Report Three: Research Reports Concerning Constitutional Issues Review of existing research in relation to constitutional matters for the start-up phase of the Waitangi Tribunal's Constitutional Kaupapa Inquiry (Wai 3300)

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1 Introduction

On 22 December 2022, Chief Judge W W Isaac commenced the Constitutional Kaupapa Inquiry (Wai 3300) to inquire into claims concerning the constitution, self-government, and electoral system. Chief Judge Isaac appointed Deputy Chief Judge Caren Fox (now Chief Judge) as Presiding Officer, and Derek Fox, Dr Grant Phillipson, Prue Kapua, and Kevin Prime as members of the Tribunal panel.[1] Professor David Williams and Dr Monty Soutar are now also members of this panel.[2]

In January 2023, Chief Judge Fox requested Tribunal Unit staff provide a review and summary of existing research completed for other Tribunal inquiries that may be of relevance to the Constitutional Kaupapa Inquiry. The Presiding Officer also requested a review and summary of the research reports commissioned by the Tribunal in the 1990s as part of the Rangahaua Whanui research programme.[3]

Note: This report does not include a review or summary of Waitangi Tribunal reports themselves. This work was undertaken by staff of the Tribunal Unit's Report Writing Team in a separate report for this inquiry. Neither, at this stage, does this report provide any analysis of the research relevant to constitutional issues and/or identify any potential gaps in the existing research.

[1] Chief Judge W W Isaac, 'Memorandum-directions of the Chairperson commencing a kaupapa inquiry into claims concerning the constitution, self-government and electoral system', 22 December 2022 (Wai 3300, #2.5.1).
[2] Chief Judge W W Isaac, 'Memorandum-directions of the Chairperson', 5 April 2023 (Wai 3300, #2.5.2); Chief Judge C Fox, 'Memorandum-directions of the Chairperson Appointing a New Panel Member', 18 September 2023, (Wai 3300, #2.5.3).
[3] The purpose of the Rangahaua Whānui Series was to address many of the common issues arising in claims and Tribunal inquiries at the time. The series of district, thematic, and national overview reports are available for download from the Waitangi Tribunal's website https://www.waitangitribunal.govt.nz/publications-and-resources/rangahaua-whanui/

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3 Methodology

3.1 Scope

The Presiding Officer is yet to issue memorandum-directions outlining the scope of the inquiry, however, the following preliminary themes have been identified:[4]

1. Tino Rangatiratanga, Autonomy and Self-governance
2. Kāwanatanga
3. Constitutional Legitimacy and Sovereignty
4. Parliamentary Sovereignty and Systems
5. Ngā Tikanga Māori me Ngā Ture Pākehā
6. Electoral Rights and Systems
7. Local Government and Te Tiriti
8. National Models of Māori Self-Government
9. NZ Bill of Rights Act 1990 (NZBORA), United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) and Te Tiriti

Research Services staff have compiled, summarised, and quoted from research identified as relevant to the above themes to provide a resource for the Wai 3300 panel and those assisting the panel in its inquiry.

This report provides a broad survey of relevant research across multiple Tribunal inquiries spanning several decades. It does not aim to provide exhaustive coverage of every single research report that may be of relevance to the Constitutional inquiry. Rather, it offers examples of the types of research reports and topics/issues that may be of interest to the Tribunal and parties. We started with the earliest inquiries first, but soon realised we would not have sufficient time and resources to progressively work through all the records of inquiry (ROI) for all the claims and inquiries. We then switched to following the inquiries that the Report Writing Team had identified as key in relation to Waitangi Tribunal report findings, as that appeared to be a logical way to assess inquiries that were potentially most relevant to constitutional issues.

In particular, the larger regional Tribunal inquiries into Central North Island (Wai 1200) and Te Paparahi o Te Raki (Wai 1040) claims provided a rich source of relevant research, largely due to the large evidential casebooks that exist for these inquiries. Rather than noting the key relevant observations and conclusions, the Te Raki section simply notes the commission questions and topics covered because reports for this inquiry are longer (in general) than for other inquiries and may not be as succinct in terms of key conclusions.

[4] This list of claims themes originated from a claims assessment and analysis completed by Tribunal Unit staff.

3.2 Review and summary of existing research completed for previous Tribunal inquiries:

In the preparation of this document, we have searched the indexes to the records of inquiry (ROIs) for the following Tribunal claims and inquiries, which we identified as likely containing the most relevant research for the Constitutional Inquiry:

The Kaituna River Claim (Wai 4);
The Manukau Harbour Claim (Wai 8);
The Orakei Claim (Wai 9);
The Ngati Kahu Inquiry (Wai 17);
The Muriwhenua Fishing Claim (Wai 22);
The Ngai Tahu Lands and Fisheries Inquiry (Wai 27);
The Rangiteaorere Land Claim (Wai 32);
The Muriwhenua Land Inquiry (Wai 45);
Chatham Islands Claims (Wai 64);
Turangi Township Lands Claim (Wai 84);
The Taranaki Inquiry (Wai 143);
Whanganui River Inquiry (Wai 167);
The Tauranga Moana Inquiry (Wai 215);
The Indigenous Flora and Fauna and Cultural Intellectual Property Inquiry (Wai 262);
Te Urewera District Inquiry (Wai 894);
Te Rohe Pōtae District Inquiry (Wai 898);
East Coast District Inquiry (Wai 900);
Te Paparahi o Te Raki District Inquiry (Wai 1040); and
Central North Island District Inquiry (Wai 1200)

The above list does not include current Tribunal inquiries that are yet to be fully reported on, in particular the Taihape: Rangitīkei ki Rangipō Inquiry (Wai 2180), Te Rau o te Tika: the Justice System Kaupapa Inquiry (Wai 3060), the Porirua ki Manawatū Inquiry (Wai 2200). Research for these current inquiries and other inquiries may need to be considered in the future, should further advice on research coverage be required.

3.3 Reports prepared as part of the Rangahaua Whanui research project

Rangahaua Whanui reports focussed upon constitutional issues include:

- Bill Dacker, Michael Reilly and Leo Watson, 'Te Mamae me te Taumaha: Māori Representation and the Authority of Māori Bodies', Waitangi Tribunal Rangahaua Whanui report Theme V, 1996; and
- Alan Ward, 'Chapter 20: Tino Rangatiratanga: Maori in the Political and Administrative System', in *Rangahaua Whanui National Overview*, *Volume II* (Waitangi Tribunal, 1997).
- Donald M. Loveridge, 'Maori Land Councils and Maori Land Boards: A historical overview, 1900 to 1952', Rangahaua Whanui National Theme K, Waitangi Tribunal, December 1996

Relevant extracts from these reports are summarised in 4.16 below.

4 Summary of existing relevant research provided for Waitangi Tribunal inquiries and the Rangahaua Whanui Research Programme

4.1 The Orakei Claim (Wai 9)

Williams, David Vernon, Written submissions of David Vernon Williams, Not dated (Wai 9, #A13)

The author discusses the guarantee of tino rangatiratanga under Te Tiriti and Crown historical policies that disregarded te tino rangatiratanga of Ngāti Whātua hapū. Such policies include legislation that the author argues, 'intentional[ly] violat[ed]' the collective rangatiratanga of Ngāti Whātua hapū, including the Native Land Court Act 1894 and the Native Land Act 1909.[5] The author also offers a definition of rangatiratanga developed by the New Zealand Māori Council in 1983, as well as historical Pākehā concepts of rangatiratanga.[6]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance

4.2 Ngai Tahu Lands & Fisheries Claim (Wai 27)

Ward, Alan, 'A Report on the Historical Evidence: The Ngai Tahu Claim, Wai 27', May 1989, (Wai 27, #T1)

Ward's report collates Crown and Claimant research for the Ngāi Tahu claim. Of interest is Ward's examination of Māori parliamentary representation, from page 339.[7]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty
- Electoral Rights and Systems
- Local Government and Te Tiriti

4.3 Muriwhenua Land Inquiry (Wai 45)

Rigby, Barry and John Koning, 'Muriwhenua Land Claim (Wai 45): A Preliminary Report on the Historical Evidence', a research report commissioned by the Waitangi Tribunal, December 1989, (Wai 45, #A1)

This report examines the impact of missionaries, trade, the Treaty of Waitangi, and Crown land policies in the Muriwhenua region. Part of the report examines the signatories' differing understanding of sovereignty and the efforts of translation. The report notes that there was a

[5] David Vernon Williams, written submission of David Vernon Williams [not dated] (Wai 9, #A13), pp. 4-9
[6] Williams, (Wai 9, #A13), see pp. 9, 12
[7] Alan Ward, 'A Report on the Historical Evidence: The Ngai Tahu Claim, Wai 27', May 1989, (Wai 27, #T1), p. 399

difference of definition among signatories in whether 'nominal' or 'substantive' sovereignty was being established.[8]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty

Rigby, Barry, 'Empire on the Cheap: Crown Policies and Purchases in Muriwhenua 1840–1850', a research report commissioned by the Waitangi Tribunal, March 1992, (Wai 45, #F8)

Rigby's report examines the policies and purchases by the Crown in Muriwhenua during the 1840s and the imperial and colonial policies which guided them. Rigby notes that 'Crown officials failed to understand that 'pre-Treaty New Zealand was still a largely Maori world in which Maori ways and understandings prevailed', which ran counter to the assumption that they would 'meekly accept British annexation'.[9] Rigby also states that there is evidence that Māori understood the treaty as a 'dynamic reciprocal relationship'. He also notes that without further evidence regarding Williams' translation of discussion 'it is almost impossible to determine whether Maori understandings were even remotely related to those of the Crown'.[10]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-government
- Constitutional Legitimacy and Sovereignty

Nepia, Michael, 'Muriwhenua Surplus Lands: Commissions of Inquiry in the Twentieth Century', a research report commissioned by the Waitangi Tribunal, October 1992, (Wai 45, #G1)

This report addresses the Myers Commission's recommendations and surplus land in Muriwhenua. The report focuses on the legality of government land acquisition, which was reliant on sovereignty being ceded to the Crown by Māori.

THEMES:

- Constitutional Legitimacy and Sovereignty

[8] Barry Rigby and John Koning, 'Muriwhenua Land Claim (Wai – 45): A Preliminary Report on the Historical Evidence', a research report commissioned by the Waitangi Tribunal, December 1989, (Wai 45, #A1) p. 57
[9] Barry Rigby, 'Empire on the Cheap: Crown Policies and Purchases in Muriwhenua 1840–1850', a research report commissioned by the Waitangi Tribunal, March 1992, (Wai 45, #F8), p. 16
[10] Rigby, (Wai 45, #F8), p. 28

Head, L.F., 'An Analysis of Linguistic Issues raised in Margaret Mutu (1992) "Tuku Whenua or Land Sale?" and Joan Metge (1992) "Cross Cultural Communication and Land Transfer in Western Muriwhenua 1832–1840"', a research report commissioned by the Waitangi Tribunal, 1992, (Wai 45, #G5)

Head's report is a commentary on earlier evidence by Margaret Mutu and Joan Metge, mainly regarding Māori land sales in Muriwhenua. Head notes that the Declaration of Independence in 1835 'introduced the terms Kawanatanga for "government" and Kingitanga for ''sovereign power'''.[11] Head also notes that Panakareao's 'shadow of the land' statement in 1840 was an effort to illustrate the concept of 'sovereignty' then translated as 'kawanatanga', since it 'was a concept without precedent in Maori though.'[12]

THEMES:

- Kāwanatanga
- Constitutional Legitimacy and Sovereignty

Easton, Brian, 'Towards an Iwi Development Plan for the Muriwhenua', Submission to the Waitangi Tribunal on behalf of the Runanga o Muriwhenua, June 1992, (Wai 45, #J6)

Easton's submission to the Waitangi Tribunal on behalf of the Ruunanga o Muriwhenua examines how Crown-supported iwi development plans in Muriwhenua as part of reparations can help promote tino rangatiratanga and autonomy in the region.

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance

Head, L.F., 'An Analysis of issues in the report of Dr M. Mutu on Crown purchases in Muriwhenua 1840–1865', a research report commissioned by the Crown Law Office, 1993, (Wai 45, #J7)

Head's report examines the issues in an earlier report by Margaret Mutu. Accordingly, the focus is on differences in understanding between Māori and the Crown regarding land purchases. Head notes that the debate around Te Tiriti showed that 'many Maori had misgivings about the Queen's sovereignty'.[13] The change in tribal autonomy was also examined, Head stating:

> The cession of sovereignty in 1840 challenged the existing values regarding tribal autonomy by instituting a supra-tribal layer of government with (at first theoretical) power over everyone. The relationship between Maori and Pakeha ceased to be a horizontal one, worked out between people on the ground, but became instead a vertical one between the governors (and their representatives) and the governed.[14]

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[11] L. F. Head, 'An Analysis of Linguistic Issues raised in Margaret Mutu (1992) "Tuku Whenua or Land Sale?" and Joan Metge (1992) "Cross Cultural Communication and Land Transfer in Western Muriwhenua 1832–1840"', a research report commissioned by the Waitangi Tribunal, 1992, (Wai 45, #G5), p. 17

[12] Head, (Wai 45, #G5), pp. 11-12

[13] L. F. Head, 'An Analysis of issues in the report of Dr M. Mutu on Crown purchases in Muriwhenua 1840–1865', a research report commissioned by the Crown Law Office, 1993, (Wai 45, #J7), p. 30

[14] Head, (Wai 45, #J7), p. 34

The report includes an 1881 comment by Hōni Mohi Tāwhai stating: 'It is the general cry among the Maoris of this Island that the different measures passed by this House are not in accordance with what is contained in that treaty.'[15]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Kāwanatanga
- Constitutional Legitimacy and Sovereignty
- Local Government and Te Tiriti

Morse, Bradford W., and Rosemary Irwin, 'Treaties, Deeds and Surrenders: An Analysis of Canadian and American Law', a research report commissioned by the Waitangi Tribunal, August 1994, (Wai 45, #O2)

This report examines American and Canadian approaches to indigenous sovereignty, self-governance, and autonomy. The report examines how legislation and policy such as Canada's Constitution Act 1982 implements indigenous self-government and self-determination.[16] The authors' focus is on land rights throughout the report.

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty

Stokes, Evelyn, 'A Review of the Evidence in the Muriwhenua Lands Claims', Waitangi Tribunal Review Series 1997, No. 1, (Wai 45, #P2)

Stokes' report is in two volumes and examines land transactions in Muriwhenua. While the focus of the report is on land ownership and not constitutional issues, several of Stokes' observations examine the nature of sovereignty. A few relevant observations state:

'The relationship intended between the British Crown and Maori can be interpreted from Lord Normanby's instructions as one of well-intentioned, benign paternalism… It was scarcely an equal partnership'.[17]

'[T]he Queen would not interfere with their native laws nor customs but would appoint gentlemen to protect them and to prevent them being cheated in the sale of their lands'.[18]

'I do not believe, however, that in the Maori text of the Treaty, the version that was read out, debated and signed in the North, 'sovereignty' was effectively ceded. I conclude that while the English translation of the Treaty was unequivocal on this point, the Maori version was at best confusing. Had 'sovereignty' been translated as either '*Rangatiratanga*' or '*Kingitanga*' in the Maori treaty, the

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[15] Head, (Wai 45, #J7), p. 32
[16] Bradford W. Morse and Rosemary Irwin, 'Treaties, Deeds and Surrenders: An Analysis of Canadian and American Law', a research report commissioned by the Waitangi Tribunal, August 1994, (Wai 45, #O2), pp. 8-10
[17] Evelyn Stokes, 'A Review of the Evidence in the Muriwhenua Lands Claims', Waitangi Tribunal Review Series 1997, No. 1, (Wai 45, #P2), p. 163
[18] Stokes, (Wai 45, #P2), p. 189

translation would have been reasonably accurate - but then the chiefs might well have refused to sign.'[19]

'Unfortunately, there is no record of how the concept of sovereignty was explained to Panakareao the night before, when he had sought an explanation. However, Panakareao's speech at the signing, and his subsequent behaviour, suggest that he did not consider he had given away his traditional rights and obligations.'[20]

'In the Treaty of Waitangi, British sovereignty - kawanatanga, governance and the right to make laws for the benefit of all citizens - was exchanged for a guarantee to Māori of undisturbed possession of lands and resources - tino rangatiratanga, full authority. The Treaty also guaranteed to Māori the rights and privileges of British subjects and the protection of the Crown.'[21]

'In the Māori version of the Treaty this guarantee of tino rangatiratanga, full authority and control of lands and resources (whenua, kāinga, taonga katoa), would have appeared to be a guarantee that Māori would remain in control of their own affairs.'[22]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Kāwanatanga
- Constitutional Legitimacy and Sovereignty
- Ngā Tikanga Māori me Ngā Ture Pākehā

Hercock, Fay, 'The Socio-Economic Position of the Muriwhenua People, 1865–1950', a research report commissioned by Te Runanga o Muriwhenua in association with the Crown Forestry Rental Trust, May 1996, (Wai 45, #Q10)

