

The Unbroken Chain of Tribal Tikanga

Ko Hikurangi te maunga

Ko Waiapū te awa

Ko Ngāti Porou te Iwi

Ko Caren Fox tēnei

Today is a day to reflect on progress made by women in the law. I understand that Ethel Benjamin graduated LLB in July 1897. This was just one year after the Female Law Practitioners Act 1896. Ethel Benjamin gave effect to the new legislation when she was admitted as a barrister and solicitor of the Supreme Court of New Zealand. It is hard to fathom why such legislation was needed, but it speaks to the chauvinism that existed during her lifetime.

It would take another 74 years before the first Māori women, Dame Georgina Te Heuheu, graduated with a law degree in 1971. It would not be until the turn of this century, the year 2000, before 2 women were appointed to the Māori Land Court bench as judges. I was one of them. I am now the Chief Judge of the Māori Land Court, the first woman to hold this role since 1862 when the Native Land Court was first constituted. I am also Chair of the Waitangi Tribunal, the first woman to hold this position since the Waitangi Tribunal was established in 1975.

How did I get here?

As a Māori, I must start with my own background. I came from a tribe where women are equal to men.

My great-grandmother was Kāwini Kaa, daughter of Harawira Huriwai of Te Whānau a Hunaara, a subtribe of the Ngāti Porou Nation – my nation. He fought against the Crown in the 1860s to protect his way of life in what would be later classified as a ‘rebellion’. Kāwini,

was born during the late 19th Century. Like many of her contemporaries she was never educated in English. Māori was her only language of communication. During her life, she lived in Horoera and Rangitukia – all villages on the East Coast of the North Island of New Zealand.

Through an arranged customary marriage to my great-grandfather, Wi Ihikeepa Kaa she became the mother of 8 children. She also raised whāngai – children adopted by custom. Wi's grand-father (Henry Hyde Carr – or Kaa) was a member of the colonial forces that were sent to the East Coast in the 1860s to put down the so-called rebellion that Kāwini's father had participated in.

So Kāwini came from a rebel family and was forced to marry into a loyalist one. She died in 1968. She lived a hard life, raising children and grandchildren and with her husband eking out a living by running dairy cows and growing kumara or sweet potatoes. Both were very active in the political and religious life of Rangitukia. Wi led the construction of the church (Saint Johns) and the whare kai (eating house), which still stand today. It was a community that was very Māori and it remains so, although the predominant language of the village is now English. Kāwini's eldest daughter, Rīpeka Tāhuru Kaa was my grandmother. Rīpeka was married at a young age to Pākura Tākoko of Tikitiki. After the birth of their first child who was called Ngāwiki, my grandfather at the age of 24 years was killed in a freak accident. My grandmother was pregnant with their second child at the time, so the family called her Pākura Te Mate Kino Tākoko (Pākura of the terrible death). Rīpeka was fluent in the Māori language and understood and spoke some English.

Ripeka married a second time to a man, whom I will not name, from a different hapū or subtribe. They had three children and lived near the township of Tolaga Bay or Ūawa. This man was violent and abusive. Ngāwiki was the mother of my cousins Charl, Linda and Carol Hirshfeld. She was fluent in Māori and English.

Her second child, Pākura Te Mate Kino Tākoko was my mother. Pākura and her father carried the name of one of the principal chiefs of our hapū or subtribe – Ngāti Hokopū. She was more fortunate than her older sister as she was raised back at Rangitukia by Kāwini. Pākura went to school in Rangitukia. When she reached 13 in 1950, she was sent to Hukarere Māori Girls Boarding School in Napier. She left there at 16 to go to Auckland where she underwent some training as a nurse. She also met my father in a short space of time – less than 12 months.

After they married, she gave up her nursing studies. My mother continued to work in low skill employment. She never returned to live in Rangitukia. She was fluent in Māori and in English.

I tell the stories of these women to demonstrate how recent it was that New Zealand was still a frontier, where Māori in some parts of the country still lived in a very tribal world – in my case the world of Ngāti Porou.

Ngāti Porou

Ngāti Porou occupies the East Coast of the North Island also known as Potikirua ki te Totaka a Taiau. I have been lucky enough to hold the position of resident judge in the district for 24 years, finally relinquishing that role to my colleague Judge Milner in August this year. This paper draws on my experience in the district and from the research I completed for my doctorate.¹

My tribe are a proud yet insular people. We do not mix well. Largely that has to do with our isolation, it also has to do with the way we define our identity. To understand us requires knowledge of our complex yet inter-relational whakapapa or genealogy.

The district was discovered by Māui, Toi, Paikea and those who followed him from Hawaiki. They devolved their mana, leadership, and title to land to their descendants. It was a world where genealogical descent from the gods and the ancestors determined tikanga. The ability to make law evolved into a full-blown Ngāti Porou legal system. The system, while incorporating new ideas, was a system underpinned by the values and principles associated with the gods and determined by whakapapa. It is to those values and principles that I now turn.

Whakapapa and Whanaungatanga – Citizenship

¹ Fox (2022).

Whakapapa determined mana and rank in the society. The more direct the whakapapa lines were to the gods, the greater a person's mana and the mana of their kin-group.² "All mana are 'taonga tuku iho', that is, 'inherited mana' derived from the ancestors through whakapapa."³

Whakapapa of descent from a common ancestor was the key to whānau and hapū citizenship. On this point Āpirana Mahuika would record that:⁴

... while mana whenua was restricted in traditional society by the physical impossibility of living in too many places at once, one's mana tangata was not so restricted, and rank and right to belong to any group remained intact as long as one could establish the genealogical link. This would suggest that it was the knowledge of one's mana tangata that was the limiting factor, not the exercise of one's mana whenua. Obviously, in the case of a chief or chieftainess, once the mana tangata was established, he or she could lay claim to mana whenua.

The case of Ruataupare is one in point. Her choice of Tokomaru Bay as a place to settle was not accidental. She was able to establish her genealogical link with the Ngāti Ira and Wahineiti people in the area and was accepted on this basis, although the claim to membership had not been 'validated by social action' for a number of generations.

Once Ruataupare's mana tangata was recognised, it was only a question of time before she acquired the mana whenua, such was the quality of her leadership. This she passed on to her daughters and it is still held by Te Whānau a Ruataupare. Further, as the case and others indicate, I would suggest the element of choice lay not so much in what hapū one wanted to belong to, but in which one a person wished to live. And the consanguineal tie was never made 'invalid' as long as one could establish it existed.

Whānau could include immediate biological family members and extended family. Āpirana Mahuika would record again:⁵

In Ngāti Porou a person is 'taha rua' or 'karanga rua' in relation to others; that is, a person can have a duel relationship with another, in that he or she may be tuakana (senior) on one branch of the whakapapa, and taina (junior) on another line of whakapapa. No one is exempt from this principle. This concept is often heard in whaikōrero or in wānanga, as for example, in 'Tēnā koe e te taha rā!' and 'Tēnā koe taku karanga rua' ("Greetings my tuakana/taina relation").

'Taha rua' or 'karanga rua' applies to inter-tribal relationships as well. In many of our whānau/hapū relationships, this duel relationship applies, whereby an individual has 'tangata whenua' or kin groupings within the tribe. This principle of duel relationships continues to play a major part in the lives of the people, and in the determination of rangatira and leadership roles.

² Mahuika. (1973). 14-15.

³ Mahuika. (2010). 149.

⁴ Mahuika. (1992). 54.

⁵ Mahuika. (2010). 147.

