Whakarāpopoto Kōrero

Whakarāpopoto Korero
Ko tēnei tuhituhi ka āta tātari i te Papa tū a te Māori ki roto i te Whare Pāremata, kātahi ka tūtū mehemea i tūtūki anō ngā wawata me ngā tūmanako i huaina ki te tino rangatira. Whāia ka tirohia hoki e tēnei tuhituhi ngā momo whiu i kakati mai i te Māori, tae atu ki ngā whakaupoko o te ture kāore i aro ki te Māori ki te Tiriti o Waitangi rānei. Ka whakawhitia ētahi atu momo āpoko kōrero i hangaia hei kātoitoi i te Māori. Ka tirohia te whakatangata mai o aua kaupapa. Te tūmārika o te momo whakaraupō Māori anō tētahi kaupapa ka wetewetea. Koia rā tonu ko te ngau atu i te MMP pōtītanga me te āta tātari i te whakaupoko i te hiahia o te Māori kia toi tū me ētahi atu kōkiritanga kia tau ki te matamata o te Māori rangatiratanga.

Abstract

This paper will examine the history of Māori representation in Parliament and attempt to assess how it may have affected Māori aspirations for tino rangatiratanga. The paper will investigate any significant barriers to the effective representation of Māori in Parliament, in particular the lack of any real constitutional or constitutional position regarding Māori or the Treaty of Waitangi. Other methods Māori use to influence government policy making and legislation will be contrasted against Parliamentary representation. The possibility of a Māori Assembly, Parliament or House will also be examined. Finally, the possibilities presented by the Mixed Member Proportional (MMP) electoral system will be discussed and a final analysis will attempt to place Māori Parliamentary representation on a continuum with other forms of political action Māori may use to attain tino rangatiratanga.

Introduction

Tino rangatiratanga has been translated to mean self-determination, autonomy, full authority, chiefly authority, authority of the people, sovereignty, and chiefly sovereignty by different people at different times. Another important statement sees rangatiratanga, sovereignty and mana as inseparable terms. Through the Treaty of Waitangi Māori retained rangatiratanga and never ceded mana so it may be argued that their claim to sovereignty was maintained.

In an article that examines in detail the various meanings of tino rangatiratanga, Durie isolates two aspects that are particularly relevant to contemporary Māori society: mana whenua and mana tangata;

“the first acknowledges the rights of hapū and iwi in respect of their own tribal affairs while the second recognises the right of Māori people generally to organise according to a range of social and political groupings.” (Durie 1995:44)

Durie points out that there is no single definition of tino rangatiratanga although facets and principles of the concept can be examined. Self determination appears to be the most useful term to equate with tino rangatiratanga because it “captures a sense of Māori ownership and active control over the future and is less dependent on the narrow constructs of colonial assumptions.” (Durie 1995:46)

As Walker discusses in a paper on Māori sovereignty, the term tino rangatiratanga has evolved and been imbued with more meaning through “reconstruction” by Māori activists and tribal leaders (Walker 1996:81). This evolution may have been necessary due to the fact that the “concept of tino rangatiratanga is a colonial construct inserted into the Treaty of Waitangi to manipulate the chiefs into signing...” (Walker 1996:84)

Reclamation and redefinition of tino rangatiratanga by Māori is an attempt to decolonise the term, an act which in itself exemplifies the concept of tino rangatiratanga.

For many Pākehā and also the government, acknowledgement that tino rangatiratanga is the Māori equivalent to English sovereignty would pose a problem in that it would throw into question the legitimacy of the Crown’s claim to sovereignty over New Zealand through the Treaty of Waitangi. While the first Article in the English version of the Treaty...
states that the chiefs:

“cede to Her Majesty the Queen of England, absolutely and without reservation, all the rights and powers of sovereignty”

The second Article in the Māori version guaranteed the chiefs: “te tino rangatiratanga o ratou wenua, o ratou kāinga me o ratou taonga katoa”, or: “the absolute chieftainship [sovereignty] of their lands, homes, and all their treasured possessions.” (Walker 1996:75-76). Most chiefs signed the Māori version of the Treaty. However, the governments of New Zealand have generally relied on the English version to justify their position whenever debate regarding Treaty issues has occurred.

Defining tino rangatiratanga as sovereignty is problematic for a range of reasons. It is unacceptable to the government because they retain the

“view that sovereignty is an indivisible attribute of the sovereign vested in parliament.” (Durie 1995:46).