Hercock's report addresses socio-economic issues in Muriwhenua. The report's first volume includes an ongoing theme of undermined Māori autonomy and a lack of Māori consultation or representation in government. Hercock observes that the Crown held a 'paternalistic' attitude towards Māori that directed its policies.[23] However, during the 1880s Māori 'still retained sufficient autonomy to ensure' local road works were contracted to them.[24] A form of Māori autonomy was also enabled by Land Boards such as the Tokerau Board.[25] However, the Hercock observes that Crown priorities 'undermined any chance of economic equality and autonomy for Muriwhenua Maori'.[26] The report also finds that Māori were not suitably represented at a national level and that;

> In terms of influencing legislation, or insisting on consultation in decision-making in matters of policy at a national level, Maori were relatively powerless. They had not been well-served by Resident Magistrates, chief mediators between the people and the Crown for most of this period, who had been primarily occupied with the alienation of Maori land and promoting assimilation. Maori representation in parliament had been more vocal, but in practical terms the four Maori members had no more real

[19] Stokes, (Wai 45, #P2), p. 205
[20] Stokes, (Wai 45, #P2), p. 681
[21] Stokes, (Wai 45, #P2), p. 681
[22] Stokes, (Wai 45, #P2), p. 682
[23] Fay Hercock, 'The Socio-Economic Position of the Muriwhenua People, 1865–1950', a research report commissioned by Te Runanga o Muriwhenua in association with the Crown Forestry Rental Trust, May 1996, (Wai 45, #Q10), p. 13
[24] Hercock, (Wai 45, #Q10), p. 26
[25] Hercock, (Wai 45, #Q10), p. 116
[26] Hercock, (Wai 45, #Q10), p. 129

influence than did the people. In 1893 the Crown demonstrated its lack of commitment to any special efforts on behalf of Maori by dismantling the Native Department and farming out the functions it had performed. to other government agencies.[27]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Parliamentary Sovereignty and Systems
- Local Government and Te Tiriti

Stokes, Evelyn, 'The Muriwhenua Land Claims, Post-1865', a research report commissioned by the Waitangi Tribunal, 2002, (Wai 45, #R8)

Stokes' report is a narrative report that examines the issues in land claims in Muriwhenua post-1865. While the claims regard issues with land, Stokes also examines how tikanga governed the collection of kaimoana.[28]

THEMES:

- Ngā Tikanga Māori me Ngā Ture Pākehā

Whiley, Brittany, 'Social issues report for the Renewed Muriwhenua Land Inquiry (Wai 45), 2002–2020', February 2023, a research report commissioned by the Waitangi Tribunal, (Wai 45, #T15)

Whiley's report discusses the ongoing social issues in the Muriwhenua region, such as employment, housing, health, and education. Part of the report examines the role local government in the Northland region played in Māori economic development and the lack of Māori inclusion.[29]

THEMES:

- Local Government and Te Tiriti

4.4 Ngati Awa - Eastern Bay of Plenty Inquiry (Wai 46)

Bennion, Tom and Anita Miles, 'Research Report: Ngati Awa and Other Claims (Wai 46 and others)', a research report commissioned by the Waitangi Tribunal, September 1995, (Wai 46, #I1)

This Tribunal-commissioned research report primarily examines Ngāti Awa's claim Wai 46. In response to their commission, Bennion and Miles researched Māori and Pākehā interactions from early contact to 1860s with a particular focus 'on ideological differences, trade and the assertion of administrative authority'.[30] This report discusses ngā tikanga Māori me ngā ture Pākehā and considers

[27] Hercock, (Wai 45, #Q10), p. 43
[28] Evelyn Stokes, 'The Muriwhenua Land Claims, Post-1865', a research report commissioned by the Waitangi Tribunal, 2002, (Wai 45, #R8), pp. 341-342; p. 385
[29] Brittany Whiley, 'Social issues report for the Renewed Muriwhenua Land Inquiry (Wai 45), 2002–2020', a research report commissioned by the Waitangi Tribunal, February 2023, (Wai 45, #T15), pp. 90-92
[30] Tom Bennion and Anita Miles, 'Research Report: Ngati Awa and Other Claims (Wai 46 and others)', a research report commissioned by the Waitangi Tribunal, September 1995, (Wai 46, #I1), p. 3

whether the aukati line could be seen as 'a manifestation of a traditional law'.[31] It discusses whether ngā tikanga Māori or ngā ture Pākehā should have been applied regarding James Fulloon's death. Their report questions whether ngā ture Pākehā was established in the area at this time and whether tikanga could be used as a defence or justification.[32]

This report also discusses constitutional legitimacy and sovereignty how and this was connected to the imposition of ngā ture Pākehā. As noted by Bennion and Miles:

> With the declaration of sovereignty over the entire country in May 1840, the Imperial Government view was that the common law applied throughout the country … London's pessimism about the chances of Maori custom surviving colonisation led them to a policy of prevent settler oppression, but making no effort at power sharing. Within weeks of landing in New Zealand, soldiers and police magistrates were arresting Maori for offences against the common law.[33]

Bennion and Miles describe how the Crown insisted on the imposition of English law from the Treaty signing onwards 'in matters of serious assault or homicide between a Maori and a Pakeha' and rejected Māori arguments 'that the Treaty of Waitangi, in reserving rights of chieftainship, reserved the right of administering justice among members of the tribe'.[34] Their report also discusses the Native Exemption Ordinance 1844 'which, when operative, would have applied in specified districts English law modified to Maori custom' and note that Governor Grey repealed this ordinance in 1845 as part of 'his more aggressive scheme of extending Pakeha control'. This included the 1846 Resident Magistrate Ordinance which aimed to 'introduce European concepts of law and order and behaviour to predominantly Maori areas'.[35] According to Bennion and Miles, 'the strength of English law waxed and waned in districts as the political mood changed' and by the 1850s, rangatira 'happy to accept *te ture* as a useful tool to solve problems at an earlier time now resisted its extension to land'.[36] Their report discusses how English law was applied in the Bay of Plenty in the second half of the nineteenth century.[37]

THEMES:

- Ngā Tikanga Māori me Ngā Ture Pākehā
- Constitutional Legitimacy and Sovereignty

4.5 Chatham Islands Claims (Wai 64)

Phillipson, Grant, 'Report to the Waitangi Tribunal on Matters of Relevance to the Chatham Islands Claims, Wai 64, including the Intervention of Government in the Affairs of the Maori Land Court', a research report commissioned by the Waitangi Tribunal, 1994, (Wai 64, #A16)

Phillipson's report on the Chatham Islands examines the imposition of British sovereignty and governance over its Māori inhabitants. Phillipson notes the delayed 1842 establishment of sovereignty over the islands and the almost total lack of governance by the Crown. He observes that the Crown did not practice any form of governance in the Chatham Islands until 1855 and even then, only by

[31] Bennion and Miles, (Wai 46, #I1), p. 4
[32] Bennion and Miles, (Wai 46, #I1), pp. 5-6
[33] Bennion and Miles, (Wai 46, #I1), p .8
[34] Bennion and Miles, (Wai 46, #I1), p. 8
[35] Bennion and Miles, (Wai 46, #I1), p. 10
[36] Bennion and Miles, (Wai 46, #I1)), p. 11
[37] Bennion and Miles, (Wai 46, #I1), pp. 15-24

Māori consent, rendering them effectively autonomous. The following quotations further highlight the author's observations:

'The acquisition of sovereignty in the various territories of New Zealand was a long and tortuous process.'[38]

'The Chatham Islands were simply the most distant of a number of regions in which the Crown made no effort to exercise its sovereignty.'[39]

'British law had so far [until the 1855 arrival of Resident Magistrate Archibald Shand] held no sway over the Maori population'.[40]

'The government perceived a fine balance between its duty to impose British law and suppress 'savage' customs, and the practical realities of its power in the face of Maori military strength and geographical dispersion. Lord Normanby instructed Hobson to impose British law in a gradual manner'.[41]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Kāwanatanga
- Constitutional Legitimacy and Sovereignty
- Local Government and Te Tiriti

Phillipson, Grant, 'Preliminary Report to the Waitangi Tribunal on Matters Arising from the Chatham Islands Hearing of 16–19 May 1994', a research report commissioned by the Waitangi Tribunal, September 1994, (Wai 64, #F5)

Phillipson's report addresses matters regarding the Chatham Islands, including the actions of the Native Land Court. Of constitutional interest is the "Elizabeth' affair" and the ensuing commencement of British sovereignty over the Chatham Islands. Phillipson notes that, 'The Chathams were not included in the limits of Governor Philips' commission for New South Wales 'and its Dependencies' in 1707. Instead, they were a 'Foreign Country' not subject to the Queen or any other European power'.[42] The report questions the commencement date of British sovereignty and impact the New Zealand Company's activities had in motivating the clarification of this date.[43]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance

[38] Grant Phillipson, 'Report to the Waitangi Tribunal on Matters of Relevance to the Chatham Islands Claims, Wai 64, including the Intervention of Government in the Affairs of the Maori Land Court', a research report commissioned by the Waitangi Tribunal, 1994, (Wai 64, #A16), p. 3
[39] Phillipson, (Wai 64, #A16), p. 5
[40] Phillipson, (Wai 64, #A16), p. 5
[41] Phillipson, (Wai 64, #A16), p. 8
[42] Grant Phillipson, 'Preliminary Report on Matters Arising from the Chatham Islands Hearing of 16–19 May 1994 [re: Native Land Court actions, James Coffee's title, and the 'Elizabeth Affair']', a research report commissioned by the Waitangi Tribunal, September 1994, (Wai 64, #F5), p. 34
[43] Phillipson, (Wai 64, #F5), p. 34

Boast, R.P., 'Ngati Mutunga and the Chatham Islands', a research report commissioned by the Waitangi Tribunal, March 1995, (Wai 64, #J6)

Boast's report focuses on Ngāti Mutunga migration from Taranaki and land ownership in the Chatham Islands. However, Boast does reference James Belich who stated that during the 1870s, 'central Taranaki was in effect "an independent Maori state"', and that Ngāti Mutunga '"cannot fail to have been strongly influenced by the Parihaka movement"'.[44]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance

4.6 Turangi Township Lands Claim (Wai 84)

Hamer, Paul, 'Tokaanu Development Scheme, 1930–68', a research report commissioned by the Waitangi Tribunal, August 1994, (Wai 84, #B12)

Hamer's report is a narrative account of the operation of the Tokaanu Development Scheme and Ngāti Tūrangitukua's activities prior to the scheme.[45] The report does not focus on constitutional issues but observes:

> At the heart of many objections to the Maori land development schemes is this issue of state encroachment and the loss of te tino rangatiratanga, guaranteed to Maori under the terms of the Treaty of Waitangi.[46]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance

4.7 The Taranaki Inquiry (Wai 143)

Stokes, J.G. Bentinck, 'Report on Legal and Historical Aspects of the Taranaki Confiscations', May 1981, (Wai 143, #A26)

The author discusses the New Zealand Constitution Act 1852 and the New Zealand Constitution Amendment Act 1857 within the context of analysing whether the New Zealand Settlements Act 1863 was legal. The report provides some brief historical background to constitutional law at the time, including the following:

- The New Zealand Parliament's powers were conferred by the United Kingdom Parliament (the author refers to New Zealand as a 'non sovereign Parliament' at this time in terms of its capacity to make law);
- The New Zealand Constitution Act 1852 established the General Assembly and 'conferred wide powers of legislation on the colonial legislature and internal affairs'; and
- The New Zealand Parliament had no powers to amend or repeal the New Zealand Constitution Act 1852 until the New Zealand Constitution Amendment Act 1857 made it

[44] R.P. Boast, 'Ngati Mutunga and the Chatham Islands', a research report commissioned by the Waitangi Tribunal, March 1995, (Wai 64, #J6), p. 39
[45] Paul Hamer, 'Tokaanu Development Scheme, 1930–68', a research report commissioned by the Waitangi Tribunal, August 1994, (Wai 84, #B12), p. 1
[46] Hamer, (Wai 84, #B12), p. 2

lawful for the General Assembly to amend or repeal most provisions of the Act (excluding 19 sections).

Ultimately, the author argues that the New Zealand Constitution Act 1852 granted the New Zealand Parliament limited powers to pass laws relating to land and, more specifically, that the Act did not allow the General Assembly to pass laws relating to the taking of land, as was done under the New Zealand Settlements Act 1863.[47]

The author also briefly touches on issues and legislation relating to citizenship and political representation, including the following:

- In 1863 (when the New Zealand Settlements Act was passed), Māori 'had no elected representatives in Parliament'. The author states there were no written guaranteed constitutional rights for British subjects under 'the law of England', but that rights existed through having elected representatives in Parliament, which at this time did not extend to Māori;[48]
- The Native Rights Act 1865 provided (retrospectively) that Māori were British subjects. It deemed every Māori person 'whether born before or since New Zealand became a dependency of Great Britain' would be deemed 'a natural-born subject of Her Majesty';[49]
- The author also describes the Native Land Act 1862 as a 'constitutional event'. The Act removed the Crown's pre-emptive powers to acquire land from Māori under the Treaty and under the New Zealand Constitution Act 1852.[50]

Themes:

- Constitutional Legitimacy and Sovereignty
- Parliamentary Sovereignty and Systems
- Electoral Rights and Systems

4.8 Mohaka ki Ahuriri Inquiry (Wai 201)

Head, Lyndsay, 'Land, citizenship, and the *mana motuhake* movements among Ngati Kahungungu: a study of Maori Language documents in Ngati Kahungungu history, 1840–1865', June 1999, (Wai 201, #W11)

This report examines te reo Māori documents from 1840 to 1865 to provide more information about how early Māori sources were used and valued, how Māori viewed 'their property exchanges with Europeans in the 1840s–1860s', Māori opinions about 'their relationship with the Crown', and how Māori in the Hawke's Bay responded to the Kīngitanga and Hauhau movements.[51] Most of the primary sources used in this report were letters to the provincial or central governments in the nineteenth century. Head argues that these letters to the government provide the Māori 'voice of

[47] J.G. Bentinck Stokes, 'Report on Legal and Historical Aspects of the Taranaki Confiscations', May 1981 (Wai 143, #A26), pp. 3-14, 26-27, 58-60, 62
[48] Stokes, (Wai 143, #A26), p. 57
[49] Stokes, (Wai 143, #A26), p. 50
[50] Stokes, (Wai 143, #A26), pp. 8, 27
[51] Lyndsay Head, 'Land, citizenship, and the mana motuhake movements among Ngati Kahungungu: a study of Maori Language documents in Ngati Kahungungu history, 1840–1865', June 1999, (Wai 201, #W11), p. 2

colonial government' and without reading these letters 'the choices Maori made about citizenship, whether to stand with the government or repudiate its sovereignty, cannot be understood'.[52]

Head states that after the Waitara Affair Kahungungu rangatira 'reaffirmed their allegiance to the "Treaty state" and warned against Māori and Pākehā who advocated for Māori to 'repudiate the sovereignty (*rangatiratanga*) of the Crown'.[53] According to Head, these rangatira made 'what might be the first Maori statement of the principle of partnership' when they stated that 'the sovereignty of the Crown was embodied in a government based on laws agreed in consultation … between the two peoples'. According to Head, these rangatira:

> also made clear that the authority of the queen had wider implications for Maori than the straightforwardly political: it was the foundation and necessary condition of modernity, which was the commodity Maori most wanted from the Pakeha.[54]

This report describes how during the 1850s, the Ngāti Haua rangatira Wiremu Tamihana Tarapipipi Te Waharoa 'developed the idea of a Maori nation with a parallel political authority to that of the government over lands Maori had not sold'.[55] According to Head: 'The model for Tamihana's interpretation of the limited sovereignty of the Crown' was not based on the Treaty of Waitangi but instead on the Bible.[56] Head explains that the concept of 'a single, pan-Maori territorial authority was not an expansion of established tribal thinking, but a radical step outside it … The independence of Maori political development did not consist in turning away from modernity but in putting it into effect: neither the King movement nor the Hauhau faith can be understood outside of a search-for-modernity paradigm'.[57] This report discusses the Kīngitanga and Hauhau movements in detail.[58]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Parliamentary Sovereignty and Systems
- National models of Māori Self-Government

4.9 Whanganui Inquiry (Wai 903)

Bennion, Tom, 'Whanganui River Report; Research Report for Urgent Hearing Wai 167', a research report commissioned by the Waitangi Tribunal, March 1994, (Wai 167, #A49)

The focus of this report is on ownership of waterways. It discusses the lack of Māori representation on River Board.[59] Bennion noted that in 1939, the Maori Land Court said the Treaty of Waitangi had not altered sovereignty in New Zealand to give the Crown a right not present even in English common law (ownership of waterways).[60]

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[52] Head, (Wai 201, #W11), pp. 17-18
[53] Head, (Wai 201, #W11), p. 138
[54] Head, (Wai 201, #W11), p. 138
[55] Head, (Wai 201, #W11), p. 151
[56] Head, (Wai 201, #W11), pp. 151-152
[57] Head, (Wai 201, #W11), p. 151
[58] Head, (Wai 201, #W11), pp. 151-160
[59] Tom Bennion, 'Whanganui River Report; Research Report for Urgent Hearing Wai 167', a research report commissioned by the Waitangi Tribunal, March 1994, (Wai 167, #A49), p. 77
[60] Bennion, (Wai 167, #A49), p. 122