In the Pōtikirua ki te Toka-a-Taiau district many hapū became known as the whānau of a common ancestor eg. Te Whānau a Takimoana and Te Whānau a Tūwhakairiora.⁶ Just under a third of the known 54 hapū that exist today took the name of their female chiefs and these included:⁷

1. <i>Te Whānau a Uepōhatu:</i>	<i>Ruatōrea and Tūpāroa</i>
2. <i>Te Whānau a Hinerupe:</i>	<i>Waiapu and Kawakawa-mai-i-Tawhiti (Te Araroa)</i>
3. <i>Te Aitanga a Mate:</i>	<i>Whareponga,</i>
4. <i>Te Whānau a Hinekehu:</i>	<i>Huirau, Hikurangi, and Tapuwaeroa</i>
5. <i>Te Whānau a Iritekura:</i>	<i>Waapiro</i>
6. <i>Te Whānau a Ruataupare:</i>	<i>Tūpāroa and Tokomaru</i>
7. <i>Te Whānau a Tāpuhi:</i>	<i>Te Araroa, Tikitiki and Rangitukia</i>
8. <i>Te Whānau a Hineauta:</i>	<i>Tīkapa-a-Hinekōpeka</i>
9. <i>Te Whānau a Te Aotāwarirangi:</i>	<i>Waimā and Tokomaru</i>
10. <i>Te Whānau a Hinepare:</i>	<i>Rangitukia</i>
11. <i>Te Whānau a Hinetāpora:</i>	<i>Mangahanea and Tūpāroa</i>
12. <i>Te Whānau a Rākaihoea:</i>	<i>Waiapu</i>
13. <i>Te Whānau a Hinematiōro:</i>	<i>Ūawa</i>
14. <i>Te Whānau a Te Aopare:</i>	<i>Awatere and Kawakawa</i>
15. <i>Te Whānau-a-Rongomaianiwaniwa</i>	<i>Waiapu and Tikitiki</i>

Descendants of other female leaders become absorbed into other hapū.⁸ Whānau were the effective political, economic, social and cultural unit.⁹ Each whānau grew in numbers to form hapū. Reweti Kohere emphasised that their common whanaungatanga (through whakapapa) to one ancestor united them. In Māori he stated: “ He whanaunga katoa te hapū. Kotahi anō hoki te tupuna i heke iho ai ratou ...”¹⁰

These units lived within their own territory which they held in a manner akin to ownership.¹¹ As the numbers of whānau and hapū increased, competition for resources increased, forcing younger whānau members to seek new areas for settlement as was the case with Hukarere II

⁶ Mahuika. (1995, Part 2). 39.

⁷ Mahuika. (1973) 126, and note that I have added a further four hapū.

⁸ Mahuika. (1973). 126

⁹ Mahuika. (1995). 42.

¹⁰ Kaa TO & W Ngā Kōrero a Reweti Kohere Mā (Victoria University Press, Wellington, 1997) p 53.

¹¹ Mahuika. (1995). 40.

sending his brothers away.¹² However, their whanaungatanga links still determined their collective responsibilities and rights. Thus, their new territories were within easy distance from Hukarere II, thereby ensuring their whanaunga tata links were maintained. It also ensured their whanaungatanga obligations could be called upon to assist for security, economic or cultural reasons. This collectivist approach to settlement was the basis for much of Tūwhakairiora's, his children's and his uncles' success in war.¹³ This approach to settlement made sure that when the:¹⁴

“... wider society was under threat, be it political or warfare, the various groupings came together to defend the mana of the iwi, which collectively was made up of the mana of the different whānau and hapū groupings. Once the threat was removed, the people reverted back to their whānau lifestyle.”

Whakapapa

In terms of determining who are tribal citizens, a review of the whakapapa lines of the district clearly demonstrate that Porourangi was the common unifying ancestor of the district. Although the term Ngāti Porou was not used very often before 1840, there were occasions where the hapū came together in unison such as in the battle of Maniāroa.

Many hapū in the Pōtikirua ki te Toka-a-Taiau district continued to function for the most part autonomously, including:¹⁵

- Those in the northern end of the district linked by Ruawaipu and Tūwhakairiora (Porourangi) lines and they included Te Whānau a Tapaeururangi, Te Whānau a Te Aotaki, Te Whānau a Te Aopare, Te Whānau a Hinerupe, Ngāti Kahu, Te Whānau a Makahuri, Te Whānau a Tūterangiwhiu, and Te Whānau-a-Iwirākau.
- Lower Waiapu Basin – Ngāti Porou linked by Ruawaipu, Pōkai and Porourangi lines, namely Ngāi Tāne, Ngāti Hokopū, Te Whānau a Tāpuhi, Te Whānau a Takimoana, Te Whānau a Hineaute, Ngāti Pūai, Te Whānau a Karuwai, Te Whānau a Hinetāpora, Te Whānau a Umuariki, and Ngāti Rangi.

¹² Mahuika. (1995). 40-41.

¹³ Mahuika. (1995). 41.

¹⁴ Mahuika. (1995). 42.

¹⁵ Cf. list in Drummond. (1937). 10.

- The Waiapu Valley area – Ngāti Porou tūturu including Te Whānau-a-Rākai, all linked through intermarriage with Te Whānau a Pōkai and Porourangi stock and linked also to some of the hapū in Lower Waiapu basin who are also Ngāti Porou tūturu.
- Central area, Tūpāroa and Hikurangi, Te Whānau a Ruataupare (No 2) ki Tūpāroa, Te Aitanga-a-Mate, Te Whānau a Te Haemata, Ngāi Tangihaere, Rongo-i-te-Kai, Te Aowera, Uepōhatu, Te Whānau a Iritekura.
- Those from Tokomaru Bay south, Te Aitanga a Hauiti, Ngāti Konohi, Te Aotāwarirangi, Te Whānau a Ruataupare (No 1), and Ngāti Ira.

Āpirana Ngata addressed this issue noting the term Ngāti Porou was not in use until the 18th Century when it was used for the sake of convenience by invading war parties.¹⁶ It then rose to prominence during the 19th Century. As Monty Soutar would note:¹⁷

When one looks at the written record of social organisation which existed at the beginning of the nineteenth century there appears to be no sense of a cohesive tribal unit along the East Coast. Rather the region seems to have been inhabited by several disparate hapū, almost one to each valley.

But those who maintain the oral traditions within the tribe are acutely aware that this was not the case. Ngāti Porou was clearly identified by whakapapa well before the nineteenth century. On specific occasions they acted as a collective unit and found their greatest expression as a tribe in times of stress. The contest at Te Maniāroa, Tākerewakanui and the clash to avenge the killing of Hinetāpora, for example, are instances which occurred in the early eighteenth century, where all the hapū on the coastline from Tūranga to Wharekāhika stood united against their neighbours, the Whānau-a-Apanui. Further, there are campaigns of Tūwhakairiora and Pakanui in the sixteenth century which stamped the name of Ngāti Porou on their descendants' brows. Hence the reason why Sir Āpirana Ngata anchored the whakapapa in his Rauru-nui-a-Toi lecture series (his legacy of Ngāti Porou history), on Porourangi. The key to hapū on the East Coast acting in concert lies in whakapapa.

The histography demonstrates that through the children of Hauiti, Tuere, Pōkai and Tūwhakairiora most hapū and iwi (even Ruawaipu, Ngāti Ira and Uepōhatu by this stage) intermarried and their descendants had shared Porourangi whakapapa by 1840.

The additional term Ngāti Porou tūturu, is used within the district to refer to the descendants of Pōkai, namely the sisters Rākairoa I and Te Aokairau and their children.¹⁸ These were the

¹⁶ Drummond. (1937). 10.

¹⁷ Soutar. (2000). 29.

¹⁸ Soutar. (2000). 30-32.

people of the Waiapu Valley. This is where Rangitukia is located where Kāwini, Rīpeka and Pākura lived.