In addition the term is loaded with colonial assumptions and “its significance in a global society is tending to diminish.” (ibid). The recent adoption of sovereignty as the meaning of tino rangatiratanga by Māori activists, has had a double-sided effect on New Zealand society. Cabinet ministers (including Jim Bolger and Doug Graham) have refused to debate the issue of sovereignty. This leaves Māori without ground to negotiate for tino rangatiratanga (unless they move away from the narrow terminology of sovereignty). On the other hand, Pākehā New Zealanders have, perhaps for the first time, been confronted by an intense questioning of the State’s right to do what it does. Some welcome this challenge (Chris Trotter, Jane Kelsey), while for others it is a bewildering and/or offensive upset to the status quo. Either way, the time when New Zealanders could take for granted the legitimacy and stability of the current constitutional order has passed.

The contradictions inherent in the Treaty pervade many aspects of Māori-government interaction. This is further exacerbated by the lack of any real constitutional position by the government to the Treaty of Waitangi or to Māori. One aspect of Māori involvement with the government since 1867 has been the representation of Māori in Parliament by four Māori seats. Since that time, Māori candidates have been elected by Māori constituencies to represent Māori in Parliament, with limited success. At times significant victories have been won for Māori causes.

At other times the impotency of Māori MPs has been evident, in a system which depends on majoritarianism and where the overwhelming majority are Pākehā. Throughout the history of the Māori Parliamentary seats, debate about increasing or abolishing the seats has been on-going. This year, with the first MMP election, the number of Māori seats will increase by one. Sometimes the seats are touted as an example of New Zealand’s success in race relations (Sorrenson 1986:B-36), but is this display justified? How far does the separate representation of Māori in Parliament go towards fulfilling the tenets of the Treaty and tino rangatiratanga?

Crumbs from the Pākehā Table

The History of Māori Representation in Parliament

The New Zealand Constitution Act 1852, provided for a New Zealand government and gave the franchise to all men over the age of 21 who fulfilled certain property requirements. Although Māori men were not specifically excluded from the franchise, their communally held tenure of unregistered lands effectively meant they had no input into the governance of the country. The 1867 Māori Representation Act allowed for Māori representation in Parliament through four separately elected Māori seats. All Māori men were allowed to vote for a seat (depending on their district of residence) and as more land became individualised and registered, some Māori could also vote for European seats. The Māori seats were initially implemented as a temporary measure until Māori land was individualised to the extent that Māori could participate in the European system. For various reasons, the life of the Māori seats was extended indefinitely and, in 1893, the universal franchise was granted to men and women, regardless of land holdings. The reasons why the Māori seats were first implemented, and were then kept despite the government’s original intentions, reveal the attitudes that pervaded government thinking. It also shows why this form of representation has had extremely limited capacity in fulfilling Māori aspirations for tino rangatiratanga.

The implementation of Māori seats involved no high intentions or moral principles. It was simply the easiest way to placate the different factions of society who were increasingly disturbed by events in New Zealand after the signing of the Treaty of Waitangi. As Sorrenson states:
"It was a useful way of rewarding Māori loyalists and placating Māori rebels, while also assuring critics in Britain that the colonists would look after Māori interests." (Sorrenson 1986:B-20)

Attention was diverted away from other methods of stemming the flow of Māori land to European settlers. Māori were encouraged to believe this concession would enable them to make some impact in a government which was allowing continual Treaty breaches.

It quickly became evident that the Māori seats in Parliament would provide Māori with less of a voice than they might have hoped. Sorrenson succinctly sums up the situation:

"Unable to speak English and therefore unable to follow the normal cut and thrust of Parliamentary debates, and very often ignored or ridiculed when they did speak on important Māori matters, the Māori members were little more than a token representation that enabled the Pākehā members to salve their consciences while also relieving the Māori of much of their remaining land and autonomy." (Sorrenson 1986:B-26)

Interpreters could be used when Māori members wanted to speak, but they were still at a considerable disadvantage. They were invariably out-voted when they opposed issues of importance to Māori, such as the Native Land Acts which facilitated settler purchase of Māori land. In rare instances they held the balance of power when European members were evenly divided. This gave them some power to negotiate for more advantageous positions, as when two Māori members were appointed to the Executive Council in return for their votes. (Sorrenson 1986:B-23)

By 1876 the Māori Representation Act was extended indefinitely. European members were motivated to extend the Act fearing that Māori voters might jeopardise the safety of some European seats if they were included on the European roll. Despite the ineffectual nature of the Māori presence in Parliament, many Māori soon came to see the Māori seats as vital and their only guarantee of any representation at all. Other large groups of Māori chose to remain outside the European system. They chose instead to align themselves with Kingitanga or Kotahitanga, in the hope that their interests would be better protected that way. It was not until the 1900s that Māori began to make a greater impact in Parliament.

James Carroll was the first Māori MP to be a member of Cabinet and Minister for Native Affairs. He implemented the Māori Councils Act of 1900. It provided for tribal councils and village committees, that had the authority to impose sanitation, control liquor, and to promote health reform and education. This Act also curtailed support for "a larger form of autonomy, then being powerfully advocated by the Kotahitanga or Māori Parliament movement." (Sorrenson 1986:29-30).

