⁵ Infants Act 1908. Retrieved from www.paclii.org/egis/ck-nz_act/ia190897 on 31 July 2019.

⁵⁵⁶ Native Land Act 1909. Retrieved from http://www.nzlii.org/nz/legis/hist_act/nla19099ev1909n15206/ on 31 July 2019.

communal Māori whānau from making application, particularly where the adopting parents were in fact brother and sister (rather than a colonial ‘husband and wife’) as was the case with Hāmuera Koteriki and his sister Makareta who took Ngāropi as their taurima (Chapter Six), or where a couple had a customary marriage lacking any legal documentation confirming the union.

Section 164 of the Act also stated that only Māori could adopt ‘a native or a descendant of a native’, thereby excluding Pākehā children. A succession case in the Wairarapa, discussed in the *Auckland Star* in 1919, sheds a little light on why this was important:

Areta Mahupuku, well known in the Wairarapa, died during the epidemic, and left a will devising all her property to an adopted son, Wi Tamahau Mahupuku. It appears that the adopted son is a European, who was taken by Areta while he was quite a baby, and that Areta in 1905 applied for a judge's certificate, —which was granted, and she registered the child's adoption in the Native Land Court. As the law stands now a Maori cannot adopt a European child, either in the Native Land Court or the Magistrate's Court. The will was not objected to, but it was submitted that the European could not take the native land of deceased. This depended on whether the adoption was valid or not. After hearing argument, Judge Jones decided that a Maori could not, according to Maori custom, adopt a European child; and there being no valid adoption, the bequest of the native lands must fail. There was no question as to European lands or personalty. The total value of the estate is about £10,000, of which £6000 represents the native lands.⁵⁵⁷

The Act may have been a protection mechanism against Māori land alienation to non-Māori by means of taurima, but it also negated situations such as Ngarere Pamariki's adoption of a European child in 1904 (see Chapter Two). It was, however, more in line with keeping the races separate particularly where Pākehā, who were culturally Māori, were less likely to acquiesce to colonial ideals.

Section 165 outlined the criteria to be satisfied in order for an adoption to be sanctioned by the Native Land Court. These criteria appear to model those contained within

⁵⁵⁷ Maori Will Case. A Valuable Estate. *Auckland Star*, Volume L, Issue 80, 3 April 1919. Retrieved from <https://paperspast.natlib.govt.nz/newspapers/AS19190403.2.70> on 28 May 2017.

the Adoption of Children Act 1895 with some key differences. The criteria for native adoptions now required: (1) that the adoptee is under 15 years old; (2) that the adopting parent (if unmarried) is at least thirty years older than the child; (3) that the Court considers, in the case of a child that is over twelve years old, that the child consents to the adoption; and (4) that the adopting parent is a ‘fit and proper person to have the care and custody of the child and of sufficient ability to maintain the child, and that the adoption will not be contrary to the welfare and interests of the child’.

When compared with the corresponding provisions of the Adoption of Children Act of 1895, the fourth criteria has a glaring omission: the adoptive parent is not required to be a ‘fit and proper person’ of ‘sufficient ability to bring up, maintain and **educate** the child [emphasis added]’. Legislators thus did not consider their education or welfare to be a consideration for taurima children. This is entirely consistent with the colonial imperative of land alienation. As an added financial expense, by removing the need to educate the child numbers of adoption could increase. Conversely however, the removal of legislative endorsement towards educating taurima children meant that European adoptees were significantly more likely to have been directed towards formal education than their Māori counterparts. This legislative omission indicates that the Crown saw no imperative that taurima children should expect the same level of support, institutionally, in terms of their education in New Zealand.

Māori children were only required to attend school in 1903 despite “native schools” operating in many districts from 1867,⁵⁵⁸ and the Education Act requiring compulsory primary education for Pākehā children in 1877.⁵⁵⁹ Even with compulsion, and much to the disgust of at least one teacher on Wharekauri in 1899, Ngāti Mutunga children were in irregular attendance. This impacted his pro-rated wages which were based on children’s attendance. If the children were sick or required by their whānau to do other work, then they would not attend school.⁵⁶⁰

The Native Lands Act also required biological parental consent in order for the Court to progress an adoption application unless that parent had either deserted the child or ‘he is

⁵⁵⁸ Openshaw, Lee and Lee, p.49

⁵⁵⁹ Openshaw, Lee and Lee, pp.86-7.

⁵⁶⁰ Archives New Zealand, Reference: BAAA A440 1003 Box 1. Maori Schools – Log Book – Chatham Islands.

for any reason unfit to have custody and care for the child'.⁵⁶¹ Furthermore, no person could be adopted more than once i.e. where an adoption order existed it must first be cancelled before another adoption order could be issued, as might be necessary in the case of relationship breakdowns. An adoption order could be annulled by the Court upon application of the adopted parent or adopted child.⁵⁶² In summary, this Act set up a parallel system of adoption: one system for Māori and the other system for non-Māori – presumably Pākehā people, although Asian and other cultures were neither legislatively excluded nor specifically provided for in other legislation. More importantly, this Act codified tikanga taurima to mirror European adoptions with minor differences. This set the scene for determining henceforth what the taurima relationship looked like. Given the government agencies' over reliance on the Native Land Court regarding taurima relationships, this Act has influenced taurima treatment in society ever since.

Native Land Claims Adjustment and Laws Amendment Act 1927⁵⁶³

Section 5 of this Act and its several subsections retrieved the rights associated with taurima relationships that existed prior to the Native Lands Act 1909. That is, all registered and non-registered taurima relationships that had been in place prior to the 1909 Act were nullified while those granted after the Act were able to be relied upon for succession purposes unless a decision had been made by the Supreme Court in respect of a succession case involving taurima. This section of the new Act was a complete about-turn from the model the 1909 Land Act had originally hoped to institute. However the two separate adoption systems continued in law, alongside the customary practice of taurima that remained outside the legal system.

Native Land Act 1931⁵⁶⁴

Part IX of this Act completely reinforced the provisions of the 1909 Act with respect to the Māori adoption system it brought into force. Similarly, it also omitted to include 'educate' as part of the criteria for the people adopting the child thereby confirming that it was not simply

⁵⁶¹ Native Land Act 1909. Sections 165 and 166. Retrieved from http://www.nzlii.org/nz/legis/hist_act/nla19099ev1909n15206/ on 28 May 2017.

⁵⁶² *ibid*, section 167.

⁵⁶³ Native Land Claims Adjustment and Laws Amendment Act 1927. Retrieved from http://www.nzlii.org/nz/legis/hist_act/nlaanlcaa192718gv1927n67541/ on 31 July 2019.

⁵⁶⁴ Native Land Act 1931. Retrieved from http://www.nzlii.org/nz/legis/hist_act/nla193121gv1931n31185/ on 31 July 2019.

a mere oversight of the 1909 Act architects. All other aspects remained.

There were periods during the 1901, 1909, 1927 and 1931 Act where legislation supported and negated the rights of taurima to succeed. Justices Richardson, Gault and Thomas summarise this situation in their decision for *Whittaker v Maori Land Court of New Zealand* – [1997] case.⁵⁶⁵

Successively there were periods when the parent/child relationship between Meriana and Ngawini was recognised by law (1892-1901), was recognised by law contingent upon registration (1902-1909), was of no legal effect (1910-1927), was contingently of full force and effect (1927-1929) and was of no legal effect (1930 onward).⁵⁶⁶

This opinion reflected the complexity, plurality and changeability of Native land legislation during those periods of time that interfered with taurima arrangements. Despite the impacts on the rights of taurima to succeed, orders confirming Native Adoptions progressed at varying rates through the Native Land Court and all such orders were published in the *New Zealand Gazette*.

Published Gazette Notices – Native adoptions

It was practice under the Native Lands Act 1931 to publish Māori (Native) Adoptions in the *New Zealand Gazette*. Every order made by the Native Land Court in respect of Native Adoptions was published including details of the child, the birth parents, the taurima parents, and any name changes. This kind of publication was not required for general adoptions. There were 455 *Gazette* notices published between 1931 and 1956 enumerating in excess of 2,000 individual adoption orders in the Native Land Court.

As part of this study, I have copied and compiled each *Gazette* notice from 1931 to 1948 and brought them into a digital database. (The years 1949 to 1956 are yet to be included). The graph below (Figure 9) gives a summary overview of this data on individual adoption orders. Incentivisation by government departments and potentially the Children’s Court in the 1930s led to the increase of adoptions in the period of 1940 to 1947. An example of why this might be the case can be sourced in the obituary of Mrs R. Bennett in 1935. The article notes that “She was keenly interested in children’s welfare, and even before she

⁵⁶⁵ New Zealand Family Law Reports (1997). *Whittaker v Maori land court of New Zealand* , p.707.

⁵⁶⁶ *ibid.*

became an associate of the Children’s Court in Maori interests, and often through the Akarana Association, she arranged adoptions of orphan children.”⁵⁶⁷

The table (Figure 8) below represents that data for Māori adoptions in the period 1931 to 1948 per region.

| Year | Total Number of Adoptions | Auckland | Gisborne | Wellington | Rotorua | Wanganui | Totals |
|------|---------------------------|----------|----------|------------|---------|----------|--------|
| 1931 | 8 | 3 | 0 | 0 | 0 | 5 | 8 |
| 1932 | 1 | 0 | 0 | 0 | 0 | 1 | 1 |
| 1933 | 3 | 0 | 2 | 0 | 1 | 0 | 3 |
| 1934 | 7 | 3 | 0 | 0 | 0 | 4 | 7 |
| 1935 | 2 | 2 | 0 | 0 | 0 | 0 | 2 |
| 1936 | 10 | 1 | 0 | 0 | 0 | 9 | 10 |
| 1937 | 17 | 1 | 6 | 0 | 0 | 10 | 17 |
| 1938 | 13 | 4 | 0 | 0 | 9 | 0 | 13 |
| 1939 | 28 | 1 | 0 | 2 | 14 | 11 | 28 |
| 1940 | 74 | 25 | 15 | 2 | 14 | 18 | 74 |
| 1941 | 57 | 32 | 9 | 2 | 12 | 2 | 57 |
| 1942 | 64 | 35 | 12 | 1 | 15 | 1 | 64 |
| 1943 | 145 | 36 | 32 | 11 | 14 | 52 | 145 |
| 1944 | 155 | 45 | 16 | 20 | 43 | 31 | 155 |
| 1945 | 122 | 72 | 17 | 11 | 17 | 5 | 122 |
| 1946 | 181 | 45 | 33 | 21 | 39 | 43 | 181 |
| 1947 | 115 | 52 | 21 | 11 | 17 | 14 | 115 |
| 1948 | 47 | 16 | 3 | 10 | 5 | 13 | 47 |
| | | 384 | 172 | 101 | 224 | 230 | 1141 |
| | | 33.65% | 15.07% | 8.85% | 19.63% | 20.16% | |

Figure 8: Table of summarised individual Maori adoptions published in the *New Zealand Gazette* (1931-1948)

By far, the greatest numbers of adoptions occurred in the Auckland Native Land Court district. Individual analysis of the *Gazette* notices indicate that there were less than five readily identifiable Ngāti Mutunga children (identified through Ngāti Mutunga whānau or ancestral names) registered as an adoption in this system. It is not known (because of the lack of iwi data) exactly how many Ngāti Mutunga people were involved in these orders.

The data shows that there was a peak of adoptions in 1946. It is plausible that the orphan numbers mentioned in the obituary article above were higher as a result of the impact or mortality arising from World War Two which ended in 1945. Research has not been able to identify the exact reasons for the growth of adoptions to 1945 nor the subsequent decline of adoptions after 1946. The data is represented in the graph below to give a clear representation of the trend across the whole country.

⁵⁶⁷ Maori Social Worker. *Auckland Star*, Volume LXVI, Issue 151, 28 June 1935, p.9.

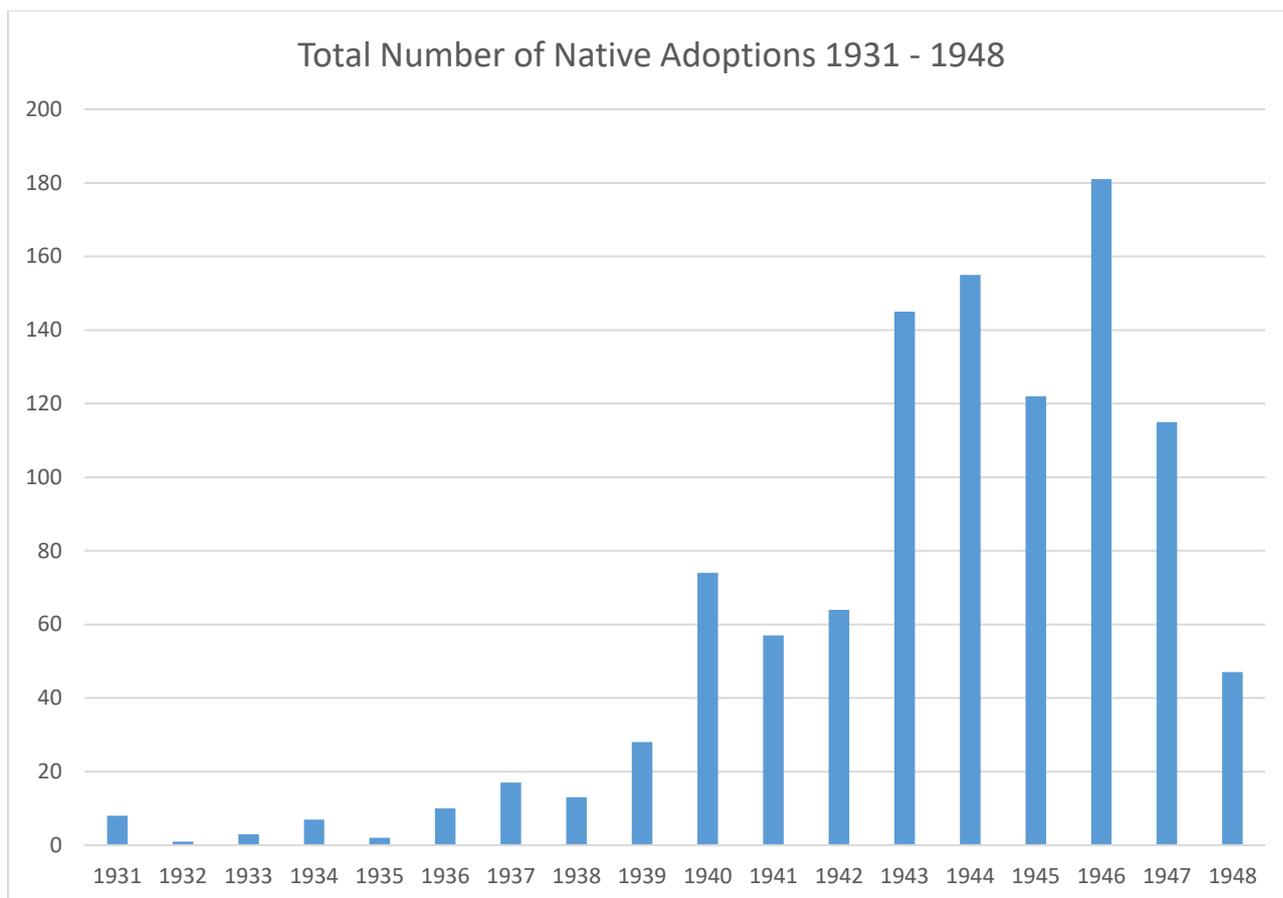


Figure 9: Graphed representation of individual Māori adoptions under the Native Lands Act 1931 (1931 to 1948)

It was also possible for Native adoptions to be annulled under the Native Lands Act 1931. These too would be published in the *Gazette*. Only three adoption annulments were published during this same period of time, none of which are readily identifiable as Ngāti Mutunga people.

The Adoption Act 1955⁵⁶⁸

By 1955, New Zealand society had reached a point where it believed that there should be no distinction between a biological and adopted child, at least in legal terms. This lack of distinction only applied to children adopted in accordance with the Adoption Acts. Mr Harker, MP from Hawkes Bay, presented the report of the Statutes Revision Committee to parliament prior to the passage of the Adoption Act 1955. Mr Harker asserted:

....that we have gone as far as almost as is humanly possible to wipe out for all practical purposes and distinction between the adopted child and the child of the

⁵⁶⁸ Adoption Act 1955. Retrieved from <http://www.legislation.govt.nz/act/public/1955/0093/latest/DLM292661.html> on 31 July 2019.

ordinary marriage.⁵⁶⁹

Harker was correct in his assessment of the Act, although it further polarised the differences between taurima and adoption. Section 19(1) of this Act exemplified this by continuing to deny taurima relationships in a customary sense unless they had been confirmed by a formal adoption under this Act. Section 19(2) essentially repeated the provisions of the Native Lands Act 1931 with respect to taurima adoption orders that were already registered. This essentially rendered taurima relationships less than a formal adoption.

Ngāti Mutunga people born after the introduction of the 1955 Act report a strong negative stigma associated with being classified as ‘adopted’ even if the term was used interchangeably to explain their taurima arrangement.⁵⁷⁰ Taurima arrangements continued to be engaged by Ngāti Mutunga people and managed through other pathways. One such pathway was the deliberate substitution of an alternative parent’s name on birth certificates to reflect the taurima rather than the natural parent’s names. Erica Newman discusses the impacts of the Adoption Act 1955 on Māori particularly on the identity they experienced in their whānau.⁵⁷¹

Family Protection Act 1955⁵⁷²

The Family Protection Act 1955 serves to protect the rights of families. Of specific interest is the extent to which this Act does not protect the rights of taurima children when a taurima parent’s estate has been shared between biological and taurima children (without formal adoption). This Act also affected similar defacto relationships that were not classified as taurima e.g. de facto relationships with children in other ethnicities.

Section 3 of the Act provides for:

3. An application for provision out of the estate of persons entitled to any deceased person may be made under this Act by or on behalf of all or any of the following persons:

(a) The wife or husband of the deceased:

⁵⁶⁹ NZPD (1956). First session, thirty-first parliament, House of Representatives, 307th Volume. 23 Aug – 28 Oct 1955. Wellington: R.E. Owen, Government Printer, p.2532.

⁵⁷⁰ Interview transcripts: 17 September 2014, 18 November 2015, 6 February 2018.

⁵⁷¹ Erica Newman (2012). *A Right To Be Māori? Identity formation of Māori Adoptees* Unpublished Masters Thesis, Dunedin: University of Otago,. Retrieved from <http://hdl.handle.net/10523/2219>.

⁵⁷² Family Protection Act 1955. Retrieved from <http://www.legislation.govt.nz/act/public/1955/0088/latest/whole.html> on 31 July 2019.

(b) The children of the deceased, whether legitimate or illegitimate:

(c) The grandchildren of the deceased, being children (whether legitimate or illegitimate) of any child (whether legitimate or illegitimate) of the deceased

Provided that no claim under this Act may be made by any such grandchild of the deceased, unless- (i) The parent through whom he is related to the deceased has died (whether in the lifetime of the deceased or subsequently) ; or

(ii) That parent has deserted or failed to maintain the grandchild; or

(iii) The grandchild and the persons (if any) who have custody of the grandchild do not know the whereabouts of that parent; or

(iv) That parent is an undischarged bankrupt; or

(v) That parent is a mentally defective person within the meaning of the Mental Health Act 1911:

(d) The stepchildren of the deceased who were being maintained wholly or partly or were legally entitled to be maintained wholly or partly by the deceased immediately before his death:

(e) The parents of the deceased, whether their relationship is legitimate or illegitimate: Provided that no claim under this Act may be made by any such parent, unless-

(i) The parent was being maintained wholly or partly or was legally entitled to be maintained wholly or partly by the deceased immediately before his or her death; or

(ii) At the date of the claim, no wife or husband or legitimate child of the deceased is living.⁵⁷³

In *Keelan v Peach*, Hamana Walker adopted Sam Keelan according to Māori custom (through a taurima arrangement) when Sam was a baby. Hamana died in 1970 leaving the net income of his estate to Poihakena (Hamana's biological child) during his lifetime with the remainder to Poihakena's children when they reached the age of 21. Hamana made no provision for Sam (his taurima) in his last will and testament. Sam died in 1986 and

⁵⁷³ The Family Protection Act 1955, section 3. Retrieved from http://www.nzlii.org/nz/legis/hist_act/fpa19551955n88233/ on 16 April 2019.