The descendants of Pōkai are still referred to as Ngāti Porou tūturu to this day.¹⁹ Nunu Tangaere advised in 2008 that this is why you will hear the following:²⁰

“Haere mai ki roto o Waiapu, ki Ngāti Porou tūturu. Tētahi pāpāringa ki tētahi pāpāringa, he whānau kotahi, mai i Pōhautea ki te Ahikouka, ka whakawhiti i te awa o Waiapu, mai i a Paoaruku, ki te Huka o te Tai ki Kopuakanae. Ko ia nei a Ngāti Porou tūturu.”

Welcome to Waiapu, to Ngāti Porou tūturu. One cheek to the other cheek, it is one family, from Pōhautea (Te Wairoa) to Ahikouka, across the Waiapu to Paoaruku, to the Foaming Sea at Kopuakanae. This is Ngāti Porou tūturu.²¹

Ngā Iho Nui – Core Values, Principles

Remnants of the Ngāti Porou legal system have survived intact (subject to modification by Christianity and the colonisation process). I draw this conclusion from the manner we still behave on the East Coast. We still have a collective commitment to its various values, principles and norms. As this system developed from the time of settlement of the district, I reach back to its form pre-1840 to underscore what values and remaining norms have survived.

Te Mātai Tuarangi me te Tapu – Cosmology and Tapu

Cosmology

The cosmology story beginning with Io (of the hidden face) was the spiritual and religious basis of society in the Pōtikirua ki te Toka-a-Taiau district. However, the belief in this god did not deny the existence of the departmental gods. Mediating the relationship with these gods and the realms within which they dwelt was more than spiritual and religious; it also provided the basis for the legal system of the district. In the Māori mind:²²

1. *The gods gave protection to the social and spiritual wellbeing of the people.*
2. *They gave society a set of rules to regulate behaviour that was acceptable, and the kinds of behaviour that was not acceptable.*

¹⁹ Kohere. (1949). 16. Keesing, M. (1929). Māori progress on the East Coast. In *Te Wananga* Vol. 1. 13.

²⁰ Tangaere N. Kōrero-a-Waha Rahui Marae. (7 April 2008); see also Soutar. (2000). 30-31.

²¹ Translation by C. Fox.

²² Mahuika. (1995). 6.

3. *They specified appropriate seasons for certain activities, necessary to human survival which resulted in the almanac for food gathering/planning/harvesting and times for fishing and so on.*

As described by Mohi Ruatapu, the cosmology narrative of the district is unique. In his recitation of the cosmology, Tāne-a-Rangi and Hine-ahu-one became the parents of all the departmental gods. Others in the district maintained the familiar narrative that Rangi and Papa were the primal parents of the departmental gods. What is common is that the same names are used for those gods. Where there is variation is in the names of the tribal or individual gods.

To explain the significance of the different gods, Āpirana Mahuika listed the following hierarchy for the pantheon of gods:²³

1. *Io, the Supreme God –... from whom all life and creation originated from. It was he who brought order from Te Kore (Nothingness), Te Pō (darkness), to Te Ao Marama (The world of light and order.)*
2. *Departmental Gods – often personified such as Maru of the heavens, Tangaroa, Tūnui of meteors, Te Pō Tuatini of comets, Whaitiri of thunder, Tūpai, Mataaho, Hine-te-uira and Tama-te-uira of lightning, Rehua of the star Antares, etc.*
3. *Tribal or individual Gods – known only to members or individuals. Some of these were in fact kaitiaki over whānau or individual resources.*
4. *Inferior Gods – associated with witchcraft-mākutu or whaiwhaia. Yet while inferior or lower in the hierarchy, theirs was a devastating effect on a person and even life itself. Those who followed this religious form were the disciples of Whiro, the god of this realm.*

O Ngā Atua – Divination

An important element of the legal system was divination. In the narrative concerning Whaitiri and Kai-tangata. They begat Hema. Hema married and begat Tawhaki and Karihi.²⁴ When Tawhaki and Karihi grew up they decided to visit Whaitiri, their grandmother in the heavens. The ascent was difficult and Karihi died after falling from the eighth heaven.²⁵ After the tangi for Karihi, Tawhaki scooped out his brother's eyes and ascended the heavens. His grandmother was blind by this time, so he gave his brothers' eyes to her.²⁶ He married Maikuku at his grandmother's village but lost his wife to her sisters who ascended to the second heaven which

²³ Mahuika. (1995). 6-8.

²⁴ Reedy. (1993). 25, 126.

²⁵ Reedy. (1993). 30-31, 131-132.

²⁶ Reedy. (1993). 30-31, 131-132.

was the home of Tama-i-waho. Tawhaki made a kite and with the assistance of his grandmother's karakia, the kite ascended to the "tahuna tapu, nohonga o Aitu, te manuka o te rangi", but Tama-i-waho sent the hahuai (mythical bird of the heavens) down to startle Tawhaki.²⁷ The kite plunged to the ground so Tawhaki turned himself into a bird. He was struck down by the adze of Tama-i-waho (of the second heaven), wounded and killed.²⁸ The Tawhaki story is a reminder that the higher the kite goes the closer a person gets to the heavens and the gods. Āpirana Ngata also notes that kite flying was a form of divination.²⁹ Interrupting divinity flights of kites along with cursing, or insults aimed at chiefs could result in *utu*.³⁰

The stories associated with our cosmology and divination remind us today of how important the esoteric is in our beliefs.

With regard to Tawhaki, he and his wife (who was taken to the heavens) had a son before his wife was stolen and his name was Wahie-roa.³¹ Down through six generations from Wahie-roa was born Porourangi the eponymous ancestor of Ngāti Porou. Porourangi begat Hau.³²

Hau
 Rākaipō
 Rākaiwaenga
 Tapua-te-haurangi
 Tawake-urunga
 Hinekehu
 Whaene
 Materoa
 Tamaihu
 Kuku
 Te Rangitāwaea
 Rongohaere
 Ika-a-te-wai-waha
 Hine-kaukia
 Hīpora Koroua

²⁷ Reedy. (1993). 31-32, 133.

²⁸ Reedy. (1993). 32-33, 134.

²⁹ Ngata. (1972). 70.

³⁰ Ngata. (1972). 70.

³¹ Reedy. (1993). 32-33, 134.

³² Reedy. (1993). 33, 134-135.

Hīpora Koroua married Te Hapimana Te Whao and begat Rāpata Wahawaha.³³ Through his record of oral history and tikanga, Rāpata Wahawaha is one of the main informants of Ngāti Porou history, cultural norms and values.

Tapu

The laws of tapu, and balancing tapu, were a pre-occupation of the aristocracy of our area. It dictated most political, social, economic and cultural aspects of life. That is because defilement of tapu was a transgression for which there was a sanction. Tapu, therefore, had to be mediated through some form of purifying rite, karakia or by the process of whakanoa – cause to be free of tapu, usually with water or food.

The source of tapu came from the gods.³⁴ Tapu that was inherited was different to the tapu imbued through karakia such as a tohi for battle or a rāhui.³⁵ That is why the act of cannibalism was the only means of destroying the tapu of a chief. In this way mana could be destroyed, especially where a high-ranking chief or his family were killed.³⁶ Te Rangihīroa would note that the “eating of enemy chiefs reduced them to the status of common food, and this stigma was inherited by succeeding generations.”³⁷ In some narratives the act was associated with Tūmatauenga (God of war) and the consumption of his brothers’ children when he went to war against them.³⁸ Thus cannibalism was generally associated with the tribal cosmology stories. It was in the Pacific that the early Hawaikians learnt this practice.³⁹ Cannibalism was not condemned within their society as it had an important function in mediating tapu. As Paul Moon would note the:⁴⁰

... connection between cannibalism and the actions of the gods did not necessarily amount to divine endorsement, but it required only a small dose of perception to interpret it as a sanction of sorts. Provided that one’s family members did not make up part of the meal, there was no immorality or opprobrium associated with cannibalism in traditional Māori society.