THEMES:

- Constitutional Legitimacy and Sovereignty

Loveridge, Donald M., 'Institutions for the Governance of Maori, 1852–1865', a report for the Crown Law Office, September 2007 (Wai 903, #A143)

This report discusses the development of institutions in the 1850s and 1860s that introduced British law and Government into Māori communities, including:

- the 1852 Busby Plan, the 1856 Board of Native Affairs, Fenton's proposals, the "Waikato Experiment";[61]
- the 1860 Kohimarama Conference, Native Councils, the Native Council Bill;[62]
- Governor Grey's Instructions, Native Lands legislation, the Fitzgerald Resolutions, the Native Land Courts;[63] and
- The Native Lands Act 1862, Māori local government, the Maori Electoral Bill, the Weld Ministry's 'Native' Bills, the New Maori Provinces Bill.[64]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Ngā Tikanga Māori me Ngā Ture Pākehā
- National Models of Māori Self-Government

4.10 Tauranga Moana Inquiry (Wai 215)

Koning, John, 'The Tauranga Bush Campaign 1864–1870', a report commissioned by the Crown Forestry Rental Trust on behalf of Pirirakau, April 1998, (Wai 215, #B2)

Koning's report provides a historical overview of the experiences of Pirirakau during the Tauranga Bush Campaign from 1864 to 1870.[65] This report discusses the Kīngitanga movement in detail. According to Koning, while 'during the Tauranga Bush Campaign, the Kingitanga proved to be the enduring source of inspiration for the hapu of Ngati Ranginui, and as such, the direct action against survey parties and armed conflict with the government was indicative of a wider search for political autonomy· and the retention of tribal land'.[66] Koning states that for Ngāti Ranginui, the Kīngitanga movement 'embodied the right of hapu to retain their land and autonomy'. He also argues that the conflict that occurred 'from Te Ranga to Oropi was about substantive sovereignty rather than millenarian prophecies'.[67]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National models of Māori Self-Government

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[61] Donald M. Loveridge, 'Institutions for the Governance of Maori, 1852-1865', a report for the Crown Law Office, September 2007, (Wai 903, #A143), pp. 24-89
[62] Loveridge, (Wai 903, #A143), pp. 90-144
[63] Loveridge, (Wai 903, #A143), pp. 145-219
[64] Loveridge, (Wai 903, #A143), pp. 220-285
[65] John Koning, 'The Tauranga Bush Campaign 1864–1870', a report commissioned by the Crown Forestry Rental Trust on behalf of Pirirakau, April 1998, (Wai 215, #B2), p. 1
[66] Koning, (Wai 215, #B2), p. 6
[67] Koning, (Wai 215, #B2), p. 69

Gillingham, Mary, 'Waitaha and the Crown 1864–1981', a report commissioned by the Crown Forestry Rental Trust', February 2001, (Wai 215, #K25)

This report examines the Crown's alienation of Waitaha land in the Tauranga Moana confiscation area and outside of it. Gillingham focuses on the period 1864 to the late nineteenth century, but also surveys Waitaha's socioeconomic conditions, land confiscation protests, and land alienation in the twentieth century.[68] According to Gillingham, 'the question of the political autonomy of Maori against that of the Crown was much debated in Tauranga Moana, the Bay of Plenty (including Arawa) and the East Coast by Maori and between Maori and the government during the early 1860s, providing the context in which Waitaha's views were formed'.[69] She also discusses the Kīngitanga movement and states that the Crown required its destruction in the 1860s 'in order to impose British sovereignty in New Zealand'.[70] This report also includes Governor George Grey's 'new institutions' which were a 'scheme for Maori local administration'. Gillingham states: 'The government intended that the granting to Maori of a degree of self-governance would assist in "tranquilizing their minds and to securing their allegiance"'.[71] Her report examines Māori responses in this area to this form of self-governance.[72] According to Gillingham, Tauranga 'was a hot bed for discussion about sovereignty during the early 1860s'.[73]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty
- National Models of Māori Self-Government

4.11 The Indigenous Flora and Fauna and Cultural Intellectual Property Inquiry (Wai 262)

Jackson, Moana, 'Justice for Maori: More than One Option', *Race, Gender & Class*, No 14, 1992, pp 44-50 (Wai 262, #A3)

The international social science journal's editors asked Moana Jackson 'What kind of constitutional reforms do you envisage?' He answered by stating his support for the then newly formed National Maori Congress's approach to tino rangatiratanga, advocating a uniquely Māori process.[74]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Models of Māori Self-Government
- Parliamentary Sovereignty and Systems

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[68] Mary Gillingham, 'Waitaha and the Crown 1864–1981', a report commissioned by the Crown Forestry Rental Trust', February 2001, (Wai 215, #K25), p. iii
[69] Gillingham, (Wai 215, #K25), p. 27
[70] Gillingham, (Wai 215, #K25), p. 27
[71] Gillingham, (Wai 215, #K25), p. 28
[72] Gillingham, (Wai 215, #K25), pp. 28-29
[73] Gillingham, (Wai 215, #K25), pp. 28-29
[74] Moana Jackson, 'Justice for Maori: More than One Option', *Race, Gender & Class*, No 14, 1992, pp. 44-50; (Wai 262, #A3), pp. 45-46

Williams, David V., 'Crown Policy Affecting Maori Knowledge Systems and Cultural Practices', a report commissioned by the Waitangi Tribunal, 2001 (Wai 262, #K3)

In this report Williams focused on Crown policies 'that prejudicially affected Maori retention of their knowledge systems and of their cultural practices'.[75] In his historical analysis, he noted that the New Zealand Constitution Act 1852 was 'carried out without consultation with Maori'. Even though section 71 anticipated self-governing Native Districts, the Crown failed to establish any under the 1852 Act.[76]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty

Williams, David, 'Matauranga Maori and Taonga', a report commissioned by the Waitangi Tribunal, 2001 (Wai 262, #K6)

Williams made several constitutional observations in his second research report for Wai 262. He quoted the opening resolution of the January 1995 National Maori Congress hui at Hīrangi Marae. Williams suggested that the Crown's 'minimal consultation' with Māori over its 1994 Treaty settlement proposals (the focus of the Hīrangi hui) was inconsistent with a Treaty-based 'constitutional framework'. He invited the Wai 262 Tribunal 'to advise the Crown on the appropriate constitutional priority of respect for Matauranga Maori ...'[77]

THEMES:

- Constitutional Legitimacy and Sovereignty

4.12 Te Urewera Inquiry (Wai 894)

Binney, Judith, 'Encircled Lands, Part One: A History of the Urewera from European Contact until 1878', a report commissioned by the Crown Forestry Rental Trust, April 2002, (Wai 894, #A12)

In her general Te Urewera history, Binney highlighted Te Whitu Tekau (the Union of Seventy) as the 1870s expression of Te Mana Motuhake ō Tūhoe.[78] This emerged from a November 1871 'compact' with the Crown. She argued that the Crown granted Tūhoe self-government in return for their cooperation in apprehending Te Kooti.[79] Te Whitu Tekau firstly defined the precise boundaries of Te Rohe Pōtae ō Tuhoe, and then combatted Crown attempts to alienate lands 'encircling' it.[80] Te Whitu

[75] David V. Williams, 'Crown Policy Affecting Maori Knowledge Systems and Cultural Practices', a report commissioned by the Waitangi Tribunal, 2001, (Wai 262, #K3), p. 8
[76] Williams, (Wai 262, #K3), p. 24
[77] David V Williams, 'Matauranga Maori and Taonga', a report commissioned by the Waitangi Tribunal, 2001, (Wai 262, #K6), p. 10
[78] Judith Binney, 'Encircled Lands, Part One: A History of the Urewera from European Contact until 1878', a report commissioned by the Crown Forestry Rental Trust, April 2002 (Wai 894, #A12), p. 15
[79] Binney, (Wai 894, #A12), p. 263
[80] Binney, (Wai 894, #A12), pp. 271, 283

Tekau, during the 1870s, made Te Urewera a self-governing zone, in defiance of Crown attempts to divide and conquer it.[81]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Models of Māori Self-Government

Marr, Cathy, 'The Urewera District Native Reserve Act 1896 and Amendments 1896–1922', a report commissioned by the Waitangi Tribunal, June 2002, (Wai 894, #A21)

Marr highlighted the constitutional significance of the Urewera District Native Reserve Act [UDNRA] 1896 as a sequel to Te Whitu Tekau. Premier Seddon, she argued, repeatedly stressed the 'constitutional nature' of UDNRA after negotiating terms with Tūhoe rangatira in September 1895.[82] The rangatira saw UDNRA as a 'compact or constitutional arrangement'. [83] She recounted how the Crown subsequently failed to give effect to the self-governing features of the Urewera Commission, and to the Tuhoe General Committee. Both failed to stem the tide of Crown inspired division and alienation after 1909.[84]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty

Armstrong, David Anderson, 'Ika Whenua and the Crown 1865–1890', a research report commissioned by Te Runanga o Te Ika Whenua in association with the Crown Forestry Rental Trust, 1999, (Wai 894, #A46)

This report describes and analyses how war on the East Coast from 1865 to 1872 generally affected 'the three iwi who comprise the Runanga: Ngati Manawa, Patuheuheu (also known as Ngati Haka) and Ngati Whare'.[85] Armstrong discusses how 'despite different allegiances during the war period' the three iwi all experienced a 'lengthy series of conflicts between 1865 and 1872, characterised by brutality and devastation on a scale not hitherto witnessed in this country - particularly after 1868 - destroyed their economic infrastructure regardless of which side they fought on, and for a period their social cohesion was also undermined'.[86]

In this report, Armstrong described how Bay of Plenty Māori in the late nineteenth century were 'seeking some legislative sanction for the right of hapu/iwi and pan-tribal organisations'. These included Ngāi Tūhoe's 'Committee of Seventy', the 'Great Committee of Rotorua', and 'Putaiki' (a Tūhourangi tribal committee). These models of Māori self-governance sought 'to adjudicate on land titles, authorise surveys and control land negotiations themselves without recourse to the costly and

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[81] Binney, (Wai 894, #A12), pp. 338, 343, 387
[82] Cathy Marr, 'The Urewera District Native Reserve Act 1896 and Amendments 1896–1922', a report commissioned by the Waitangi Tribunal, June 2002 (Wai 894, #A21), pp. 50, 63
[83] Marr, (Wai 894, #A21), p. 193
[84] Marr, (Wai 894, #A21), pp. 194-197
[85] David Anderson Armstrong, 'Ika Whenua and the Crown 1865–1890', a research report commissioned by Te Runanga o Te Ika Whenua in association with the Crown Forestry Rental Trust, 1999, (Wai 894, #A46), p. 1
[86] Armstrong, (Wai 894, #A46), p. 2

disruptive Native Land Court process which was beginning to gain a foothold in the district'.[87] However, the governments of this time mostly ignored their 'requests for official recognition of such authorities, and the right of these to determine the fate of Maori lands themselves, though clearly guaranteed by the Treaty of Waitangi and envisaged by section 71 of the Constitution Act'.[88]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Models of Māori Self-Government

Cleaver, Philip, 'Matahina Block', a report commissioned by the Waitangi Tribunal, December 1999, (Wai 894, #A63)

Cleaver's report combines, investigates, and adds to the pre-existing research on the Matahina block. In particular, his report provides an outline of the available 'evidence concerning the customary Maori use and occupation of Matahina'.[89] This report discusses Te Whitu Tekau, a council of Tūhoe rangatira, which was established in 1872 'to protect the interests and autonomy of Tuhoe'. This council had a policy that hapū inside of the Tūhoe rohe 'were not to take claims to the [Native Land] Court'.[90]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Models of Māori Self-Government

Rose, Kathryn, 'A people dispossessed: Ngati Haka Patuheuheu and the Crown, 1864–1960', a research report commissioned by the Crown Forestry Rental Trust, February 2003, (Wai 894, #A119)

Rose's report provides an overview of the relationship between the Crown and Ngāti Haka Patuheuheu from 1864 to 1960. Her report focuses on their land loss to the Crown during this period and the Crown's responses to 'requests for support and assistance'. It also considers how Ngāti Haka Patuheuheu's socioeconomic circumstances affected their relationship with the Crown and how land loss limited their options to improve these circumstances in the late nineteenth and early to mid-twentieth century.[91]

This report discusses how in the late nineteenth century, the Crown promised 'regional autonomy' to Tūhoe in return for their 'cooperation' while also attempting 'to achieve the intertwined goals of eroding autonomy and opening the district [Te Urewera] for European settlement'.[92] Rose argues that the Crown relied 'on indirect means of gradually encroaching on autonomy, the processes of the Native Land Court and land purchasing, while, in the main, allowing Tuhoe and Ngati Whare to retain

[87] Armstrong, (Wai 894, #A46), p. 63
[88] Armstrong, (Wai 894, #A46), p. 65
[89] Philip Cleaver, 'Matahina Block', December 1999, (Wai 894, #A63), pp. 7-8
[90] Cleaver, (Wai 894, #A63), p. 11
[91] Kathryn Rose, 'A people dispossessed: Ngati Haka Patuheuheu and the Crown, 1864–1960', a research report commissioned by the Crown Forestry Rental Trust, February 2003, (Wai 894, #A119), p. vi
[92] Rose, (Wai 894, #A119), p. 58

control over their own affairs'.[93] This report also quoted Richard Seddon, the Liberal Premier who said '"you cannot have protection unless you acknowledge the sovereignty of the Queen, who governs all … There must be, and can only be, one Government'".[94] Rose discusses how the Urewera District Native Reserve Act 1896 'purported to establish an area of self-government of approximately 656,000 acres' in which the Native Land Court would not be allowed to operate.[95] She states that this legislation 'was unique in legally recognising an autonomous Maori district, recognising the principle of tribal authority over land' but also provided the Crown with the ability to undermine Tūhoe authority.[96] In practice, the Urewera District Native Reserve Act 1896 did not live up to its promise and later amendments to this legislation 'eroded the principal of tribal authority that the people of Te Urewera thought had been recognised in 1896'.[97]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Parliamentary Sovereignty and Systems
- National Models of Māori Self-Government

McBurney, Peter, 'Ngāti Manawa & the Crown 1840–1927', a report commissioned by the Crown Forestry Rental Trust, October 2003, (Wai 894, #B5)

This report focuses on Ngāti Manawa's experiences with the Crown from 1840 to 1927. McBurney discusses mid-nineteenth century Māori attempts to preserve autonomy and self-governance through the Kīngitanga movement and the establishment of a yearly 'Māori "Parliament" that would assist in curbing the growing influence of the colonists and restore the power of the chiefs to their former status'.[98] McBurney also discusses Tūhoe's 'autonomy organisation' Te Whitu Tekau, (also known as the Union of Seventy) and the relative independence of Tūhoe hapū at this time.[99]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Models of Māori Self-Government

4.13 East Coast Inquiry (Wai 900)

Derby, Mark, "'Undisturbed Possession" – Te Tiriti o Waitangi and East Coast Māori 1840–1865', a scoping report commissioned by the Waitangi Tribunal, July 2007, (Wai 900, #A11)

This report was commissioned in order to examine the following questions:

- 'Did East Coast Māori have any involvement in the 1835 Declaration of Independence, and if so, what was the relevance of such involvement to their subsequent response to te Tiriti?

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[93] Rose, (Wai 894, #A119), p. 58
[94] Rose, (Wai 894, #A119), p. 131
[95] Rose, (Wai 894, #A119), p. 135
[96] Rose, (Wai 894, #A119), p. 135
[97] Rose, (Wai 894, #A119), p. 151
[98] Peter McBurney, 'Ngāti Manawa & the Crown 1840–1927', a report commissioned by the Crown Forestry Rental Trust, October 2003, (Wai 894, #B5), p. 52
[99] McBurney, (Wai 894, #B5), p. 122, 134-136, 173

- What were the circumstances surrounding the Crown's promulgation of the English-language te Tiriti o Waitangi on the East Coast, which texts were used, and how did their meanings differ?
- What were the roles of missionaries, officials and other Europeans in shaping the perceptions and expectations of te Tiriti on the past of East Coast Māori?
- What reasons were given by East Coast Māori for signing, or refusing to sign, te Tiriti?
- At the time, what did East Coast Māori consider their own and the Crown's responsibilities to be under te Tiriti?
- How were the understandings of East Coast Māori towards te Tiriti expressed, maintained or altered over the period up to 1865?'[100]

Focussed on the years between 1840 and 1865, the report includes chapters on the significance of He Whakaputanga and Te Tiriti,[101] the promulgation of Te Tiriti,[102] reasons for signing or refusing to sign Te Tiriti,[103] the involvement of missionaries, officials and Europeans,[104] Māori and Crown responsibilities under Te Tiriti,[105] and pre-1865 understandings of Te Tiriti (including the 1860 Kohimarama Conference).[106]

Derby argues that East Coast Māori saw te Tiriti as a 'bureaucratic irrelevance' during this period, and concludes that '[i]t seems implausible that East Coast Māori would demonstrate a quarter-century of determined but nonviolent resistance to all threats to their regional self-government if they believe their legal right to manage their own affairs had been effectively surrendered in 1840.[107]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance

Hart, Wendy, 'East Coast District Inquiry District: An Overview of Crown-Maori Relations 1840-1986', a scoping report commissioned by the Waitangi Tribunal, November 2007, (Wai 900, #A14)

This scoping report addresses research coverage of constitutional issues.