Poihakena died in 2000.

Sam's biological daughter brought a case under the Family Protection Act as a child of the deceased. The High Court rejected her claim on the grounds that there was no legal provision for taurima children in the Family Protection Act. According to the Court "Children of the deceased meant biological children and adopted children. Customary relationships required express statutory inclusion."⁵⁷⁴ The daughter of the taurima child brought this case to prevent the children of the biological son from selling the property associated with the estate, a property that her father had helped develop in his lifetime. The Court of Appeal, in which this case was held, could not overturn the High Court's decision as there was no clear legal inclusion of taurima in the Family Protection Act 1955. Fifteen years prior, in the High Court case of *Re Stubbing*, Justice Eichelbaum discussed similar eligibility in respect of another case brought under the Family Protection Act.

His [the claimant's] position in the present litigation being not that of a claimant under the Family Protection Act but as the residuary beneficiary under the deceased's will, the point does not affect the strength of his position in that capacity.⁵⁷⁵

It then appears that simple rights such as bringing action before the High Court as a taurima child is dependent upon statutory legislative inclusion (as in the Family Protection Act 1955) or through inclusion in a statutorily recognised document such as a will. In *Keelan vs Peach* there was no provision in Hamana's will for Sam to be included. In *Re Stubbing* there was a provision for the taurima.

Suzanne Pitama recognised this fact and argues that:

Through the Māori Amendment Act 1962 non-kinship ownership rights have transferred through either death or wills. Children of non kin owners from previous marriages have inherited lands not in their genealogical descent lines. Hence causing local hapū to be alienated from their own lands.⁵⁷⁶

⁵⁷⁴ New Zealand Family Law Reports (2002) *Keelan vs Peach*, 492 para 34.

⁵⁷⁵ Justice Eichelbaum (1988). In *Re Stubbing* - [1990]. *New Zealand Law Review* 1, p.428.

⁵⁷⁶ Pitama, *ibid*, p.67.

Te Ture Whenua Māori Act 1993⁵⁷⁷

The Te Ture Whenua Māori Act 1993 is the most readily identifiable piece of New Zealand legislation that makes clear provision for taurima (whāngai), with respect to succession of Māori land interests. It may also make provision for distributing other assets from a taurima parent who died intestate, including ōta whakanoho (occupation orders under section 109A) issued in favour of their parent or general land owned by the parent (section 111). They may also be considered under a first right of refusal by current owners of Māori land wishing to sell or otherwise alienate their shares (section 147A). The Court recognises the taurima arrangement in that it:

... facilitates and promotes the retention, use, development, and control of Māori land as taonga tuku iho by Māori owners, their whānau, their hapū, and their descendants, and that protects wāhi tapu.⁵⁷⁸

Additionally the Māori Land Court has jurisdiction (under section 108(2)(e)) to empower a taurima parent's will to leave land to their taurima child. It is the Court in all cases that decides where a taurima relationship exists.

Section 115 of this Act is one of a few pieces of legislation that specifically recognises taurima children although only in a land succession scenario.

Section 115 reads:

Court may make provision for whangai

(1) In the exercise of its powers under this Part in respect of any estate, **the court may determine whether a person is or is not to be recognised** [emphasis added] for the purposes of this Part **as having been a whangai** [emphasis added] of the deceased owner.

(2) Where, in any such case, the court determines that a person is to be recognised for the purposes of this Part as having been a whangai of the deceased owner, it may make either or both of the following orders:

(a) an order that the whangai shall be entitled to succeed to any beneficial interest in any Maori freehold land belonging to the estate to the same

⁵⁷⁷ Te Ture Whenua Māori Act 1993. Retrieved from

<http://www.legislation.govt.nz/act/public/1993/0004/latest/DLM289882.html> on 31 July 2019.

⁵⁷⁸ TTWMA, section 2.

extent, or to any specified lesser extent, as that person would have been so entitled if that person had been the child of the deceased owner:

(b) an order that the whangai shall not be entitled to succeed, or shall be entitled to succeed only to a specified lesser extent, to any beneficial interest in Māori freehold land to, or than that, which that person would otherwise be entitled to succeed on the death of that person's parents or either of them.

(3) Every order under subsection (2) shall have effect notwithstanding anything in section 19 of **the Adoption Act 1955**. [emphasis added]

Customarily, it is the whānau and hapū who determined recognition for taurima. Legislatively however, Te Ture Whenua Act provided for the Māori Land Court to become the authority, and the recent review of this Act looks at strengthening this aspect. This cannot be overstated. Previously the 'ten rules' confirmed the right of whānau and hapū to determine taurima relationships. This Act removed that right and identifies the Māori Land Court as the body to legitimise the relationship. From 1909 to 1993, the Māori Land Court was able to set out the parameters of what taurima would look like and then who would determine its legitimacy. From 1993, taurima then went from a basis in tikanga to a codified set of legal requirements.

Once the Court has made an order determining the validity of a taurima relationship (under Section 115(1)), it then has the power (under Section 109 and 115(2)) to either support or deny an inheritance in favour of the taurima child (in the case of intestacy). This Act dealt only with Māori freehold land interests. It did not have jurisdiction to make provision for taurima children to succeed or claim general land, chattels or other interests.

Theoretically, while the Court has the power to make provision, the legislation would seem to make it continually possible for owners, whānau, hapū and their descendants to have a large say on their inclusion on matters affecting Māori land.

A more contemporary example relates to a 2008 case before Judge Ambler where a deceased owner in Māori land had willed his property to two boys, only one of whom was considered by the Court to be taurima in accordance with tikanga Māori. Having regard for Taitokerau tikanga, Judge Ambler assigned a "life right" to the taurima child, with the

interests reverting to the deceased's next of kin upon his death.⁵⁷⁹ This was an example of the Judge acting in a manner contrary to the expressed wishes of the deceased.⁵⁸⁰

Succession to Land and Chattels

In 2008, Judge Ambler dealt with another succession case in the Māori Land Court of a grandmother (Tiro Taupaki) who had a taurima daughter related only to her husband. Tiro also took as taurima five of her mokopuna who wished to be recognised as taurima by the Māori Land Court for succession purposes. Tiro Taupaki's entire whānau supported the inclusion of the non-kin taurima daughter (Lena Sarsfield). They did not however, support the inclusion of Tiro Taupaki's five mokopuna as taurima children. Her biological children preferred instead that those mokopuna succeed through them (their parents) in time. Judge Ambler argued that "the prevailing tikanga in many districts" did not support a full succession right for taurima children, preferring a life right where inclusion was accepted. Despite this attempt by the Court to align the succession case with 'prevailing' tikanga the whānau persisted in supporting a full succession claim for Lena Sarsfield who was not of their maternal bloodline. With these conflicting motives the Court stated:

...the Court must do what it considers is tika in light of all the circumstances.⁵⁸¹

Judge Ambler ultimately recognised all taurima children (the non-kin taurima and the mokopuna of Tiro Taupaki) but only the non-kin taurima (Lena Sarsfield) inherited equally with Tiro Taupaki's natural children. The Court, in this succession, took an unusual step of becoming an adjudicator of tikanga rather than a legislative adjudicator. As laudable as the Court's intentions might have appeared to be in this case, the judge appropriated tikanga Māori and applied it, therein starting what could be argued was a dangerous precedent. This is particularly so if, as in this case, he did not call on local advice to assist in his judgement.

There is one further complexity associated with this succession that relates to a former Māori freehold land section and house that was converted to general title under the Māori Affairs Amendment Act 1967. As general land, Judge Ambler noted that "general law does not

⁵⁷⁹ WH127:145, *ibid.*

⁵⁸⁰ I consider selectively superior to mean in this instance that despite clear statutory inclusion of taurima as a devisee of the will of the deceased, the Court still made a decision that was less than intended in that will. By doing this, the court made a judgement that was contrary to the expressed wishes and statutory allowances available to it.

⁵⁸¹ TTK 9:212. In Tiro Taupaki also known as Tiro Te Kahui. (2008).

apply to whāngai [taurima] children” and Lena would be excluded should the whānau choose not to first convert the title to Māori freehold land.

Succession to Māori and General land is treated differently under Te Ture Whenua Māori Act 1993. Assets like houses or other chattels continue to fall under the scope of the Administration Acts and outside of the jurisdiction of the Māori Land Court. This has relevance when dealing with Māori land that was converted to general land under the Maori Affairs Amendment Act 1967, and where a house was built upon the land thus becoming a chattel. A further illustration of this fact is found in the matter of Awanui Haparapara 2B1B2 where the Court paid particular attention to this type of scenario.⁵⁸² The Māori Land Court made an order determining the ownership of a house on a Māori land section in favour of one owner and her husband. As such, it was treated differently from the ownership of the land. The owner predeceased her husband, and through survivorship the husband assumed full ownership of the house. After his death, their only child (a daughter) did not succeed to the chattel, as it was generally accepted that she owned the house. Later, when the grandson tried to assume ownership of the house after his mother’s death he asked the Court to apportion the right based on “promises” made to him by his late mother. This assertion was contested by other siblings and ultimately, the Court decided that as the chattel had not been properly succeeded through the High Court to his mother, there was no legal basis for promises from his mother to him, as she did not own the house, despite being the sole survivor, and an owner in the land through succession. The Court stated:

If a section 30(1)(a)/53 or section 18(1)(a)/93 order had the effect of separating a house from title to the land and treating it as a chattel, the Māori Land Court has no jurisdiction to entertain a succession application to that chattel. In this case the chattel by survivorship vests in the estate of Tom Butler [the husband].⁵⁸³

In their case, legislation was utilised to enforce a new practice that allowed judges to make binding legal decisions based on their observance of tikanga taurima rather than the rule of law, while at the same time, enforcing legal norms when it came to succeed to chattels, rather than upholding tikanga which would have ordinarily seen whānau members inheriting chattels based on what is essentially an oral practice of tikanga Māori.

⁵⁸² OPO 107:144-147. In the Matter of Awanui Haparapara 2B1B2.

⁵⁸³ *ibid.* see paragraphs 44, 45, 46, 48.

Incentivising State imposed systems and beliefs

Set against the backdrop of legislation is the government's system of writing and resourcing policy. This is the government's system to give effect to its part of the responsibility of fulfilling good governance and active citizenship. As such, New Zealand has a history of incentivising public interest outcomes. Taurima have not escaped this political approach. Incentivisation of adoption orders was observed for a brief time when the Adoption of Children Act 1895 provided financial support for adoptive parents, whereas taurima parents did not attract the same support. Other incentives for taurima included land succession rights where they did not naturally occur and this could lead to income through land sales. More recently, in the 1980s and 1990s the government appropriated another form of taurima as a social welfare programme called the Mātua Whāngai programme.

Mātua Whāngai programme

Public officials from the Departments of Social Welfare and Māori Affairs attended a national Māori leadership conference (Hui Whakatauirā) in 1981. The following year at a national Kaumātua hui the same officials received confirmation of Māori concerns about negative social statistics Māori encountered as a result of urbanisation and a lack of participation in the public processes that affected Māori people.⁵⁸⁴ The same officials, following discussions with Māori and then Cabinet, created a new approach for its child welfare service called the “Mātua Whāngai programme”. The Mātua Whāngai programme was initiated in 1983 with three main purposes: (1) to compile a register of Māori foster parents; (2) to provide the Department of Social Welfare's social services, and; (3) to encourage and support the development or strengthening of tribal infrastructure to ebb the flow of Māori children and young people to institutions.⁵⁸⁵

A strong advocate for the practitioners in the Mātua Whāngai system sat within the New Zealand House of Representatives, the Hon. Whetu Tirikatene-Sullivan, Member of Parliament for Southern Māori. Tirikatene-Sullivan, then an Opposition member, raised questions about the programme with the Minister of Social Welfare of the day. She implored the Minister of Social Welfare, the Honourable V.S. Young, to report on the success of one Mātua Whāngai scheme in South Auckland. Supposing that the scheme was just a way for the Department of Social Welfare to save money, Tirikatene-Sullivan argued:

⁵⁸⁴ John Bradley (1994). Iwi and the Maatua Whangai programme. In R. Munford & M. Nash., *Social Work in Action*. Palmerston North: The Dunmore Press Ltd, p.186.

⁵⁸⁵ *ibid*, p.185.

What proportion of those in residential care were Maori, and what was the daily cost of keeping them? As at 30 August 1983 the daily cost of keeping a girl in a girls' home had been \$93.51 and the equivalent cost for a boy \$82. How much would the Government pay to a Maori family fostering such a child? The latest statistics for an average household showed that the income of a Maori family was about half that of any other family and its risk of losing jobs was high, yet the Government had brought in a scheme under which Maori families would foster more than the average number of children.⁵⁸⁶

After several other questions, Young was able to answer Tirikatene-Sullivan's questions, or at least some of them as below:

.....ensured that young Maori children were cared for in Maori homes and Maori communities rather than in welfare homes. Between 50 percent and 70 percent of the residents in homes were Maori children, and that percentage was too high. Just as parents were expected to give instruction in human relations to their children, so too were foster parents expected to give instruction to the children in their care. Of the 7000 children who were the responsibility of the Director-General of Social Welfare, 700 lived in social welfare homes where there were people with experience to give instruction sensitively, relative to the responsibility of the department.⁵⁸⁷

Mātua whāngai foster parents were paid for costs associated with looking after children charged to their care, usually in a residential situation. As the programme progressed and administrative gaps emerged, often the aroha and manaaki exhibited by the foster parents went well beyond the programme's funding parameters. My own Ngāti Mutunga mother was a Mātua Whāngai foster parent and looked after many young people in Christchurch in the late 1980s. I am still in contact with some of these people thirty years after the programme's cessation.

Questions in Parliament continued into November 1983 when the Māori members of Parliament sought clarification around the types of support Mātua Whāngai foster parents could expect while undertaking their work. Koro Wetere, the MP for Western Māori, asked the Minister of Social Welfare directly. "How much is the foster parent paid daily for caring for children under the maatua [sic] whāngai scheme?"

⁵⁸⁶ NZPD (1983), p.3242.

⁵⁸⁷ *ibid*, pp.3243-3244.

Minister Young replied:

Maatua whangai foster parents receive the same board rates and allowances as all foster parents. The amounts depend on the age of the child. Higher amounts may be paid in exceptional cases. The normal board rates are: for those 9 years of age and under, \$30.05 a week, for those 13 years of age and under, \$35.60 a week; and for those 14 years of age and over, \$37.30 a week. Additional allowances are paid for incidental expenses, clothing needs and pocket money.⁵⁸⁸

Even by these figures the daily cost estimation presented to Minister Young by Tirikatene-Sullivan was between \$80-\$90 per day per child if they were housed in state homes. Yet by the Minister's own admission the rate for those in Mātua Whāngai was approximately \$4-\$5 per child per day. Later in the day (3 November 1983) Minister Young faced further questions from the MP for Eastern Māori, Peter Tapsell:

How many children are being cared for under the maatua whangai scheme, and what is the equivalent cost of caring for those children in an institution?⁵⁸⁹

Minister Young was being held accountable for areas related to the programme's resourcing. In his response, he was not quite prepared to answer all aspects of the questions:

The maatua whangai programme is still being implemented in several social welfare districts and statistics on the number of children placed are not yet available. The cost of foster care for a young person over the age of 14 years is about \$60 a week, while the estimated cost of caring for a young person in a social welfare home is \$480 as [sic] week, and in a family home [such as Mātua Whāngai programmes – my emphasis] \$150 a week.⁵⁹⁰

Minister Young contradicted himself in the space of two pages of the records of the *New Zealand Parliamentary Debates* in respect of resourcing allocated to the Mātua Whāngai programme. Despite his contradictions, he confirmed that children placed in Mātua Whāngai programme were cheaper to house by \$330 per child per week. It therefore made financial sense for the government to support the initiative. It was as Tirikatene-Sullivan had asserted, “a cost saving measure”. As questioning continued it drew out other important yet minute

⁵⁸⁸ NZPD (1983), p.3619.

⁵⁸⁹ *ibid.*, p.3620.

⁵⁹⁰ *ibid.*

details. Immediate whānau members were ineligible for payment of the subsidy if they took the children into their care. For example, natural grandparents would be ineligible for financial support. Minister Young argued that “the Government does not intend to provide financial assistance for the fostering of children who would normally be fostered within a family”.⁵⁹¹ Shayne Walker offered his reflections on the Mātua Whāngai programme in his 2002 article and acknowledged that while Mātua Whāngai set out to alleviate the concerns of Māori children in alternative and institutional care, the programme itself was a vehicle by which the Department of Social Welfare captured and redefined what Mātua Whāngai meant to Pākehā and Māori. This distanced it further from its original purpose.⁵⁹² Given the social circumstances many of the young people came from, the Mātua Whāngai programme became associated with ‘those’ type of young people and thereby creating a negative stereotype for whāngai children. It also proved problematic owing to the under resourcing highlighted in the parliamentary debates above. It appeared doomed to fail from the outset.

The impact on the inconsistent treatment of tikanga taurima for Ngāti Mutunga cannot be understated here. The cumulative effect of Government intervention in tikanga taurima is profound. In the Mātua Whāngai example, the Government appropriated a culturally significant practice, this time for social reasons. It appropriated the cultural terminology, and then under-resourced the programme, and directed all problem Māori children towards it, while offering no training to foster parents who had a higher workload and lower pay rate than their non-Māori counterparts.⁵⁹³ This programme and policy also succeeded in educating 1980s New Zealanders’ understanding that whāngai (taurima) was a social welfare or negative concept. A stigma that has remained well after the programme’s cessation in 1990.

Children, Young Persons, and Their Families (Oranga Tamaraki) Legislation

The Children, Young Persons, and Their Families (Oranga Tamaraki) legislation of 2016 was a result of the review of the Child, Young Persons and the Families Act 1993 (CYPF Act). The CYPF Act came out of the 1983 Pua Te Atatu report following consultation with Māori leaders and communities (see Chapter Two). Pua Te Atatu highlighted a wide range of social issues and recommendations, including the utilisation of whānau as the centre of all decision making concerning children and young people. Concepts such as the Family Group Conferences were endorsed by the CYPF Act and involved bringing whānau and social

⁵⁹¹ NZPD (1983), p.3620.

⁵⁹² Shayne Walker (2002). Mātua Whāngai o Otepoti – Reflections. *Social Work Review*. Retrieved from <http://anzasw.nz/wp-content/uploads/Te-Komako-Issue-14-Winter-02-Article-Walker.pdf> on 28 May 2017, p.1.

⁵⁹³ NZPD (1983), p.3620.

service providers together to make collaborative plans to support at risk youth.