³³ Reedy. (1993). 33, 134-135 & fn 62.

³⁴ Mahuika. (1995). 14.

³⁵ Mahuika. (1995). 15.

³⁶ Petrie, H. (2015). *Outcasts of the Gods? The Struggle over Slavery in Māori New Zealand*. Auckland University Press. 58-59.

³⁷ Buck. (1949). 400-401.

³⁸ Petrie. (2015). 58-60.

³⁹ Moon. (2008). 121.

⁴⁰ Moon. (2008). 121.

Under the influence of Christianity, in the Pōtikirua ki te Toka-a-Taiau district cannibalism died out after the 1836 battle of Te Toka-a-Kuku – against Te Whānau-a-Āpanui. Interestingly, at this time, the English still tolerated acts of cannibalism where a shipwreck occurred. If sailors were reduced to eating those who had died or each other, no feelings of outrage were invoked, or sensibilities affected. It was acceptable behaviour among sailors and received limited attention from the public.⁴¹ This maritime customary practice prevailed right through to the now famous case of *Dudley & Stephens* (1884) when for the first-time sailors were successfully prosecuted for cannibalism.⁴²

To return to the doctrine of tapu, other than inherited tapu, there was tapu imbued by humans and not by the gods. A rāhui, for example, was a means of making an area tapu or it acted as a boundary marker or a prohibition against natural resource gathering in a defined area. Rāhui were a form of tapu imbued through karakia by a tohunga or a chief, or rūnanga of elders, or a rights holder usually (but not always) for a set period of time.⁴³ The physical aspect of a rāhui could be manifest by installing carved posts or identifying particular rocks and imbuing them with tapu.⁴⁴ A simple declaration could also be used, especially where a person/s died in the area.⁴⁵ Tapu shrouds a tūpāpaku (corpse) on death. To breach the tapu of a rāhui could result in either spiritual or tangible sanction. Alternatively, breaches could render the subject matter noa or free from tapu. For example, the cooking and eating of chiefs was a method of rendering them noa.

Policing tapu, other than through direct sanction, could also be effected by invoking tipua (phenomena or spirits) of the godly realm or taniwha. This was a way of protecting resources and people. As noted by John Thornton – Te Rongotoa Tamahōri who was born in 1915, taniwha were used in resource protection and conservation:⁴⁶

As a way of protecting resources various whānau and hapū relied on kaitiaki or taniwha – caretakers, to act as a spiritual link between the land and water and the people. Often the

⁴¹ Simpson, A. B. (1984). *Cannibalism and the common law*. University of Chicago Press. 114-140.

⁴² *Regina v Dudley & Stephens* (1884) 14 QBD, 273; see generally Simpson, A. B. (1984).

⁴³ Mahuika. (1995). Part 2, Annex.

⁴⁴ Mahuika. (1995). Part 2, Annex.

⁴⁵ Mahuika. (1995). Part 2, Annex.

⁴⁶ Thorton/Tamahōri JTR “Affidavit of evidence before the East Coast Waitangi Tribunal” (Wai 900, #A54, 9 November 1999) 5-6.

people would know that their actions were contrary to the laws of their lands and waters when these kaitiaki showed themselves and punished the people.

There are still sightings of such phenomena. Raunikau Rose Stainton, for example, has described a white stingray as a kaitiaki that inhabits the southern end of Onepoto at Wharekāhika.⁴⁷ She noted that most families have kaitiaki and the Stainton whanau had an owl.⁴⁸ Piripi Aspinall when he was alive stated that their whānau had a sea hawk.⁴⁹ Te Whānau a Takimoana have a white owl. These kaitiaki, taniwha or tipua were used to warn of impeding danger. For example, taniwha were placed at the mouths of the Paoaruku Stream and the Wairoa Stream, preventing harm to the lower Waiapu River Valley people.⁵⁰ In the Waiapu River, the taniwha Ngungurutehorowhatu (the taniwha that swallows eyes) takes a person to their death if they do not cross carefully and respectfully.⁵¹ There is the taniwha that “patrolled” the sea at Tokomaru Bay in the shape of a conger eel.⁵²

These and many other examples indicate that such phenomena were and are still used to warn of danger, to preserve resources or to enforce tapu.

Mauri me te Wairua – The Life Force and the Spirit

The doctrine of tapu arose to prevent defiling of the ira atua, the wairua and mauri of the person. The “wairua was and is the spiritual force of all life” and through “... whakapapa, the spirit of one’s forebears” is inherited.⁵³ The wairua of a person determines their character and temperament and their spirituality.⁵⁴ Āpirana Mahuika wrote that:⁵⁵

Wairua was not a physical or demonstratable force. It was innate, and unseen, yet its vitality was expressed in attitudes, respect for property and people, in knowledge and wisdom, in leadership and chieftainship, in ritual and ceremony, in kawa and respect for tapu.

Wairua was also part of the human form, which at death takes its leave of the body, to reside in the world of the dead, or “... I te ao o te wairua ...” This world of spirits, as with the dead was shrouded and concentrated with tapu, because at death, one’s soul or wairua returns to one’s origins, namely with the gods from whom all life

⁴⁷ Stainton RR “Affidavit of evidence before the East Coast Waitangi Tribunal” (Wai 900, #A53, Undated) 8.

⁴⁸ Stainton. (Undated). 8.

⁴⁹ Aspinall. (2000). 7.

⁵⁰ Karaka. (2000). 6-7.

⁵¹ Karaka. (2000). 6.

⁵² Aspinall. (2000). p 7.

⁵³ Mahuika. (1995). 10.

⁵⁴ Mahuika. (1995). 10-11.

⁵⁵ Mahuika. (1995). 11-12.

came from. In these situations, the observance of tapu and rituals to remove tapu was paramount, the breaches of which would be most harmful on the transgressor or his/her whānau. These rituals and ceremonies related to the process of “whakanoa” making that which was tapu, common, or put another way, a process for removing the tapu, so that the more territorial, mundane human activities can be performed without spiritual or tapu encumbrances.

Mauri was the “life-force principle, innate, hereditable and the source of all emotions.”⁵⁶ It also acted as a protective principle.⁵⁷ Tuta Nihoniho a chief of the 19th C noted that everything had a mauri.⁵⁸ Hōne Taumaunu demonstrated the longevity of tapu, wairua, and mauri in his narrative concerning a plant brought from Hawaiki on Paikea’s whale. He said:⁵⁹

30. My father told me that when the whale arrived at Whāngārā it had a certain plant growing on it. This plant was a rengarenga. This rengarenga was the mauri (life principle) of Paikea. It was left here in Whāngārā. It was the wairua (spirit) of the tūpuna and reflected our connection with Hawaiki.

31. The plant itself was similar to an orchid. It had a yellow flower, blood red markings, and the centre was purple. The flower was a tipua (phenomenon) and would stay in one place one year, and then move the next year. ... The flowers were tapu and were not to be touched.

These concepts of tapu, wairua, and mauri remain important values in the Ngāti Porou way of life.

Mātauranga – Knowledge and Education

The narratives of our history introduce the whare-wānanga of Hawaiki where the laws of tapu and associated values were taught. This was an education system that stressed the importance of learning from the three baskets of knowledge. The associated tikanga or laws, ritualised in ritenga or kawa and performed through different forms of karakia (eg. tauparapara, warea, whakaaraara, ngunguru) were taught in these whare-wānanga by tohunga.⁶⁰

⁵⁶ Mahuika. (1995). 12-13.

⁵⁷ Mahuika. (1995). 13.

⁵⁸ Nihoniho. (1908). 101-103.

⁵⁹ Taumaunu. (2001). 9.

⁶⁰ Ngata. (1972). 5.