In the same year, Carroll tried to pass another Act that would have halted the alienation of Māori land, but overwhelming opposition from the Pākehā press and Parliamentarians meant he had to alter the Act to give Europeans more control.

These two Acts signify a theme that recurs throughout the history of Māori Parliamentary representation. Māori MPs are subject to a range of influences and limits on their capacity to formulate ‘Māori’ policy. Carroll’s Māori Councils Act was created to give Māori some autonomy in their domestic affairs, yet it curtailed in part the Kotahitanga movement. Some would suggest that the Kotahitanga may have been able to provide Māori with more autonomy. Were Carroll’s motivations for such a move based on personal beliefs that did not support Kotahitanga, the need to fit in with governmental and party limitations, or an attempt to do what he could - knowing what would be acceptable? The changes he was forced to make to his Māori Lands Administration Act would suggest that the latter motivations would shape much of Māori policy. There is an inherent contradiction for Māori in Parliament that can be traced from the beginnings of their presence there. As Māori elected by Māori, they are expected to represent Māori needs and ambitions. However, to maintain any support and influence in Parliament they must concede to the majority’s conventions and opinions. As the majority in this instance is Pākehā, the capacity for pro-Māori legislation is severely limited. Further to this, it must be noted that Māori, like Pākehā, exhibit a wide range of opinions and ideals. It would be impossible for one Māori in Parliament, or even four, to represent the diversity of Māori opinion. As the first Māori MP to make a significant impact in government, Carroll’s achievements must be appreciated, but they also demonstrated for the first time the real limits to the effectiveness of this form of representation.

In the early years of the 1900s, the members of the ‘Young Māori Party’, mentored by Carroll, entered...
Parliament. Apirana Ngata, Māui Pomare and for a short term, Peter Buck were educated, articulate Members of Parliament who were able to contribute in significant ways to Māori policy and legislation. Each member had a different approach to this task, however. Pomare was “an outspoken assimilationist, and wanted Māori to become Pākehā as rapidly as possible” (Sorrenson 1986:B-31); Ngata was loyal to the Liberals, but able to influence policy even when his party was in opposition; Buck was more outspoken, and probably due to his interest in work outside of politics, could be less diplomatic and often criticised government land policies.

“Buck was also well aware of what he called the absolute impotency of Māori members” (Sorrenson 1986:B-31).

Pomare's assimilationist views gave him rapid entry to Cabinet and several important portfolios (Sorrenson 1986:B-32). There was some conflict between Pomare and his Māori colleagues particularly over land policy, demonstrating again the diversity of Māori opinion about which approach to Māori development would produce the best results. Later in his career Pomare did work with Ngata, persuading the government to investigate land grievances, and winning some compensation for his people.

The most well-known Māori MP of the time, Ngata, spent thirty-eight years in Parliament and is noted for many achievements. He was able to implement many schemes for Māori welfare and land development, although a feature of his 1909 Native Land Bill was aimed at satisfying European purchasers as well as Māori owners. Ngata was at different times appointed as a Member of the Executive Council Representing the Native Race and Native Minister. Even when he was not part of government, his advice was valued and he continued to contribute to Māori policy (Sorrenson 1986:B-34). As Native Minister, Ngata increased expenditure and sped up Māori land development. This pro-active position attracted attention to his activities and eventually provoked an inquiry which found that he was not allowed to use state funds for the interests of his own tribe. The event:

“revealed more sharply than anything before or afterwards the inability of the Pākehā establishment - Parliament, the bureaucracy, the judiciary, and the press - to bend procedures to allow a Māori Minister to do things in a Māori way.”(Sorrenson 1986:B-36)

The Ratana movement emerged in the 1930’s as the dominant force in Māori politics. Founded in 1918 by T.W. Ratana, the movement soon became focused on political and social issues which he believed he could influence through the four Māori seats in Parliament. After aligning with the Labour Party Ratana achieved their ambition of winning all four seats in 1943. The Ratana-Labour alliance proved to be an enduring one and loyalty by Māori to the Labour Party has remained strong up to the current election (1996). Despite holding the balance of seats in the 1943 Parliament, the Ratana MPs made little impact and were to remain in ineffectual positions until the 1972 government led by Norman Kirk. Throughout this time Ratana MPs kept up a continual call for the ratification of the Treaty of Waitangi and an increase in Māori seats, but:

“there was no effective way those Māori Labour members could demand of their Government the affirmative action that was needed to lift their people in the social and economic scale to the level of the Pākehā population, without causing a Pākehā backlash at the polls. Nor was anything to be gained by crossing the floor and bringing down the Labour Government since National offered a worse alternative.”(Sorrenson 1986:B-46)

Once again Māori aspirations were held hostage to Pākehā control.