Since 1993, the Department of Social Welfare (and its derivative organisations) funding had remained static or in some instances had reduced, while simultaneously, New Zealand's population had increased. Social issues such as increased substance abuse, lack of education, high youth natality and mortality rates added unmitigated pressure on social workers who were expected to manage the outcomes required by the Act. Without adequate resourcing and with increased social issues in the community, such as methamphetamine use, social workers began exiting the government department, exacerbating already high workloads. Staff burnout was reported more regularly through this time, clients complaints rose, and significant high profile occurrences of infanticide were reported. Political pressure reached a crescendo in 2015 when the Minister of Social Welfare announced a review of the Ministry of Social Development and its governing legislation.⁵⁹⁴

In 2016, significant changes were recommended from the review. The most prominent change was a move away from a focus on whānau (family) decision making processes to a stronger focus on the individual child. The Children, Young Persons, and their Families (Oranga Tamariki) Legislation Bill report from the social services committee recommended that:

...services should be culturally appropriate and centred on the rights, well-being, and best interests of children and young people. We consider that the concept of “child centered” services should be more strongly incorporated into new section 4(a).⁵⁹⁵

Rather than the family group being the forum for decision making, the new Act promoted an individual child's interests in preference to the interests of the whānau involved. For example, a whānau may wish to continue a taurima relationship with a child, but a government worker or Minister may decide it is more expedient for resourcing purposes to formally order to have new guardians appointed for that child. In extreme cases the child may be recommended for formal adoption. These legal interventions enable government resources to follow the child rather than support the whānau to more adequately deal with emerging issues.

⁵⁹⁴ Independent expert panel to lead major CYF overhaul. 2 April 2015. Retrieved from <https://www.beehive.govt.nz/release/independent-expert-panel-lead-major-cyf-overhaul> on 18 April 2019.

⁵⁹⁵ Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill. Government Bill. As reported from the Social Services Committee, Commentary, p.3

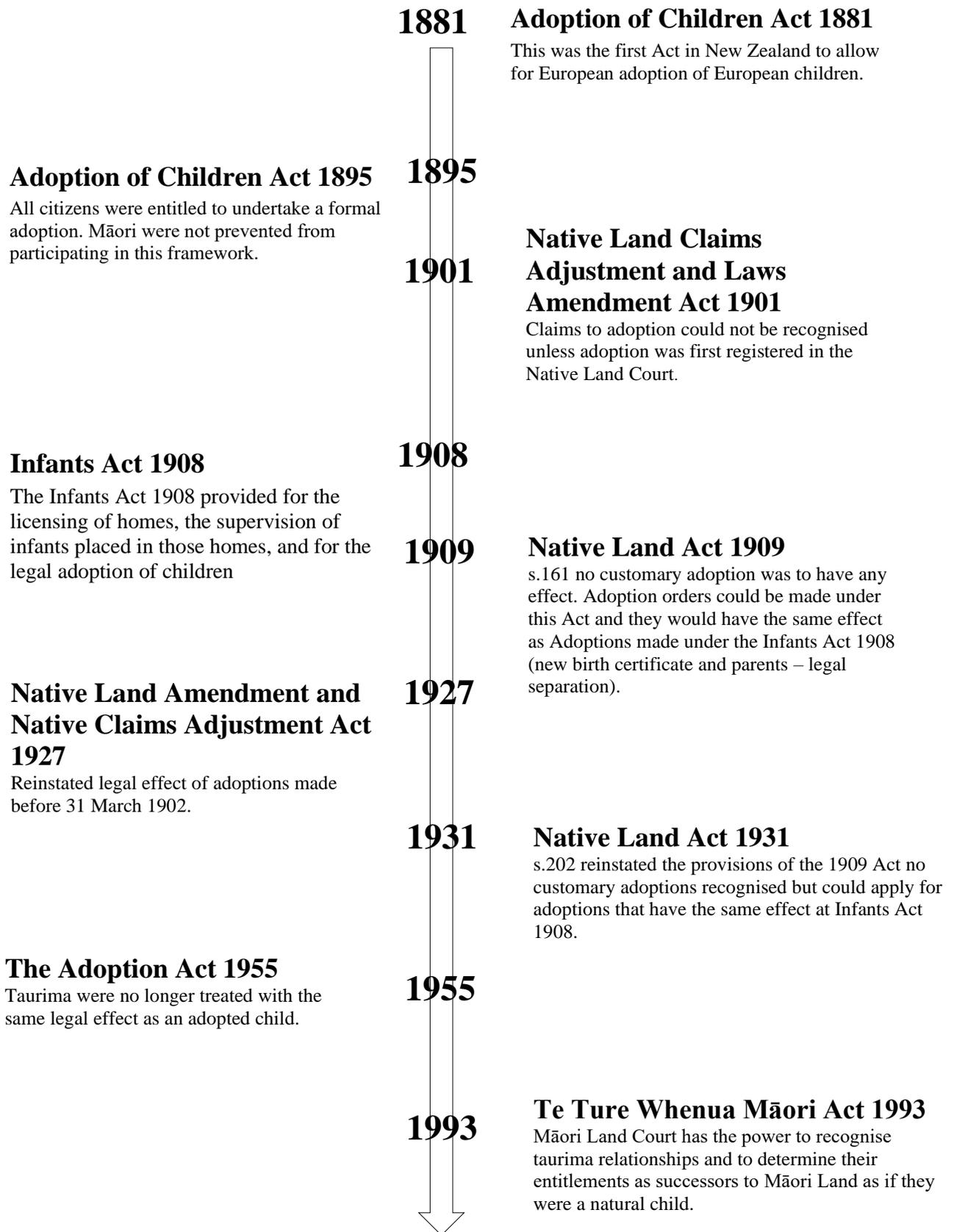


Figure 10: Timeline of legislation that impacted tikanga taurima

I am aware of examples where children have been removed from parents and whānau and placed in a Trust that operates effectively as an orphanage. Once a formal relationship is established between the government and a child (through Court order), the government's resources then follow the child via a plan confirmed by the Department on behalf of the Minister. In some instances, non-Māori 'orphanages' are better funded and have a vested interest in keeping children in their care to retain funding rather than supporting the placement of children with available whānau. In other instances, Māori organisations remain underfunded to provide support for whānau and community placement. Reapportioning resources like this serves to potentially exacerbate the child's problems if the underlying deficiency of core services remains. It is the latest example of the government incentivising its outcomes that are not aligned to Ngāti Mutunga interests. This is particularly the case where Ngāti Mutunga are not part of the policy or legislative design.

More high-profile examples of Government appropriation of Māori terminology were also proposed in this legislation. The report proposes that mana tamaiti (tamariki), whakapapa, and whanaungatanga be redefined to "apply to the general population"⁵⁹⁶ and also recommends "changing the definition of mana tamaiti (tamariki)...so that it would apply to all."⁵⁹⁷ Taurima are not directly implicated in the proposed changes. By virtue of the application of Māori concepts to all people in New Zealand, taurima relationships can become increasingly viable for non-Māori people, as distinct from a mere foster relationship.

Te Ture Whenua Māori Act 1993 review

The Te Ture Whenua Māori Act 1993 (TTWMA) had an unprecedented involvement by Māori people in its development. The Act itself could be described as a counter positioning to the Māori Affairs Act 1953 (its predecessor) which had facilitated easy alienation of Māori land away from owners and their whānau. The TTWMA's premise supported the retention of land by its owners, their whānau and their hapū. With its introduction, the TTWMA consequentially made it harder to alienate Māori land.

In 2013, the government published a report that indicated there were 1.2 million acres of Māori land that were 'unproductive' and if put into production would boost the New Zealand

⁵⁹⁶ *ibid*, p.5.

⁵⁹⁷ *ibid*.

economy.⁵⁹⁸ In the ‘national interest’ and in the spirit of ‘active citizenship’ some Māori were spurred into action to see how this could be achieved. One of the outcomes of the working group was that the TTWMA was too restrictive and therefore a barrier towards economic productivity; the Minister of Māori Affairs then set about reviewing and amending the Act in rapid fashion.

European ideas of productivity can and do differ from Māori ideas of productivity. Until the economic increase of the mānuka honey business in New Zealand one of the main woody weeds in New Zealand agriculture was mānuka (*Leptospermum scoparium*) which, because of its invasive nature and quick growth rate, was considered a threat to agricultural pasturelands.⁵⁹⁹ The so-called unproductive Māori land blocks encompassed by the review of TTWMA are some of the richest deposits and reserves of mānuka in New Zealand. Coincidentally the rise in apiculture in New Zealand has corresponded with recent examples of beekeepers positioning their commercial beehives on land blocks adjacent to Māori land in order to benefit from the mānuka vegetation which is highly sought after for honey production.

At the conclusion of the 2017 election, the newly appointed Minister of Māori Affairs slowed the legislative change agenda, however, it remains active. Among the changes in the proposed Te Ture Whenua Māori Bill are legislative variations with respect to taurima (whāngai). In the new Bill, commentary from the Māori Affairs Select Committee included the following comments on “whāngai”:

...by reference to the tikanga of the relevant iwi or hapū. As we discuss later in the context of descent relationships (clause 8), we consider that this raises potential for uncertainty. We recommend that the reference to iwi be dropped from the definition, and that whāngai status should be determined by the tikanga of the relevant hapū or whānau. In the event of doubt or inconsistency between the two, we consider

⁵⁹⁸ Ministry of Primary Industries (2013). The Future of Māori Agribusiness: Growing the Productive Base of Māori Freehold Land. 7 Feb 2013. SCP13-024. Retrieved from https://www.parliament.nz/resource/mi-nz/50SCPP_ADV_00DBSCH_INQ_12097_1_A378304/a2b7289dcd4be39170ca0960337178011558174c on 18 April 2019.

⁵⁹⁹ J. M. C. Stephens, Peter C. Molan & Bruce D. Clarkson (2010). A review of *Leptospermum scoparium* (Myrtaceae) in New Zealand. *New Zealand Journal of Botany*, p.442. “and due to its invasive nature, the species has been regarded as an agricultural woody weed.”

that the tikanga of the whānau should prevail.⁶⁰⁰

This legislative interpretation is a further example of public appropriation of Māori terminology in respect of land. It seeks to define whāngai independently of other regional differences in terminology including taurima, atawhai and mōkai. The appropriated legislative definition for whāngai does not seek to extend its interpretation to other Acts of Parliament, for consistency's sake, such as the Family Protection Act.

The Māori Affairs Select Committee also sought to clarify the following:

Descent relationships determined by tikanga Māori

Clause 8 provides that relationships of descent that involve adopted children (whether as whāngai or under the Adoption Act 1955) are to be determined by tikanga Māori. Tikanga Māori would determine whether they are regarded as descendants of their adoptive parents, their birth parents, or both. In deciding succession and preferred recipients under the bill, tikanga Māori would override anything to the contrary in the Adoption Act. This would be a change from the current Act. A Māori Land Court order would be required as proof that a whāngai relationship exists under the relevant tikanga Māori. We understand that this would normally be a simple process where there is no opposition. If the relationship was challenged, the matter would be referred to the new dispute resolution service. If this did not resolve the issue, it could be referred back to the court....we consider that the tikanga of the relevant whānau or hapū is more appropriate than iwi for determining whāngai status, and recommend that reference to iwi be removed from clause 8(2). In the event of inconsistency, we recommend that the tikanga of the whānau should prevail over that of the hapū.⁶⁰¹

The proposed legislative changes seek to strengthen the Court's position in adjudicating matters of tikanga, particularly where agreement cannot be reached with the respective whānau. The embedding of the Court's authority with respect to whāngai is further strengthened through the proposed section 266 of the Bill:

⁶⁰⁰ Te Ture Whenua Māori Bill 126—2 As reported from the Māori Affairs Committee. Retrieved from <http://www.legislation.govt.nz/bill/government/2016/0126/latest/whole.html#DLM6388702> on 16 April 2019, p.6.

⁶⁰¹Te Ture Whenua Māori Bill, *ibid*, pp.6-7.

266 Court may make special provision relating to income for whāngai descendants and adopted children

(1) The court may make an order conferring on any person the right to all or part of the income from a parcel of Māori freehold land or from an individual freehold interest in a parcel of Māori freehold land.

(2) The court may make the order only in respect of a person who is not entitled to succeed to the land or interest solely because, under section 8, the tikanga of the relevant iwi respective whānau or hapū determines that there is no relationship of descent between a child (who is a whāngai or the subject of an adoption order) and certain parents for the purposes of the succession.

3(a) a whāngai relationship is not treated as a relationship of descent for the purposes of that succession; or

(b) a relationship by birth, or a relationship by adoption order, is not treated as a relationship of descent for the purposes of that succession.⁶⁰²

While this section limits itself to determining whāngai for “income” purposes, it is an artificial limitation as it still seeks to endorse or nullify taurima arrangements for whānau. This was customarily the role of whānau and hapū.

Embedding the Court’s authority over whāngai matters is made explicitly clear in the proposed section 300 which discusses the Court’s jurisdiction. Amongst its wide ranging powers are clauses (o), (p), and (s) which are emphasised in bold in the quote below:

300 Jurisdiction of court for purposes of Parts 1 to 9:

(1) The court has (in addition to any other powers conferred under this Part an enactment) jurisdiction to determine—

(aaa) whether a person is a member of a class of collective owners of Māori customary land or Māori freehold land:

(a) whether a whānau trust has been established in accordance with the provisions of Parts 1 to 9: 10

⁶⁰² Te Ture Whenua Māori Bill, *ibid*, p.196.

- (b) whether a succession complies with Parts 1 to 9 or is lawful:
- (c) whether a disposition of Māori freehold land complies with Parts 1 to 9 or is lawful:
- (d) a dispute arising from a kaiwhakahaere carrying out a purpose for which the kaiwhakahaere is appointed:
- (e) whether a decision of the owners of Māori freehold land is lawful:
- (f) a claim to recover damages for trespass or other injury to Māori land:
- (g) a claim founded on contract or tort where the debt, demand, or damage relates to Māori land:
- (h) a claim to the ownership of buildings or other fixtures situated on or attached to Māori land:
- (i) whether an entity is a representative entity for the purposes of Parts 1 to 9:
- (j) whether a person is a preferred recipient, or whether an entity is a preferred entity, for the purposes of section 96: 25
- (k) whether any Māori land is or is not held by any person in a fiduciary capacity:
- (l) a dispute about a kaiwhakamarumarū appointment or the exercise of the powers of a kaiwhakamarumarū:
- (m) an allegation or claim of breach of duty or misconduct by a governance 30 body or a kaitiaki of a governance body:
- (n) whether a person is a whāngai:**
- (o) whether a whāngai relationship, a relationship by birth, or a relationship by adoption order is to be treated as a relationship of descent for the purposes of a provision in Parts 1 to 9 (see section 8) for any child who is a whāngai or the subject of an adoption order, whether the child's relationship with certain parents is a relationship of descent for the purposes of a provision in Parts 1 to 9 (see section 8) [emphasis added]:**
- (p) whether a person is entitled to have a right recorded in the Māori land register under section 264:

(q) whether a right of a spouse, civil union partner, or de facto partner that is recorded in the Māori land register has ended:

(r) whether a person is an eligible beneficiary for the purpose of Part 7.: 5

(s) whether the tikanga of the whānau, hapū, or iwi prevails in any particular situation [emphasis added].⁶⁰³

This proposed Bill then extends the authority of the Māori Land Court to adjudicate matters related to whāngai (taurima), and further distances the endorsement practices of whānau, hapū and iwi from themselves. Clause (s) goes further and suggests that the Court will have the power to determine whether it is the tikanga of the whānau, the hapū or the iwi that will prevail in any given situation.

Concluding remarks

As we have already seen within Ngāti Mutunga, whānau can and do differ significantly on their interpretation of taurima and whāngai. There are also no functional hapū units within Ngāti Mutunga today, and neither does the iwi have a consistent tikanga concerning taurima, nor indeed an iwi policy of how taurima are positioned within Ngāti Mutunga. Instead, the Te Ture Whenua Māori Bill further distances the tikanga, and taurima practice while endorsing and continuing to endorse colonial attitudes of Court superiority.

This chapter demonstrates that the Court's impact (as a public agent) not only impacts areas governed by land legislation but also extends to other fields including family relationships (adoption and custody), general asset inheritance (which is distinct from Māori land inheritance) and monetary state assistance. The Judiciary and Court systems (as well as Parliament, Government departments and their employees) are inherently and automatically imbued with the responsibility of progressing public interests, national interests, and common good outcomes. These outcomes are exclusive of Ngāti Mutunga interests and continue to impact tikanga taurima for Ngāti Mutunga.

These public agents (i.e. agents for public interests) are empowered by legislative examples such as are outlined in this chapter. Due to a lack of societal understanding of taurima custom and practice, inevitably it is the Native Land Court's experience that is relied upon to

⁶⁰³ Te Ture Whenua Māori Bill, *ibid*, pp.216-217.

inform other public agents. In the next chapter, Ngāti Mutunga people from within taurima relationships have been interviewed and their responses presented to further demonstrate the impact of public agents on the taurima custom. One of the most alarming impacts of the extension of public agency relates to social welfare staff (as public agents) removing children from taurima homes within Ngāti Mutunga, under legislative authority. This kind of action is being repeated in 2019 with Ōranga Tamariki (the former Ministry for Child, Youth and Family) and their high profile and highly publicised removals of Māori children from their homes.

Chapter Eight: Enduring Social Impacts

The accounts of Ngāti Mutunga rangatira in the Chapters Four to Six provide examples of how taurima were treated before and after the Native Land Court's establishment. Chapter Seven detailed subsequent laws that have impacted on tikanga taurima through to the present. Various impacts, arising from the past legislative and public agency intervention, continue to be realities in Aotearoa for Ngāti Mutunga taurima, endured through a variety of aspects of everyday life. This chapter focuses on the systematic treatment of taurima in New Zealand and explores key examples such as: (1) New Zealand passport applications; (2) serving alcohol to minors; (3) asset succession and transfer; (4) identity issues; (5) social displacement; (6) social assistance barriers; and (7) education and health services. These aspects of New Zealand's societal life provide challenges for Ngāti Mutunga people in taurima relationships. I draw upon my own lived experiences, as well as interviews with Ngāti Mutunga people, and documentary evidence to elaborate upon these examples.

As an inside researcher I have chosen to posit the explanations here from my own lived experiences as a Ngāti Mutunga man with taurima children. I have three sons, two of whom (the eldest and youngest) are taurima to me. My eldest son entered a taurima relationship with my wife and her former husband when he was a few months old. Later, when my wife and I married our taurima relationship with the child, then three years old, was confirmed through karakia (prayer) in our marriage ceremony. This son is the biological issue of my wife's taurima sister, who is, biologically speaking, my wife's maternal first cousin. So close is the familial relationship that we have maintained regular contact with his natural mother and father. As such, we did not seek any formal or legal arrangements but rather chose to engage a customary arrangement agreed amongst the whānau.

Our middle son was conceived naturally. As such, there are no third parties or intermediaries involved in the parental relationship we created, and all legal paternal and maternal rights are subsequently conferred upon us as his parents.

Our youngest son is the biological issue of another maternal first cousin of my wife (and coincidentally also her taurima brother). This son entered our whānau via socially driven motivations. His natural parents, who were resident in Australia at his birth, faced significant

challenges and we offered to take him as our taurima, where he has remained ever since. To support his relocation to New Zealand and to access social support resourcing and services for him we gained legal parenting and guardianship orders to formalise our relationship with him. This formalisation did not constitute adoption as we were added as additional guardians, with his parents still listed as his biological parents. The Court arrangement provides us with parenting orders for his day-to-day care with the ability for all his parents (natural and taurima) to make agreements amongst ourselves regarding contact and visitation. We ensure contact with his natural parents and siblings to maintain those familial connections. There are therefore, three types of parental arrangements operating in our whānau: the first a wholly customary taurima arrangement with no legal endorsement; the second, a wholly biological, legal, and formalised connection to our natural born son; and finally, a taurima relationship supported by legal parenting and guardianship orders.