The ministry of a tohunga was tapu and therefore they were tapu.⁶¹ There is at least one example known in the traditions of a woman who was a tohunga and her name was Rangihurihia.⁶² She “performed the rituals of war and those things necessary for the safety and success of the taua.”⁶³ Thus some women (just like some men) were able to access the knowledge of the gods.⁶⁴

Common people were not allowed to access the knowledge of tohunga⁶⁵ and therefore the only people who could participate in the whare-wānanga were people of “noble” whakapapa and status as their lineage was direct from the tapu nature of the gods.⁶⁶ All students were, therefore, “the aristocracy of intellect . . .”⁶⁷ They were experts “in all that pertained to belief, ritual and tapu in their most developed forms.”⁶⁸

The highest-ranking tohunga, Ahorangi, were the repositories of knowledge concerning the superior gods such as Io (of the hidden face) and associated esoteric and territorial knowledge.⁶⁹ Ngata noted that this higher grade of tohunga were upholders of this “aristocratic” form of the religion.⁷⁰ Tohunga Tūahu held the knowledge of cosmology, the departmental gods and all ritual, karakia and incantations associated with them.⁷¹ Tohunga Ahurewa were associated with particular areas of expertise such as carving or tattooing.⁷² Then there were tohunga who were akin to shaman who appealed to tribal deities and deified ancestors.⁷³ According to Āpirana Ngata, the higher grade tohunga “had no dealing with low-class shamanistic performances indulged in by third-rate tohunga; nor did they practise the arts of black magic.”⁷⁴

Chiefs were the temporal leaders of a hapū or iwi but tohunga were the religious and tikanga leaders.⁷⁵ Different tohunga would teach different subjects relating to the gods, demi-gods and

⁶¹ Mahuika. (1995). 9.

⁶² Mahuika. (1973). 120.

⁶³ Mahuika. (1973). 120.

⁶⁴ Mahuika. (1973). 120.

⁶⁵ Ngata & Sutherland. (1940). 337.

⁶⁶ Mahuika. (1973). 9; Ngata & Sutherland.. (1940). 336; see also Best, E. (1954). *Some aspects of Māori myth and religion – Monograph 1*. Dominion Museum, Government Printer. 7.

⁶⁷ Ngata & Sutherland. (1940). 336.

⁶⁸ Ngata & Sutherland. (1940). 336.

⁶⁹ Mahuika. (1973). 9; Ngata & Sutherland. (1940). 337; see also Best. (1954). 7.

⁷⁰ Ngata & Sutherland. (1940). 337.

⁷¹ Mahuika. (1995). 10; see also Best. (1954). 7.

⁷² Mahuika. (1995). 10; see also Best. (1954). 7.

⁷³ Best. (1954). 7.

⁷⁴ Ngata & Sutherland. (1940). 337.

⁷⁵ Mahuika. (1973). 119.

other deities or similar phenomena to ensure tapu was respected.⁷⁶ They also sought to prevent harm from any transgressions of tapu. This was done through the recitation of different forms of karakia, chants such as ngunguru (used in connection with the marriage of Ruataupare to Tūwhakairiora, rituals such as tohi rites or hurihangatakapau (removing tapu after war), and offerings. Mohi Ruatapu, for example, explained the extensive use of karakia.⁷⁷

He kōrero tēnei nō ngā karakia Māori

Karakia manu, karakia ika, karakia wahine, karakia taonga, karakia kūmara, karakia wera, karakia awa moana, karakia niho tūnga, karakia tūpāpaku – mō ngā tāngata e mamae ana ō rātou tinana, mō te tuarā whati – karakia mō te ruaki, karakia mō ngā atua i te rangi, mō ngā atua i te w[h]enua.

There are karakia for birds, karakia for fish, karakia for woman, karakia for possessions, karakia for kūmara, karakia for burns, karakia to calm the ocean, karakia for toothache, karakia for people who are ill – people whose bodies are in pain, with broken backs – karakia to help someone bring something up, karakia for the spirits in the sky and the spirits in the earth.

In the Pōtikirua ki te Toka-a-Taiau district there were the following well-known wānanga:⁷⁸

- Tapere-nui-a-Whātonga – an ancient house established by Te Whironui father of Ruawaipu and other members of her family at Rangitukia – my village. Pita Kāpiti and Mohi Tūrei were the last of this wānanga.
- Whitiereia – established by Paikea on the island known then as Taha-tū-o-te-moana (Paikea’s island).⁷⁹
- Te Rāwheoro – Rangiuia and Mohi Ruatapu were two of the last of this wānanga.
- Puhi Kaiiti – established by Maia Poroaki below Titirangi on the site where the freezing works once stood.⁸⁰

Outside the district, Rāwheoro appears to have been the most discussed in the literature. In discussing Rangiuia’s lament for his son Tū-te-rangi-whaitiri, Āpirana Ngata for example, records that Rāwheoro was considered “the most prestigious” outside the district. According to him this was due to the importance of the people who settled at Whāngārā and their

⁷⁶ Awatere. (2003). 440; Mahuika. (1973). 119-120.

⁷⁷ Reedy. (1993). 70, 174.

⁷⁸ Mahuika. (1995). 55.

⁷⁹ Ngata, A. (1930). He Tangi Nā Rangiuia - mō tana tamaiti - mō Tū-te-rangi-whaitiri (Te Aitanga-a-Hauiti, Ngāti Porou). In *Te Wānanga*, 2(2). 25.

⁸⁰ See for location Awatere. (2003). 106.

teachings, yet Rāwheoro was located at Ūawa or Tolaga Bay. Walton Walker, Robert Ruha, Ānaru Kupenga, Wayne Ngata, and Mark Kopua have identified further houses of learning from Hicks Bay to Wainui Beach north of Gisborne.⁸¹ There were so many schools because there were different sections and departments in the whare-wānanga, including:⁸²

- Whare pūrākau (history, legends, myths, stories etc)
- Whare tapere or karioi or Rehia/Rehī (recreation, sports, leisure)
- Whare takiura (esoteric arts)
- Whare tatai (heavens and astronomy)
- Whare mata (birding)
- Whare pora (arts and crafts)
- Whare maire or purukuruku (magic, whaiwhaia or mākutu, war).

Tuta Nihoniho likened the importance of these whare-wānanga to a western Parliament where students were taught the law relating to the heavens, the earth and the sea. To him it was important to understand the teachings of the wānanga and the gods and the life force. In Māori he stated.⁸³

Chiefly children were often dedicated at birth to particular atua and the tohunga would become responsible for their tuition, as was the case with Tūwhakairiora who was dedicated to Tūmatauenga – the god of war.⁸⁴ Their education would consist of learning the tikanga, rituals, karakia, kōrero and skills of that atua. Different houses of learning, such as the whare-maire, whare-tapere, or the whare-rēhia, would be where they received lessons.⁸⁵ A full breakdown of what was taught in the whare-maire with respect to Tūmatauenga, for example, is recorded by Arapeta Awatere.⁸⁶ He records karakia, fighting stances, strengthening exercises, identifying those parts of the body for weaponry blows and much more.⁸⁷

⁸¹ Adapted list from Melbourne, T. (2009). Traditional Māori Education for the Contemporary World, Master's thesis. Massey University.

⁸² Mahuika. (1995). 57-58; Awatere. (2003). 440.

⁸³ Nihoniho T [1908] JPS Vol 17, No 2, 95-96.

⁸⁴ Awatere. (2003). 440.

⁸⁵ Awatere. (2003). 440, 442-465.

⁸⁶ Awatere. (2003). 440, 442-465.

⁸⁷ Awatere. (2003). 440, 442-465.