The Kirk government allowed its Māori members full participation in Cabinet. As Minister of Māori Affairs, Matiu Rata ushered in the 1975 Treaty of Waitangi Act. But Labour’s time in government was brief and National won the 1975 election without winning any of the Māori seats. Despite their lack of popularity in Māori constituencies, by 1979 Māori candidates for National held 3 general seats. Māori were by now able to choose whether to vote on the Māori or General roll. The existence of Māori MPs elected from general constituencies could be seen as proof that the need for separate Māori seats was now redundant. However, General Māori Members could not be expected to represent solely Māori interests and tended to be more conservative to attract their Pākehā voters. The Māori seats continued to be safely institutionalised because there was:

“no sufficient political advantage in abolishing the seats in the face of what was bound to be considerable Māori opposition.”(Sorrenson 1986:B-58)
The Decade of Māori Development, beginning in 1984, initiated many positive changes in legislation for Māori. These changes in part emanated from Māori MPs who were able to exercise significant influence on the Labour Government of the late 1980s. An increased prominence of tribal groups, the Kohanga Reo movement, the Waitangi Tribunal and pan-tribal organisations such as the National Māori Congress and New Zealand Māori Council also played a part. Māori MPs seemed to be working to open doors and clear paths through which non-governmental Māori agencies could begin the long process of negotiating for the return of resources and self-determination.

As Minister of Māori Affairs, Koro Wetere initiated a change in the philosophy that had pervaded government policy towards Māori since it was first formulated. At his 1984 Māori Economic Summit - the Hui Taumata - he advocated a positive approach to Māori Development which included rather than ridiculed customary iwi structures. For the first time tribes were seen as facilitating rather than stunting social and economic development. By 1988 this approach had become government policy, fitting neatly within Labour’s aims for devolution. Although not always successful, the policy required tribes to re-organise and re-assess themselves, (Durie, 1996:4) leading to a re-assertion of tribal identity and authority.

Coupled with the extension of the Waitangi Tribunal’s powers to consider claims back to 1840, the return to tribalism sparked a new era of empowerment for Māori. This came just in time to deal with the onslaught of new Labour policies aimed at selling off State-owned assets. The battle to protect Māori interests in State assets was partly relieved by the Court of Appeal in the New Zealand Māori Case. Amendments were made to the State-Owned Enterprises Act to protect Māori interests under Treaty of Waitangi claim (Renwick, 1991:216). But, as evidenced by the dramatic decline in Crown ownership of lands under claim by Tainui, retention of assets until claims were resolved was not guaranteed (Taitoko, 1996:3-4).

The 1990’s, with the return to a National Party government, signalled a new urgency to resolve Treaty of Waitangi claims. Direct negotiation with Māori by the government became the most popular form of resolution due to time and cost effectiveness. This did not mean all Māori were satisfied with the process. The first directly negotiated settlement between Māori and the government, the Sealords Agreement, prompted a split in Māori opinion that had a significant impact on the National Māori Congress by undermining unity. Part of the disagreement centred around the issue of mandate. As noted by Durie (1996:13), the Runanga Iwi Act provided for a mandating process which would have circumvented many of the difficulties associated with Sealords and other Māori-Crown negotiations. However the Act had been repealed by Winston Peters when he was Minister of Māori Affairs.

In 1995, Crown Proposals for the Settlement of Treaty of Waitangi Claims, known as the fiscal envelope, were released. The proposals made available a capped sum for the settlement of all claims, and excluded the possibility of negotiating for natural resources and the conservation estate. Māori were indignant that they had not been consulted prior to the release of the proposals, and were insulted by the lack of real consultation, despite the so-called consultation hui. Iwi united in condemnation of the proposals with protests ranging from dignified korero to militant posturing and occupations. Māori MPs did not occupy any significant places in Cabinet and seemed to have as little influence over the proposals as Te Puni Kōkiri, the supposed Māori policy advisors to the government. The lack of Māori influence in the governing of Māori was highlighted by these events. The issue of sovereignty or tino rangatiratanga became the central focus of many protests which condemned the fiscal envelope as endemic of a neo-colonial system.

Despite the protests, the Crown proposals have become government policy anyway. To date settlements have been made with Tainui, Whakatōhea and Ngai Tahu. Two weeks prior to the election there seems to have been a rush to sign agreements before the unpredictable, new MMP environment takes over. The sovereignty debate has also been diverted for the time being as all New Zealanders grapple with change in the electoral system.