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty
- Parliamentary Sovereignty and Systems

[100] Mark Derby, "'Undisturbed Possession" – Te Tiriti o Waitangi and East Coast Māori 1840–1865', a scoping report commissioned by the Waitangi Tribunal, July 2007, (Wai 900, #A11), p. 6
[101] Derby, (Wai 900, #A11), p. 16-18
[102] Derby, (Wai 900, #A11), p. 19-35
[103] Derby, (Wai 900, #A11), p. 36-43
[104] Derby, (Wai 900, #A11), p. 44-59
[105] Derby, (Wai 900, #A11), p. 60-69
[106] Derby, (Wai 900, #A11), p. 70-81
[107] Derby, (Wai 900, #A11), p. 82

Gilling, Bryan, "'I raised the flag over them for their protection": The development of an alliance between East Coast Maori and the Crown 1840–1872', a report commissioned by the Crown Forestry Rental Trust and Te Kura Takai Puni, April 2005, (Wai 900, #A24)

This overview report examines the 'unique' relationship between East Coast Māori, particularly Ngāti Porou, and the Crown between 1840 and 1872. Gilling states that Ngāti Porou formed a political and military alliance with the Crown during this period 'as part of their overarching aim of developing a policy of limited and selective interaction with the Pakeha world.'[108] His report covers, amongst other issues, the signing of Te Tiriti by East Coast Māori, 1860s conflicts along the East Coast, 'New Institutions' (rūnanga) of self-government, Te Kīngitanga, Pai Mārire, the 'Petroleum Wars', confiscation proposals, and Te Kooti.[109]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Models of Māori Self-Government

Luiten, Jane, 'Local Government on the East Coast', a report commissioned by the Crown Forestry Rental Trust, August 2009, (Wai 900, #A69)

This report provides 'an historical account of the development of local government on the East Coast, with a particular focus on the impact of this development on tangata whenua.'[110] The report was commissioned to address questions around self-government (including post-1840 Māori structures of 'tribal organisation', legislative provision and funding support, and impact on tino rangatiratanga over resources), participation and representation (including any provisions made for tribal authority in the early development of local government, the relationship between Māori institutions and local government, and the extent of Māori representation on provincial and county government bodies), and provision of services.[111]

The author highlights the Crown's failure to protect te tino rangatiratanga of East Coast Māori and the Crown's 'failure to ensure equal opportunity for participation in the local government regime that developed from 1876.'[112] The report is divided into two sections: Part One examines the historical development of local government, while Part Two looks at contemporary developments in local government from 1989. The examination of the Potaka Marae Hatchery in Part Two of the report, argues Luiten, 'raises fundamental constitutional issues regarding the status of customary and Treaty rights within the rule of law.'[113]

THEMES:

- Tino rangatiratanga, Autonomy and Self-governance
- Ngā Tikanga Māori me Ngā Ture Pākehā

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[108] Bryan Gilling, "'I raised the flag over them for their protection": The development of an alliance between East Coast Maori and the Crown 1840–1872', a report commissioned by the Crown Forestry Rental Trust and Te Kura Takai Puni, April 2005, (Wai 900, #A24), p. 5
[109] Gilling, (Wai 900, #A24)
[110] Jane Luiten, 'Local Government on the East Coast', a report commissioned by the Crown Forestry Rental Trust, August 2009, (Wai 900, #A69), p. 6
[111] Luiten, (Wai 900, #A69), pp. 7-8
[112] Luiten, (Wai 900, #A69), p. 6
[113] Luiten, (Wai 900, #A69), p. 321

- Local Government and Te Tiriti

4.14 Te Paparahi o Te Raki Inquiry (Wai 1040)

Barrington, J.M., 'Northland Language, Culture and Education. Part One: Education', a research report commissioned by the Crown Forestry Rental Trust, December 2005, (Wai 1040, #A2)

This report is focused on how the Crown approached education in Northland. It examines how the schooling system impacted Northern Māori culture and language. In its examination, the report notes that Governor Grey had 'envisaged District Runanga assuming considerable legislative and administrative functions' to provide some features of local government.[114] However, 'Ministers were largely unsympathetic', with only a limited number assembled.[115]

THEMES:

- Local Government and Te Tiriti
- National Models of Māori Self-Government

O'Malley, Vincent and John Hutton, 'The Nature and Extent of Contact and Adaptation in Northland, c.1769–1840', a report commissioned by the Crown Forestry Rental Trust, April 2007, (Wai 1040, #A11)

While this report is primarily concerned with examining post-contact cultural change in Māori society within Northland during the period 1769 to 1840, it does 'discuss various Maori cultural practices and institutions at the point of contact'.[116] Chapter 6 'considers changing political and social institutions'[117] during this period, including changes related to notions of chieftainship,[118] mechanisms of dispute resolution,[119] and relationships with the British.[120]

Themes:

- Ngā Tikanga Māori me Ngā Ture Pākehā

Armstrong, David Anderson and Evald Subasic, 'Northern Land and Politics: 1860–1910', an overview report prepared for the Crown Forestry Rental Trust, June 2007, (Wai 1040, #A12)

This report provides a 'broad overview of the key social, political and economic developments in Northland […] between 1860–1910.'[121] The authors argues that Crown sovereignty in the area was

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[114] J.M. Barrington, 'Northland Language, Culture and Education. Part One: Education', a research report commissioned by the Crown Forestry Rental Trust, December 2005, (Wai 1040, #A2), p. 44
[115] Barrington, (Wai 1040, #A2), p. 44
[116] Vincent O'Malley and John Hutton, 'The Nature and Extent of Contact and Adaptation in Northland, c.1769–1840', a report commissioned by the Crown Forestry Rental Trust, April 2007, (Wai 1040, #A11), p. 9
[117] O'Malley, (Wai 1040, #A11), p. 19
[118] O'Malley, (Wai 1040, #A11), pp. 226-235
[119] O'Malley, (Wai 1040, #A11), pp. 235-243
[120] O' Malley, (Wai 1040, #A11), pp. 244-252
[121] D.A. Armstrong and E. Subasic, 'Summary of Northern Land and Politics: 1860–1910' an overview report prepared for the Crown Forestry Rental Trust, May 2013 (Wai 1040, #A12(c)), p. 1

achieved through land loss and the 'erosion of tribal cohesion and rangatiratanga.'[122] The discussion focuses on the continued struggle of Northern Māori for self-government and tino rangatiratanga during this period, and includes analysis of:

- the 1860 Kohimarama Conference;
- the Northern Runanga;
- the 1862 Mangakāhia War;
- the Native Land Court in Kaipara;
- nineteenth / early twentieth-century legislation (including the Native Land Act 1865, the Native Committees Act 1883, The Native Land Act 1873, the Maori Councils Act 1900, the Maori Land Administration Act 1900, the Native Land Act 1909);
- The Hokianga War;
- The Kīngitanga;
- Northland Māori representation in Parliament and local bodies;
- Northern Māori protest against land legislation;
- The Ōrākei and Waitangi Parliaments;
- The dog-tax in Northland;
- Maori Land Boards;
- The Stout-Ngata Commission, and;
- the Kotahitanga movement.[123]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Kāwanatanga
- Constitutional Legitimacy and Sovereignty
- Parliamentary Sovereignty and Systems
- Electoral Rights and Systems
- National Models of Māori Self-Government

Armstrong, David, Vincent O'Malley, and Bruce Stirling, 'Northland Language, Culture and Education: Part Two: Wahi Tapu, Taonga and Te Reo Maori', a research report commissioned by the Crown Forestry Rental Trust, August 2008, (Wai 1040, #A14)

This report addresses the loss and preservation of taonga and te reo Māori. Of interest is the Crown's delayed role in preserving taonga and te reo Māori. The following quotes give an indication of the perspectives expressed in the report:

'The Commissioner [The Parliamentary Commissioner for the Environment] concluded that there was a pressing need for greater empowerment of Maori within the decision-making process at both central and local government levels.'[124]

'Accordingly, the Maori Language Act 1987 became law. Despite the evident caution of its approach, it was ushered in with high hopes and lofty rhetoric: Maori Affairs Minister Koro Wetere told

[122] Armstrong and Subasic, (Wai 1040, #A12(c)), p. 1
[123] Armstrong and Subasic, (Wai 1040, #A12)
[124] David Armstrong, Vincent O'Malley, and Bruce Stirling, 'Northland Language, Culture and Education: Part Two: Wahi Tapu, Taonga and Te Reo Maori', a research report commissioned by the Crown Forestry Rental Trust, August 2008, (Wai 1040, #A14), p. 142

Parliament that the government had now recognised that it had a duty under Te Tiriti to "protect our taonga, our cultural treasure … Recognition places the language in its rightful place in New Zealand's constitutional fabric, in the development of a true bicultural heritage'''.[125]

'In a real sense kawanatanga continues to trump rangatiratanga.'[126]

'At the practical level, the limits of official recognition were soon exposed by the Parliamentary process itself. The Maori Language Bill was intended to recognise and promote te reo Maori, so it was introduced to the House in both the Māori and English languages … as a point of legal fact it was the English version that was actually passed by the House'.[127]

'From this perspective, the maintenance and transmission of matauranga Maori (including te reo Māori) was something over which Māori should exercise tino rangatiratanga, without Crown interference.'[128]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Kāwanatanga
- Parliamentary Sovereignty and Systems

Stirling, Bruce, 'Eating Away at the Land, Eating Away at the People: Local Government, Rates, and Maori in Northland', a research report commissioned by the Crown Forestry Rental Trust, August 2008, (Wai 1040, #A15)

This report examines the impact of rating, land valuation processes, and local government services on Northland Māori between 1840 and 1988, and includes a discussion on the participation of Northland Māori in local government'[129], with the caveat that limited information was located by the author in this regard.[130] Stirling addresses the impact of rates and rates arrears on Māori and Māori land in Northland. In doing so, Stirling examines how Māori local government and exercise of tino rangatiratanga continued after te Tiriti o Waitangi and the lack of integration by the Crown. While the entire report is of interest, its first chapter "Local Government and te Tiriti o Waitangi" directly addresses Māori local government. In the chapter's introduction, Stirling states that

> The imposition of the Crown's version of local government on Northland Maori was initially a gradual process but – like the imposition of Crown sovereignty – it was one that failed to account for the partnership envisaged under te Tiriti o Waitangi, the continued exercise of te tino rangatiratanga, or any meaningful role for Maori.[131]

THEMES:

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[125] Armstrong, O'Malley, and Stirling, (Wai 1040, #A14), pp. 543-544
[126] Armstrong, O'Malley, and Stirling, (Wai 1040, #A14), p. 577
[127] Armstrong, O'Malley, and Stirling, (Wai 1040, #A14), p. 542
[128] Armstrong, O'Malley, and Stirling, (Wai 1040, #A14), p. 405
[129] Bruce Stirling, 'Eating Away at the Land, Eating Away at the People: Local Government, Rates, and Maori in Northland', a report commissioned by the Crown Forestry Rental Trust, August 2008, (Wai 1040, #A15), pp. 2-3
[130] Stirling, (Wai 1040, #A15), p. 4
[131] Bruce Stirling, 'Eating Away at the Land, Eating Away at the People: Local Government, Rates, and Maori in Northland', a research report commissioned by the Crown Forestry Rental Trust, August 2008, (Wai 1040, #A15), p. 9

- Constitutional legitimacy and sovereignty
- Local government and Te Tiriti

Henare, Manuka Arnold, 'The Changing images of nineteenth century Māori society – from tribes to nation', PhD thesis, August 2003, (Wai 1040, #A16)

This thesis argues that Māori did not cede sovereignty upon the signing of Te Tiriti o Waitangi, but rather strategically utilised Te Tiriti and He Whakaputanga to create a Māori nation. The discussion includes an examination of Māori political and economic structures between 1800 and 1840.[132]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance

Carpenter, Samuel, 'Te Wiremu, Te Puhipi, He Whakaputanga me Te Tiriti / Henry Williams, James Busby, A Declaration and the Treaty', a report commissioned by the Waitangi Tribunal, November 2009, (Wai 1040, #A17)

Carpenter considers how Henry Williams and James Busby understood and interpreted He Whakaputanga and Te Tiriti. The report is guided by the following questions:

- 'How did James Busby conceive of He W[h]akaputanga o Te Rangatiratanga/the Declaration of Independence in 1835, particularly with regard to: (i) its international standing; and (ii) the practical effect of Te W[h]akaminenga/ the Confederation of the United Tribes it proclaimed?'[133]
- 'Do we know how Henry Williams understood the nature and effect of He W[h]akaputanga/ the Declaration, and, if so, did his Māori text effectively communicate that understanding to the signatories?'[134]
- 'What did Busby and Williams mean when they referred to Te Tiriti/the Treaty as 'the Magna Carta of the Māori'?'[135]
- 'What does the available documentary evidence reveal about Busby's and Williams's understandings of the nature and effect of Te Tiriti/the Treaty, especially with regard to the relationship between kāwanatanga and rangatiratanga?'[136]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Kāwanatanga

[132] Manuka Arnold Henare, 'The Changing images of nineteenth century Māori society – from tribes to nation', PhD thesis, August 2003, (Wai 1040, #A16)
[133] Samuel Carpenter, 'Te Wiremu, Te Puhipi, He Whakaputanga me Te Tiriti / Henry Williams, James Busby, A Declaration and the Treaty', a report commissioned by the Waitangi Tribunal, November 2009, (Wai 1040, #A17), p. ii
[134] Carpenter, (Wai 1040, #A17), p. ii
[135] Carpenter, (Wai 1040, #A17), p. ii
[136] Carpenter, (Wai 1040, #A17), p. ii

Kawharu, Merata, 'Te Tiriti and its Northern Context', an overview report commissioned by the Crown Forestry Rental Trust, March 2008, (Wai 1040, #A20)

This report considers the relationship between Northland Māori and the Crown in the context of Northland Māori understandings and expectations of Te Tiriti. Its focus is the nineteenth century, but also covers the 1934 and 1940 Treaty celebrations. The report includes:

- 1831 Petition of Chiefs to British Government
- 1835 Declaration of Independence
- 1860 Kohimarama Conference
- Role and influence of Northern Māori MHRs
- Impact of the Wi Parata v Bishop of Wellington decision 1877
- 1879 and 1881 hui at Kohimarama and Ti Tii Marae
- 1882 Deputation to Queen Victoria
- The involvement of Northern Māori in the Kingitanga, Kotahitanga and Māori Parliament
- Official and Māori views of Waitangi Day over the decades, particularly 1934
- The broader context of British treaty making during the nineteenth century.[137]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Kāwanatanga
- Constitutional Legitimacy and Sovereignty

McHugh, P.G., 'Brief of Evidence of Dr P.G. McHugh', Crown Law, April 2010, (Wai 1040, #A21)

McHugh's brief of evidence is based on a commission from Crown Law addressing the international legal status and constitutional effect of He Whakaputanga in the 1830s, the effect of Te Tiriti on He Whakaputanga, and when and how the Crown acquired sovereignty in New Zealand (including whether He Whakaputanga and/or Te Tiriti had any impact on this acquisition of sovereignty).[138] In addressing these questions, McHugh discusses:

- The historical pattern of British practice in the erection of an *imperium* overseas;
- *Jus gentium* (the law of nations) and 'jurisdictionalism' in the 1830s;
- The British Resident, his commitment to collectivised, confederative Māori sovereignty and He Whakaputanga; and
- How the Crown acquired sovereignty through a series of jurisdictional steps (including Hobson's Proclamations and Te Tiriti).[139]

Answers to the specific questions outlined above are given in the conclusion.[140]

THEMES:

- Constitutional Legitimacy and Sovereignty

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[137] Merata Kawharu, 'Te Tiriti and its Northern Context: Summary of Report Wai 1040 # A20', an overview report commissioned by the Crown Forestry Rental Trust, July 2010, (Wai 1040, #A20 (a)), p. 2
[138] P.G. McHugh, 'Brief of Evidence of Dr P.G. McHugh', Crown Law, April 2010, (Wai 1040, #A21), p. 2
[139] McHugh, (Wai 1040, #A21)
[140] McHugh, (Wai 1040, #A21), pp. 92-97

Jones, Alison and Kuni Jenkins, 'Aitanga: Māori – Pākeha Relationships in Northland between 1793 and 1825', April 2010, (Wai 1040, #A26)

This report was intended to discuss the following question:

- 'How did Maori understand He Whakaputanga/The Declaration? And, therefore, what was the nature of the relationship and the mutual commitments they were assenting to in signing He Whakaputanga/The Declaration?'[141]

The authors state that they have not answered this question directly, but have rather examined the nature of Māori/Pākehā relationships in the Bay of Islands area between 1793 and 1825 (the time preceding the signing of He Whakaputanga) through an analysis of the following events:

- The kidnapping of Tuki-tahua and Huru-kokoti in 1793
- The 1814 letter to Ruatara ('the first treaty')
- The 1814 pōwhiri for the arrival of the first Pākehā settlers
- The 1814 hui at Rangihoua
- Hongi Hika's 1820 visit to England to stimulate European immigration
- Eruera Pare Hongi's 1825 letter to 'the great chiefs of Europe'.[142]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance

Henare, Manuka, Hazel Petrie, and Adrienne Puckey, '"He Whenua Rangatira" Northern Tribal Landscape Overview (Hokianga, Whangaroa, Bay of Islands, Whāngārei, Mahurangi and Gulf Islands)', a report commissioned by the Crown Forestry Rental Trust, November 2009, (Wai 1040, #A37)

This report examines occupation, right-holding, and hapū/iwi relationships within the five Northland hearing districts during the nineteenth century.[143] The discussion includes responses to these questions, amongst others:

- 'Who had land and other rights and where, and what was the nature of customary land tenure and tikanga in the region?'
- 'Who had authority, under custom law, to alienate lands and resources in which specific areas for which specific groups?'
- 'What were the bases on which rights to land and resources were distributed, held and inherited, and how did the concept of mana and chiefly authority operate in relation to the control of land and resources?'