These three types of parental arrangements highlight inequities that exist within New Zealand society as all three of my children are treated differently in Aotearoa.

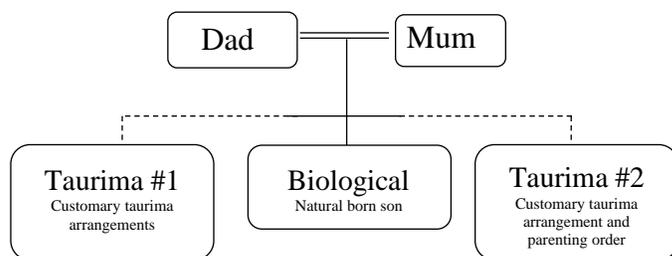


Figure 11: Simple diagram demonstrating biological and taurima whānau relationships.

Interviews with Ngāti Mutunga people also indicated that my lived experiences were not isolated to our whānau experience. Many different incarnations of taurima exist within Ngāti Mutunga and examples of these differences are explored in detail below through responses from Ngāti Mutunga interviewees.

What do Ngāti Mutunga people think?

This research includes excerpts from interviews with four key Ngāti Mutunga people. These people responded to tono (invitations) by me to participate in interviews concerning taurima (whāngai). It is important to note at this stage that the questions were formed, and ethics

approval given using the word “whāngai” rather than taurima. However as the interviews progressed, it became evident that Ngāti Mutunga more commonly utilised the term ‘taurima’ than ‘whangai’. For consistency’s sake I have left “whāngai” in the question text, but I have utilised “taurima” in the narrative text of the thesis.

In line with ethics approval, each interview participant gave their consent prior to the interviews proceeding. Two participants agreed to participate on the condition of confidentiality, and two other participants agreed to be identified. All participants were given the same set of questions, and these were used to guide open-ended conversations. Where additional information was offered by the participants, this was also utilised and encouraged. The information provided by the participants are outlined below in a thematic sequence for ease of reading with direct quotes provided to highlight their direct contribution.

Key findings from interviews

Ngāti Mutunga understanding of taurima were consistent with both academic and cultural understandings of informal whānau connections. It included a responsibility to feed, nourish, educate and love the children in their care while acknowledging that taurima were raised by people other than their biological parents. The reason for this was to keep inter-whānau connections close. Respondent 1 recalled that:

...It’s adoption without the paperwork. But I guess if you add a bit of depth to it then it’s about placing children with families who you know are going to look after them, families who can’t have children, so that you’re giving them the benefit of bringing up children themselves. It’s about placing special children with special people, to do a job, to teach and educate - all those sorts of things....and there is just you know children who don’t have anywhere to go and someone needs to look after them...⁶⁰⁴

Respondent 2 agreed with this viewpoint, adding that:

...You’re not a biological child. You’re usually from extended family.... it’s not like just a standard adoption from a stranger this is a child that you bring into your family to care for with the same love and benefits as your own biological child should have....it’s

⁶⁰⁴ Confidential interview transcript, 17 September 2014, p.2.

something tribal and part of our ritual and, what's the word I'm looking for, kind of like everyday understanding of things...⁶⁰⁵

Respondent 3 saw the inter-whānau connection as an important component noting that:

...My understanding of the word 'whāngai', is a child being raised by someone other than their [biological] parent. And, I think, in a Māori whānau context, it's normally within the family. That has been my experience. It's always a connected to the family in some way. The reason I say that is because, when we were growing up here, there were several of us being raised by our grandparents. I wasn't the only one...⁶⁰⁶

One of the interviewees, Respondent 4 considered Ngāti Mutunga had an additional consideration towards taurima in that they deliberately used taurima to keep inter-whānau connections close between the geographically isolated homelands of Ngāti Mutunga in Taranaki and Wharekauri. They stated that:

... I consider just my own family, so [my taurima father] ...was the second oldest of [tupuna name] ... he was brought back to Taranaki as a baby, They were both brought to Taranaki ...there's a number of children that were taurima'd [sic] and whāngai'd around - and I think it comes back to this whole maintaining those connections, those relationships and this whole concept of noninga kumu you're keeping that alive...and I think it's unique, Ngāti Mutunga; I mean it happened internally in Taranaki and then also on the Chathams. But then you had this other layer because of the distance between the two [Ngāti Mutunga] homelands....⁶⁰⁷

This was done to keep whānau connections strong across the country, not just the whakapapa. This dynamic is unique to Ngāti Mutunga as no other iwi has as geographically isolated a set of homelands as Ngāti Mutunga. Existing academic literature does not provide examples of intra-iwi relationships being maintained this way, but rather provides inter-iwi relationship examples.

In determining the wider custom of taurima, responses varied. In some instances, their taurima arrangements were not identified or categorised as part of a terminology, it was organic and natural.

⁶⁰⁵ Interview transcript, 18 November 2015, p.2.

⁶⁰⁶ Confidential interview transcript, 6 February 2018, p.1.

⁶⁰⁷ Interview transcript, 26 September 2018, p.1.

Respondent 1 saw the custom as a modern concept for children who:

needed a home; who either didn't have a home and therefore needed to go somewhere, or needed to be taken out of the home that they were in....the experience I've got is of people asking for children, childless couple; something like that where they say, "Well, we know you're having a baby and we would like to ask for that baby." Then the other experience I've got is of people saying, "We have a baby here who needs a home and we think that as part of the extended whānau, or the community around this child, that you would be a good place for where this baby could go..."⁶⁰⁸

Similarly, Respondent 2 was unaware of the taurima/whangai concept until it was raised with them. From their perspective:

...I never knew what whāngai was until my adult years. I knew that I was not formally adopted but Dad at one stage got me to sign some papers but wouldn't let me read them, so I didn't know what they were so, I thought I had been adopted, for a while. So, I actually didn't know, being over in Australia, the word whāngai I think was introduced by you or somebody else. I didn't know what it was...the formal word to explain my particular situation. I just knew that I'd been brought into the family when I was very little and that I was sister to other people. That's all....⁶⁰⁹

In contrast, the second two respondents were strong proponents of the prevalence, practice and use of the word taurima amongst Ngāti Mutunga.

The word that we use here is 'taurima' ... definitely here in [Ngāti] Mutunga, we use the word 'taurima' and I have heard it referred to outside of our rohe as 'taurima', as well by different ones. But for us, that is the word, 'taurima'.... Yes, definitely. Because I went to school probably with... I start up the other end where all the Māori houses started for the pā. There was one, two, three, four, five, six, seven - eight of us....⁶¹⁰

Relatively recent (post 2006) complications arising from Treaty of Waitangi Settlements with Ngāti Mutunga are forcing new conversations and classifications of taurima to the exclusion of existing taurima arrangements in some circumstances. Respondent 4 commented on a

⁶⁰⁸ Confidential interview transcript, 17 September 2014, p.2.

⁶⁰⁹ Interview transcript, 18 November 2015, p.3.

⁶¹⁰ Confidential interview transcript, 6 February 2018, p.2.

relationship that has existed in Taranaki since the turn of the nineteenth century that is now being called into exclusion (that is, the iwi are now questioning whether the relationship should continue) because taurima does not fit settlement criteria for participation with the iwi anymore.

....That was the way of keeping those connections and relationships. Because you know, you sort of say, why? Well, at a basic level I know why because [Uncle's name] was an uncle to them and he and [his wife] didn't have their own children. He brought them back; they ended up living with [others in the pā]....⁶¹¹

....If you strip the settlement context out, I think when I look at how we've always operated as an iwi, without legal structure, this debate was had leading up to 1991 when the rūnanga was established. And the thinking at that time...is that on the register they registered spouses, ...on the register and that they could participate on the basis that they were part of the whānau, part of the collective, because they've had children. And, you know, that's quite ...normal. If you go back to the day, when people married in and when you were travelling around you were part of the collective. Yep, important part of that survival. And so I think, again circumstances and context today is shaping our whole perspective, not of just the designation of whāngai, taurima or adoption, but more so of what it is to be a community. That's the big tension, that often people see this whole notion of whāngai, taurima in a settlement context today around, we're giving people rights and should they have those rights, which I think is something that we've gotta confront around what does it actually mean. Who was I talking to recently? This was in the Taranaki iwi context where family, their kuia was whāngai'd into Taranaki iwi but they were from Waikato and this was all around that time of the Tekau mā Rua and those relationships. But you have the iwi register, strictly speaking they are not because the iwi have determined that unless you have a whakapapa you're not eligible to register and participate.... I think there were three elements in my view. One, was about maintaining connection and relationships. There was a very practical element where those that couldn't have children, they got to experience what it was to be a parent. Most of the time those children were related because they had a knowing relationship so there's trust and so on. And then the third element, which is what happened most of the time, is that it was a necessary mechanism to support families. So

⁶¹¹ Interview transcript, 28 September 2018, p.1.

my own mother, because my grandparents who raised me they had a lot kids. A lot of them were raised by aunties, grandparents and for quite some time....⁶¹²

The practice of taurima was also well spread throughout Ngāti Mutunga. Three of four respondents attested to the prevalence of taurima amongst their Ngāti Mutunga whānau. Only one respondent could name one other family member involved in a taurima relationship. Their responses lend weight to the strength of taurima prevalence amongst Ngāti Mutunga whānau. The key comments were as follows:

...so dad was... my grandmother....had [a number of] children before she got married. We've never kind of been told why, what the circumstances were around all these different children; but in essence she didn't raise any of them until she got married and had another family, like another five I think, and they were her children who she raised. So all five were given away, in essence, to different family members. I think one of them was possibly put into the system and adopted. I'm trying to think if that was just one of them, I think it was just one of them. But all of those other children, the other four; sorry, I think one was adopted into the Pākehā system, three were whāngai-ed [sic] as they were born, and then my father - I know his circumstances better than the others - he was a state ward until he was about five and then he was whāngai-ed into someone from the family, slightly further away...⁶¹³.

....Just about every house had a taurima...⁶¹⁴

The nature of taurima relationships were wide ranging but still a natural element of inter-whānau connections. For those who were taurima, it was a natural process where they did not feel 'othered'⁶¹⁵ in the whānau, but rather, as a result of the many familial connections. This did not mean however that there weren't traumatic revelations for the taurima child.

Well, I find it's odd because I am related to the family I've been brought into... and I'm always aware of that. My brothers and sisters and my cousins, my first cousins, their children are my second cousins and so on and so forth...I was whāngai-ed into the family of my grandmother's

⁶¹² Interview transcript, 26 September 2018, p.13.

⁶¹³ Confidential interview transcript, 17 September 2014, p.3.

⁶¹⁴ Confidential interview transcript, 6 February 2018, p.2.

⁶¹⁵ "othered" in this sense means the taurima child was made to feel different from their taurima whānau.

sister. So, Mum and Dad always said that they told me when I was little but I can never remember it because I know at the age of 12 I found out that [my] Aunty...was my grandmother and burst into tears.⁶¹⁶

...It was as normal as someone having parents, except they had people they called ‘mum and dad’; and, even though the person who raised me was my grandmother, I called her ‘mum’, because she was the only mum I knew, I guess and everyone else, my aunts and uncles called her ‘mum’. For me, that was just natural to call her ‘mum’. Even though, as I grew older, I realised that I wasn’t her daughter, I knew I was her granddaughter; but she was still mum.⁶¹⁷

A very recent example of Ngāti Mutunga parents entering into a taurima arrangement through the giving of their biological daughter contemporises the taurima practice amongst Ngāti Mutunga as not merely recipients of children but also the proponents and givers of children in accordance with tikanga taurima.

...That whole whāngai, I mean it’s very natural that’s why ... we’ve whāngai’d our girl to [a relative]after [her] partner died when they were young, she hasn’t had any children. [My wife] said to me, she always sort of promised her aunty to give her a baby. We’d had the twins and then we got hapū again not too long afterwards. She said, “He tohu tēnei.”... It was interesting because it sparked a lot of debate and discussion in our whānau, they’re like, “... because you know you got four boys.” And when they found out it was gonna be a girl. And I said, “It’s not an issue.” “This can be your only daughter.” I said, “Yeah, but she’s gonna know who she is.” She still calls us mum and dad, she’s got her other mum and dad. You know what I mean?.. So, going back to our daughter, it’s a more contemporary... because she’s a whāngai, taurima, we haven’t adopted her...⁶¹⁸

In most accounts, the taurima custom seldom, if ever, resulted in formal adoption. The practice remained fluid and organic. This supports the proposition that tikanga taurima does flourish independently of formal adoption legislation.

⁶¹⁶ Interview transcript, 18 November 2015, pp.4-5.

⁶¹⁷ Confidential interview transcript, 6 February 2018, p.1.

⁶¹⁸ Interview transcript, 26 September 2018, p.25.

Respondents were also asked what they considered were the benefits of a whāngai relationship. In the main, this included a greater knowledge of their whānau and inter-whānau relationships. There were also opportunities to learn more about tikanga. Someone who was raised with their grandparent's generation reported an enhanced understanding of that generation's values and practices. The participants gave the following responses:

...the benefits are about knowing who your wider family is and understanding what the connections are without losing them, while at the same time ending up with a family who are loving and caring, and want you as their child... I think the benefits for my father were huge, ending up with the parents he did. Who he very much thought of as his parents, and not his mother; and he introduced his mother to us as our aunty...I think the benefits are significant in terms of being able to maintain family connections, knowledge, and the benefits that go with that those wider relationships that you build and ... keep, ... the hapū, iwi, keep; by having children stay within the hapū and the iwi, and whānau.....that's much better than people going right out of the iwi and having to build new relationships that way...⁶¹⁹

...Home... food...education...⁶²⁰

...I think because I was raised by my grandmother I have a lot of knowledge about our tikanga, rongoā, but never went to a doctor until I got pregnant. So, I was 18-years old before I ever went to a doctor. And it's not always a benefit but I seem to have a different view, unfortunately, than the rest of people my age. I have a different view on a lot of things and I put that down to the way I was raised by a person who's older than a parent. And the stories she told. And the stories weren't stories necessarily told to me; more of them came from our relatives coming from somewhere else and visiting and asking her questions about things... and we used to sit in the dark with a coal range and she would be telling all these stories about things here. So, I don't, in fact I know that people my age haven't been raised in that way. And we were also very much raised with "don't get food from that particular place," "don't go onto that particular place," "don't cross the river here, the taniwha lives there in the river." The taniwha was my pet, that's how I saw the taniwha;

⁶¹⁹ Confidential interview transcript, 17 September 2014, p.4.

⁶²⁰ Interview transcript, 18 November 2015, p.6.

he was my pet in the end, used to look after me. We lived in the river when we were children, you see. I think we were raised with a lot of that old stuff, which in today's age, people look at you like, "Mm," you know, "where are you coming from?" And sometimes I feel like I'm out on a limb with my generation, I'm more in the generation above me. And I'm very comfortable talking to older people because of that 'cause they understand me, they understand what I'm saying. I guess that's it. So, being raised whāngai, for me, has huge benefits. This is me - probably quite arrogant of me - but I don't think I've missed anything from being raised by my parents, and that generation, because what I have seen is a huge change from my grandmother's generation to their generation, and now down to us. And I wouldn't say it's all for the better, which is why we raise our mokos with the same values that we were raised by.⁶²¹

Another respondent indicated that the prevalence of taurima meant that biological parents, grandparents, and wider whanaunga were essentially bidding (non-financially) to be a child's primary caregiver and thereby enhancing a feeling of connectedness and of being wanted, within the iwi. Not all taurima experiences were positive with one respondent highlighting that home, food, and education were the main benefits of their taurima relationship.

In considering the taurima practice, participants were also asked whether there had been instances where formal adoption was an option and what, if any, benefits they considered would have come from formal adoption. However, all of the respondents agreed that the value associated with formal adoption resides in legal purposes and not as a matter of tikanga, for instance, there may have been a benefit in the ability to access the assets of their taurima parents or relationships. Three of the respondents saw no practical purpose for formal adoption outside of that legal purpose.

...there's real clarity over the fact that the child is yours...I think the adoption helped because then it made me think no, no this is permanent, this is long term, you're committing to this; there's no choices once you have signed these papers and someone has approved it. As well as the fact that we got his [biological] mum's blessing and his [biological] dad's blessing that we could have him and things like that.... the formal adoption makes you think about the legal side... as opposed to all the spiritual stuff which you would have been

⁶²¹ Confidential interview transcript, 6 February 2018, p.4.

committed to anyway. It has made me think about my will...⁶²²

...I'm going to refer to notes here. I must have written something because this point says... yeah, it's exactly what I'm thinking, none. I mean I can probably go to court if I wasn't included in the will as an equal to my brothers and sisters. I could run with that and probably get my share. So, what would be the benefit of formal adoption? I don't know, maybe there's some legality....⁶²³

...I don't think it makes a difference, but I don't see the value in it, other than it's what Pākehā call legal. So, the hiccoughs along the way of being whāngai, or taurima, I guess.... Only by Pākehā law, you know; I'm entitled to this because that piece of paper says so. Whereas the Māori law we're entitled because my nanny said so...⁶²⁴

...I mean my understanding of this, sort of more use of formal adoptions really came later. So, my grandparents who raised me, and I've got this firsthand, when the old man was looking, I mean, he didn't want to get any money for me, but he considered formally adopting me just on the basis that from a law standpoint, you know that would be sort of recognised. He was my legal guardian but he hadn't gone to the adoption point because everyone knew who I was, who he was, and the relationship. But there have been instances but I think, from my understanding is most of that occurred as a consequence of more the sort of European standpoint, more so than from a tikanga...⁶²⁵

One of the key considerations emanating from the discussion of formal adoption was the perceived rights taurima should have in comparison to biologically born children. All of the respondents agreed that taurima should have inheritance rights to their taurima parents irrespective of assets. Two respondents considered that those inheritance rights would extend to include the rights that might be possessed by biological children or kin. From a tikanga standpoint it was about taurima inclusion rather than exclusion.

....whāngai should have the rights of all...children...because to me that's the commitment you make. It's obviously just a personal thing; I just don't think you can do that and not

⁶²² Confidential interview transcript, 17 September 2014, p.5.

⁶²³ Interview transcript, 18 November 2015, p.7.

⁶²⁴ Confidential interview transcript, 6 February 2018, p.5.

⁶²⁵ Interview transcript, 26 September 2018, p.12.

give all of the benefits and all of the rights to those children otherwise they're going to feel funny, they're going to feel like I'm not quite your son or your daughter; which I suppose....is the point of the fact that its whāngai and its different. But I think if it was from my perspective, I would want to do the whole thing. Which as I understand what the debate is some people have, you know, whāngai can't inherit land or succeed to this or that or the other thing.⁶²⁶

...Just inheritance. I can't see any other thing. I've written just a few scribbles here. What rights legislative or other do you think whāngai have? I have as much rights as my brothers and sisters which includes inheritance and stuff like that. You know, that's a legal way of looking at it. It's not necessarily how it works though.⁶²⁷

...I can tell you how my grandmother would have seen them; she would have thought I have every right. According to my aunties I have no rights, because I was only a grandchild. And it wasn't said in a bad way, however, to them that was fact. They don't understand the bonding and connection that you have as a child raised by a person, they have no concept at all as to what that means. So I don't blame them for being like that ...I guess it's quite interesting that I was in tune with my grandmother but they weren't. So when she passed away - and I used to do lots for my grandmother, she still lived down here by the river and we lived [elsewhere] at the time. And I used to come out often and do her doctor's things and whatever, and take her to do the shopping 'cause she couldn't drive, of course, and how would she sit her license anyway 'cause she couldn't read or write. With her land she wanted four of us - her two sons, another aunty of mine who did things for her, and myself - she wanted us to go and do her land interests. But because her will wasn't signed when she passed away, my uncles picked me up and they took me, they were going to the lawyers. I didn't go into the lawyers with them but they came out and they said, "Oh, mum had a will," and they says, "and you know what's in it." 'Cause I did know what was in it 'cause she had often talked about what she wanted... They says, "But it wasn't signed." And I said, "Kei te pai, just leave it at that." I said, "Just leave it," 'cause I knew exactly what my aunties would be like and I didn't want the raru [trouble]. They came home and, yeah, they

⁶²⁶ Confidential interview transcript, 17 September 2014, p.6.