The portrait presented here shows that, at worst, Māori MPs have at times been completely ineffectual. At best they have managed to create gaps through which the rest of Māori society may access crumbs of resources and power. This view is not as cynical as it appears. A more negative stance would assert that at worst Māori MPs have put their non-governmental peers at a considerable disadvantage. The demise of Kotahitanga has been attributed to the success of the Young Māori Party in Parliament (Sorrenson 1986:B-38). In a similar vein Sealords challenged the notion...
of Kotahitanga for Māori Congress, a conflict that may have been prevented had Peters not repealed the Runanga Iwi Act (Durie, 1996:13). Māori MPs have been castigated as ‘tame parrots’ for the government (Walker, 1994:187). Their presence has allowed Pākehā to claim success in race relations (Sorrenson 1986:B-36), whether it was justified or not.

Because their mere presence in Parliament spells support for a system many Māori see as being inherently colonist, Māori MPs cannot command support from all factions of Māori society. In an opinion poll in Mana magazine, 44% of unenrolled Māori said they weren’t enrolled because they couldn’t see the point - it wouldn’t make any difference because the Pākehā would still hold control (Mana, 1994:81). For these Māori and many who do enrol, problems exist at a deeper constitutional level, and Māori in Parliament can only do so much (or so little) to change that. The Royal Commission on the Electoral System of 1986 supported this view, although it did not suggest solutions in the form of constitutional change. Regarding Māori MP’s relationship to the majority of Parliament, the Commission concluded:

“In the past they had to depend on its mercy. Today they depend on its goodwill. Thus separate representation has reinforced the political dependency of the Māori people and their exposure to non-Māori control over their destiny and future.” (1986:91)

The value of the Māori presence in Parliament should not be underestimated however. Chief Judge Durie (1991:159) has pointed out that without the continual Treaty advocacy of the Māori MPs dating from last century, neither the Waitangi Tribunal nor its increased powers would have been possible. Likewise, important pieces of legislation like the Te Ture Whenua Māori Act would never have been legislated. Other writers agree that despite the element of tokenism, the four Māori seats are the best that Māori have been able to extract from the New Zealand Government and at least are some form of guaranteed representation.

“The Māori seats have come to be regarded by many Māori as the principal expression of their constitutional position in New Zealand. They have been seen by Māori as an exercise, be it a limited one, of their tino rangatiratanga guaranteed to them under the Treaty of Waitangi.” (Waitangi Tribunal, 1994:11)

International comparisons give some credit to the New Zealand claim to good race relations. Aboriginal Canadians for example did not gain the franchise until the 1950s, while Aboriginal Australians had to wait until the 1970s. The credit however may be more apparent than real.

What Constitution? - Constitutional Arrangements in New Zealand

“Parliament claims an absolute sovereignty over us, Māori and Pākehā alike, unlimited by any written constitution” (Brookfield, 1994:462)

The previous section reveals a lack in terms of representation of Māori in Parliament. Hopes that the
influx of more Māori MPs to Parliament through MMP will facilitate better representation are examined later in this essay. Examination of New Zealand’s constitutional order reveals that the inability of Māori MPs to represent Māori interests including tino rangatiratanga can be attributed to a lack at a much deeper level. New Zealand’s constitutional arrangements are too often implicit rather than explicit. Decisions are made and policies developed without the foundations and structure of a constitution that would clearly define the limits to cabinet’s powers. Both Māori and Pākehā New Zealanders encounter confusion and dissatisfaction in a political environment that does not affirm or reflect a position for them - other than as silent voters. Māori invariably turn to the Treaty of Waitangi to assert some sort of meaningful power-sharing relationship with the Crown. But while the government does have a Treaty Settlement policy it does not have a Treaty policy. Māori fear what may become of the Treaty in an environment that provides for its ‘settlement’ in the absence of an explicit government relationship to the Treaty. When settlements have been made, what position will the Treaty, and therefore Māori, be in?

The change of electoral system to MMP and the popularity of political parties like NZ First reflects the desire of New Zealanders to assert more control on the exercise of governance in New Zealand. But still the constitution remains unresolved. As we approach Republicanism, the need for a clear constitutional position, particularly for Māori, becomes more urgent.

The above diagram sets out New Zealand’s constitutional arrangements for government. The model contains many weaknesses:

- the relationship between components is vague,
- the position of Māori is not explicit,
- the Executive Council has excessive powers,
- there is no clear separation of Executive and Parliament,
- it relies on convention rather than a written constitution,
- the Privy Council may be abolished without an appropriate replacement.

Authority for our current constitutional arrangements comes from the 1986 Constitution Act. The closest New Zealand came to entrenching constitutional legislation was the 1990 Bill of Rights Act. Controversy from Māori and Pākehā over whether and how the Treaty of Waitangi could be made part of the Act was one of the reasons it was eventually watered down and passed as an ordinary law. Entrenchment of the Bill of Rights Act including the Treaty would have made all other laws subject to it.