[141] Alison Jones and Kuni Jenkins, 'Aitanga: Māori – Pākeha Relationships in Northland between 1793 and 1825', April 2010, (Wai 1040, #A26), p. 2
[142] Jones and Jenkins, (Wai 1040, #A26), pp. 2-3
[143] Manuka Henare, Hazel Petrie, and Adrienne Puckey, '"He Whenua Rangatira" Northern Tribal Landscape Overview (Hokianga, Whangaroa, Bay of Islands, Whāngārei, Mahurangi and Gulf Islands)', a report commissioned by the Crown Forestry Rental Trust, November 2009, (Wai 1040, #A37), p. 16

- ‘How did the introduction of muskets and disease impact on Māori society and culture in the 1820s and 1830s? To what extent did this affect the balance of power and right-holding within and between hapū and iwi groups in the 1820s and 30s?’[144]

The report includes sections on the social, economic, and spiritual landscape before 1769 (including discussions on the authority and power of Ngāpuhi);[145] pre-Tiriti mana, sovereignty and autonomy in the area (pre-Tiriti initiatives, Te Tai Tokerau Māori international travel and correspondence between 1820 and 1837, the selection of Te Kara, He Whakaputanga, and Te Tiriti o Waitangi);[146] and post-Te Tiriti mana, sovereignty and autonomy (government move to Auckland, Hōne Heke and the flagstaff, the Northern War, settler government, Te Kotahitanga, and the Dog Tax War).[147]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty

Walzl, Tony, ‘Twentieth Century Overview Part II, 1935–2006’, a research report commissioned by the Crown Forestry Rental Trust, October 2009, (Wai 1040, #A38)

This twentieth-century overview report deals, in part, with political engagement between Māori and the Crown. It discusses tino rangatiratanga, kāwanatanga and autonomy, and addresses the following questions:

‘To what extent did the Crown recognise and provide for the exercise of tino rangatiratanga through institutions and entities, practices and policies, established or supported by Crown or Māori within the inquiry region? How did the practical application of kāwanatanga in the Te Raki inquiry region impact upon tino rangatiratanga? What was the reaction of Te Raki Māori? In particular […]: To what extent, if any, did the Crown create and/or impose situations and entities of kāwanatanga or introduce policies and practices as an exercise of kāwanatanga and how did this impact on the ability of Te Raki Māori to exercise their tino rangatiratanga?’[148]

The report includes:

- the bids by representative Māori groups between 1925 and 1945 to have their rangatiratanga recognised by government through being enabled to create solutions to address socio-economic issues;
- The Maori Social and Economic Advancement Act 1945 (The Maori War Effort Organisation’s influence on the devolved governance structure of the Act, the disjuncture between Māori and the Labour Government in regards understanding of the concept of rangatiratanga, the undermining of the intent of the Act during the 1950s).[149]

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[144] Henare, Petrie, and Puckey, (Wai 1040, #A37), p. 16
[145] Henare, Petrie, and Puckey, (Wai 1040, #A37), pp. 21-48
[146] Henare, Petrie, and Puckey, (Wai 1040, #A37), pp. 420-454
[147] Henare, Petrie, and Puckey, (Wai 1040, #A37), pp. 455-494
[148] Tony Walzl, ‘Presentation summary and response to statement of issues for Twentieth Century Overview Part II, 1935–2006’, a research report commissioned by the Crown Forestry Rental Trust, October 2009, (Wai 1040, #A38 (c)), p. 3
[149] Tony Wazl, ‘Twentieth Century Overview Part II, 1935–2006’, October 2009, (Wai 1040, #A38), pp. 101-173

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Kāwanatanga

Cleaver, Philip and Andrew Francis, 'Aspects of Political Engagement between Iwi and Hapu of the Te Paparahi o Te Raki Inquiry District and the Crown, 1910–1975', a report commissioned by the Waitangi Tribunal, May 2015, (Wai 1040, #A50)

Following on from David Armstrong and Evald Subasic's 'Northern Land and Politics' report (summarised above), this report focuses on the period 1910 to 1975. The discussion covers a variety of political engagements between Te Raki Māori and the Crown, including:

- electoral issues (developments and reform of the national electoral system; the local government electoral system and Māori efforts to participate in county voting and secure representation);[150]
- the involvement of Te Raki Māori in the First World War and the Rātana Movement as, partly, strategies through which to engage with the Crown;[151]
- Maori Councils between 1910 and 1945;[152]
- issues concerning inequitable state welfare assistance (state pensions and welfare benefits);[153]
- the Maori War Effort Organisation 1939 to 1945;[154]
- the Maori Social and Economic Advancement Act 1945 to 1962,[155] and;
- the Maori Women's Welfare League and the New Zealand Maori Council 1951 to 1975.[156]

THEMES:

- Electoral Rights and Systems
- Local Government and Te Tiriti
- National Models of Māori Self-Government

Hamer, Paul and Paul Meredith, '''The Power to Settle the Title"?: The operation of papatupu block committees in the Te Paparahi o Te Raki inquiry district, 1900–1909', a report commissioned by the Waitangi Tribunal, October 2016, (Wai 1040, #A62)

The report examines the establishment and operation of papatupu block committees in the Te Raki inquiry district between 1900 and 1910. These committees were a response to Māori dissatisfaction with the Native Land Court.[157] The report addresses the following questions:

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[150] Philip Cleaver and Andrew Francis, 'Aspects of Political Engagement between Iwi and Hapu of the Te Paparahi o Te Raki Inquiry District and the Crown, 1910–1975', a report commissioned by the Waitangi Tribunal, May 2015, (Wai 1040, #A50), pp. 23-89
[151] Cleaver and Francis, (Wai 1040, #A50), 90-156.
[152] Cleaver and Francis, (Wai 1040, #A50), pp. 157-216
[153] Cleaver and Francis, (Wai 1040, #A50), pp. 217-262
[154] Cleaver and Francis, (Wai 1040, #A50), pp. 263-309
[155] Cleaver and Francis, (Wai 1040, #A50), pp. 310-358
[156] Cleaver and Francis, (Wai 1040, #A50), pp. 359-411
[157] Paul Hamer and Paul Meredith, '''The Power to Settle the Title"?: The operation of papatupu block committees in the Te Paparahi o Te Raki inquiry district, 1900–1909: Report Summary', October 2016, (Wai 1040, #A62(c)), p. 3

- ‘Did the Crown adequately consult with Te Raki Māori before implementing various land title reforms?’
- ‘To what extent, if any, did Crown policy and legislation for improving Māori titles between 1900 and 1953 coincide with the ongoing aim of Te Raki Māori to retain, utilise and manage their land?’
- ‘What was the role of the Māori Land Court and agencies set up to administer, manage and develop Maori land from 1900 in particular the Māori Land Councils and Boards, including the Papatupu Block Committees, the Native Trustee and the Native Department? Did the intervention of these agencies assist Te Raki Māori in developing land or obtaining other desired outcomes? How did the Crown respond to concerns about the competency of these agencies?’[158]

The discussion also covers nineteenth century legislation and the impact of early twentieth century legislation on the committees,[159] the challenges the committees encountered,[160] and their demise.[161]

THEMES:

- National Models of Māori Self-Government

Boast, R.P., ‘Judge Acheson, the Native Land Court and the Crown’, a research report commissioned by the Waitangi Tribunal, October 2016, (Wai 1040, #A64)

Boast’s report examines Judge Acheson’s role in the Native Land Court. While the issue of British sovereignty is only discussed in passing, it features in Appendix I which contains selected judgements by Judge Acheson. In his Lake Ōmāpere (1929) decision, Judge Acheson observed that the Crown’s ‘right of sovereignty’ was not contested by the Māori claimants.[162] Boast’s observation did not extend to discussion of constitutional implications.

THEMES:

- Constitutional Legitimacy and Sovereignty

Pātete, Anthony, ‘Matauri 1875–2000s: Local Issues Research Report’, a report commissioned by the Waitangi Tribunal, October 2016 (Wai 1040, #A67)

While this is one of several ‘local issues’ reports commissioned by the Waitangi Tribunal for the Te Raki Inquiry in order to explore how Crown policies, acts and omissions operated at a local level during the twentieth century, chapter two of this report discusses the origins of Te Komiti o te Tiriti o Waitangi / the Treaty of Waitangi Committee, established in 1881 to enable the exercise of rangatiratanga by Northland Māori,[163] and the workings of the Papatupu Block Committees and the

[158] Hamer and Meredith, (Wai 1040, #A62(c)), p. 2
[159] Paul Hamer and Paul Meredith, ‘‘‘The Power to Settle the Title”?: The operation of papatupu block committees in the Te Paparahi o Te Raki inquiry district, 1900–1909’, a report commissioned by the Waitangi Tribunal, October 2016, (Wai 1040, #A62), pp. 17-44
[160] Hamer and Meredith, (Wai 1040, #A62), pp. 123-156
[161] Hamer and Meredith, (Wai 1040, #A62), pp. 201-216
[162] R.P. Boast, ‘Judge Acheson, the Native Land Court and the Crown’, October 2016, (Wai 1040, #A64), p. 54
[163] Anthony Pātete, ‘Matauri 1875–2000s: Local Issues Research Report’, a report commissioned by the Waitangi Tribunal, October 2016, (Wai 1040, #A67), pp. 56-58

Tokerau District Māori Land Council,[164] as well as how these committees functioned in the context of title investigations of Matauri.[165] The author also discusses the Māori Lands Administration Act 1900 and the Native Lands Act 1909 as partially influenced by Māori pressure for autonomy over the management and alienation of their land.[166]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Models of Māori Self-Government

Thomas, Paul, 'The Native Land Court in Te Paparahi o Te Raki: 1865–1900', a research report commissioned by the Waitangi Tribunal, 2016, (Wai 1040, #A68)

Thomas' report examines the impact of the Native Land Court on Māori communities in Te Raki. The report details responses by Māori to the Native Land Court through local bodies such as the pan-tribal Ōrākei Parliament.[167] These responses include the establishment of unofficial local government Komiti and Runanga, with the Crown recognising their importance in the Native Committees Act 1883. Thomas observes:

> Their lack of legal power meant that they were always threatened and sometimes thrust aside by the Court. Nonetheless, they were influential in Te Raki, especially in areas where opposition to the Native Land Court was most strongly organised and led.[168]

Refusal of Court authority by the autonomous Rohe Pōtae in the 1880s and the prominence of Te Komiti o Te Titiri o Waitangi as alternatives to the Native Land Court is also addressed in the report.[169]

THEMES:

- Local Government and Te Tiriti

O'Malley, Vincent Michael, 'Runanga and Komiti: Maori institutions of self-government in the nineteenth century', PhD thesis, 2004, (Wai 1040, #E31)

This thesis provides a history of Māori komiti and rūnanga and explores 'the legacy of efforts on the part of nineteenth-century Maori to establish new institutions of self-government in the colonial context'.[170] The discussion includes pre-1865 rūnanga and komiti, the Native Land Court and calls for reform, institutions for self-government in the 1870s, Te Arawa Komiti in the 1870s, the Native Committees Act 1883, the establishment and demise of the Official Native Committees, and Te Urewera Komiti in the nineteenth century.[171]

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[164] Pātete, (Wai 1040, #A67), pp. 58-61
[165] Pātete (Wai 1040, #A67), pp. 70-106
[166] Pātete, (Wai 1040, #A67), p. 198
[167] Paul Thomas, 'The Native Land Court in Te Paparahi o Te Raki: 1865–1900', a research report commissioned by the Waitangi Tribunal, 2016, (Wai 1040, #A68), p. 165
[168] Thomas, (Wai 1040, #A68), p. 169
[169] Thomas, (Wai 1040, #A68), pp. 169-177
[170] Vincent Michael O'Malley, 'Runanga and Komiti: Maori institutions of self-government in the nineteenth century', PhD thesis, 2004 (Wai 1040, #E31), p. 1
[171] O'Malley, (Wai 1040, #E31)

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Models of Māori Self-Government

4.15 Central North Island Inquiry (Wai 1200)

Stevens, Michael, 'Wai 334: Otamarakau Lands', a report commissioned by the Waitangi Tribunal, August 1994, (Wai 1200, #A2)

This report was commissioned in order to identify the ownership and status of the Otamarakau lands.[172]

THEMES:

- Tino rangatiratanga, Autonomy, and Self-governance
- Ngā Tikanga Māori me Ngā Ture Pākehā

Armstrong, David Anderson, 'Ngati Makino and the Crown: 1880–1960', a research report commissioned by the claimants in association with the Crown Forestry Rental Trust, 1995, (Wai 1200, #A4)

This report focuses on the relationship between Ngāti Makino and the Crown from around 1880 (when the Crown started to purchase land in their rohe) to 1960. Armstrong attempts to answer through six main topics (economy, land court, dog tax, fishing, health, housing, and education) 'how, if at all, did Ngati Makino benefit from land sales and the process of colonisation?'[173] According to Armstrong, the Maori Councils Act 1900 was 'motivated by official awareness of escalating Maori demand for greater autonomy … and a reluctance on the part of the Crown to transfer any real authority outside the accepted constitutional forms'.[174] He describes how numerous public health functions were devolved to these councils who were also given the authority 'to enforce sanitary regulations in respect of dwellings, meeting houses, and water supplies'. Armstrong acknowledges that their work was hampered by inadequate government funding and that the Maori Councils 'are generally considered to have been largely ineffective'.[175]

Armstrong's report also examines a late nineteenth-century attempt at self-governance through 'the idea of a "Great Committee of Rotorua'.[176]Armstrong references a nineteenth-century *New Zealand Herald* article which described the establishment of this committee as '"assuming Home Rule to a very decided extent"'.[177] This report also discusses Ngāti Pikiao's similar attempts to institute local self-government. They submitted a petition to parliament seeking the ability '"to adjudicate upon their own blocks of land with the full powers of the Native Land Court, and further that the Treaty of Waitangi be carried out"'. However, Armstrong states that there was 'no evidence that the Ngati

[172] Michael Stevens, 'Wai 334: Otamarakau Lands', a report commissioned by the Waitangi Tribunal, August 1994, (Wai 1200, #A2), p. 3
[173] David Anderson Armstrong, 'Ngati Makino and the Crown: 1880–1960', a research report commissioned by the claimants in association with the Crown Forestry Rental Trust, 1995, (Wai 1200, #A4), pp. 2-3
[174] Armstrong, (Wai 1200, #A4), p. 119
[175] Armstrong, (Wai 1200, #A4), p. 119
[176] Armstrong, (Wai 1200, #A4), p. 47
[177] Armstrong, (Wai 1200, #A4), p. 49

Pikiao Committee was any more successful than the "Great Committee of Rotorua" in checking the incursions of land purchase agents and the Court'.[178]

Armstrong describes how Māori continued to call for more self-governance in the late nineteenth century including Ōrākei rangatira Paora Tuhaere's 1888 appearance before the Legislative Council when he requested that '"the Native Committees should have the power to adjudicate on the title to Native lands", and that the government should merely give effect to their decisions'. Armstrong also discusses the Māori Parliament in the 1890s, a petition sent to the queen in 1891 by Arawa seeking a 'representative Council', and the establishment of the Kotahitanga Parliament.[179]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Local Government and Te Tiriti
- National Models of Māori Self-Government

Barrett-Whitehead, Eileen, 'The Rotoiti 15 Trust', a research report commissioned by the Waitangi Tribunal, October 2001, (Wai 1200, #A8)

This report aims to provide 'a case study of the impact of certain aspects of Māori land legislation on Ngāti Pikiao, and also contributes to Professor Alan Ward's investigation into the loss of tribal ownership and control in the Ngāti Pikiao rohe'.[180] Barrett-Whitehead discusses autonomy by examining how the Crown's land administration policies have diminished and circumscribed autonomy.[181] In particular, the author states that 'the owners of Rotoiti 15 have … retained the freehold of the lands in the Trust … [but] have lost, to a greater or lesser extent over the years, the practical day to day control of that resource, and instead have been put in the position of being passive onlookers to its commercial exploitation'.[182]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance

Ward, Alan, 'Ngati Pikiao Lands: Loss of Tribal Ownership and Control', a research report commissioned by the Waitangi Tribunal, October 2001, (Wai 1200, #A9)

Ward describes his Waitangi Tribunal-commissioned research report as a 'discussion paper which drew together many of the key issues raised by the pressures of modernity on customary land tenure, and to reflect on the New Zealand experience' within the context of other countries particularly South Pacific nations.[183] He states that Article 2 of the treaty is relevant to this report as the Māori text 'affirms the tino rangatiratanga "ki nga Rangatira ki nga hapu ki nga tangata katoa"'.[184] Ward argues that when Te Arawa cooperated with Crown officials in the nineteenth century they were 'by no

[178] Armstrong, (Wai 1200, #A4), p. 51
[179] Armstrong, (Wai 1200, #A4), p. 63
[180] Eileen Barrett-Whitehead, 'The Rotoiti 15 Trust', a research report commissioned by the Waitangi Tribunal, October 2001, (Wai 1200, #A8), p. 1
[181] Barrett-Whitehead, (Wai 1200, #A8), pp. 58-59
[182] Barrett-Whitehead, (Wai 1200, #A8), p. 59
[183] Alan Ward, 'Ngati Pikiao Lands: Loss of Tribal Ownership and Control', a research report commissioned by the Waitangi Tribunal, October 2001, (Wai 1200, #A9), p. 2
[184] Ward, (Wai 1200, #A9), p. 182

means relinquishing their tribal autonomy'.[185] This report discusses late nineteenth century attempts at securing 'continued Maori autonomy' which included the selection of 'a Māori king, joining a pan-Māori parliament, and (for the Arawa) forming a "great council" at Rotorua'.[186] Tribal rūnanga were another option, but were not supported by parliament due to 'settler concern that it would reinforce Maori authority over the land and undermine the Native Land Court'.[187] Ward writes that Māori interest in passing laws in the nineteenth century 'involved a desire to strengthen tribal autonomy'.[188]

He also states that Māori were becoming more knowledgeable about 'the implications of British doctrines about sovereignty – about there being a single fount of law, the Queen …[and] … were rightly suspicious that the extension of the Queen's law and the extension of Crown purchases (which both they and the Governor alike saw as going hand in hand), would work to subordinate them'.[189] Ward discusses the Native Lands Act 1862 that envisioned 'customary ownership would be determined by a panel of chiefs chaired by a local Pakeha official'.[190] According to Ward, the early 1900s Māori land councils were an attempt 'to satisfy the Kotahitanga movement's demands for retention of Maori land and tribal self-management on the one hand, while opening Maori land to settlement on the other, mostly through leasehold'.[191] Ward's report also discusses constitutional legitimacy and sovereignty within the context of other South Pacific nations.[192] He briefly mentions the Bill of Rights Act.[193]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Parliamentary Sovereignty and Systems
- Constitutional Legitimacy and Sovereignty
- National Models of Māori Self-Government
- NZ Bill of Rights Act 1990

Boast, R.P., 'The Treaty of Waitangi and Natural Resources: A Case Study', 1991, (Wai 1200, #A14)

Boast's conference paper uses geothermal resources as a 'case study for thinking through some of the implications' of Treaty principles for managing natural resources.[194] This conference paper discusses rangatiratanga and kāwanatanga with reference to managing economic resources.[195] Boast also discusses parliamentary sovereignty and its relationship to the Treaty.[196]

THEMES:

- Tino rangatiratanga
- Kāwanatanga

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[185] Ward, (Wai 1200, #A9), p. 14
[186] Ward, (Wai 1200, #A9), p. 15
[187] Ward, (Wai 1200, #A9), p. 35
[188] Ward, (Wai 1200, #A9), p. 166
[189] Ward, (Wai 1200, #A9), p. 166
[190] Ward, (Wai 1200, #A9), p. 167
[191] Ward, (Wai 1200, #A9), pp. 137, 153, 156
[192] Ward, (Wai 1200, #A9), pp. 139, 153, 156
[193] Ward, (Wai 1200, #A9), p. 122
[194] R.P. Boast, 'The Treaty of Waitangi and Natural Resources: A Case Study', 1991, (Wai 1200, #A14), p. 1
[195] Boast, (Wai 1200, #A14), p. 2
[196] Boast, (Wai 1200, #A14), p. 3

- Parliamentary Sovereignty and Systems

Boast, R.P., 'The developing law relating to the Treaty of Waitangi and environmental law', 1988, (Wai 1200, #A15)

This conference paper examines the relationship between environmental legislation and developments in laws relating to the Treaty of Waitangi and places this with an American context where the connections between 'treaty rights and environmental regulation' have been examined in more detail.[197] Boast discusses rangatiratanga and kāwanatanga in the context of environmental regulation.[198] This paper also considers Māori customs and traditions relating to geothermal resources and fisheries.[199]

THEMES:

- Tino rangatiratanga, Autonomy and Self-governance
- Kāwanatanga
- Ngā Tikanga Māori me Ngā Ture Pākehā

Bennion, Tom, 'New Zealand Law and the Geothermal Resource', July 1991, (Wai 1200, #A18)

This research report provides a brief outline of 'the development of the present law governing the use of geothermal resource as a background to the Waitangi Tribunal's inquiry into geothermal claims' by examining Māori customary laws, the application of English common law in New Zealand, and 'statute law in force in New Zealand'.[200] Bennion outlines the application of the English common law in New Zealand regarding geothermal resources, water, and minerals.[201] His report considers how New Zealand's 'statute law [has] affected Maori customary laws and the common law relating to geothermal resources'.[202] This report discusses the Geothermal Energy Act 1953 and the Water and Soil Conservation Act 1967 and states that 'it is unclear whether the combined effects … [of these Acts] … could be regarded as extinguishing aboriginal rights to the geothermal resource'.[203]

THEMES:

- Ngā Tikanga Māori me Ngā Ture Pākehā

Boast, R.P., 'The legal framework for geothermal resources: A historical study', a report to the Waitangi Tribunal, 1991, (Wai 1200, #A21)

Boast's report concentrates on the 'formal, normative, rules of the New Zealand legal system' not Māori customary law.[204] He notes that this is not an implication that common law and statutory laws

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[197] R.P. Boast, 'The developing law relating to the Treaty of Waitangi and environment law', 1988, (Wai 1200, #A15), p. 1
[198] Boast, (Wai 1200, #A15), pp. 24-25
[199] Boast, (Wai 1200, #A15), pp. 7, 9, 11
[200] Tom Bennion, 'New Zealand Law and the Geothermal Resource', July 1991, (Wai 1200, #A18), p. 1
[201] Bennion, (Wai 1200, #A18), pp. 3-8
[202] Bennion, (Wai 1200, #A18), pp. 14-17
[203] Bennion, (Wai 1200, #A18), p. 36
[204] R.P. Boast, 'The legal framework for geothermal resources: A historical study', a report to the Waitangi Tribunal, 1991, (Wai 1200, #A21), p. i

should ‘be the framework for geothermal resource management’ but because they have been the framework to date.[205] This report focuses mostly on the parts ‘of New Zealand legal history which impinge upon the ownership and management of geothermal resources’.[206] Boast begins with the 1880 Fenton Agreement and its related Thermal Springs District Act, and then discusses the Scenery Preservation legislation, and finishes with a discussion about the Geothermal Energy Act (1953).[207] His report focuses on the geothermal resources in the Rotorua-Taupō area.[208]

Boast argues that the Treaty of Waitangi was not the only serious agreement between iwi and the Crown and states that ‘no attention’ has been ‘given to the constitutional position of texts such as the Fenton Agreement … or the Aotea Agreement [1881]’. He states if Māori ‘ceded this country to the Crown, is it not possible that the process of cession was in fact partial and gradual and took many years to complete?’[209] Boast also argues that laws in Canada and the United States ‘evolved in a constitutional and jurisdictional framework which is quite different from ours’, which makes it difficult to apply legal arguments from these countries in New Zealand.[210]

THEMES:

- Constitutional Legitimacy and Sovereignty
- Ngā Tikanga Māori me Ngā Ture Pākehā

Edmunds, D.A. and R.P. Boast, ‘Geothermal Resources and the Law’, a research report commissioned by the Ministry of Māori Development, 1991, (Wai 1200, #A22)

Edmunds and Boast outline New Zealand’s legal framework regarding geothermal resources including ‘the changing framework of environmental and resource management law’ and the potential impacts of these changes. They opened with a discussion of the existing legislation including the Geothermal Energy Act 1953, which completely vested the Crown with the management of geothermal resources. Edmunds and Boast note that Waitangi Tribunal claimants have contended that this management of the resource has had the impact of almost completely removing their rights of ownership in geothermal resources. Edmunds and Boast also state that the Water and Soil Conservation Act is the other main statute for the geothermal resource.[211] As part of their discussion about the Resource Management Bill, Edmunds and Boast briefly discuss tikanga Māori and how it could relate to Māori use of the geothermal resource.[212]

THEMES:

- Ngā Tikanga Māori me Ngā Ture Pākehā

[205] Boast, (Wai 1200, #A21), p. ii
[206] Boast, (Wai 1200, #A21), p. 1
[207] Boast, (Wai 1200, #A21), p. 2
[208] Boast, (Wai 1200, #A21), p. 2
[209] Boast, (Wai 1200, #A21), p. 4
[210] Boast, (Wai 1200, #A21), p. 54
[211] D.A. Edmunds and R.P. Boast, ‘Geothermal Resources and the Law’, a research report commissioned by the Ministry of Maori Development, 1991, (Wai 1200, #A22), p. 1
[212] Edmunds and Boast, (Wai 1200, #A22), p. 5

Boast, R.P., 'The Hot Lakes: Maori use and management of geothermal areas from the evidence of European visitors', a report to the Waitangi Tribunal, December 1992, (Wai 1200, #A24)

Boast's report to the Waitangi Tribunal focuses on Māori 'use and management of geothermal sites' using mostly nineteenth century written English sources.[213] This report discusses local Māori self-governance at Ōhinemutu, which had established a komiti and 'begun its own process of conducting hearings into ownership of land and awarding titles on the basis of Maori customary law'. Fenton negotiated his agreement with this Komiti and sent a report to Rolleston (the Minister of Lands at the time) about this local self-governance.[214]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Ngā Tikanga Māori me Ngā Ture Pākehā
- National Models of Māori Self-Government

Edmunds, D.A. and R.P. Boast, 'Geothermal Resource Management: Ownership and Management Issues', a report commissioned by the Ministry of Māori Development, (Wai 1200, #A26)

This undated report was commissioned by the Ministry of Māori Development and explores ownership and management issues regarding geothermal resources including Māori ownership claims, the Crown's obligations under the treaty and its legislation relating to the geothermal resource. It also examines how the Resource Management Act administers geothermal resources, and Māori and treaty issues with the RMA.[215] Their report discusses tino rangatiratanga and kāwanatanga in the context of resource management.[216] Edmunds and Boast state 'geothermal water is taken or used in accordance with tikanga Maori for the communal benefit and does not have an adverse effect on the environment'.[217] They define tikanga Māori as 'Maori customary values and practices'.[218] Their report also discusses Māori objections to the Resource Management Act.[219]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Kāwanatanga
- Ngā Tikanga Māori me Ngā Ture Pākehā

[213] R.P. Boast, 'The Hot Lakes: Maori use and management of geothermal areas from the evidence of European visitors', a report to the Waitangi Tribunal, December 1992, (Wai 1200, #A24), p. 1
[214] Boast, (Wai 1200, #A24), p. 105
[215] D.A. Edmunds and R.P. Boast, 'Geothermal Resource Management: Ownership and Management Issues', a report commissioned by the Ministry of Māori Development, (Wai 1200, #A26), p. 2
[216] Edmunds and Boast, (Wai 1200, #A26), pp. 16, 55, 57-58
[217] Edmunds and Boast, (Wai 1200, #A26), p. 36
[218] Edmunds and Boast, (Wai 1200, #A26), p. 53
[219] Edmunds and Boast, (Wai 1200, #A26), p. 16

Boast, R.P., 'Maori customary use and management of geothermal resources', a report to Te Puni Kokiri on behalf of FOMA Te Arawa, November 1992, (Wai 1200, #A27)

Boast's report examines tikanga Māori me ngā ture Pākehā as part of its discussion about how Māori have customarily used and managed geothermal resources. He states that Māori customary rules about owning and managing resources could be viewed as a legal system but also acknowledges that there would be 'some resistances in some government agencies and in parts of the community at large to accepting that Maori customary rules can be described as "legal"'.[220] Boast describes how the formal legal system in New Zealand operates 'through officially prescribed written rules (statutes and regulations) and a vast corpus of selected written judicial decisions made available through official and unofficial systems of law reports (case law) enforced in officially sanctioned institutions (courts)'. He states that '"the law" (the rules) and "the legal system" (the operative machinery of law creation, application and enforcement) are historical and cultural artifacts, transplanted here from a particular European country at a particular stage in its development and greatly modified since'. Boast also argues against viewing only this type of legal system as 'normal' and 'the only kind of system meriting the name of legal'.[221] In this report, Boast also discusses what he terms 'tribal self-regulation'. He looks to the United States where 'the Federal Courts have in some circumstances shown themselves very willing to protect not only tribal rights but also tribal rights of self-management in accordance with tribal customary law'.[222]

THEMES:

- Ngā Tikanga Māori me Ngā Ture Pākehā
- Tino Rangatiratanga, Autonomy and Self-governance

Quinn, Stephen and David Alsop, 'The Ngai Wahiao Tribe's involvement in tourism in the Whakarewarewa geothermal valley', a research report commissioned by the Rahui Trust in association with the Crown Forestry Rental Trust, February 1996, (Wai 1200, #A40)

Quinn and Alsop's report asks if 'the Treaty of Waitangi gives Ngati Wahiao inherent rights to tourism as being a customary resource, or any proprietary interest in the enjoyment of, or the benefits from, "Being Maori" at Whakarewarewa'? They also consider whether, if this was the case, the Crown has 'protected or prejudiced that interest?'[223] This report briefly discusses a limited form of self-governance in the form of Native Committees established under the provisions of Premier John Ballance's Native Committees Act 1883.[224]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Models of Māori Self-Government

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[220] R.P. Boast, 'Maori customary use and management of geothermal resources', a report to Te Puni Kokiri on behalf of FOMA Te Arawa, November 1992, (Wai 1200, #A270), p. 2
[221] Boast, (Wai 1200, #A270), p. 2
[222] R.P. Boast, (Wai 1200, #A270), p. 14
[223] Stephen Quinn and David Alsop, 'The Ngai Wahiao Tribe's involvement in tourism in the Whakarewarewa geothermal valley', a research report commissioned by the Rahui Trust in association with the Crown Forestry Rental Trust, February 1996, (Wai 1200, #A40), p. 4
[224] Quinn and Alsop, (Wai 1200, #A40), p. 53

Armstrong, David, 'Te Arawa Land and Politics', a report prepared for the Crown Forestry Rental Trust, November 2002, (Wai 1200, #A45)

Armstrong's overview report examines the Te Arawa 'confederation' and the Crown's relationship from 1840 to the early twentieth century, land alienation and its historical context, and attempts to identify gaps which need further research.[225] This report discusses how Te Arawa struggled with 'the fraught relationship between the authority of the Crown and the exercise of their rangatiratanga'.[226] According to this report, in the mid-nineteenth century, the Crown was unable to 'take unilateral action' and was instead forced to go 'through the existing tribal leadership and Te Arawa continued to fully exercise their rangatiratanga'.[227] Armstrong argues that in the mid-nineteenth century Te Arawa were 'unwilling to allow their autonomy and rangatiratanga to be subsumed by the Crown' and were 'disinclined to recognise the authority of the Queen'. Armstrong notes that Te Arawa were also not inclined 'to place themselves under a Maori king'.[228] Instead, Armstrong describes how Te Arawa sought to maintain 'their rangatiratanga and autonomy' through their own 'Runanga' while also engaging with Pākehā.[229] Armstrong also discusses the establishment of Grey's new institutions, 'which assigned an important role to tribal runanga'. According to Armstrong, the rūnanga established under the auspices of Grey's 'new institutions' were very similar 'to the tribal structures already in existence, such as the Great Committee of Rotorua'.[230] Armstrong argues that nineteenth-century land legislation and the Native Land Court undermined autonomy and tribal rangatiratanga for Te Arawa.[231]

According to Armstrong, Māori Members of Parliament were not an adequate replacement for tribal rangatiratanga as they were a small minority and the parliamentary system in the late nineteenth century did not fairly represent Māori interests as each Māori MP represented about 15,000 Māori compared to Pākehā MPs who had approximately 3,500 constituents each. Even this was an improvement on the original parliamentary system which did not include Māori MPs.[232] Although the Constitution Act's Section 71 could have led to a sharing of authority between the Crown and Te Arawa, Armstrong states that 'there is no suggestion that this was seen as a real option by the Crown at this time'.[233] Furthermore, Armstrong notes that 'Te Arawa exhibited no inclination to fundamentally alter their customary and cultural practices … they seemed intent upon engaging with the new Pakeha world their tikanga intact'.[234]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty
- Parliamentary Sovereignty and Systems
- Ngā Tikanga Māori me Ngā Ture Pākehā
- National Models of Māori Self-Government