Students learned to balance tapu and respect mauri under the guidance of their tohunga. Tohunga were their intellectual leaders.⁸⁸ The teachings of the whare-maire with respect to sorcery were very connected to the dead and the spirit world. Ngāti Porou had many stories of sorcery and the spirits. So, for example Rāpata Wahawaha believed that there was a sheet of water at Ōtamakōrapa near Waipiro, which had the “property of killing and bewitching people.”⁸⁹ When spirits were “flying about” they were “caught in the water and held under until they died!”⁹⁰ Where directed towards a person, sorcery was believed to have a devastating effect on them as illustrated by the following waiata taken from *Ngā Mōteatea* and *Te Wānanga* (1930):

- He Tangi – (Ngāti Puia, Ngāti Porou) written by Hinekimua.⁹¹ This lament concerns an unsuccessful betrothal mission for Mere Meke. The party travelled to and from Anaura. They returned home in two waka, after she was turned away. The tohunga Tokipūanga of Ngāti Āwhia and Ngāti Ira caused a sudden gale to come up and overwhelm the canoe. The name of his god was Motipua. One canoe capsized near Whareponga and a number of important high-ranking individuals were lost but Mere Meke survived.⁹²
- He Waiata Tangi – (Ngāti Porou) written by Hinemātererangi, a senior wife of Rāwiri Rangikatia, a chief of Ngāti Porou who signed the Treaty of Waitangi.⁹³ His junior wife took a lock of Hinemātererangi’s hair to Te Pōhutu at Kawakawa “for the purpose of bringing about the death of the senior wife.”⁹⁴ This he tried to do by the waters using his god Kumukumu.⁹⁵ Instead he saw the face of the junior wife and so he killed her.⁹⁶
- He Waiata Tangi (Te Aitanga-a-Hauiti, Ngāti Porou), written by Te Rangiuia for his son Tū-te-rangi-whaitiri.⁹⁷ While attending the tangi of Rāwiri Te-eke-tū-o-te-rangi,

⁸⁸ Ngata & Sutherland. (1940). 336.

⁸⁹ Mackay. (1949). 197.

⁹⁰ Mackay. (1949). 197.

⁹¹ Ngata & Jones. (2006, Part 2). 40-43.

⁹² Ngata & Jones. (2006, Part 2). 40-43.

⁹³ Ngata & Jones. (2006, Part 2). 304-307.

⁹⁴ Ngata & Jones. (2006, Part 2). 304-305.

⁹⁵ Ngata & Jones. (2006, Part 2). 304-307, and fn 24.

⁹⁶ Ngata & Jones. (2006, Part 2). 304-305.

⁹⁷ Ngata. (1930). 21-35; note that this lament was so highly regarded by Ngata that he referred to it many times in the *Rauru-Nui-a-Toi Lectures* and in *Ngā Mōteatea*. Yet the complete waiata never made it into either of these publications. Rather this waiata was published in *Te Wānanga* in 1930 and as a consequence, it is very hard to locate copies other than at the National Library in Wellington. It is also discussed in Kaa, W. & Kaa, T. (1996). *Āpirana Ngata – Āna Tuhinga i te Reo Māori*. Victoria University Press. 235-250.

Tū-te-rangi-whaitiri slept with a woman (Paretaranga) betrothed to a chief from Wairoa.⁹⁸ They were seen, and the matter was reported to her betrothed Te Apatū. Upon the return of Te Apatū's party to Wairoa, word was sent to the tohunga Te Mātorohanga of Wairarapa. According to Ngata, it was suspected that Te Mātorohanga placed a mākutu on Tū-te-rangi-whaitiri.⁹⁹ This was the cause of Tū-te-rangi-whaitiri's death. At Tū-te-rangi-whaitiri's tangi, Houtaketake a tohunga of Ngāti Ira, confirmed who was responsible by using his adze as a marker. He identified that the mākutu came from the south, so he placed a mākutu in retaliation on Te Mātorohanga's son and he too died.¹⁰⁰ Arguably this balanced the hara or wrong committed.¹⁰¹

While the ancient whare wānanga no longer exist, tohunga exist, and aspects of the matauranga of the whare wānanga have survived.

Mana – Sovereignty and self-government

Mana “means rights and authority over property, resources and people.”¹⁰² It is the reo Māori equivalent of the term sovereignty. However, there could be no mana without the required whakapapa to an iwi or hapū.¹⁰³ Personal mana determined a person's power and prestige.¹⁰⁴ Mana could be inherited by birth and if both parents were of equal rank, their children would be ascribed with greater mana.¹⁰⁵ Mana could be inherited from a number of ancestors so long as there was a genealogical link.¹⁰⁶ Mana could be lost as well, including in warfare or by enslavement.¹⁰⁷

Mana ariki/rangatira

⁹⁸ Ngata. (1930). 24.

⁹⁹ Ngata. (1930). 24.

¹⁰⁰ Ngata. (1930). 24.

¹⁰¹ Ngata. (1930). 34.

¹⁰² Mahuika. (1995). 62.

¹⁰³ Mahuika. (1995). 63.

¹⁰⁴ Mahuika. (1973). 66, 71.

¹⁰⁵ Mahuika. (1973). 66.

¹⁰⁶ Mahuika. (1973). 67.

¹⁰⁷ Soutar. (2000). 88.

An ariki was the highest ranking and most senior of all the chiefs of an iwi.¹⁰⁸ However, where the whakapapa of an ariki was inherited by more than one child, it was acceptable to refer to them all as ariki. This approach was recorded by Arnold Reedy referencing the three children of Porourangi and Hamo-te-rangi, namely Hau, Ueroa and Rongomaianiwaniwa (the latter being a woman).¹⁰⁹ As Āpirana Mahuika would note, this “... is because they were the children of the first ariki of the tribe (Porourangi) and they are ariki to everyone else in the tribe.”¹¹⁰

In some cases, hapū members considered an ariki very tapu. Interestingly, Reweti Kohere would contend that he never heard that any of the Ngāti Porou chiefs lived as tapu beings, and he referred to Tūwhakairiora and other fighting chiefs as examples of those who were ariki or senior chiefs but who were not referred to as tapu.¹¹¹ Thus the designation of an ariki as tapu depended upon their whakapapa and the role they played in the different kin-groups of the district.¹¹²

Rangatira were of high rank, but junior to an ariki.¹¹³ The ariki and rangatira (male or female) were the most senior genealogically with the most direct line to Io and the gods.¹¹⁴ The more direct the line, the greater the mana and tapu of the ariki or chief and the more functions they had of a religious, cultural or political nature.¹¹⁵ Rangatira included many women such as Hinekehu, Whaene, Materoa, Te Aopare, Hinerupe, Hinētāpora, Hineauta, Hinepare, Ruataupare, Hinematiōro and many others.

The tikanga for chiefly succession was gender neutral and focused on rank.¹¹⁶ The requirement was that they expressed the mana and tapu of the highest order within their kin-group.¹¹⁷ Based upon his study of Tokomaru Bay, Iles concluded that female chiefs were equal to male chiefs in terms of leadership.¹¹⁸ However, chiefly women were required to act altruistically and put the interests of the iwi first, so that meant accepting that they may need to marry outside the

¹⁰⁸ Mahuika. (1973). 25.

¹⁰⁹ Mahuika. (1973). 26. Quoting A. Reedy.

¹¹⁰ Mahuika. (1973). 26. Quoting A. Reedy.

¹¹¹ Kohere. (1949). 70.

¹¹² Kohere. (1949). 70.

¹¹³ Mahuika. (1973). 26.

¹¹⁴ Mahuika. (1973). 13; Mahuika. (1995). 41.

¹¹⁵ Mahuika. (1973). 13.

¹¹⁶ Mahuika. (1973). 11-12, 18.

¹¹⁷ Mahuika. (1973). 13; Ngata & Sutherland. (1940). 336.