The lack of any constitutional position regarding Māori or the Treaty of Waitangi leaves Māori MPs and aspirations for tino rangatiratanga in a difficult position. Some Māori oppose the entrenchment of the Treaty of Waitangi as they believe it stands apart and above the fickle whims of governmental lawmakers. There exists a fear that making the Treaty law will allow the possibility for the Treaty to be repealed or distorted. Others believe we have nothing to lose and much to gain by entrenching the Treaty as law. Certainly it would give the courts more power to impose justice on situations that contravene Treaty rights. However Ward (1991) and Durie (ibid) assert that the Treaty was not written as law and was never intended to become law. They stress the importance of the spirit of the Treaty, its principles, its capacity for freeing discourse and the general ideas it was interpreted to convey at the time of writing and signing. As the Waitangi Tribunal states:

“The spirit of the Treaty transcends the sum total of its component written words and puts narrow or literal interpretations out of place.” (Durie 1991:164)

Entrenchment in law may lend the Treaty to narrow or literal interpretations. A solution presents itself in the form of a set of Treaty principles that legislation such as the Resource Management Act 1991 have included reference to. But Durie also warns against overuse of principles in the place of the actual terms of the Treaty. (1991:166)

New Zealand’s defacto constitutional position has been examined closely by Brookfield. He asserts that the Crown assumed sovereignty in a revolutionary seizure of Aotearoa and has continued to assert control, often in ‘gross derogation’ of Treaty rights. The legitimacy of New Zealand’s government, Brookfield asserts, is not based on the Treaty but on the success and durability of the Crown’s take-over. Pākehā might be unwilling to accept this theory because it “casts an embarrassing aura of illegality over the origins of the present constitutional order and legal system.” While Māori are unwilling to accept it because “the mere assertion of authority or the passage of time can neither justify an imposed power, nor render meaningless the rights of those who have been subjected.” (Brookfield 1994:464)

At a Māori Congress hui in Ngaruawahia in August
1996, similar sentiments were expressed. Several comments during discussions called into question the ‘illegal government’ of New Zealand. Prospective Māori MPs were gathered at the meeting to answer questions but were faced with an underlying hostility about the legitimacy of the government. The opportunity presented was to take advantage of the new MMP environment, but participants expressed disdain for a system that was still Pākehā dominated. Finally a suggestion for a parallel Māori Parliament was raised and was met with more positive interest. With the move away from the Privy Council and the British Sovereign, Māori recognise the urgent need to establish ourselves as a visible entity in the constitutional arrangements of Aotearoa-New Zealand. Mere representation (whether token or proportional) in a Parliament modelled on the euronecentric Westminster system will not be enough to abate Māori calls for tino rangatiratanga and recognition of the Treaty. The potential for a truly indigenous government of Aotearoa-New Zealand, formulated in partnership and guided by the Treaty of Waitangi, must be realised soon if it is to be a possibility at all.

Tino Rangatiratanga - Doing Things Our Way

There is a continuum of Māori opinion about what form of government for Māori would be desirable. At one end of the spectrum is support for the current system, with increased Māori participation. This would include an increase in the number of Māori Judges, MPs, and CEOs in government departments. The second option sees the creation of parallel forms of Māori government, a Māori ‘body politic’ that works in conjunction with the current government. Recently a form of Māori representation that exists in between these two forms of government has found support in the Prime Minister. He has “seized upon the idea of convening a democratically elected, pan-tribal, Māori Assembly to act as advisor to the government on sovereignty issues.” (Trotter 1995:28).

Bolger’s vision of a Māori Assembly undoubtedly does not include any real constitutional power-sharing⁷, although it would give Māori some leeway to formulate policy for ourselves.

The third option for governance supported by some Māori is a Māori Nation State. This would assert sovereignty over all or parts of New Zealand, would include a series of tribal nations and would govern in a uniquely Māori way. Proponents of this system have not defined this ‘Māori way’ but it is based on a complete rejection of the authority of the current government. The parallel government model is rejected also because it would mean Māori using and supporting Western models. Brookfield suggests that the only way it would be possible for two separate nation states, one Māori and one Pākehā, to occur, would be through revolutionary overthrow of the current constitutional order. “of course ideologically justified in the eyes of those who bring it about; and then, if it works, made acceptable - legitimate - for everyone not sharing their ideology, by its effectiveness and durability.” (Brookfield, 1994:465)

This particular model of a Māori Nation State does not account for our history of colonisation, which has impacted on the development of Māori society to such an extent that doubt is cast over whether such a model would be effective or durable. Even when Māori win limited self-governance over vast resources through Treaty settlements - as in the Tainui settlement - kaumatua express concern about whether the iwi have retained or developed the necessary skills to gain independence (Mahuta, 1995).