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[225] David Armstrong, 'Te Arawa Land and Politics', a report prepared for the Crown Forestry Rental Trust, November 2002, (Wai 1200, #A45), p. 1
[226] Armstrong, (Wai 1200, #A45), p. 11
[227] Armstrong, (Wai 1200, #A45), p. 27
[228] Armstrong, (Wai 1200, #A45), p. 40
[229] Armstrong, (Wai 1200, #A45), p. 60
[230] Armstrong, (Wai 1200, #A45), p. 60
[231] Armstrong, (Wai 1200, #A45), p. 92
[232] Armstrong, (Wai 1200, #A45), p. 95
[233] Armstrong, (Wai 1200, #A45), p. 46
[234] Armstrong, (Wai 1200, #A45), p. 77

O'Malley, Vincent, 'The Crown and Te Arawa, c. 1840–1910', an overview report commissioned by the Whakarewarewa Forest Trust, November 1995, (Wai 1200, #A49)

O'Malley's overview report focuses on Te Arawa and the Crown's dealings from 1840 to 1910. This report also aims 'to provide the broader historical context in which to place Te Arawa's interactions with the Crown in the later part of the nineteenth century'.[235] It includes the operation of the Native Land Court in the Rotorua district in the late nineteenth century and the Crown's land legislation and how these undermined tino rangatiratanga over tribal lands.[236] O'Malley also discusses how Tūhourangi through their Putaiki (Council of Twelve) and Ngāti Whakae through their Komiti Nui unsuccessfully attempted in the 1870s to 'uphold the rangatiratanga … over their land', but lacked the Crown's support.[237] He states that Tūhourangi were forced to participate in the Native Land Court process in an attempt 'to have the rangatiratanga of the chiefs over their lands recognized' but this also meant that once the land had gone through this process and 'the title had been individualised, it would be virtually impossible to maintain any sort of tribal control over their lands'.[238]

O'Malley also discusses parliamentary systems stating that bills drafted by Māori and presented to the 'settler-dominated' Parliament by Māori MPs 'rarely found a receptive audience … and those seeking greater autonomy for Maori people, or the abolition of the Native Land Court … were doomed to inevitable failure'.[239] This report also discusses the Kotahitanga and Kīngitanga movements and their attempts to boycott/abolish the Native Land Court.[240]

O'Malley describes how in the 1840s the Colonial Office ruled (in response to an incident in the Bay of Plenty) 'that British sovereignty over New Zealand was absolute and that even tribes who had not signed the Treaty were to be deemed bound by its terms', but this ruling had little impact in the Bay of Plenty where 'the Government was forced to negotiate a settlement of the dispute rather than vainly attempt to exercise its supposed sovereignty against the offending party'.[241]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty
- Parliamentary Sovereignty and Systems
- National Models of Māori Self-Government

[235] Vincent O'Malley, 'The Crown and Te Arawa, c. 1840–1910', an overview report commissioned by the Whakarewarewa Forest Trust, November 1995, (Wai 1200, #A49), p. 3
[236] O'Malley, (Wai 1200, #A49), pp. 5, 86
[237] O'Malley, (Wai 1200, #A49), p. 6
[238] O'Malley, (Wai 1200, #A49), pp. 86-87
[239] O'Malley, (Wai 1200, #A49), p. 251
[240] O'Malley, (Wai 1200, #A49), pp. 248-249, 252
[241] O'Malley, (Wai 1200, #A49), pp. 21-22

Mane-Wheoki, Jonathan, 'Ngati Wahiao and Whakarewarewa: A people, a place, a history, and a heritage: Part 1 of a Report prepared for the Ngati Wahiao Forest & Land Claims Committee in support of their claim WAI 282', September 1996, (Wai 1200, #A53)

This report provides a history of Ngāti Wahiao at Whakarewarewa.[242] Mane-Wheoki discusses tino rangatiratanga in the context of the Thermal Springs Districts Act 1881 which ratified the Fenton Agreement.[243] According to Mane-Wheoki, this agreement 'sanctioned the settlement of Rotorua by Pakeha and the inauguration of local government'.[244]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Local Government and Te Tiriti

Rose, Kathryn, 'The Bait and the Hook: Crown Purchasing in Taupo and the Central Bay of Plenty in the 1870s', an overview report commissioned by the Crown Forestry Rental Trust, July 1997, (Wai 1200, #A54)

Rose's report provides an overview of Crown purchasing in Taupō and the Central Bay of Plenty in the 1870s.[245] This report briefly discusses Te Arawa's objections to the Native Land Court and attempts to establish a system of local government to replace it by setting up local rūnanga (tribal councils). These efforts did not gain support from Parliament when a 'watered-down version of Maori demands' was presented by McLean in the form of the Native Councils bill.[246]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Models of Māori Self-Government

Stokes, Evelyn, 'The Legacy of Ngatoroirangi: Maori Customary Use of Geothermal Resources', University of Waikato, October 2000, (Wai 1200, #A56)

Stokes' report examines Māori customary use of geothermal resources with a focus on Māori customs 'within Te Arawa and Mataatua traditions in the Taupo Volcanic Zone, and selected examples from outside this region, particularly Ngawha and Te Aroha'. Her report discusses tikanga Māori in the context of geothermal areas. She describes how places with 'surface geothermal activity are highly-prized, inherited resources, regarded by Maori as taonga, and therefore included in the guarantees of tino rangatiratanga in Article Two of the Treaty of Waitangi'.[247] The report also states that Pākehā contact has led to some changes in tikanga Māori. In particular, it has led to 'variations of local tikanga, a cultural overlay of tourism, that is now very much an integral part of local customary

[242] Jonathan Mane-Wheoki, 'Ngati Wahiao and Whakarewarewa: A people, a place, a history, and a heritage: Part 1 of a Report prepared for the Ngati Wahiao Forest & Land Claims Committee in support of their claim WAI 282', September 1996, (Wai 1200, #A53), p. iv
[243] Mane-Wheoki, (Wai 1200, #A53), p. 88
[244] Mane-Wheoki, (Wai 1200, #A53), p. 87
[245] Kathryn Rose, 'The Bait and the Hook: Crown Purchasing in Taupo and the Central Bay of Plenty in the 1870s', an overview report commissioned by the Crown Forestry Rental Trust, July 1997, (Wai 1200, #A54), p. 1
[246] Rose, (Wai 1200, #A54), p. 24
[247] Evelyn Stokes, 'The Legacy of Ngatoroirangi: Maori Customary Use of Geothermal Resources', University of Waikato, October 2000, (Wai 1200, #A56), p. 281

practices'.[248] This report states that tangata whenua in geothermal regions have raised concerns 'about recognition of tikanga Maori in the use and exploitation of geothermal resources'.[249]

THEMES:

- Ngā Tikanga Māori me Ngā Ture Pākehā

Hutton, John L., '"A Ready and Quick Method": The Alienation of Maori Land by Sales to the Crown and Private Individuals, 1905–1930', a report written for the Crown Forestry Rental Trust's Twentieth Century Maori Land Administration Research Programme, May 1996, (Wai 1200, #A59)

Hutton's report examines the alienation of Māori land by sale to the Crown and private purchasers from 1905 to 1930. With a national rather than district focus, it discusses Māori land legislation from the early twentieth century to 1930 to provide a context for these land sales.[250] This legislation includes the Maori Lands Administration Act 1900 and the Maori Lands Administration Act 1901, the Maori Land Settlements Act 1905, the Maori Land Settlement Act Amendment Act 1906, the Native Land Settlement Act 1907, the Maori Land Settlement Amendment Act 1907, the Maori Land Laws Amendment Act 1908, the Native Land Act 1909, the Land Laws Amendment Act 1912, the Native Land Amendment Act 1912, and the Native Land Amendments Act 1913.

Hutton also briefly discusses how during the late nineteenth century 'various Maori organisations sought forms of "internal sovereignty"'. In particular, he describes how the Kotahitanga movement held hui 'that worked to establish the Treaty of Waitangi as a constitutional basis for local Maori autonomy' and the Kīngitanga movement 'founded its own independent assembly, the Kauhanganui'. According to Hutton, these Māori attempts to create 'independent institutions to manage their lands and communities fell on deaf ears'. Nevertheless, he also states that Māori political unity and multiple Māori petitions to Parliament 'placed certain pressures on the Crown', and contributed to an increasing understanding 'that steps should be taken to protect Māori interests, especially if they were not to be rendered landless'.[251] As noted by Hutton, Māori MPs frequently supported initiatives that provided Māori with 'a say in the administration of their lands, including the election of Maori to Maori Land Councils or Boards … [and] … objected to the streamlining of the membership of the Land Boards in 1909 and 1913'.[252]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Ngā Ture Pākehā
- National Models of Māori Self-Government

[248] Stokes, (Wai 1200, #A56), p. 283
[249] Stokes, (Wai 1200, #A56), p. 283
[250] John L. Hutton, '"A Ready and Quick Method": The Alienation of Maori Land by Sales to the Crown and Private Individuals, 1905–1930', a report written for the Crown Forestry Rental Trust's Twentieth Century Maori Land Administration Research Programme, May 1996, (Wai 1200, #A59), p. 4
[251] Hutton, (Wai 1200, #A59), p. 9
[252] Hutton, (Wai 1200, #A59), p. 19

Campbell, S.K.L., 'National Overview on Land Consolidation Schemes 1909–1931', a report for the Crown Forestry Rental Trust, June 1998, (Wai 1200, #A62)

This report provides a national overview of Crown policy and practices relating to land consolidation schemes during the period 1909 to 1931.[253] Campbell briefly discusses Māori land legislation in the late nineteenth century and early twentieth century including the Native Land Act 1862, the Native Land Act 1909, the Native Land Purchases Act 1892, the Native Land Court Act 1894, the Native Land Laws Amendment Act 1895, the Native Land Laws Amendment Act 1896, the Rangitatau Block Exchange Act 1907, the Urewera Lands Act 1921, the Native Land Amendments and Native Land Claims Adjustment Act 1927.[254] This report also states that Māori politician Sir James Carroll 'persuaded Kotahitanga and other Maori leaders to accept a compromise between their objectives and the Crown's … [in] … the form of the Maori Councils Act 1900 and the Maori Land Administration Act 1900'.[255]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Ngā Ture Pākehā
- National Models of Māori Self-Government

Ballara, Angela, 'Tribal Landscape Overview, c.1880–c.1900 in the Taupō, Rotorua, Kaingaroa and National Park Inquiry Districts', an overview report commissioned by the Crown Forestry Rental Trust, September 2004, (Wai 1200, #A65)

This report examines customary land tenure in the Central North Island regions and considers how the Crown and the Native Land Court determined 'legal "ownership" of land and resources'.[256] According to Ballara: 'From 1853 political movements began in the wider Māori community which … did not immediately affect the central North Island, but which reflected and polarised conflict over the control of land alienation, developing into conflict over Māori self-determination'.[257] These movements included the Kīngitanga, Hauhau, and Pai Mārire.[258] Ballara states that Crown officials and settlers in the nineteenth century viewed 'Māori efforts to create an enclave of refuge for themselves as a threat to the Queen's assumption of sovereignty, which they asserted to be - nominally if not in practice - in force over the whole country'. She argues that 'Māori made the officials' job easier for them by insisting on creating their own, independent polity controlled by themselves and headed by a King, in which they could prevent the alienation of land'.[259] According to Ballara, Crown purchasing during the 1870s 'was a time when many Māori were convinced that to oppose sales of land, or even surveys of the land, was to risk being seen as opposed to the Queen's sovereignty and the government, which in turn carried the threat of confiscation'.[260] Ballara also states that the Crown 'rejected, the opportunity to work with such movements [including the Kīngitanga and Pai Mārire] as expressions

[253] S.K.L. Campbell, 'National Overview on Land Consolidation Schemes 1909-1931', June 1998, (Wai 1200, #A62), p. 1
[254] Campbell, (Wai 1200, #A62), pp. 3, 13, 15-16, 18, 21, 25, 64, 99
[255] Campbell, (Wai 1200, #A62), pp. 22-23
[256] Angela Ballara, 'Tribal Landscape Overview, c.1880–c.1900 in the Taupō, Rotorua, Kaingaroa and National Park Inquiry Districts', an overview report commissioned by the Crown Forestry Rental Trust, September 2004, (Wai 1200, #A65), p. xiv
[257] Ballara, (Wai 1200, #A65), p. 427
[258] Ballara, (Wai 1200, #A65), pp. 428, 440, 446-449, 470
[259] Ballara, (Wai 1200, #A65), p. 429
[260] Ballara, (Wai 1200, #A65), p. 423

of local self-determination under the ultimate authority of the Crown, and as harmless-to-sovereignty spiritual developments in a difficult time of transition' According to Ballara: 'Local Māori self determination and the continuance of tikanga were actively encouraged and protected in the Treaty of Waitangi or permitted under the 1852 Constitution'.[261] Moreover, Ballara explains that some Crown officials 'such as Henry Sewell and William Fox supported the notion of some Māori self-determination under the Queen's sovereignty, through rūnanga, Native Committees or other forms of indirect rule'.[262]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty
- Ngā Tikanga Māori me Ngā Ture Pākehā

Belgrave, Michael, Anna Deason, and Grant Young, 'Central North Island Inquiry: Crown Policy with Respect to Maori Land, 1953–1999', a report prepared for the Crown Forestry Rental Trust, September 2004, (Wai 1200, #A66)

This research report discusses Crown policy relating to Māori land from 1953 to 1999 with a focus on 'the development of policy and on key investigation and legislative initiatives', which occurred during this period.[263] Their report states that new Māori land legislation in 1933 'attempted to maintain a balance between the Crown's responsibilities to protect Maori land, and Maori demands, often under a label of te tino rangatiratanga, for greater control over Maori land and greater ability to manage and use Maori land according to tikanga'.[264] According to this report: 'Maori demands for autonomy outstripped government's determination to reduce its own responsibility for Maori Affairs …[the] government's response to te tino rangatiratanga [devolution], did not provide Maori with the level of autonomy being demanded, and in effect would have made iwi, as the vehicles for devolution, subject to government determinations as to who they were, and agents of the Crown in delivering services to iwi members'.[265] This report also discusses the New Zealand Maori Council and its recommendations for legislation during the 1990s.[266]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Ngā Tikanga Māori me Ngā Ture Pākehā
- National Models of Māori Self-Government

[261] Ballara, (Wai 1200, #A65), p. 529
[262] Ballara, (Wai 1200, #A65), p. 423
[263] Michael Belgrave, Anna Deason, Grant Young, 'Central North Island Inquiry: Crown Policy with Respect to Maori Land, 1953–1999', a report prepared for the Crown Forestry Rental Trust, September 2004, (Wai 1200, #A66), p. 7
[264] Belgrave, Deason, and Young, (Wai 1200, #A66), p. 21
[265] Belgrave, Deason, and Grant, (Wai 1200, #A66), p. 237
[266] Belgrave, Deason, and Young, (Wai 1200, #A66), pp. 286-287

Locke, Cybèle, 'Maori and Tourism (Taupo-Rotorua), 1840–1970', an overview report commissioned by the Crown Forestry Rental Trust, September 2004, (Wai 1200, #A69)

This report examines 'the nature and extent of Maori involvement in the tourism industry' from 1840 to 1970 concentrating on changes in Māori participation in this industry, the causes of these changes, and the 'role of the Department of Tourism and Health Resorts'.[267] She states that during the nineteenth century: 'Rotorua and Taupo Maori utilised various techniques to protect their tino rangatiratanga and prevent the acquisition of their lands'. Locke also argues that the money earned from tourism enabled Māori in the Rotorua area to be more able to 'resist the encroachments of Government land-purchasing agents and continue to exercise tino rangatiratanga over their thermal resources during the 1870s'.[268] This report discusses the nineteenth-century efforts 'to form a unified pan-tribal political Maori movement under Te Tiriti o Waitangi … drawing on the traditions of runanga and Maori tribal committee structures, and sought to combat the declining Maori land base and retain rangatiratanga in the face of a consolidated settler government that allowed for very little Maori political representation'.[269] In particular, she describes the Kotahitanga movement, which advocated for 'an independent Maori parliament between 1891 and 1902' and Hone Heke's (Member of the House of Representatives) attempts 'to gain some measure of Maori self-government by introducing a Native Rights Bill, which was repeatedly defeated in 1894, 1895 and 1896'.[270] She notes that these efforts 'to gain some kind of Maori self-government were eventually defeated in 1896, although some of the principles of the Native Rights Bill were incorporated into the Maori Councils Act 1900'.[271]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Models of Māori Self-Government

Rose, Kathryn, 'The Fenton Agreement and Land Alienation in the Rotorua District in the Nineteenth Century', an overview report commissioned by the Crown Forestry Rental Trust, September 2004, (Wai 1200, #A70)