⁶²⁷ Interview transcript, 18 November 2015, p.8.

did say to her what was in the will that wasn't signed. But they said, "No, she shouldn't be in there because she's only a granddaughter." And then the two boys who were raised, that my grandmother had also raised, also were asked to leave the house, so they had to find somewhere to live because the house was theirs. I know that they didn't mean it nasty, it was just the way they saw it; they didn't realise what they were doing. To them, because we were not children of hers, well then we had no rights. That was really all they were thinking - they were thinking Pākehā because they'd been raised Pākehā.⁶²⁸

A key question for participants was how their taurima arrangement was initiated. In the main this stemmed from a whānau response to caring for the child born out of wedlock during the 1950s and 1960s, and to accusations of neglect. This was in addition to the customary driver of placing children within the wider whānau.

...Well, I'm unsure but I'm assuming it's because I just have a memory of being told that [my mother] fell pregnant out of wedlock; was rejected by [her mother] literally door slammed in her face, nowhere to go and took a turn for the worse in her behaviour. I don't know what it was formally, medically speaking or psychologically speaking, mentally speaking. And that [my taurima parents] put their hands up. That's all I know.⁶²⁹

...And we were there, us and eight kids. A couple of days later there's a knock on the door and there's this Pākehā lady and she informed my grandmother that she'd come to take the children to court. My grandmother said, "Why are these children going to court? It's the parents who should be in court." This, my grandmother, she's a straight talker. And this poor Pākehā lady goes, "They are going to be put into welfare; they are not being properly looked after." Oh, my grandmother saw red. She said, "You're not taking these children anywhere. These children are going to stay with me." This is her. And the Pākehā lady, she stood there and argued, and my grandmother was standing her ground and I was afraid for my grandmother. They were arguing. They were arguing about what was going to happen and my grandmother I knew she wasn't going to give; she was going to bring up these eight children. And I'm thinking, "How are you going to do that mum?" But that wouldn't have even come into her thoughts. It would have been the fact that they were taking the children.

⁶²⁸ Confidential interview transcript, 6 February 2018, p.5.

⁶²⁹ Interview transcript, 18 November 2015, p.8.

The Pākehā lady ended up threatening her with the police; she was gonna get the police. So, mum had to give in the two-year old, he was very ill, he was sick when he came out home. My grandmother said to her, “Alright, you take these children to court, but you won’t be taking this one anywhere; he is too sick to go anywhere.” There were a few more words and then the lady had to give in because there was no way. Mum said to her, “Over my dead body you’ll be taking that child from here.” So, she had to go and take what she could, so she took the rest of them into court, and they were spread among a lot of families. But the two-year old was raised by my grandmother; and he was never a welfare boy; never, ever a welfare boy. She just raised him. And then [the biological mother] had another child after him, just after all this happened and my grandmother kept asking welfare to bring him home so that she could raise the two youngest together; the two youngest at that time together. So, ended up welfare brought [the youngest] ... he was nine months old and so she raised the two boys together as my brothers as well.⁶³⁰

...I asked my aunty that question and she said, “I think it is because of our connection to Tainui,” ...they lived in a little cottage down by the sea, the other side of Mokau right on the seafront there. And it’s quite funny because the sea means a lot.... Yeah, the sound of the sea to me is always with me. And it’s quite funny, things that come, that are there all the time for me and I always remember the lady dressed in black. I think I have a bit of a picture of a witch ‘cause she was a bit of a healer, and of a witch in black and stirring the big cauldron. And so I may have seen that as a baby, ‘cause it was like it was so real in my head. That picture and the sound of the sea.⁶³¹

Prior to this period of time, the singular purpose of bringing families together was the primary driver, even if this meant the splitting of other whānau to achieve this. For example, when Mere Hautonga married Naera Pōmare, her infant children from her first marriage became taurima to their whanaunga (as in Ngaropi Tuhata to Hāmuera Koteriki). Similarly, Naera Pōmare’s son from his first marriage was given as taurima to Hāmuera Koteriki. After Mere and Naera were married and produced four further children another taurima was taken by Naera Pōmare as well (see Chapter Four). In the 1960s interference from New Zealand’s social services contributed to the

⁶³⁰ Confidential interview transcript, 6 February 2018, p.7.

⁶³¹ *ibid*, p.10.

creation and dissolution of taurima relationships within Ngāti Mutunga as children were forcibly removed from Ngāti Mutunga homes.

One of the key elements of the taurima custom was the assumption that ongoing connection to the biological parents was maintained. In this case, all the participants maintained contact with their biological whānau and the taurima child always knew their biological whānau connections. The degree to which they valued those relationships varied however the taurima's relationship could range from positive to antagonistic particularly if biological relatives overstepped or assumed a stronger relationship with the taurima child.

...I reckon that would have been maintained by his grandparents and his mother's siblings; so not necessarily his [biological] mother because I think his [biological] mother ...walked away from the situation, but his [biological] mother's older siblings knew where he was and who he was with and maintained the connections there.⁶³²

...Well, in my younger years when the family went over I would see Aunty and you know, in those younger years, I didn't know she was my grandmother. She was always Aunty...and it wasn't 'til teenage years, somewhere in there...I...was about 12.... I found out she was my grandmother and God, I was upset because she'd been presented to me as not somebody I should want to know...⁶³³

...I had a good life. I think I am very lucky to have been raised by my grandmother because my parents, my real parents, I never ever called them mum and dad, even though I knew them; they were never my mother and father. They were alcoholics, and I have a younger brother and sister who spent a lot of time in cars outside hotels, yeah, fighting with each other. And the only time in my lifetime ... the only time I ever saw them was, if they'd been drinking here at the hotel and they managed to call in down there; not to see me but to see their family. They weren't specifically coming to see me; I don't think I really meant a lot to them. And that's okay, you know, that doesn't faze me at all. It's fine, that's just the way they were; and neither did they matter to me. I think I was very lucky, honestly, to be raised the way I was. My sister and brother cannot relate to being Māori 'cause our father was white. And the mother probably didn't want to be Māori, only when it suited

⁶³² Confidential interview transcript, 17 September 2014, p.7.

⁶³³ Interview transcript, 18 November 2015, p.9.

her probably. So, I would have missed out on a whole lot of real, valuable stuff; not valuable like that, valuable. They don't even know how to behave Māori. My sister could easily be, she's got a Māori husband. But her husband's whānau are really her whānau; she's got that whānau and Māoriness there with them. My brother-in-law said to me one day, "Why don't you behave like a sister to your sister?" Which took me by surprise, like, they come, they visit, they go; just like my aunties do. I sort of didn't have an answer. I sort of still don't have an answer; well, I don't know how to behave like a sister to people I didn't grow up with. ...But how do I be a sister to them when I hardly ever saw them; probably saw them ten times in my life growing up. How do I behave like a sister? What am I doing that's wrong for them to ask me that question? I don't know. I really don't know. I thought it was okay; they'd come, they visit, they stay sometimes. How do you behave like a sister? What does that mean?...⁶³⁴

...I remember, I was... 26-years old...I was [working] in [a] bar...they had arrived and were drinking [there]... I remember... I walked out and I had a tray of glasses to put into the washing machine which is around in the public bar area...and I heard my father proudly saying to the group around him, "That's my daughter there." Ho! I saw red. My grandmother was still alive at the time. But I did, I saw red. I put the glasses in, switch the time, and I turned around and I said to him in front of them... "Father? You call yourself my father. I have never had a father. I am 26-years old and you walk in here and you're telling these people..." - who all knew me - "...that you're my father." I said, "I haven't got a father. I have a mother. I've never had a father..."⁶³⁵

...She was just the same as my aunties; she was my sister. But I saw more of my aunties than her. I didn't hate them, they were nothing to me, and they needed to understand that. They were really nothing to me. I know they were my parents, I always knew it. I just really resented them laying claim to me that day; I thought they had no right.⁶³⁶

Respondents were also asked to consider when a whāngai relationship might end, particularly in light of the case studies outlined in this thesis and their strong belief that inheritance

⁶³⁴ Confidential interview transcript, 6 February 2018, pp.10-11.

⁶³⁵ Confidential interview transcript, 6 February 2018, p.12.

⁶³⁶ Confidential interview transcript, 6 February 2018, p.13

rights should be equal to natural born children. Interestingly, there was a significant variation in their responses. Rejection, death, prior claim by blood relatives, and running away as a teenager were all considered reasons for taurima relationships coming to an end. Other responses consider that taurima relationships are life long and unbreakable. This demonstrates that there is an inconsistent perspective of tikanga taurima in this regard.

...I think they do sometimes. I think there's a couple of different kind of scenarios and one is that teenagers when whāngai children or any child who has been kind of adopted or whāngai into a family gets to that teenager kind of stage and they think I've got to go find who gave birth to me and who that family is, if the connection hasn't been maintained. So I think there's always that risk that you run when they're teenagers....then there's also breakdowns in relationships...⁶³⁷

Only on rejection or death. The reality of it. I mean, see, I can say that I've always known that they consider me different, even if they don't know the way they've behaved towards me, separated me. So, they would have to reject me and say, "You're not my sister" which [someone] has done....⁶³⁸

...No...

...Q: It endures?

A: Yes, definitely. It'll never end; why would it end? And that would be interesting for you in your journey because you'll have people who might say, yes to that, and there'd be reasons. But mine will never end.

Q: Have you ever seen anybody else's relationship come to an end? I guess you've alluded to one with the couple up in Mokau, so that relationship...

A: That relationship ended.

Q: Because there was prior claim by blood relatives?.

A: Yes.

Q: Were you aware of any other relationships that might have come to an end?

A: No, only with death, eh, that's all - only with death. But then it still doesn't end, for me, it doesn't end; that's your whānau, that is who you are, who has shaped you to

⁶³⁷ Confidential interview transcript, 17 September 2014, p.8.

⁶³⁸ Interview transcript, 18 November 2015, p.11.

be the person you are today...⁶³⁹

Despite that variance, all respondents agreed that they would promote the taurima practice to other people. This indicates an ongoing positivity and viability of tikanga taurima in Ngāti Mutunga. It can be argued that were it a negative practice, the responses would not have sought to promote it to other people.

...I suppose you kind of talk about it jokingly to some people; go and get that baby...⁶⁴⁰

...Gotta be better than going to adoption places or you know, sort of like, assisted living or you know, kids homes and that, for sure...⁶⁴¹

...I would support them with it. I certainly would support; I supported our moko in that exchange there. She belongs to my mokopuna and she's gone to an ex daughter-in-law, but still whānau. The ex daughter-in-law is still part of our whānau; it's just the way it is. And the father of these two girls - one girl here and one's down at home with her mother. He arrived yesterday out of the blue after probably ten years, and with his now partner and two siblings - I don't like the word 'half-siblings', they're siblings, they're sisters. For me, we're the Nanny and Koro of even those children, because we're the Nanny and Koro of our own. Even though he's an ex person with his children they're still our moko, they're still our moko. It's for me, no different. How do you get around children calling you Nan, and there's children...you can't tell them they're not allowed to call you Nan and Koro, I couldn't. For me we are Nan and Koro, regardless of whether it's a blood relationship or not...⁶⁴²

Inheritance and succession were seen as similar issues for participants. Each respondent gave clear examples and indications of their personal experiences in respect of taurima succession. Each explaining that taurima children should really inherit in step with biological children and kin. They also understood however the legal impediments towards this occurring. The fact that they understood their exclusion based on legal reasons is proof of the legislative impact on tikanga

⁶³⁹ Confidential interview transcript, 6 February 2018, p.13.

⁶⁴⁰ Confidential interview transcript, 17 September 2014, p.9.

⁶⁴¹ Interview transcript, 18 November 2015, p.11.

⁶⁴² Confidential interview transcript, 6 February 2018, pp.13-14.

taurima today amongst Ngāti Mutunga. The extent of their views are outlined in full below as it gives an appreciation of taurima perspectives on land succession.

Respondent 1:

...I think there's a place for it....succession of assets, succession of responsibilities and roles if you're that important.... my father succeeded to nothing. His [taurima] parent who brought him up their assets went [elsewhere] ...and that would not have bothered my father at all; I think land, whatever land interests existed; probably some... shares there somewhere and those sorts of things. It wouldn't have mattered to him in an emotional way...⁶⁴³

Later this same participant made a distinction with their own land interests preferring that they remain aligned with biological whakapapa kin in preference to their taurima child.

Respondent 2:

...Oh, see if you're related to the family there must be some way of including you. You have your feet on the same land if you understand my saying....But you can't be cast aside. The responsibility comes from being whāngai. This is my thoughts on whāngai, not particularly my personal experience but that you're taking a child into your home, you can't suddenly say, "Well, you were ours but now you're not."....⁶⁴⁴

Respondent 3:

...So, I do think that but because I was a person on the receiving end at that time I didn't want to be seen to be taking, 'cause I wouldn't do that. And just prior to that I had... It was quite traumatic because the hospital had rung me the morning we went down to the lawyers. But the hospital had rung me and they'd asked if they could do an autopsy on my grandmother, and it really upset me. And I told them, no... Because I was upset they said, "Well, come in and we'll pick you up, we're going to the lawyers." So that's how I happened, yeah. But I stayed out in the car when they went in. I'm very much a person who thinks some things are my business and some things are not, you see. And so that's why I'm very much like that. When that happened I knew what my grandmother wanted

⁶⁴³ Confidential interview transcript, 17 September 2014, p.10.

⁶⁴⁴ Interview transcript, 18 November 2015, p.13.

but I didn't want it because I wasn't receiving. If it was for someone else I would have fought a battle, but because it was me I couldn't, only because I didn't want to be seen to be taking. Because I'd come out home in here the day before, and I walked in home, oh, I just don't get the thinking. I walked in home, and we had a huge lounge, and there was groups of mum's stuff in piles around that room. When I walked in one of my aunts said to me, "Oh, we've put some stuff over there in the corner, we think it's the stuff that you gave mum." And I said, "Oh, yeah." ...So, I walked across, and I had made mum a jewellery box for her to put her jewellery in... I walked over, and I picked up the jewellery box and I opened it. And I said, "Oh, where's everything from inside it?" They said, "Oh, we've split that up amongst the girls. Why?" I said, "Well, some of that stuff I gave mum." And they says, "Oh, well, so-and-so wanted this, and so-and-so wanted that, and blah, blah, blah." And I said, "Oh, really?" So, it sort of upset me that they had gone through all her stuff and decided who was gonna get what amongst them, and what they didn't want was gonna be for me. And I thought, "How could they do that, straight after mum's died and they've gone through..." You know, if you start drawing it out a lot of stuff is there that you probably don't think about, you just get on with life, eh. But sometimes something might happen or someone will come in the office looking for who they are, and then it triggers something with me, like, "Gee, I'm so lucky to know who I am and where I stand..."⁶⁴⁵

...when our mother died they rang and told me; so they were having her at home in there. I said, "Okay, is there anything you need help with?" 'Cause she was the Māori of the two, so, I probably had a bit of an affinity with her, more so than him. They said, "Only if you've got some mattresses, that would help." So I said, "Yeah, fine, we'll bring some through," so we did. And we turned up, and here are all my true nieces and nephews there and the parents and a few people in at the house. And we turned up and I could see all these faces looking out the window at us, and I said to [my partner], "Oh, yeah, here we go, the show begins."

....So, we walked in; we didn't take the mattresses in there, you've gotta go and do your thing first, so we did what was necessary. I walked into the room and here's all these

⁶⁴⁵ Confidential interview transcript, 6 February 2018, pp.14-15.

people. I said, “Oh, I’m the ugly duckling,” when I walked in. There was a lady sitting by the casket and she said, “You’re no ugly duckling, dear.” Anyway, I went around then we went out and got the mattresses, brought them in, or they did. I stayed there for a while but then I came home, you know; there was no need for me to be there. They all knew each other, the young nieces and nephews were a bit... like, yeah. Never, ever met me, never, ever seen me before; didn’t even know who I was before that day... When my sister was travelling home again she called and she says, “We’ve wound up all mum’s stuff and we’ve done this and that. And we’ve decided that you can have the land because it’s worthless anyway.” ...They said, “Oh, no, no, no, we’ve discussed it. My brother and I, we’ve discussed it and he agrees, he really wants no part of it.” I said, “It’s not really about you, it’s about your children.” But there’s no way you can get that thinking into what I call a Pākehā head, through no fault of theirs; you know, their thinking is just totally not of this world. And so, I can talk about where we stand, why we, you know. It actually isn’t worthless; it identifies who you are. It means nothing to them. Anyway, they went away and then eight years later when they were here one day I said, “You really need to do something about your mother’s land. I am going to ask you and your brother again: what do you want to do with the land? You’ve had eight years to think about it.” “Oh! Don’t want it.” I said, “Really? Well, you go talk to [your brother]; I want it in writing... I said, “And even though that land might go into my name, as far as I’m concerned it’s whānau land for all of the family.” And they said, “Oh, do what you like.” ...⁶⁴⁶

Respondent 4:

...But getting back to that land thing, some of them started behaving badly, they said, “Why should [name] come in here because she’s getting Aunty’s shares in the land?” I said, “Because it’s actually not about that.” They said, “What is it?” And I said, “It’s about her kids. At the end of the day we’re not gonna get huge monetary benefits from this. But if we’re all in this together because we are who we are, it’s for our kids.” So, we had the eleven kids that the old lady and the old man had, and then myself and [Name], who were grandchildren but whāngai...⁶⁴⁷

⁶⁴⁶ Confidential interview transcript, 6 February 2018, pp.18-19.

⁶⁴⁷ Interview transcript, 26 September 2018, p.25.

Would you consider your whāngai relationship member to be your next-of-kin for medical purposes (e.g. Switching off life support in coma)?

Another area that resulted in differences of understanding and opinions related to taurima being listed as next-of-kin for medical purposes. Two expressed that they would consider their taurima able to make medical decisions for them personally. One reported that they knew that they were not next-of-kin for their taurima parent because of the behaviour expressed by the biological children of the taurima parent. Responses from above are applicable here too where respondents consider that taurima children should have the same rights as biological children and kin. These rights extend to include medical decisions.

...When [my taurima son is] old enough yeah...but right now my next of kin would be my [partner] or my [sibling]; because they're too little but maybe when they're in their 20's I would let them have responsibility for that kind of stuff...⁶⁴⁸

...Without a partner, if I didn't have a partner to do that, yeah...⁶⁴⁹

...Q: Would you consider yourself to have been next of kin for your mum?

A: No.

Q: Who would you have considered next of kin for your mum?

A: I didn't even think I was next of kin to my real mum and dad, I didn't. Which is another interesting story. But, no, I didn't consider that I had any rights in a Pākehā world to anything of hers; in a Māori world I thought I had every right. However, I was not going to argue over anything of hers because for me that was being disrespectful to her; I wasn't worried about them. I mean I could have been disrespectful to them but 'cause they were older than me, however, I wouldn't be 'cause of my upbringing. It would have been easier for me to be disrespectful to them rather than to her. But even though she might have died there was no way I was going to be disrespectful to my mum...your own would probably have that right over the other two, if that is the case I'd like to think they would all agree, although that doesn't happen I know that for a fact...with my grandmother I wanted to bring her home; they'd left her at the undertakers. I was outvoted. One of my aunties even had [said], "We are not Māori." That made me feel wonderful [sarcastic tone]....⁶⁵⁰

⁶⁴⁸ Confidential interview transcript, 17 September 2014, p.12.