Walker describes three models of Māori government proposed at one of the Hirangi hui held by Sir Hepi Te Heuheu. They include a range similar to that above but give more explicit details on the workings of a parallel form of government. “The tikanga rua model is predicated on the balanced principles of kawanatanga and tino rangatiratanga in the first and second clauses of the Treaty of Waitangi. The model proposes a Māori assembly to produce legislation based on Māori tikanga, and a Pākehā assembly to make law based on Pākehā tikanga. The legislation from these two houses then goes forward to an upper house known as Te Rūnanganui o te Tiriti. The Grand Treaty Council. This council, comprised of 21 Pākehā and 11 Māori, would measure laws from the lower houses for their compatibility with the treaty before giving its approval.” (Walker 1996:89)

This model reflects the Treaty of Waitangi and gives Māori a position of true partnership alongside Pākehā in the governance of the country. However, at the Hirangi hui, unanimous support was given to the Mana
Motuhake model tried by the Māori King Movement and Paremont Māori last century. This model would allow Māori self-government as a nation within a nation. The attainability of either model is at present precarious, to say the least: Although:

“the concept of a Māori nation is well founded. It is based on a shared cultural heritage, a physical distinctiveness, a history which pre-dates colonisation, aspirations towards self determination and a non-acceptance of the state as the appropriate author of Māori policy.... The impetus for recognising and promoting a Māori nation... [stems from] dissatisfaction with existing arrangements through which Māori policy is made, the desire for the maintenance of language and culture, an increasing realisation that dependence on the government creates vulnerability and a consequent determination to play a more independent and autonomous role at tribal and national levels.” (Durie 1996:14)

Precedents for indigenous parallel structures of government have developed in Norway and Canada (Durie 1996:15). In both countries the organisations tend to be more advisory than governing bodies, although the Saami group in Norway is referred to as a Parliament. The Assembly of First Nations in Canada is similar to the Māori Assembly idea that has gained popularity with the Prime Minister.

When suggestions for a parallel Māori Parliament were made at the Māori Congress hui in August 1996, some participants pointed out that the structure was already present in the form of Congress. Whether the Māori Congress is the best model for a parallel government structure or not, it is probably the best forum through which discussion and debate over the issue can be resolved by Māori.

While Māori are not a homogenous group (Durie 1996:9), some common meeting place must be established on the continuum of opinion described above. Only then will Māori be able to approach tauiwi with a solid plan for equitable government.

MMP - More Māori in Parliament??
In the meantime we can continue to increase our participation in the nation-state of New Zealand. Participation in the current form of government does not rule out support for alternative forms. As noted previously, Māori MPs are important in that they create room for other Māori groups to make progress. Māori MPs are not the solution, but are part of the means. The increase of their numbers in Parliament will prepare Pākehā New Zealand for a more visible Māori presence in government. Dr Ann Sullivan of Waikato University recently estimated 15-17 Māori might gain seats in Parliament this election, up to 3 times the current number². However, apart from the 5 Māori constituent members, the MPs will be accountable to their party and their general voters, rather than being representative of Māori.

There has been debate about the possibilities presented by the MMP Electoral System since the 1986 Report of the Royal Commission on the Electoral System. The Commission recommended the abolition of the separate Māori seats with the change to MMP, believing that MMP would provide an environment for much more effective representation of Māori interests. Prudently, the Māori seats have been maintained and given an element of proportionality (numbers of Māori seats depending on numbers of Māori enrolled on the Māori roll). This continues the guarantee of exclusive Māori representation, while the change to MMP allows for the development of Māori representation in the general arena. While the Commission acknowledged the imperative that Māori rights and interests were represented at a Parliamentary level, it also highlighted the limitations to the government’s ability to cater for Māori, concluding that:

“the burden of responsibility for the protection of these rights is more appropriately borne by arrangements outside the electoral system.” (1986:87)

In 1994 an urgent hearing was held by the Waitangi Tribunal to ascertain whether the Crown was fulfilling its obligations under the Treaty to protect the right of Māori to be represented in Parliament and to recognise the special needs in promoting Māori enrolment and education on the option. The government had provided very limited time (two months) for Māori to exercise their choice of electoral roll, which under MMP would determine the amount of Māori seats in Parliament. The report stated:

“The prospect of increased political representation under MMP is viewed as an overdue and valuable enhancement of their rangatiratanga.” (Waitangi Tribunal, 1994:11)

The report also found that insufficient funding, planning and time had inhibited promotion of the Electoral Option. It urged the Crown to make further
provisions, but the government was unwilling to accept the Tribunal’s recommendations. Subsequent challenges to the Court of Appeal and Privy Council have not yielded further support. More time and funding may have encouraged the estimated 50,000 (Waitangi Tribunal, 1994:25) unenrolled Māori to enrol and therefore increase Māori representation in Parliament. These events are in keeping with the Royal Commission on the Electoral System’s assertion that Māori depend on the ‘goodwill’ of the government (1986:91).