Rose's report explores 'the relationship between the Crown and Rotorua Maori in the late nineteenth century'.[272] This report briefly discusses how Māori 'sought to establish alternative structures and policies for themselves and their land' in response to the Crown's 'detrimental' policies and lack of regard for Māori calls 'for greater autonomy and the for the retention and control of their lands'. In particular, Rose examines the Kotahitanga movement in the late nineteenth century.[273] Rose also discusses the 1891 Te Arawa petition to Queen Victoria 'asking for a representative council "as a mountain of rest from which all measures affecting the Maori race can be clearly reviewed".' The

[267] Cybèle Locke, 'Maori and Tourism (Taupo-Rotorua), 1840–1970', an overview report commissioned by the Crown Forestry Rental Trust, September 2004, (Wai 1200, #A69), p. 6
[268] Locke, (Wai 1200, #A69), p. 11
[269] Locke, (Wai 1200, #A69), p. 85
[270] Locke, (Wai 1200, #A69), pp. 85-86
[271] Locke, (Wai 1200, #A69), p. 86
[272] Kathryn Rose, 'The Fenton Agreement and Land Alienation in the Rotorua District in the Nineteenth Century', September 2004, (Wai 1200, #A70), p. 6
[273] Rose, (Wai 1200, #A70), p. 240; See also pp. 242-247

Premier's cover letter, which accompanied this petition, 'dismisses Te Arawa's concerns on the basis that Maori were represented in parliament'.[274]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Parliamentary Sovereignty and Systems
- National Models of Māori Self-Government

Stirling, Bruce, 'Taupo-Kaingaroa Nineteenth Century Overview', Volumes One and Two, an overview report commissioned by Crown Forestry Rental Trust, September 2004, (Wai 1200, #A71)

This report discusses the settlement of land in Taupō and Kaingaroa during the nineteenth century while also examining land purchasing practices and transactions in these districts.[275] Stirling examines the Kīngitanga movement in detail in this report.[276] He also mentions the New Zealand Constitution Act stating: "'Native districts" had, of course, been allowed for in the New Zealand Constitution Act 1853, while Ngati Raukawa might well have believed that the Treaty also allowed them such a measure of rangatiratanga'.[277]

The second volume of this overview report includes a discussion about 'pan-iwi petitions that were not to be simply filed and forgotten in Wellington, but which were to be taken directly to the Queen in London, in order that she could hear Maori grievances about the Treaty of Waitangi and their land'. In 1882, the first of these petitions was supported by Māori at large hui held in Ōrākei and Wellington. This petition stated that Acts relating to Māori land had not been agreed to by rangatira and the Treaty did not provide 'any basis … for these laws which continuously bring up on our lands and our persons great wrongs'.[278] Stirling also describes how this petition 'called for changes to Parliamentary representation so that Maori and Pakeha would have "equal power in making laws".'[279] He explains how when these petitions were referred back to the New Zealand Government by the British Secretary of State for the Colonies, the government argued that 'the Native Land Court was not restrictive; indeed it was an "enabling forum"' which would be helped '" in the future by Native Committees elected for the purpose by Maoris"'. However, according to Stirling, 'the sorry history of the native committees of the 1880s' made it clear that 'this was far from the reality of the toothless committees, ignored by the court, which emerged from the legislative process'.[280] Stirling also discusses the 1884 petition to the Queen which was led by Tawhiao. This petition also complained about the operation of the Native Land Court.[281] As Stirling notes: 'Having seen tribal authority utterly usurped by the court and other government policies, the petitioners [for this 1884 petition] went on to request that the situation be remedied'. They asked for Māori to be allowed to choose their own judges for the Native Land Court and to be empowered to make decisions about their land following their own customs. This petition also suggested that the Queen appoint a commissioner to be '"a mediator between the Maori and the European races in matters concerning land" who could 'also assess all new laws

[274] Rose, (Wai 1200, #A70), p. 240; See also p. 242
[275] Bruce Stirling, 'Taupo-Kaingaroa Nineteenth Century Overview', Volume One, an overview report commissioned by Crown Forestry Rental Trust, September 2004, (Wai 1200, #A71), p. 2
[276] Stirling, (Wai 1200, #A71), pp. 104-107, 109-110, 133, 135, 177, 187, 211-214, 217-218
[277] Stirling, (Wai 1200, #A71), p. 104
[278] Stirling, (Wai 1200, #A71), p. 1558
[279] Stirling, (Wai 1200, #A71), p. 1559
[280] Stirling, (Wai 1200, #A71), p. 1559
[281] Stirling, (Wai 1200, #A71), p. 1560

relating to Maori and report his views on them to the British authorities'.[282] Furthermore, this petition called for 'a separate Government for Maori empowered to pass laws with respect to their own lands'.[283] This petition was also forwarded to the New Zealand government, which maintained that the Native Land Court was operating 'according to Maori custom' and 'there was no need for any additional constitutional allowance for a Maori Parliament as Maori were currently represented in both the House of Representatives and the Legislative Council'.[284]

This report also discusses the 'pan-iwi hui' held in the late nineteenth century, which progressively expanded and developed into the 1890s Pāremata Māori.[285] Stirling describes how the draft Native Land Administration Bill 1888 emerged from these hui, which would repeal most Māori land laws except for "'some parts of the Native Land Court Act ... left open as far as to allow the Maori Committees to assist in settling disputed lands". These elected committees would be enabled to have the same power as the Native Land Court and would be able to "'deal with cases according to Native Custom"'.[286]

Stirling's report also discusses electoral rights and systems in the late nineteenth including discussions about Māori seats in Parliament and the lack of equal representation for Māori 'with respect to local body representation … [and] to meet the property qualification for the electoral franchise'.[287] The nineteenth century Kotahitanga movement also features in Stirling's report. Stirling describes its meetings, structure, and goals.[288] The Kotahitanga movement's 'rising star' Hōne Heke (MHR) introduced a Native Rights Bill in 1894, which 'called for a constitution for Maori, providing for a Parliament elected by them which could pass laws which "shall relate to and exclusively deal with the personal rights and with the lands and all other property of the aboriginal native inhabitants of New Zealand"'.[289] However, most Pākehā members of Parliament walked out of the House of Representatives during the short debate about this Native Rights Bill.[290] As noted by Stirling, before this walkout, James Carroll told Heke that it would be a '"kindness" for the House to free Maori from the "delusion" that Parliament would even grant them such a separate constitution'.[291]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty
- Electoral Rights and Systems
- National Models of Māori Self-Government

[282] Stirling, (Wai 1200, #A71), p. 1560
[283] Stirling, (Wai 1200, #A71), p. 1561
[284] Stirling, (Wai 1200, #A71), p. 1561
[285] Stirling, (Wai 1200, #A71), p. 1562; See also pp. 1567-1568
[286] Stirling, (Wai 1200, #A71), p. 1564
[287] Stirling, (Wai 1200, #A71), p. 1566
[288] Stirling, (Wai 1200, #A71), pp. 1568-1578
[289] Stirling, (Wai 1200, #A71), p. 1579
[290] Stirling, (Wai 1200, #A71), p. 1579
[291] Stirling, (Wai 1200, #A71), p. 1580

McBurney, Peter, 'Scenery Preservation & Public Works Takings (Taupo-Rotorua) c.1880s–1908', a report commissioned by the Crown Forestry Rental Trust, April 2005, (Wai 1200, #A82)

McBurney's report focuses 'on the general development and implementation of Crown policy in respect of scenery preservation, and the impact of other public works takings, especially land taken in connection with hydro schemes'. In particular, this report examines Crown policies and practices policies relating to scenery preservation and their implementation in the Central North Island and their impact on hapū and iwi due to land being taken for scenery preservation.[292] The report also discusses Māori responses to the land loss due to the Crown acquisition of land for scenery preservation and hydroelectric schemes.[293]

In this report, McBurney states that the Constitution Act 1852 'gave the settler government greater control of land taking, although Māori customary land remained exempt'. He also notes that in accordance with 'provincial statutes enacted by the Wellington and Taranaki provincial governments, Crown granted Māori land was subject to the same provisions as general land, and was liable to be taken for public works'.[294] McBurney describes how during the period between 1852 (when the Constitution Act established provincial governments) and 1876 (when provincial government were disestablished), the provinces were in control of public works not the central government. He also states that when the system of provincial government was disestablished, new legislation was passed (the Public Works Act 1876) to empower 'local authorities to take all types of Maori land under compulsory provisions …[and] did not require local authorities to take special account of Maori interests'. This was despite the fact that Māori 'were generally not represented on local bodies'. The Public Works Act did not 'provide an adequate system for monitoring the use of compulsory taking powers by local bodies'.[295]

This report discusses tino rangatiratanga in the context of how Ngāti Tūwharetoa wanted to retain it over 'parts of their ancestral landscape'. McBurney states that Ngāti Tūwharetoa viewed the Trust Board 'as a way of protecting their interests around the lake, notwithstanding the fact that they had handed title to the lake bed and foreshore to the Crown'.[296] He also discusses how when the Crown 'assumed full jurisdiction' over the lakebed and foreshore, this was mostly 'exercised indirectly through the Taupo and Taumarunui County Councils, local bodies empowered to pass by-laws and deal with the running of the district according to their popular mandate'. According to McBurney: 'The fact that these local bodies have been dominated by Pakeha has ensured that Pakeha interests have predominated, sometimes to the detriment of those of Ngāti Tūwharetoa'.[297]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty
- Local government and Te Tiriti

[292] Peter McBurney, 'Scenery Preservation & Public Works Takings (Taupo-Rotorua) c.1880s–1908', a report commissioned by the Crown Forestry Rental Trust, 26 April 2005, (Wai 1200, #A82), p. 8
[293] McBurney, (Wai 1200, #A82), p. 9
[294] McBurney, (Wai 1200, #A82), p. 14
[295] McBurney, (Wai 1200, #A82), p. 16
[296] McBurney, (Wai 1200, #A82), p. 219
[297] McBurney, (Wai 1200, #A82), p. 219

Hutton, John, and Klaus Neumann, 'Ngati Whare and the Crown, 1880–1999', a report commissioned by the Crown Forestry Rental Trust, Wellington, 2001, (Wai 1200, #A92)

This research report provides a social history of Te Whaiti for the period 1880 to 1999 while also demonstrating 'the social impact of the alienation of Ngati Whare's land'.[298] Their report discusses how Te Urewera Māori were supposed to be able to have a limited form of self-governance or local government between from the late nineteenth century onwards under the 'Native Reserve' scheme. The Crown also enabled a form of local government 'through the establishment of "block committees" and a larger "general committee"'.[299] However, as Hutton and Neumann explain, from around 1900 onwards Crown policies regarding the Native Reserve scheme began to change and 'provisions of self-governance were [gradually] eroded'.[300] According to Hutton and Neumann, 'opposition to any form of alienation grew following the arrival of a Kingitanga petition and the revival of notions of rangatiratanga under the Treaty of Waitangi by some Tuhoe groups'.[301] They state that Minginui 'is now quite exceptional' due to the Crown's actions which 'have created what may be termed a bastion of rangatiratanga, or Maori self-determination'. They also make a speculative observation that 'there appears to have been a convergence in the language of self-determination espoused by the New Right of the Fourth Labour Government, such as "throwing off the shackles of the state economy", with the desire of a Maori community to administer itself'.[302] Hutton states that during his brief visit to Minginui, it appeared that its inhabitants 'enjoy their independence and autonomy'.[303] However, Hutton and Neumann argue that the way the Crown has managed 'keruru and possum … evidences a complete disregard for the tangata whenua's rangatiratanga'.[304]

Their report argues that 'the Crown effectively reneged on its 1896 promise to Tuhoe, Ngati Whare and other Urewera Maori to protect their land and establish a system of self-governance through the creation of the Urewera District Native Reserve'.[305] They state that Ngāti Whare 'agreed to come under the Crown's laws in exchange for a guarantee that their lands and autonomy would be protected'.[306]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Local Government and Te Tiriti
- National models of Māori Self-Government

[298] John Hutton and Klaus Neumann, 'Ngati Whare and the Crown, 1880–1999', a report commissioned by the Crown Forestry Rental Trust, Wellington, 2001, (Wai 1200, #A92), p. 2
[299] Hutton and Neumann, (Wai 1200, #A92), p. 5
[300] Hutton and Neumann, (Wai 1200, #A92), p. 5
[301] Hutton and Neumann, (Wai 1200, #A92), p. 185
[302] Hutton and Neumann, (Wai 1200, #A92), p. 773
[303] Hutton and Neumann, (Wai 1200, #A92), p. 777
[304] Hutton and Neumann, (Wai 1200, #A92), p. 803
[305] Hutton and Neumann, (Wai 1200, #A92), pp. 814-815
[306] Hutton and Neumann, (Wai 1200, #A92), p. 815

4.16 Summary of relevant reports prepared as part of the Rangahaua Whanui research project

Dacker, Bill, Michael Reilly and Leo Watson, 'Te Mamae me te Taumaha: Māori Representation and the Authority of Māori Bodies', Waitangi Tribunal Rangahaua Whanui report Theme V, 1996.

The authors seek to determine the effectiveness of Māori political representation during the nineteenth century. They conclude that if 'Māori aspirations threatened the dominance of a Pākehā culture, or … threatened the Pākehā acquisition of land, the Māori representatives were generally ineffective in achieving them'.[307]

The authors examine three historical events: (a) Kohimarama 1860; (b) Ōrākei 1879; and (c) Kotahitanga Paremata during the 1890s to measure Māori political effectiveness.[308]

The authors conclude:

> The fears in the Colonial Parliament of any degree of Māori independence were therefore misplaced. The fact that all these measures of Māori independence spent some time in the Colonial Parliamentary arena to gain some degree of legitimacy, illustrates the boundaries within which most of the Kotahitanga members were operating. They did not intend to usurp the power of the Colonial Parliament (which they correctly assumed to be still under the overall control of the Governor), but instead requested a form of devolution from Parliament to conduct their own affairs.[309]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Parliamentary Sovereignty and Systems
- National Models of Māori Self-Government

Ward, Alan, 'Chapter 20: Tino Rangatiratanga: Maori in the Political and Administrative System', in Alan Ward, *National Overview, vol 2, Waitangi Tribunal Rangahaua Whanui Series,* Waitangi Tribunal, 1997

Ward traces the origins of the rangatiratanga guarantee of the Treaty of Waitangi back to 1837. At that time, the Crown understood that the emergence of the New Zealand Company created powerful demands for settler self-government. The Crown 'also accepted that the Maori needed protection least they suffer the fate of all other indigenous peoples exposed to European colonisation'. The Crown consequently sought to balance settler self-government with Treaty protection for Māori.[310]

Ward concludes:

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[307] Bill Dacker, Michael Reilly, and Leo Watson, 'Te Mamae me te Taumaha: Māori Representation and the Authority of Māori Bodies', Waitangi Tribunal Rangahaua Whanui report Theme V, 1996, p. 5
[308] Dacker, Reilly and Watson, 'Te Mamae me te Taumaha: Māori Representation and the Authority of Māori Bodies', pp. 5-7
[309] Dacker, Reilly and Watson, 'Te Mamae me te Taumaha: Māori Representation and the Authority of Māori Bodies', pp. 129-130
[310] Alan Ward, National Overview, vol 2, Waitangi Tribunal Rangahaua Whanui Series, Waitangi Tribunal, 1997, pp. 457-458

> In the twentieth century, as in the nineteenth century, Maori have continued to express demands for tino rangatiratanga, as guaranteed under article two of the Treaty. Governments' responses to these demands have been tempered by a desire to retain power and control over land and other resources, at the central level and within the bureaucratic institutions. Maori were feeling the impact of land-taking. In an effort to keep up with the shift of Maori into urban areas after the second world war and the great depression, the Department of Maori Affairs focused on welfarist activity designed to remove obstacles thought to hinder the economic progress and social absorption of Maori people. 'The objective was to achieve equal rights and opportunities for the Maori without depriving them of the right to cultural pursuits of their choice'.[311]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- Constitutional Legitimacy and Sovereignty

Loveridge, Donald M., 'Maori Land Councils and Maori Land Boards: A historical overview, 1900 to 1952', Rangahaua Whanui National Theme K, Waitangi Tribunal, December 1996

This Waitangi Tribunal-commissioned report focuses on the first half of the twentieth century and discusses the origins and demise of the Maori Land Councils, the Maori Lands Administration Act 1900, compulsory vesting of Māori land, the Stout-Ngata Commission and the Native Land Settlement Act 1907, Maori Land Boards and their demise, the Native Land Act 1909, and vested lands (1900 to 1930).[312]

THEMES:

- Tino Rangatiratanga, Autonomy and Self-governance
- National Model of Māori Self-Government

[311] Ward, *National Overview, vol 2*, p. 470, citing Augie Fleras, 'Towards "Tu Tangata"', *Political Science*, 1985, Vol. 37, p. 23

[312] Donald M. Loveridge, 'Maori Land Councils and Maori Land Boards: A historical overview, 1900 to 1952', Rangahaua Whanui National Theme K, Waitangi Tribunal, December 1996