⁶⁴⁹ Interview transcript, 18 November 2015, p.13.

⁶⁵⁰ Confidential interview transcript, 6 February 2018, p.16.

Concluding comments about interview questions and answers

There are a range of themes from the responses to the interview questions. Primarily, these themes were: (1) taurima was a custom that prevailed amongst Ngāti Mutunga, whether it was given a name or simply undertaken. It was and is a natural part of Ngāti Mutunga life; (2) Contact with natural family members was always maintained, and even across generations of a whānau; and (3) It can be clearly seen that impacts on Ngāti Mutunga taurima as described throughout this thesis are by implication an ongoing tikanga. It also confirmed that taurima likely has an impact on every Ngāti Mutunga whānau in a taurima relationship, particularly, because of its prevalence. Ngāti Mutunga stand to be impacted disproportionately to other iwi owing to its small size.

The interview participants outlined very important areas of inconsistency and those impacts for Ngāti Mutunga are ongoing today. All four respondents have memories of how legislation (e.g. land succession) and public agents (such as social welfare officers) have impacted their own taurima relationships.

Systematic impacts on whānau and taurima relationships

The sections that follow illustrate further examples of inconsistent treatment that have arisen from first-hand experience of raising my own taurima children in the period 2000 to 2019. These experiences, while a microcosm of one whānau's experience, demonstrate how widespread and inconsistent treatment of taurima in New Zealand impacts tikanga taurima.

New Zealand passport applications

Within their first five years, we applied for New Zealand passports for each of my children to enable their travel between Australia and New Zealand to visit relatives. It became evident when we submitted a passport application for our eldest son (under a customary taurima arrangement) to the Department of Internal Affairs that it would not be accepted. The Department explained to us that neither mine nor my wife's name was on his birth certificate, nor was the common name he was known by represented. Because we could not supply legal documentation to show our familial relationship to our son, or to support a change to his 'legal' name the application could not proceed. At that time (2004), we dismissed these barriers as bureaucratic nonsense and worked with our son's natural mother in Australia to sign the New Zealand passport application form to secure his passport. Our reasons for thinking it was bureaucratic nonsense was due to

the fact that our son had had a previous passport, a diplomatic passport that was issued to him when his taurima mother was a diplomat stationed in the New Zealand High Commission in Fiji. In order to gain his diplomatic passport, my wife provided a written letter signed by his biological mother as proof of her relationship to him, a signed letter from her parents and the diplomatic passport was processed, without formal statutory declarations. The letters outlining the taurima relationship were at that time sufficient evidence for the issuing of a diplomatic passport in 2000.

When we applied for our biological son's passport, also in 2004, it was processed without delay. All of the legal requirements were satisfied, as our names and his name on the application matched the birth certificate details. At that time, our youngest son already had a passport supported by his biological father so he could leave Australia and come into our care. Each of these passports expired after five years and we had to renew them in 2009 and 2011 respectively. The same dynamics repeated themselves for the first two sons. In the case of our youngest son we were able to sign his application form following a formal Family Court process providing us with legal guardianship in 2006, thereby confirming our 'legal' connection to him. As such, his renewal application did not meet any barriers.

Upon the third renewal period in 2014 and 2016 we observed the same circumstances with our eldest and middle son, and yet our youngest child, who at the last application had met no barrier, this time did. My wife, who made the application, explains:

.....the case manager would not accept the legal parenting order I had used for the two previous applications. She instead referred me back to the Family Court to gain a new copy of the same order. It caused unnecessary anxiety as we were shortly due to leave for Melbourne on a family holiday. Only after the Department changed case managers did the application get processed and confirmed without me having to supply the further copy requested by the previous case manager....⁶⁵¹

Even though passport applications were made twice previously (in 2006 and 2011) the case manager this time chose to delay the application over their perceptions of our 'legal' connection to him. While a positive outcome followed a change of case manager, the anxiety

⁶⁵¹ *Pers. Comm.* Dione Payne, 31 March 2016.

associated with contemplating us leaving a child behind in New Zealand or forfeiting our family trip was problematic, distressing, and unnecessary. These three contrasting experiences encouraged further consideration of why these differences occur, particularly in New Zealand where taurima prevails in everyday society. This situation also encouraged me to consider implementing further ‘legal’ mechanisms to legally legitimise taurima relationships.

Births, Deaths, and Marriages Act 1995

The Births, Deaths and Marriages Act 1995 (administered by the Department of Internal Affairs as discussed above) provides key insights into why the Department of Internal Affairs behaved the way it did over the three successive passport application rounds. The Act’s purpose is to provide for the recording and verification of information relating to births, deaths, marriages, civil unions, name changes, adoptions, and sexual assignments and reassignment. In doing so the Act provides the government with the demographic information (including health, mortality, and other matters) important to its functions. More specifically Section 1A(a)(ii) gives government:

- (ii) an official record of births, deaths, marriages, civil unions, and name changes that can be used as evidence of those events and of age, identity, descent, whakapapa, and New Zealand citizenship; and
 - (b) to regulate access to, and disclosure of, information recorded in respect of these matters; and
 - (c) to regulate the provision and effect of certificates relating to information recorded in respect of births, deaths, marriages, civil unions, and name changes.⁶⁵²

The subsequent provisions within the Act discuss legislative inclusions of powers related to births, deaths, marriages, civil unions, adoptions, and declarations as to sex, but nowhere is there a recognition of taurima arrangements. The Act however supports formal adoption orders, guardianship orders and other legislatively empowered instruments. In the Passports Act 1992, it further becomes clear why Department of Internal Affairs officials would not issue passports to taurima children without legislative orders:

⁶⁵² Section 1A(a)(ii) of the New Zealand Births, Deaths, Marriages, and Relationships Registration Act 1995 accessed at <http://www.legislation.govt.nz/act/public/1995/0016/latest/DLM359369.html> on 13 March 2016.

(3) The Minister may refuse to issue a New Zealand passport in any of the following cases:

(a) where the applicant has not attained the age of 16 years and has not produced the written consent of one of his or her **parents or guardians** [emphasis added] to the issue of a passport to him or her.⁶⁵³

In such cases, the right of a parent or guardian is considered superior to a taurima parent in terms of legislation governing passport applications. From a taurima parent's perspective, I had assumed that regardless of the legal arrangements concerning my children's place in my family, my parenting of them would suffice to make an application on their behalf for a New Zealand passport.

Guardianship is defined in the Care of Children Act 2004 as someone whom the Family Court appoints and grants "all duties, powers, rights, and responsibilities that a parent of the child has in relation to the upbringing of the child."⁶⁵⁴ A guardian is therefore different to a natural parent who is automatically considered to be the natural mother, and subject to some conditions, the natural father of the child. A Parenting Order, on the other hand is a separate instrument which provides for the day to day care of a child.⁶⁵⁵ This was obtained for our youngest son in addition to court-appointed guardianship orders to allow for the full legal rights to obtain documents such as a passport.

Sale and Supply of Alcohol Act 2012

This intermediate space in which taurima parents can also find themselves includes circumstances such as the serving of alcohol to minors. Reforms of the Sale and Supply of Alcohol Act 2012 targeted reduction in New Zealand's drinking culture and reducing social harm caused by excessive drinking. This Act further limits young people accessing alcohol as well as placing more responsibility and 'parental' control over who supplies alcohol to children. The Ministry of Justice's website states that you can only supply alcohol to a person under the age of 18 years if you are their parent or legal guardian, or if you have the express consent from their parent or legal guardian, or if the young person is married, in a civil union or living with a

⁶⁵³ New Zealand Passports Act 1992. Section 4 (3). Retrieved from <http://www.legislation.govt.nz/act/public/1992/0092/latest/whole.html> on 13 March 2016.

⁶⁵⁴ New Zealand Care of Children Act 2004, Section 15. Retrieved from http://www.legislation.govt.nz/act/public/2004/0090/latest/DLM317411.html?search=ta_act_C_ac%40ainf%40anifan%40bn%40rn_25_a&p=1#DLM317411 on 13 March 2016.

⁶⁵⁵ *ibid.* Section 48.

de facto partner.⁶⁵⁶ “Express consent” may include a personal conversation, an email or a text message that is believed to be genuine.⁶⁵⁷ As it became clear in the New Zealand Passports example above, the rights of taurima parents are subjugated in legislation beneath the rights of ‘parents’ and ‘guardians’.

In a theoretical scenario a taurima parent may want to serve their taurima children alcohol in an effort to teach drinking responsibly. If this intention is challenged by a biological parent or court-appointed guardian, then taurima parents may be prosecuted and fined up to \$2,000. Another scenario explores the converse situation. If taurima parents do not wish their taurima child to drink alcohol, their wishes may be overridden by biological parents or court appointed guardians. In this eventuality, the taurima parents have no legal recourse to protect their children. As increasingly negatively geared social circumstances cause whānau to remove children from harmful domestic situations into taurima relationships, there is an increasing potential for negative situations like this to occur, particularly where contact is maintained with biological relatives, as is customary.

Inequities in asset transfer and succession

Chapter Seven explored in detail legislative inconsistencies concerning succession and parental inheritance by taurima children. Unless taurima children are specifically included in legislation (as in the Te Ture Whenua Māori Act 1993) or a legal tool (such as a will) they are not eligible for asset transfer and succession purposes. Some may argue that this is consistent with tikanga Māori, while others (as in the interview responses), argue against this and seek their inclusion, particularly for Māori land. It appears an anomaly that assets of various types may be treated differently in the eyes of the law with respect to taurima children. For example, a taurima child may succeed to Māori land interests, but may not necessarily succeed to other assets such as general land, market shares and other economic assets without specific legislative inclusion. There may be a future occasion to observe what would occur in the event that a wealthy, deceased taurima child with no siblings, partner, or children (natural or taurima) was to be

⁶⁵⁶ ‘Not your kid. Not your call.’ Ministry of Justice Website accessed at <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/sale-and-supply-of-alcohol/key-points-for-the-public/#not-your-kid> on 19 April 2019.

⁶⁵⁷ ‘What’s Changing and When.’ Ministry of Justice Website accessed at <http://www.justice.govt.nz/policy/sale-and-supply-of-alcohol/whats-changing-and-when/alcohol-law-changes-for-the-public-december-2013> on 13 March 2016.

succeeded. Would succession norms occur in reverse? Particularly where the primary caregivers were the taurima parents. Research to date has not found such an example for analysis and inclusion here but there is good reason to consider elsewhere whether the taurima practice should run in reverse for the same reason raised by the taurima participants.

In the case studies in Chapters Four, Five and Six, succession by taurima children was more prolific than by natural kin. That is, taurima children retained and actioned their succession rights to Māori land from their taurima and natural parents and kin. This is not limited in legislation and can and has created inequities amongst whānau. It has also contributed to alienation of land interests, which has been discussed at length in preceding chapters.

Teripa Lewis

Teripa Lewis is a key participant in this research and is also an interviewee who agreed to be identified. Born in 1953, Teripa's mother, Marama Grennell-Weretā was the only child of Hone Weretā (from Ngāti Raukawa), and her Kāi Tahu/Ngāti Mutunga mother, Airini Grennell. On both sides of her whakapapa, Marama was the eldest and only child and considered to hold the tuakana (senior) line in her whānau. Marama's parents separated shortly after their marriage and Marama was taken in a taurima arrangement by her maternal grandparents. At twenty-one, Marama became pregnant out of wedlock. Whānau anecdotes and oral histories recall that Marama's whānau did not approve of her relationship and it ended soon after the pregnancy was discovered. Following Teripa's birth, Marama experienced what was diagnosed as post-natal depression and was institutionalised for treatment.⁶⁵⁸ The public health system exacerbated mental health issues for Marama and she was deemed incapable of providing childcare. Marama's maternal aunt took Teripa and raised her as her own taurima child.

The whakapapa significance of this arrangement was that the tuakana (eldest by descent) child (Teripa) was taken and raised by the taina (youngest by descent). Teripa's aunt (and now taurima mother) had four older children whose biological ages relegated Teripa to the family position of the youngest child of the youngest child. Teripa reports remembering feeling that she was loved but that she never quite 'fited in' to the new whānau arrangement:

⁶⁵⁸ Interview transcript, 18 November 2015.

I mean, there's love involved in all of it but for me the absolute truth is that I was always separate, still am...I'm always separate but they love me and I love them. We were brought up, we're brothers and sisters...⁶⁵⁹

Identity issues from a tikanga perspective meant that although she had been born as the eldest of the eldest (as was her birth order) with all the rights and responsibilities of a tuakana, her lived experience as the youngest of the youngest, created a sense of not fitting in. For example, had she remained with her biological parents her legal name would likely have been Teripa Weretā or Teripa Grennell rather than Teripa Lewis, her current legal name. Continued connection with her biological mother and grandmother in her life would have been much stronger as a result of living with them continuously. Recognition within the wider whānau would also have been different as ordinarily the seniority of her birth would have been socialised and acknowledged throughout her lifetime; however, this was not the case and she is often treated as the youngest child of the youngest line despite her tuakana position.

These kinds of identity issues are important for taurima and their whānau, especially as it impacts on self esteem and children's health and development in their formative years. Nowhere was this more evident than with the experiences faced by my own children.

My own children – identity issues

In addressing issues associated with my own children, I have utilised anonymising identifiers for each of them. This has been done to protect their identities when this thesis is publically available. As an extension of whakapapa, protecting the names of my children is a natural extension of kaupapa Māori and noninga kumu whereby I want to avoid as much as possible any potential harm to Ngāti Mutunga people.

My children possess names that commemorate our natural whakapapa connections to each other and in some instances, their common names differ significantly from their legal names. Identity issues for my children began to occur as they reached their fifth year and we enrolled them in New Zealand's compulsory school system. The names we had called our children for the first five years of their life were the names that they had formed their identities around. The table below shows the differences between my children's legal names (ingoa ture)

⁶⁵⁹ Interview transcript, 18 November 2015.

and their common names (ingoa karanga).

| Son # | Legal Name (ingoa ture) | Common name (ingoa karanga) |
|-------|-------------------------|-----------------------------|
| Son#1 | A B C Surname 1 | A B D Surname 3 |
| Son#2 | E F G H Surname 3 | E F G H Surname 3 |
| Son#3 | I J Surname 4 | J K L I Surname 3 |

Figure 12: Table showing representations of differences between taurima legal and common names.

Their common names were used for enrolment purposes at kōhanga reo (Māori-language early childhood centres) and other early childhood centres without issue. Son#1 and Son#2 were not significantly impacted as they had identical legal and common first names. Our youngest son Son#3, however, had his entire first name changed which caused some confusion for him in his first years of school. Son#3's first school was Te Wharekura o Rākaumangamanga in Huntly. We assumed that as a Kura Kaupapa Māori (Māori immersion primary school) they would understand the taurima custom and accommodate these differences accordingly, but this was not the experience we encountered. The school administration staff explained to us at enrolment that only Son#3's legal name would be accepted on the enrolment form as it was a Ministry of Education requirement, unless we could show a legal change of name that supported his common name. Quite confoundingly, the name the school enrolled him with was a hybrid name made up from components of his legal and common names. The impact of this administrative name change proved to have longlasting implications.

When we corrected the kura and told them to refer to him by either his legal name or his common name, they refused and continued to call him the hybrid name that had no connection to our whānau or to him or any legal status. Rather the school was wanting to use the Māori first name we gave him and the Māori surname that was on his birth certificate. In essence, the school selectively prioritised names they had no legal or moral right to do. This name persists in the New Zealand school system and follows him to each school he enrolls in. This is neither in line with the Ministry of Education or our whānau practice. In this instance, a publicly funded institution has created a new identity for a taurima child without the legal guardian's consent or his biological parent's consent.

Son#1's surname reverted to his birth surname from his taurima surname as he increased in age and attended different schools that became increasingly focussed on Ministry of Education criteria for enrolment. The Ministry is clear that all enrolments into New Zealand educational institutions must be accompanied by a New Zealand Birth Certificate or legal document that contains the same information and legislated authority.⁶⁶⁰ Son#1's preference was easier for him to explain, but also as an older teenager he asserted his own identity and reverted to his legal name. In 2016 after significant whānau discussion and interaction, Son#1 decided to tahuti and he moved in with his maternal taurima grandparents. The significance of this decision is that it reinforces the temporary nature of taurima relationships where even the child may opt out of the relationship, not just the parents.

Alternatively, biological whānau and parents may choose to recall a biological child from taurima parents. This was the case with Kahurautete Durie, the juvenile taurima of Sir Eddie Durie and Donna Hall. In 2002, baby Kahurautete was kidnapped at gun point while out on a walk with her taurima mother. The baby was located after eight days in her captor's possession. The kidnapper was arrested and later jailed. It was following this incident that Kahu's biological whānau asked for the baby's return. This was agreed to five months later by her taurima parents.⁶⁶¹

Social displacement from taurima and natural families

Social displacement is a very real issue for some taurima children, some of whom are not aware that they are taurima until later in life. Examples of displacement can fall into the following scenarios: (1) where the taurima child is taken into another whānau and not told of their origins, nor of their natural whakapapa connections. (2) Where perceptions of, or actual, negative social issues prevent positive contact between the taurima child and their natural parents. (3) Where an adoption order accompanies a taurima arrangement and European norms of adoption prevail. (4) Children who are formally adopted transracially.

⁶⁶⁰ Circular 2012/01 - Eligibility to enrol in New Zealand schools. Retrieved from <http://www.education.govt.nz/ministry-of-education/publications/education-circulars/2012-circulars/circular-201201-eligibility-to-enrol-in-new-zealand-schools/> on 13 March 2016.

⁶⁶¹ 'Kidnapper set for freedom as victim turns eight' 5 Aug 2009. Retrieved from <http://www.stuff.co.nz/national/crime/2709776/Kidnapper-set-for-freedom-as-victim-turns-eight> on 10 March 2019.

Erica Newman explores examples of children who fall within the fourth category, as well as recording her own story and associated difficulties with identity formation when whakapapa connections are not maintained or communicated to the child or their descendants.⁶⁶² This shows that the impact of transracial adoption can continue to impact on the descendants of taurima children.

Scenario 1: where the taurima child is taken into another whānau and not told of their origins, nor of their natural whakapapa connections.

In the first scenario above the taurima child is taken into another whānau and not told of their origins, nor of their natural whakapapa connections. One of the interviewees in my study experienced this in respect of their natural father who remains anonymous to that participant until this day. Her natural maternal grandfather's family also remain disconnected from this participant despite her succession to Māori land from that whānau. Conversely, the same participant was made fully aware of her natural maternal grandmother's connections to her and the whakapapa associated with her natural and taurima lines.

So, I was whāngai-ed into the family of my grandmother's sister. So, Mum and Dad always said that they told me when I was little but I can never remember it because I know at the age of 12 I found out that Aunty [X] was my grandmother and burst into tears.⁶⁶³

Scenario 2: Where perceptions of, or actual, negative social issues prevent positive contact between the taurima child and their natural parents.

In the second scenario above perceptions of, or actual, negative social issues prevent positive contact between the taurima child and their biological parents. An interview participant in particular mentioned that this was a driver in their father's taurima arrangement as follows:

Q: Who in your Ngāti Mutunga family has a whāngai relationship?