The August Congress hui highlighted some of the difficulties for Māori voters hoping for more progress through MMP. At least six political parties were represented at the hui, each espousing differing views. When asked if they could unite across party lines over issues particularly concerning Māori, candidates invariably placed conditions and limits on their ability to work with members of other parties. Although the objectives seemed to be the same, ideas about how to achieve those objectives usually varied. The first MMP term will show whether the increased Māori presence in Parliament can make a significant difference. Māori have reason to be both hopeful and cynical.

Conclusion

“New Zealand’s history is characterised by government exploitation, disregard and abuse of Māori trust” (Durie, 1996:9)

If the above statement is true then ‘government’ stands in direct opposition to ‘Māori’. How can Māori ever be truly part of an institution that has built its foundations on such exploitation? A change in rhetoric and political climate has been evident since the 1980’s, but the basic structure and basis of legitimacy of the government has remained unchanged. From this perspective, the very nature of the government is antithetical to aspirations for tino rangatiratanga. Any attempts by Māori to engage in this system must be paired with an in-depth understanding of its nature and an acute critique of it. Whatever the method, decolonisation of the state should be the aim.

Just as the change to MMP has momentarily diverted attention away from the sovereignty debate, so Māori seats tend to disguise the real issue which is the need for a constitution that recognises the tenets of the Treaty of Waitangi as its basis. The legitimacy of the current order will remain in question for some until constitutional issues are resolved. The unwillingness of consecutive governments to tackle this issue is underscored by their unwillingness to make explicit their relationship with Māori. (If they ignore it it might go away...)

This paper has included a critique of the history of Māori representation in Parliament which reveals many weaknesses in the system. Rather than positioning Māori as rightful partners in government, tangata whenua or the indigenous inhabitants of Aotearoa/New Zealand who entered into a power-sharing agreement with tāuiwi; the current New Zealand Parliament with its token five Māori seats continues to institutionalise Māori as ‘a minority’. Being a minority in a majoritarian democracy means extremely limited access to power, being constantly out-voted, having to work through an alien system, and having to depend on the ‘goodwill’ (at best) of the paternal majority. Yet in the final analysis, the Māori seats have, and will continue to serve a purpose. That they are necessary is starkly obvious when considering the alternative option, which would have meant no Māori representation at all for most of New Zealand’s Parliamentary history. While the achievements of Māori MPs have at times been modest, without them our development as Māori coming to terms with a neo-colonial state may have been even more stunted.

Māori have not looked to the Māori seats with blind faith. While participating in the electoral system (although at a much lower rate than Pākehā), Māori have continued to work outside the system. Kohanga Reo, Kura Kaupapa, Māori Congress and the recent development of groups like Te Ahi Kaa emphasise Māori innovation and constant resourcefulness in establishing bases and setting up structures outside of the ‘mainstream’. These movements find historical precedents in Kotahitanga, Kingitanga and spiritual/cultural movements like Ringatū, Ratana and that espoused by Te Whiti. The groundwork for Māori to develop a parallel form of government is constantly being prepared. Models and ideologies are examined, discussed, tried out, discarded and adopted by different groups, exemplifying the dynamism of Māori culture. While Māori are not ‘officially’ self-governing, we are used to ‘looking after’ our people and resources through marae events and committees, rūnanga and hui.

Māori in Parliament can facilitate the acknowledgement and funding of Māori initiatives. Now, with the possibility of an increased Māori presence in
Parliament, they can begin to prepare the mainstream for the change of order that Māori are keen to implement. The change may be gradual, to include a Māori Assembly as advisors to government. This could be a first step on the path to tino rangatiratanga. The positions of Māori MP’s are one’s of ‘middle people’ rather than leaders. They are the go-betweens for Māori and the government. This role is crucial to Māori aspirations for tino rangatiratanga.


2 Judge Durie as described by Walker 1996:84.

3 Trotter 1995 and Kelsey in a Massey University Guest Lecture 1996.

4 A phrase coined by Sorrenson 1986:B-64.

5 including Sorrenson and the Royal Commission on the Electoral System 1986.

6 Both of these opinions were expressed at the August 1996 Māori Congress hui.

7 Bolger is quoted as stating, “The sovereignty of Parliament is indivisible” in Walker 1996:90.

8 Marae, NZTV Channel one, 6 Oct 1996.

9 At time of writing, MMP elections had yet to be held.

References


Fox, Derek. (1993). Still at the Back of the Bus, Mana 3, 35.