¹¹⁸ Iles M. (1981). 315.

kin-group in the case of a conquest by another iwi or hapū (for example the taking of Rākaumanawahē of Uepōhatu by Te Aitanga-a-Hauiti), or they could be used as a peace offering to settle a dispute (as in the case of Rerekohu gifting Hinetaitua and Ngunguru-o-te-rangi to Pōnapātukia and Konohi), or they may be forced to marry to seal an alliance with another iwi or hapū (as in the case of the gifting of Uhengaparaoa to Taiau's son Tamahinengaro).¹¹⁹ They could also be used as peace emissaries.

Rangatiratanga - Chiefly Authority

Āpirana Ngata would explain the nature of chiefly authority in this manner:¹²⁰

The chiefs determined political leadership and tikanga or law with tohunga and the elders. They acted in a manner akin to trustees of the people and the land.¹²¹ Chiefs held mana, exercising their power, influence, rank and law-making power. ... What was the authority of the Māori chiefs at the time of the signing of the Treaty, to the people, to the land, and to the tribes under their separate authorities? That was the time of Te Hāpuku, of Te Rauparaha, of Te Rangihaeata, of Te Whero-whero, of Te Waharoa, of the great Te Heuheu, of Kāwiti, of Patuone, of Hōne Heke, of Tūpaea, of Te Amohau, of Te Pukuatua, of Mokonuiarangi, of Aporotanga, of Aopururangi, of Te Houkāmau, of Te Kani-a-Takirau, of Te Pōtaoaute, of Te-eke-tū-o-te-rangi and of the many others who have departed to "the realms of night—the terror of the land, the power over man." ...

...

During the time when the Māori chiefs had authority and there was no authority of British law, the word of the chief was law to his tribe. It was he who declared war, and he who sued for peace. Here are some of the words of that period: "The fire burning yonder, go forth to put it out." A great number of the people thus disappeared, loss of man, loss of land. The chief was separated from his daughter who was used as an offering to the invaders to bring about peace. It was the chiefs who bespoke the land and gave it away.

While the chiefs could give land away, this was a form of *tuku whenua* rather than a permanent alienation, and it was expected that the land would be returned if the person to whom the land was gifted ever left that land.

¹¹⁹ Mahuika. (1973). 57.

¹²⁰ Ngata. A. (1922). *The Treaty of Waitangi – He Whakamarama*. Māori Purposes Fund. 6.

¹²¹ Mahuika. (1973). 13-14.

Chiefs had a duty to shelter and protect the people of their community and settle disputes either alone or with the rūnanga of elders among them.¹²² Chiefs had obligations, and these included the:¹²³

- a) *Welfare and well-being of people.*
- b) *Protection of the people, property, and resources.*
- c) *Granting of rights of use and occupation of lands.*
- d) *Kaitiaki role of property and resources that belong to the group.*

In times of peace, the kin-group had “the ‘mana’ under ‘tikanga’ to veto a decision of their rangatira.”¹²⁴ Where there was a threat to security, mana required that chiefs maintained or recaptured their hapū lands or resources by force of arms, inter-marriage, or gifting and occupation. Mana and land were obviously lost when wars were lost, and chiefs killed in battle. Those who survived might take many years before they could resolve any indignities suffered. If they were chiefs, they maintained their ancestral authority and that could be re-established with successful campaigns of utu and muru.

Usually, chiefly mana prevailed within one’s hapū and iwi, especially where it was bestowed by one’s elders, father or mother.¹²⁵ It was generally bestowed upon the mātāmua child (male or female) of a chief.¹²⁶ According to Arnold Reedy, as the men were pre-occupied with war, women often “became the guardians of the mana and tapu of a tribe. They became the guardians of the land.”¹²⁷

That authority, however, could not be exercised over another iwi, or over another autonomous hapū and their land, without their consent.¹²⁸ No iwi or hapū chief could assert their mana over the land of another chief, their iwi or hapū without consequences.¹²⁹

¹²² Te Waka Māori o Niu Tirani. *Obituary*, as quoted in Benton, et al. (2013). 326-327.

¹²³ Mahuika. (1995). 64.

¹²⁴ Mahuika. (1995). 64.

¹²⁵ Mahuika. (1973). 13-14.

¹²⁶ Mahuika. (1973). 13-14, 17, 25.

¹²⁷ Mahuika. (1973). 258. Quoting A Reedy.

¹²⁸ Wahawaha, R. (No date). *War narrative of Rāpata Wahawaha, MS including stories of Uenuku, Ruatapu and Paikea, introduction of Christianity on East Coast, etc, Mana and take-whenua*, ATL MS-Papers-0072-39E. Unpublished.

¹²⁹ Wahawaha. (No date).

There was an obligation not to defile mana by sleeping with or marrying those from a different iwi or hapū least they attempt to undermine or acquire chiefly mana.¹³⁰

Mana Whakahaere

The mana whakahaere of an iwi or a hapū could be lost where a tuakana or senior line was not fit for leadership. In such cases mana whakahaere could be bestowed upon a taina capable of leadership. Again, it did not matter whether those involved were male or female.¹³¹

Leadership was determined by the qualities necessary to be a leader, as in the case of Hinetāpora.¹³² Rāpata Wahawaha stated the position in this way:¹³³

Te mana rangatira tamaiti, tuakana - Mehemea i whakataua e tō rātou matua te mana ki a ia, o te iwi, o te hapū rānei, me te whenua hoki i runga i tōna atawhai ki tō rātou matua me te whakarongo anō ki āna kōrero.

Mehemea rānei ko tōna taina te mea i pērā o āna tamariki, i āhua rorirori pe a te tuakana, a ka mau ki tāua taina ūna tāua mana o tō rātou pāpā, kāore ki te tuakana; a ka manaakitia taua taina ūna e te iwi. Mehemea ka ahua rorirori ngā māhara o te taina, ā e kore anō e mau tāna mana ki tērā, a tērā pe a ka manaakitia e tō rātou pāpā e tō rātou whakamutunga i runga i āna māhara pai e mōhiotia ana e tō rātou matua, me te iwi hoki, koia ngā tikanga a te Māori.

He rangatira te tuakana mehemea he pai ngā tikanga. He rangatira te taina mehemea he pai ana whakahaere: pērā tonu te pōtiki.

... Mehemea i whakataua e tō rātou matua te mana ki a rātou, o te iwi, o te hapū rānei, me te whenua hoki ... Kāore he mana rangatira o tētahi iwi e mana ana ki runga ki ngā whenua o ētahi atu hapū Rangatira hoki. Tōna mana ki tōna whenua ake anō, rātou ko tōna hapū, iwi rānei.

As he notes, however, the mana of the tuakana remained as part of that person's heritage, the taina (younger line) assuming a more secular leadership or mana whakahaere role. Such a rangatira, who was the tuakana, "retained certain ritual, ceremonial and religious rights which could never be usurped."¹³⁴ It was the senior line where the most tapu resided, and therefore, only the senior lines could mediate tapu with tohunga.¹³⁵ Thus leadership (male or female) was exercised by chiefly lines (tuakana or taina). Alternatively, leadership was achieved, as in the

¹³⁰ Mahuika. (1973). 55-56.

¹³¹ Mahuika. (1973). 18.

¹³² Mahuika. (1973). 18.

¹³³ Wahawaha. (No date).

¹³⁴ Mahuika. (1995). 42; see also Mahuika. (1973). 22.

¹³⁵ Mahuika. (1973). 30-32.

case of Tūwhakairiora's rise as a warrior while his sister Te Aomihia (the mātāmua) was the religious and political leader.¹³⁶ For achieved leadership, Āpirana Mahuika notes that:¹³⁷

The pattern of achieved leadership in Ngāti Porou follows the general pattern found in other tribal areas. It may be achieved by usurping the leadership of the ariki, through migration or marriage, through inheriting the mana of an ancestor who achieved leadership and through the allocation of defined areas, to ariki heirs of equal leadership ability.