A: ... my grandmother.....had five children before she got married. We've never kind of been told why, what the circumstances were around all these different children; but in essence she didn't raise any of them until she got married and had another family, like another five I think, and they were her children who she raised. So all [the first] five were given away, in

⁶⁶² Newman, *ibid.*

⁶⁶³ Interview transcript, 18 November 2015.

essence, to different family members. I think one of them was possibly put into the system and adopted....but all of those other children, the other four; sorry, I think one was adopted into the Pākehā system, three were whāngaied as they were born, and then my father - I know his circumstances better than the others - he was a state ward until he was about five and then he was whāngaied into someone from the family, slightly further away.⁶⁶⁴

Scenario 3: Where an adoption order accompanies a taurima arrangement and European norms of adoption prevail.

The Ngāti Mutunga example of Ngāmoni Ngāwharewhiti is an example of this scenario where she successfully adopted children to ensure land succession occurred in their favour (see Chapter Four).

Social and Health Systems

The types of social assistance available for taurima children and their parents are minimal compared to those of formally adopted or state assisted relationships. Social assistance for the purposes of this study are related to the health, social, and safety needs of children and their whānau. The Ministries of Social Development and Education administer public funds that promote these aims in society. Of particular interest to this study are social economic benefits such as the Domestic Purposes Benefit, Child Disability Allowance, Unsupported Child allowance, Special Education Needs fund, and the National Health Index.

Work and Income New Zealand financial payments

Work and Income New Zealand is the branch of the Ministry of Social Development that deals with social assistance payments to unemployed citizens and those less fortunate in society. Taurima arrangements are not expressly provided for in the policy framework of the Ministry, however, they are incorporated into many instances of payments made to beneficiaries either directly, or to their caregivers on their behalf. These payments are designed to assist with their maintenance in a few areas. The main areas are Sole Parent Support, Unsupported Child Payment and Child Disability Allowance.

Sole Parent Support

⁶⁶⁴ Interview transcript, 17 September 2014.

The Sole Parent Support payment is the replacement name for the benefit formally known as the Domestic Purposes Benefit which was initiated in 1973 to provide financial assistance to single parent's with dependent children. In 2013, the government redesigned the welfare system and renamed the support given to single parents while narrowing access criteria to encourage single parents to re-enter the workforce as their children became of age. For single parents to access the sole parent support they must have at least one dependent child. The Ministry relies upon the interpretation of the Social Security Act 1964 to give effect to their policy structure for eligibility. A dependent child is therefore considered to be under the primary responsibility of a person, maintained as a member of their family, financially dependent upon them and not receiving income from any other source. In determining who is considered a mother or father for this benefit the Ministry provides further guidelines:

A client applying for Sole Parent Support should be the child's natural or adoptive parent. If the client is not the child's natural or adoptive parent, you can regard the child as their own when:

the child is being maintained by the client; and

was at any time maintained by the client's partner; or

each of the child's natural or adoptive parents are deceased, cannot be found, or suffers a serious long-term disablement which renders them unable to care for the child; or

due to a breakdown in the child's family no natural, adoptive or step parent is able to care for the child or provide fully to the child's support; or

the child's natural, adoptive or step parents and/or guardians are unwilling to support the child.⁶⁶⁵

It is possible therefore for taurima parents to receive this type of assistance. The tikanga is not, however, specifically supported in legislation but rather by departmental policy which remains vulnerable to policy reviews and political changes at any time.

Unsupported Child Benefit

A taurima parent who is over eighteen years old, the main caregiver of the child for at least

⁶⁶⁵ 'Determining who is a mother or father'. Retrieved from <http://www.workandincome.govt.nz/map/income-support/main-benefits/sole-parent-support/determining-who-is-a-mother-or-father-01.html> on 5 April 2016.

twelve months, and not the child's natural or adoptive parent, may apply for the unsupported child benefit. Work and Income explain further qualifying aspects of this benefit:

For the Unsupported Child's Benefit

You'll need to apply for Child Support from the child's parents. This money goes to the government to help cover what we pay you. You'll also need to attend a Family Meeting (if you haven't already had a Family Group Conference) to confirm that there has been a family breakdown and that you will be the main caregiver for the next 12 months.

Step parents won't be able to get an Unsupported Child's Benefit.

Every year between mid-January and the end of February you can apply for the School and Year Start-up Payment to help with yearly costs, in particular pre-school or school-related costs such as a school uniform and stationery.

If you're caring for a child who's showing promise in a particular area or experiencing difficulties affecting their development, you can apply for a grant of up to \$2,000 each financial year from the Extraordinary Care Fund to help the child achieve their potential.⁶⁶⁶

All applications for this benefit need to be accompanied by the child's birth certificate, copies of custody or guardianship agreements and any details about the child's income. Our whānau received this benefit for our youngest son. This policy assumes that all unsupported children (i.e. taurima) will have come through a state intervention system as per the requirement of attending a Family Group Conference or family meeting. Dione Payne applied for this benefit for our eldest son and recalled having to discuss at length with the case worker that our circumstance did not require a family group conference as it was a whānau arrangement that created the taurima relationship. Because the case worker was focussed on the policy requirement of a Family Group Conference or meeting, the financial support became incumbent upon conforming to a negatively geared system. For Māori, many engagements with Ōranga Tamariki (formerly the Department of Child, Youth and Family) result from negative situations that require Family Group

⁶⁶⁶ 'Help from Work and Income'. Retrieved from <http://www.workandincome.govt.nz/individuals/brochures/help-for-kinship-carers/help-from-work-and-income.html> on 5 April 2016.

Conference meetings and interventions. This requirement regarding financial support reinforces that taurima, and resources to support the relationships, were assumed to be negatively geared.⁶⁶⁷

Child Disability Allowance

Work and Income New Zealand define the child disability allowance as a fortnightly payment made to the main carer of a child or young person with a serious disability. It is paid in recognition of the extra care and attention needed for that child.⁶⁶⁸ In 2019 the rate for this payment to caregivers was \$48.45 per week. To qualify for this allowance a person must be a New Zealand citizen resident in New Zealand, and the main caregiver of the child with the disability. The child must have a serious physical or intellectual disability, be under eighteen years of age and need constant care and attention for more than twelve months because of their disability. Our eldest son, diagnosed professionally with medically qualifying conditions, enabled us to gain access for this allowance. For the size of the benefit and the significant compliance steps to maintain the allowance we opted not to engage this support. The cost of medications alone was greater than the allowance paid for our son's ongoing care. As such, my wife did not wish to proceed with the application, opting as whānau often do, to resource the relationship through their own means without assistance from the state.

School High Health Needs Fund

The School High Health Needs Fund is a financial resource administered by the Ministry of Education to provide additional educational support to children with special educational needs in mainstream schooling because of physical or intellectual challenges and disabilities. This fund is contestable with the funding often prioritised amongst those with the highest needs. The Ministry of Education is not concerned with the parental arrangements for the children this fund seeks to assist, perhaps because those concerns are already taken care of when a child is enrolled at a school. It is also likely that because this fund is targeted at providing third party resourcing to assist children and no direct payments to parents/caregivers are available then there is no need to verify caregiver responsibilities before engaging their services. In fact the application form does

⁶⁶⁷ *Pers. Comm*, Dione Payne, 9 January 2018.

⁶⁶⁸ 'Child Disability Allowance'. Retrieved from <https://www.workandincome.govt.nz/products/a-z-benefits/child-disability-allowance.html#null> on 20 April 2019.

not contain any section inquiring into parental or guardianship arrangements.⁶⁶⁹ This fund is an example of secondary funding where the parental requirements to access the fund have been satisfied at the school enrolment stage. As in the case with Son#3, this perpetuates the errors made at enrolment concerning his name.

National Health Index

In New Zealand, each person is assigned a unique number when accessing health and disability support services. This number holds an index of information, mainly demographic information concerning the person to whom it relates. This is known as the National Health Index (NHI) number. This number allows for individuals to be positively and uniquely identified for treatment and care and for maintaining their medical records regardless of which healthcare provider holds their records. This unique number reduces the potential for important decisions concerning health to be based on the wrong information. The complexity of hospital care has led to the development of independent clinical information systems, such as pharmacy, laboratory, and admission/discharge/transfer. Important information relating to an individual patient is often held in more than one place. The NHI number allows all this information to be brought together.⁶⁷⁰

The Ministry of Health asserts that 95% of New Zealanders have an NHI number.⁶⁷¹ This number is assigned to new born babies or when someone presents to a healthcare provider where an NHI number is assigned automatically to them. There is no need to provide identification or verify their identity prior to this number being assigned to an individual.

In the case of our two taurima children the names we used when assigning their NHI number reflected their common names. This interaction contributed to each of the children's identities in the first five years of life. At this time, their key document was their Well Child book. Well Child is a government programme administered by the Plunket Society in New Zealand. These booklets record each baby's key milestones (such as weight and height over

⁶⁶⁹ 'School High Health Needs Fund (SHHNF) Application Form'. Retrieved from <http://www.education.govt.nz/school/student-support/special-education/school-high-health-needs-fund/apply-for-the-school-high-health-needs-fund> on 5 April 2016.

⁶⁷⁰ 'National Health Index overview'. Retrieved from <http://www.health.govt.nz/our-work/health-identity/national-health-index/national-health-index-overview> on 6 April 2016.

⁶⁷¹ 'National Health Index number questions and answers'. Retrieved from <http://www.health.govt.nz/our-work/health-identity/national-health-index/nhi-information-health-consumers/national-health-index-questions-and-answers#howget> on 6 April 2016.

time), nurse check ups, and their immunisation records. Early learning centres and kōhanga reo rely upon these documents when enrolling children in their services. Even though pre-school centres are publicly funded, they are not as stringent as the compulsory schooling sector regarding parental arrangements nor use of legal names.

Parental leave entitlements

Paid Parental Leave (PPL) in New Zealand is a government funded entitlement which is paid to eligible mothers and other primary care givers. In 2019, this entitlement includes situations where taurima are taken in a whānau, albeit conditionally.

PPL only applies to people who take leave and stop working to care for:

1. Their newborn baby; or
2. a child under the age of six who is now in their care.

In order to prove you are a primary care giver (a taurima parent), you need to complete the IR880 form from the Department of Internal Affairs. On this form you must provide proof that you are the primary care giver, which consists of:

1. Certified copy of a court order; or
2. Letter from the Ministry of Social Development; or
3. a completed statutory declaration on the IR880D form.

The first two proof options reinforce that only state endorsed arrangements are eligible in terms of government assistance. This exemplifies the conditions as set out in the Adoption of Children Act 1895 and the Native Lands Act 1909 whereby taurima were not legitimate unless first endorsed by court order.

If you have a purely taurima arrangement without Court or state endorsement, i.e. a tikanga driven taurima arrangement, you must complete the statutory declaration form which requires:

1. your full legal name (which may or may not reflect your commonly used name); and
2. the child's legal name (which may or may not reflect the name by which they are called)

The statutory declaration form reinforces the Court's authority with respect to taurima. Every one of the nine identified positions who can sign the declaration are members and extensions of

the judiciary or Parliament. There is no provision for Kaumātua or whānau endorsement to legitimise a taurima arrangement.

This is perhaps another reason why whānau who take taurima children into their care may choose not to take the paid parental leave they are entitled to. The paid parental leave provisions also only relate to children under the age of six years, the prevailing tikanga taurima in Ngāti Mutunga is not dependant upon such an age restriction.

Paid parental leave was introduced in 2015 alongside other amendments to the paid parental leave provisions in New Zealand law. These changes were too late to assist my whānau. We had to engage support from my mother who gave up full-time employment to assist us with childcare during our children's first years. We were not eligible for paid parental leave for our taurima children.

Enduring Identity Issues

In 2018, further complexities arose surrounding Son#3's educational name and his NHI (taurima) name which differed for the reasons already mentioned. He had been enrolled without issue in numerous health centres around New Zealand near to where we lived. At the Lyttelton Medical Centre in the South Island the enrolment team met with record conflicts that meant they could not locate his NHI number. The nurse and administration staff contacted me repeatedly over the period of two months to ascertain his NHI number. I explained repeatedly the naming challenges Son#3 faces in his life and I can only assume that they located his NHI number as the phone calls ended.

Son#3 started boarding school in Hawke's Bay in 2018 and was transferred to a North Island medical service. Again, the nurse of that service contacted me repeatedly by email and phone. I re-explained Son#3's situation and they offered to assist us by ensuring that the Ministry of Education's records would be the name under which they would enrol him at the health service and that they would apply to update the NHI name respectively to match that name. The frustration that arose from this experience cannot be understated. While I was glad he could access health services by virtue of his approved enrolment, I was not happy that the name for his NHI number was now going to reflect the hybridised name (discussed above) created by Te Wharekura o Rākaumangamanga when he started primary school.

International comparison

This type of administrative intervention is not uncommon in other parts of the world where informal adoption systems prevail. An example of this multi-identity dilemma is seen in Quebec, Canada. A young man named Jaaji Okpik recalls spending his summers with his Mohawk father, and the rest of the year with his maternal grandparents in another area of Quebec. Jaaji Okpik stated:

[Okpik] stayed with his grandparents in the beginning as part of a verbal agreement, an Inuit and First Nations tradition that goes back centuries but was not recognized by the Quebec government.⁶⁷²

Okpik explained further that he had three social insurance numbers and four medicare cards that centred around two identities: one as Sunchild Deer, and the other as Jaaji (George) Okpik, the Inuit name his grandparents have given him.⁶⁷³

After thirty-five years of discussions, advocacy, reports, consultation and lobbying, Quebec's bureaucracy enacted legislative change. In 2016, Quebec legally legitimised Inuit customary adoption practices and supported avenues for multiple-identity issues to be resolved. The legislative change also allows for the creation of a unique birth certificate that reflects a child's full lineage.⁶⁷⁴ Despite international examples, in countries with a similar colonisation discourse to New Zealand, taurima relationships remain in a legislative limbo for identity issues such as these.

Concluding remarks

This chapter presents in great detail numerous historical and contemporary impacts on tikanga taurima as experienced by Ngāti Mutunga people today. The purpose of presenting the information in this chapter, and also the reason for securing testimony from individual Ngāti Mutunga people, is to ensure that the arguments made in this thesis are grounded in lived

⁶⁷² 'It's finally being recognized': Indigenous adoption practices now acknowledged in Quebec After 35 years of reports and consultations, bill finally passed at Quebec's National Assembly this month. Retrieved from <http://www.cbc.ca/news/canada/montreal/indigenous-adoption-quebec-recognition-1.4181941> on 26 June 2018.

⁶⁷³ *ibid.*

⁶⁷⁴ Quebec's new custom adoption bill could fix ID issues for Inuit. Retrieved from <http://www.cbc.ca/news/canada/north/quebec-custom-adoption-bill-inuit-1.3815515> on 26 June 2018.

experience. Historically speaking, arguments can fall distant from lived experiences of Māori people.

It was important as part of the methodology of this thesis not to rely solely on an observationist approach to tikanga taurima, and as a taurima practitioner it was natural for me to include lived experiences in my academic analyses. The benefit of doing this, is that it lends new material to academic literature that may be built upon by Ngāti Mutunga people themselves and academics alike.

Chapter Nine: Conclusion

In reaching conclusions for this research, this study presented methodological considerations, a plethora of primary and secondary documentation and several interpersonal interviews with Ngāti Mutunga people in taurima relationships today. The purpose of this approach was to give substance to the statement made in the title of this thesis: “The inconsistent treatment of tikanga taurima (whāngai) in Ngāti Mutunga (1820 – 2019)”.

Inconsistency and inconsistent treatment are not isolated to a binary positioning of good and bad influences. For example, this thesis does not seek to imply that colonial influence alone has caused inconsistent treatment of tikanga taurima. The evidence presented in the chapters of this thesis illustrates that inconsistency was also contributed by Ngāti Mutunga people themselves in the period of time covered in this thesis, although past government assimilationist policies no doubt influenced the behaviour of some. In the absence of a Native Land Court and of public agencies, succession would have been decided along tikanga Māori grounds that was endorsed by whānau and other kin groups.

Investigating inconsistencies of taurima treatment started with observations of raising my own children in their formative years. Key to these observations was a constant need (by me) to justify and assert tikanga taurima within systems built independently of tikanga taurima, to allow equitable access for my taurima children, in step with my biological child.

Unearthing proverbial skeletons in the closet

Proverbial ‘skeletons’ unearthed from public records have required delicate presentation in this thesis as they can serve to heighten existing competitive states and conflicts amongst Ngāti Mutunga people. The creation of the noninga kumu framework in Chapter One asserted this study’s intention to mitigate such conflicts. Some of the facts presented in this study have been researched for the first time and may run counter to existing iwi oral narratives. Where this occurs, such as in Ngāropi Tūhata’s succession to Hāmuera Koteriki, the intent not to harm iwi members is recalled and explained to tell a fuller story concerning inconsistencies that exist with regard to tikanga taurima.

This research cannot guarantee that Ngāti Mutunga people will not suffer emotional harm from its content, or that prior and interpersonal interactions with me (before this study’s

commencement) will be mitigated by the noninga kumu framework. This is because I am an insider to this research and I acknowledge this limitation. An example of non-mitigation is provided here for context. Prior to embarking on my Master's research I represented my whānau in a Māori Land Court case seeking the repatriation of Hāmuera Koteriki's land interests to his blood-kin. This case lasted seven years and involved court cases, arduous interactions with other iwi members, and ultimately a decision against my whānau by the Māori Land Court. As seen in Chapter Six, that decision by the Court created a new layer of inconsistent treatment for taurima within Ngāti Mutunga. Members of Ngāti Mutunga involved in that particular court case may find no solace through the noninga kumu framework approach.

Lessons learned in this research

The greatest lesson concerning tikanga taurima in Ngāti Mutunga was the example of Pōmare Ngātata and his nephew Naera Pōmare. This pre-colonial example of Ngāti Mutunga tikanga demonstrated that the iwi could and did allow for the exclusion of blood-kin in succession to mana and rangatiratanga. Since the inception of the Native Land Court this understanding has been fundamentally different to many of the succession arguments in the public record. Later generations of Ngāti Mutunga, emphatically represent blood relative's superior right of succession. An example of this can be found in Roimata Wi Tamihana's 1949 affidavit in support of Tīwai Pōmare's succession to his father Naera Pōmare (see Chapter Four).

In the analysis of tikanga taurima generally, and from international comparative experiences of the hānai custom in Hawai'i and other Polynesian islands, land was not central to the custom. Considerations around land ownership is a recent addition to tikanga taurima catalyzed by colonisation. The fundamental purpose of tikanga taurima was about the nurture and care of children. Nurture and care were implicit responsibilities of a rangatira such as Pōmare Ngātata who saw his nephew as possessing superior personal qualities to succeed his responsibilities, particularly given the conflict that had occurred with his first wife's people and the resulting and enduring estrangement that followed.

Ngāti Mutunga narratives

The Ngāti Mutunga narrative presented in Chapter Three was compiled with some difficulty. As an iwi, Ngāti Mutunga has the greatest publicly recorded chronicle of conflicts in New Zealand's recent history, by virtue of their participation in the New Zealand wars as well as mass

migrations in the period from 1830 – 1880. At times historians have often subsumed Ngāti Mutunga stories or personalities within other iwi, such as Te Ātiawa, or have discussed impacts on Ngāti Mutunga as being part of Ngāti Toa, Te Ātiawa or Ngāti Awa. All of these iwi are intricately connected through whakapapa yet the Ngāti Mutunga story remains distinct within these wider groupings.

The re-telling of this version of a Ngāti Mutunga narrative is not an attempt to be whakahīhī (arrogant) towards our whanaunga who exist within these wider groupings, rather it was necessary to set that scene for the background to the three case studies that followed for the three Ngāti Mutunga rangatira in Chapters Four, Five and Six.

Rangatira narratives

Naera Pōmare is a prominent Ngāti Mutunga personality in existing iwi narratives and also in public histories such as Waitangi Tribunal reports. The main reason for this was his role as Native Assessor when the Native Land Court assigned him a large estate in 1870. Unfortunately, he died (in 1885) before completing the reappportionments of those land grants (which were not issued until 1886) amongst the people. His succession disenfranchised many Ngāti Mutunga from receiving their full or any land entitlements. This was the greatest example of court-induced competition amongst Ngāti Mutunga.

By 1900 when Ngāti Mutunga had successfully reappportioned remnants of the Wharekauri estate amongst more of its membership, large tracts of land had already been sold to pay for debts incurred by Pōmare prior to and following his death. Pōmare's will signified how legal documents imparted instructions that ran contrary to the wishes and tikanga of the iwi. The will reinforced the individual nature of ownership rather than a collective purpose. The subsequent impacts of Naera's succession demonstrated that those more adept with the Court system were more likely to compete successfully for the limited land resource. It also showed that even though a taurima child could be included in the will, they did not necessarily become an automatic successor to land, as was the case with Te Rua Herata, Naera's taurima son. Naera introduced in documentation the idea of tahuti, that is, in order for a taurima to succeed they must stay connected to the whānau and not tahuti or run away. If tahuti occurred then succession claims could be negated. This idea became important with the death of Apitia Punga eleven days after Pōmare in 1885.

Apitia Punga's death demonstrated the importance of *ōhākī* in succession. Apitia Punga died without signing a properly executed will and his succession relied heavily upon *ōhākī* evidence which conflicted with the people, further exacerbating understandings of land succession for Ngāti Mutunga. The Court's ultimate decision found in favour against his biological child and apportioned his estate to his taurima. Apitia's taurima was a cousin who was eight years his junior in biological age. Hēni Te Rau was sister-in-law to Naera Pōmare and had only just returned to New Zealand when Apitia Punga died. The idea of tahuti that was included in Naera Pōmare's will would have been in the forefront of Hēni Te Rau's mind. In order to secure her rights to Apitia Punga's estate she knew she had to return to Wharekauri lest she be seen to be a tahuti herself. Chapter Five outlined the extensive Native Land Court battle by Hēni Te Rau who successfully secured and sold all but two acres of land in preference to Hēni Apitia, the biological daughter.

Six years later the third Ngāti Mutunga rangatira, Hāmuera Koteriki, died in Urenui. His circumstances left him with no *ōhākī* nor a legal will and testament. For all intents and purposes he was initially succeeded to by his natural kin. The prevailing law, coupled with skillful Court applications and representations, enabled Koteriki's entire estate to be reapportioned to his taurima daughter and it was subsequently sold, not by her but by her biological brother, Hone Tūhata who acted as trustee for her minor children. Ngāropi died before succession to Koteriki was complete. As Hone Tūhata was a Licensed Interpreter in the Native Land Court he represented many court cases and was adept in court advocacy. Numerous pages of Native Land Court evidence attesting to the tahuti of Ngāropi Tūhata, and her subsequent abandonment of succession rights, from a tikanga perspective, were overruled by legislative provisions.

These court cases demonstrated that the arguments presented were less about asserting Māori custom and more for pecuniary purposes and personal gain. This assertion is supported by the swift alienation of large tracts of land from all three estates. The effect upon Ngāti Mutunga people arising from these case studies was a reinforcement of the Court's authority irrespective of purpose. This idea came to be internalised amongst Ngāti Mutunga people as evidenced in the responses by the interviews conducted with Ngāti Mutunga people in this study.

The perpetuation of this internalization saw Ngāti Mutunga subsequently seeking Court endorsement of taurima relationships or renouncing their taurima relationships with people. The

case studies demonstrated that even after death, the Court was capable of interfering in tikanga taurima arrangements and their final wishes. Ngāti Mutunga people gained a clear understanding of the impacts of taking taurima into their care. Despite these impacts, tikanga taurima continues to prevail in Ngāti Mutunga.

Courts Authority imposed and internalised

From about 1858 the European population passed then quickly outnumbered Māori. This was followed by the imposition of the Native Land Court in 1862 and the wholesale land confiscation from 1865. The apportionment of meagre land and cash entitlements for Ngāti Mutunga also sent a clear message to Ngāti Mutunga people. The Court's authority, with the support of Government resources, could severely impact the lives of people even if they sought to maintain their own independence.

While this authority created a short-term advantage to some Ngāti Mutunga in the Chatham Islands in 1870, it presented an equal and larger disadvantage to Ngāti Mutunga in 1880 when the Compensation Court sat to determine Ngāti Mutunga's interests in North Taranaki. By 1885 Ngāti Mutunga men were imprisoned for peaceful resistance to land confiscation at Parihaka. Ngāti Mutunga women were also raped during the invasion of Parihaka which presented long term psychological impacts on the iwi. Within a span of twenty-five years, Ngāti Mutunga had their autonomous authority subjugated beneath the colonial agenda of settlement by the government. As a result of ongoing European settlement, Ngāti Mutunga's military options for defence quickly became infeasible because of population dynamics. From a cultural perspective, the generation who were first affected by the impacts of confiscation, incarceration and rape proved to be compliant with Court systems that had subjugated their interests, as they knew the price of resistance would be invasion, abuse, and then imprisonment and confiscation.

Ngāti Mutunga subsequently accepted the authority of the Native Land Court and encouraged their youth to Europeanise themselves. Within one generation Ngāti Mutunga had internalised this acceptance of authority of the Native Land Court and by default Courts generally. To do otherwise was to challenge Europeanisation which represented a challenge to the Government which had resulted in serious harm to the iwi previously.

The actions of the Native Land and Compensation courts over two generations of Ngāti Mutunga people are described in the three case studies in this thesis. Ngāti Mutunga's collective ownership was replaced by an individualised ownership model. This tenurial reform was embraced in tandem with Europeanisation.

Later, as the impact of land alienations and land successions became apparent, particularly in regard to taurima alienations and successions, Ngāti Mutunga again returned to the Native Land Court to mediate conflicts as they occurred. The Native Land Court in response expanded its jurisdiction and included social issues like "Māori Adoptions", which had a direct impact on Māori land ownership and succession. This increased the internalised conditioning of Ngāti Mutunga to accept the Native Land Court as the authority for tikanga taurima. While only a subtle legal inclusion, this is the area of legislation that conditioned Ngāti Mutunga's acceptance of Court authority, regardless of jurisdiction. This acceptance of Courts and Government authority fundamentally changed Ngāti Mutunga's observance of tikanga taurima.

Internalised beliefs through the perpetuation of 'active citizenship'

By 1910 the internalisation of, or at least resignation to, New Zealand Law and its institutions was well engrained in Ngāti Mutunga culture. This is attested to by the numerous pages of Māori Land Court minutes that contain references to appeal courts and supreme court actions by members of Ngāti Mutunga. With the advent of World War I in 1914, the idea of 'active citizenship' was popularised by the majority European culture in New Zealand, and Ngāti Mutunga did not escape the impact or the public pressure to conform in this regard. Active citizenship as described in Chapter Seven encouraged, if not compelled, Ngāti Mutunga to become more 'active' citizens than they had already been. It was their land (because of confiscation) that established the European Taranaki economy. To contribute further as active citizens Ngāti Mutunga converted land that was returned to them into economic enterprises such as agricultural or horticultural endeavours or commercially leased land. Despite this, the prevailing attitude remained that Māori should give up their land for European development and start 'working' for a living rather than living off land rentals. Furthermore, Ngāti Mutunga were expected to participate in the war effort. Ngāti Mutunga men did enlist for World War I, even though the prevailing law did not require Māori to enlist. This was assisted by Ngāti Mutunga politicians, Māui Pōmare and Te Rangi Hīroa, who were part of the Native Contingent

Committee established by the government to organise Māori participation as part of the New Zealand Expeditionary Force in 1914.⁶⁷⁵ At the conclusion of World War I ideas of active citizenship endured into World War II where Ngāti Mutunga people reenlisted again.

All Government incentives during and after the wars, including paid employment in enlistment, subsidised loans for housing in urban areas, legislative freedoms to alienate land, and employment programmes, continued to reinforce internalised ideas of government and court superiority.

Incentivized state policies

The incentivization of state policies is a crucial aspect concerning the inconsistent treatment of taurima. In the 1930s as the Labour Government introduced a comprehensive social welfare system, this system responded to a mainly urban need as war time labour diminished and families' inability to sustain themselves financially increased.

For Ngāti Mutunga, they had been encouraged into the cities, established their families and their children and were now more accustomed to the urban environment than their papakāinga pā. Social welfare payments increased the individual reliance for individual whanau and also weakened the communal structures and supports that Ngāti Mutunga and other Māori were culturally aligned to.

While the social welfare system was (and still is) lauded as a crucial support to whānau, the key reason it was needed in the first place was the government's incentivisation for Ngāti Mutunga to move away from their economic bases to align themselves to national objectives (i.e. the war efforts of the 1940s). The incentivising of state beliefs and outcomes is an enduring theme in its impact on taurima. Government policy has rarely been written to benefit Māori unless there was also a reciprocal benefit for the majority culture. If by some happenstance a piece of legislation or policy appeared to benefit Māori too much it is was quickly under resourced and reviewed to end it. Examples of this attitude include the Mātua Whāngai programme explored in Chapter Seven and separately, the Foreshore and Seabed Act 2004.

⁶⁷⁵ P.S. O'Connor (1967). The Recruitment of Maori Soldiers, 1815-18, *Political Science*, pp.49-51.

Cultural appropriation

Cultural appropriation of Māori terms has also been explored throughout this thesis. The most obvious example of this is the appropriation of the words *whāngai* and *taurima* and their classification and comparison with western adoption ideas and practices. Cultural appropriation continues in many aspects of New Zealand society and a recent example gained media attention in 2018. Ōranga Tamariki (the former Department for Child, Youth, and Family) staff advertised for foster parents on the online buy and sell website, Trademe, as well as the job seeking website, Seek. The online advertisements included details of a young Māori girl who was in need of foster parents due to her removal from her home for safety reasons. The advertisements gave intimate details such as the iwi affiliations of the young girl involved.

When addressed by a Government select committee, Ōranga Tamariki apologised for posting the young girl's personal details. The department admitted its mistakes but their counter arguments included that they had the best intentions.⁶⁷⁶ The department did not bother to contact the iwi involved prior to advertising the young girl's details, where a possible foster or *taurima* arrangement could have been organised within the wider *whānau*, *hapū* or *iwi*. Gráinne Moss, Ōranga Tamariki Chief Executive, said in a television interview that her organisation now had relationships with the iwi concerned that had not existed prior to this situation occurring. The Government's actions and motives in this example are clearly misaligned with iwi interests and the interests associated with *tikanga taurima*. It shows an example of the continuing impact of public agencies on *tikanga taurima*. This example is of particular relevance to Ngāti Mutunga as the iwi associated with the young girl has a close connection to Ngāti Mutunga.

Later in 2019, Gráinne Moss again responded to accusations by senior Māori academic, Dr. Leonie Pihama, who had accused Ōranga Tamariki of institutional racism and failing to reduce disparities for Māori, citing a recent case of a baby being uplifted immediately after its birth. Dr Pihama argued that:

There has been a failure for many years by Child Youth and Family (CYFS) to make changes. We were told in 2016 that a change in legislation would make CYFs more

⁶⁷⁶ 'Iwi slams Oranga Tamariki's decision to advertise for caregiver on Trade Me' Stuff article 20 Jun 2018. Retrieved from <https://www.stuff.co.nz/national/politics/104862583/iwi-slams-oranga-tamarikis-decision-to-advertise-for-caregiver-on-trade-me> on 10 March 2019.

accountable to Māori for their absolute incompetency in supporting our tamariki and whānau, but as predicted then the Ministry has increased its removal of Māori children from whānau. The CEO Gráinne Moss is responsible for this and she should be removed...It is evident that the Ministry is lacking in the capacity to enact a meaningful relationship with Māori and as such we need our whānau, hapū and iwi to take control of the wellbeing of our tamariki. We also need to be clear that the Ministry is not worthy of the name He Oranga Tamariki and we should stop referring to them in that way, they do not enable the wellbeing of our children, they are perpetuating more state abuse.⁶⁷⁷

Gráinne Moss refuted the Dr. Pihama's claims and in her arguments she noted the following points of interest with respect to taurima (whāngai). Moss argued that:

I'm really proud of the work we've done with Ngā Puhī, Waikato Tainui and Ngāi Tahu. I mean we're actually seeing more children today in whāngai care which is one thing that has been called for so we are seeing 80% of our children in care are now either with a whāngai caregiver or a Maori caregiver that's a significant shift since the agency started. So I think that's evidence that we are being responsive [to Maori].⁶⁷⁸

As the CEO of Ōranga Tamariki Ms Moss publicly endorsed the use of a whāngai system. Despite this there remains no policy, with a corresponding vote fund, or guidelines related to whāngai (taurima) in Ōranga Tamariki. The kind of cultural appropriation apparent here is demonstrated through the monocultural approach to fostering children and child protection. The CEO's statements are more examples of monocultural misappropriation of Māori children and tikanga that has been evident in New Zealand's history particularly in the Native Land Court and with the Mātua Whāngai programme in the 1980s. The high-profile nature of these examples associates negative situations with Māori children, fostering, and by implication the practice of tikanga taurima. Her statements on 10 May 2019, immediately reconfirmed to all New Zealanders that whāngai are related to the most negative aspects of childcare in this country.

⁶⁷⁷ He Oranga Tamariki CEO Must Go. Press Release. Scoop Independent News. Thursday 9 May 2019. 7:31pm. Retrieved from <http://www.scoop.co.nz/stories/PO1905/S00139/he-oranga-tamariki-ceo-must-go.htm> on 12 May 2019.

⁶⁷⁸ Gráinne Moss (2019). Television interview with John Campbell, Breakfast, TVNZ Friday 10 May 2019.

Inconsistent treatment has promoted colonial objectives

The best example of the promotion of colonial objectives can be found in the paid parental leave provisions discussed in the previous chapter. This situation is the most recent example of government incentivization towards policy outcomes directly affecting taurima children. Government funding towards supporting new taurima parents is entirely predicated upon colonial objectives and norms which include all statutory legal limitations for access to the support afforded to parents of new children. Only Court appointed agents or Members of Parliament have the legal right to endorse a taurima relationship for this purpose. This thesis has argued overwhelmingly that taurima relationships exist independently of this framework and that it is often negatively-geared whānau situations that require state intervention and support. Until the Government can make provision for whānau or kaumātua endorsement of taurima relationships, it will continue to perpetuate colonial imperatives from last century.

Meeting thesis Aims

The main aims of this thesis were to discuss the following: (1) Ngāti Mutunga taurima experiences; and (2) Informing policy and highlighting social inconsistencies; and (3) highlighting the marginal legal status of taurima in Aotearoa/New Zealand.

Ngāti Mutunga taurima experiences

This thesis has provided accounts from the public records and unpublished archival material of the historical experiences of Ngāti Mutunga taurima relationships. Three key case studies have been provided in this thesis. To complement these case studies, further details of historical Ngāti Mutunga taurima examples have been presented to give context to some of the historical arguments. Additionally, five interviews have been undertaken with Ngāti Mutunga whānau members in taurima relationships. Their voices have been presented in this thesis to demonstrate the impacts and experiences they have undergone in their lifetimes. This real-life research serves to demonstrate the currency of tikanga taurima in the lives of Ngāti Mutunga people and also that the historical experiences remain relevant today.

Informing policy and highlighting social inconsistencies

Following the completion of this thesis, a copy will be made available online and disseminated to key governmental, non-government-organisations, and iwi social service providers to inform

their input into policy creation and amendment. The social inconsistencies that have been highlighted in respect of the New Zealand Passport Applications, government resourcing and social acceptance and recognition in Aotearoa/New Zealand will all serve to fulfill this thesis aim.

Highlighting the marginal legal status of taurima in Aotearoa/New Zealand.

This thesis' aims have been achieved through the presentation of examples of taurima's marginalized legal status. Key examples include succession to land and assets (not just Māori land), health issues, access to government resources, education, and healthcare. All of these examples show that the inconsistent treatment of taurima in Aotearoa/New Zealand is intertwined with their marginal legal status.

Taurima support and research services.

One solution that is offered to reduce the marginal status of taurima in Aotearoa/New Zealand is the genesis of an idea I have coined Taurima Support and Research Services. Such an enterprise would be integral to researching, informing, and creating solutions for all parties involved with taurima relationships, and its objective to provide a pathway to improve the systematic treatment of taurima children in this country. The funding of such an enterprise would be problematic as there is currently no reliable data that exists in respect of taurima. Therefore, there is no reliable way of informing funders such as iwi, government and private enterprise around the full extent of taurima engagement. It may require voluntary advocacy for its first few years of operation in order to seek amendments to mechanisms such as the New Zealand Census to include a question on taurima/whāngai relationships so that data can be gathered nationally.

Concluding remarks

In 2019, Ngāti Mutunga remain strong proponents and practitioners of tikanga taurima. Ongoing work involving taurima relationships would be well disposed to include Ngāti Mutunga due to their history, their contemporary practices of taurima, and their relative demographic size. The ability to co-create and collaborate to develop solutions associated with taurima relationships from an iwi perspective would be less strenuous due to its size, historical context and broad experience with taurima.

The title of this thesis: “Nā te kōti i tatari: The inconsistent treatment of tikanga taurima (whāngai) in Ngāti Mutunga (1820-2019)”, has confirmed that there has been inconsistent treatment historically and contemporaneously. Those inconsistencies have been driven by colonial imperatives, government policy and sometimes by the iwi members themselves. This thesis is not written to discredit one party or another but rather to highlight that indeed Ngāti Mutunga’s taurima experience is inconsistent. I am not advocating an entirely consistent approach to the application of tikanga taurima in Ngāti Mutunga as that would be contrary to the customary origins of the tikanga practice itself. Rather, I am advocating a systematic review of tikanga treatment in Aotearoa/New Zealand that posits iwi aspirations at the same level as colonial aspirations to balance the inconsistencies that are occurring. If a percentage argument is applied to Ngāti Mutunga’s experience, it could be estimated that 90% of the inconsistencies have been a result of progressing colonial agendas.

Following a systematic review of government and iwi contact points with taurima, I would propose a rebalancing of state involvement in taurima arrangements. This is primarily due to the fact that taurima is a Māori custom, and for it to have integrity it needs to be led, promoted, managed, and reviewed by Māori groups themselves, such as Ngāti Mutunga. The state then would be left with the onus to significantly justify their involvement in such relationships and not seek to use tikanga taurima as a dumping ground for the negative social circumstances concerning children.

The interconnectivity of taurima to health, educational and economic data has the potential to be extrapolated through specific inclusion in census data. In conclusion, this thesis supports the inclusion of taurima survey data in the national census. The national data gathering method can contribute to tikanga taurima by assisting to determine its extent and its potential contribution to the New Zealand economy and also to tikanga Māori. Only through the formal recognition of tikanga taurima can it be adequately reviewed, supported and perpetuated beyond twenty-first century New Zealand society. That way, in another 200 years (the time span of this study), this thesis can be cited as an example of a starting point for tikanga taurima support and recognition in this country. It may even be feasible in light of this data to create new legislation that liberates aspects of tikanga taurima in a form similar to the Canadian example given in Chapter Eight.

In conclusion the prophetic words of Roimata Wi Tamehana (from circa 1950) are left to guide future generations of Ngāti Mutunga in respect of tikanga taurima and tuakiritanga (identity) generally. Roimata imparted the following words:

E hoki ki tō marae, mā tō marae ka kiia ai koe he tangata.

Return to your marae, it is there you will find your identity.⁶⁷⁹

⁶⁷⁹ Oral history maintained within Ngāti Mutunga.

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B.6.5.