Another example of achieved leadership is the rise of Hauiti usurping the mana of his tuakana Taua and Māhaki. Examples of migration to acquire mana include the Ngāi Tuere narrative and their success over Ngā Oho and the move by Iritekura to Waipiro Bay. An example of a strategic marriage as a means of acquiring mana includes Tūwhakairiora's marriage to Ruataupare and Hukarere and his marriage to Hinerupe.

However, to achieve leadership in such circumstances required that those who aspired to such leadership were of superior whakapapa lines themselves, that they had the qualities of leadership and that they entered the right marriage or marriages.¹³⁸

Mana Tangata

Mana tangata was usually inherited and it was the right to exercise authority over the people of a chief's hapū or iwi. While a parent of rank was alive that mana lay dormant until the death of that parent or until they retired.¹³⁹ Mana tangata, just like mana rangatira and mana whakahaere, could be lost or achieved by the same means as described above.¹⁴⁰

Mana rangatira, mana tangata, tikanga, whanaungatanga, and mana whenua in the district were rarely determined by anything other than ancestral right. The exceptions were the accumulation of personal items (often considered tapu or untouchable) such as garments, jewellery, slaves, and personal weapons. These items could be inherited or acquired with the shared benefit for the hapū being the elevation of the mana of the kin-group. However, tools, cultivations, and food had to be shared for the greater good, including the provision of service, tribute, and koha

¹³⁶ Mahuika. (1973). 40.

¹³⁷ Mahuika. (1973). 55.

¹³⁸ Mahuika. (1973). 45.

¹³⁹ Mahuika. (1973). 67.

¹⁴⁰ Mahuika. (1973). 67-68.

as was expected of Ngāi Tāne in favour of Ruataupare and Tūwhakairiora after Rarawa killed Kōhaki.

Mana either inherited or acquired still determines leadership of the Ngāti Porou people today.

Mana Whenua

Mana whenua was “derived from the ancestor who first discovered a specific region or lands.” The process of discovery required naming the land - taunaha tupuna.¹⁴¹ This title could be succeeded to through whakapapa to that tupuna – take tupuna.¹⁴²

Mana whenua could be divided as shown by Te Aokairau when her lands were divided between her children Rākaimataura, Putaanga, Huanga and Hinepare. Thus, the choice of a marriage partner was important (usually of the same rank) because the children of that union would inherit the mana whenua of their parents.¹⁴³ Āpirana Mahuika would contend that where people of rank married, their children could reside with either their father or mother’s people, but that generally mana whenua was derived from the mother.¹⁴⁴ That is because while a man may hand down land rights to his children, if one traces the whakapapa back far enough, the originating source in this district would be a woman – the first being Ruawaipu.¹⁴⁵ He also quotes Arnold Reedy stating the following:¹⁴⁶

Since the time of Muriwai and Ruawaipu, our land rights have come in the main through our women. When those Ngāti Porou lands were settled by the then Native Land Court, our ancestors claimed in many cases through women. This right to rule and hold the land led to other fields, especially sub-tribal and/or tribal leadership. This led to equal rights to speak on the marae.

An example of this is the ancestress Te Manukai, who according to Tuta Nihoniho “held the mana of the lands of her ancestor Te Aowera, and she was a woman of the highest rank in that clan.”¹⁴⁷

¹⁴¹ Mahuika. (1995). 63.

¹⁴² Mahuika. (1995). 63.

¹⁴³ Mahuika. (1973). 64-65.

¹⁴⁴ Mahuika. (1973). 65, 68, 73.

¹⁴⁵ Mahuika. (1973). 87.

¹⁴⁶ Mahuika. (1973). 260. Quoting A Reedy.

¹⁴⁷ Nihoniho. (1913). 44.

Āpirana Ngata also noted that mana whenua was derived from ancestral rights to land.¹⁴⁸ Once that was established, occupation over a long period of time became ahi kā roa or kauruki tūroa (the long ascending smoke from the fire of occupation).¹⁴⁹ Āpirana Mahuika, however, would make the point “that one’s right to reside in a particular area never grew mātaotao because, if one could establish the genealogical link, the right to occupy and use the land was accepted.”¹⁵⁰ However, mana whenua could also be lost if one of the “take” listed by Rāpata Wahawaha below applied.

Within the boundaries of the hapū lands, rights were exercised by whānau, as was the case where Kiterangi or Rarawa set aside land at Te Pōrahu as a kiore snaring area. Whānau rights also extended to small cultivation areas, and fisheries, where there was no necessity for collective hapū gathering or cultivating (e.g. for the hosting of manuhiri). As the narrative concerning Paikea’s arrival at Ngā-Puke-tū-rua demonstrates, the cultivation of kūmara remained tapu due to its association with the god Rongo. Therefore, its propagation and harvest remained a hapū-driven activity and that is why there were so many large cultivation areas observed by early Pākehā, as in the case of James Cook’s first voyage around the East Coast.

As the legal system of the district evolved, new forms of take were recognised. Rāpata Wahawaha, while emphasising the importance of ancestral rights,¹⁵¹ contended that the length of time of a person’s occupation was not important. Occupation without ancestral inheritance was worthless, he believed, no matter how long that occupation lasted.¹⁵² He also provided a list of the 28 different forms of take whenua that could be asserted in the Pōtikirua ki te Toka-a-Taiau district.¹⁵³ These were the tikanga applied to ensure good title and they existed in this district from time immemorial, only altered by the work of the Native Land Court.¹⁵⁴ The different forms of take highlighted by Rāpata Wahawaha co-existed over the same land creating different layers of rights held by individuals and whānau. Included in this bundle of rights were the right to cultivate, hunt or fish but all such rights were subject to the payment, either by service or by tribute as in the case of Rāpata Wahawaha’s family within the Te Whānau a Rākairoa hapū. Alternatively, the land was held by one of the means listed above.

¹⁴⁸ Sorrenson. (1987). 156.

¹⁴⁹ Sorrenson. (1987). 156.

¹⁵⁰ Mahuika. (1992). 55.

¹⁵¹ Wahawaha. (No date). I have used macrons but note that these were not in original text.

¹⁵² Wahawaha. (No date).

¹⁵³ Wahawaha. (No date).

¹⁵⁴ Wahawaha. (No date).

Most natural resource and land use was determined by the chiefs and elders. Within that limitation, hapū members could be assigned their own hunting or fishing areas. So, for example, Hineauta had her own fishing rock.

Hapū unity determined territory. Hapū could also forge alliances and act as a confederation where required for the purposes of muru, utu, and war as when Tūwhakairiora and later Kākātārau called for assistance with the wars against Te Whānau-a-Apanui. Relevant also is Paratene Ngata signing a paper circulated to assessors of the Native Land Court in the 1880s, describing the principles concerning the effect of mana.¹⁵⁵ This document described that the role of superior chiefs over large districts was to exercise mana over the people within but not over the land.¹⁵⁶ Hapū chiefs occupied land with their hapū but they could only exercise authority over their own people.¹⁵⁷ Therefore, as Rāpata Wahawaha described, mana whenua could only be exercised over one's own land within their hapū and iwi:¹⁵⁸

Te mana Rangatira tamaiti, tuakana. Mehemea i whakataua e tō rātou matua te mana ki a rātou, o te iwi, o te hapū rānei, me te whenua hoki ... Kāore he mana Rangatira o tētahi iwi e mana ana ki runga ki ngā whenua o ētahi atu hapū Rangatira hoki. Tōna mana ki tōna whenua ake anō, rātou ko tōna hapū, iwi rānei.

It was further noted that neither superior or hapū chiefs held title to land other than what they occupied through *inter-alia* ancestral right.¹⁵⁹

While title to land has been corrupted by the introduction of the Native Land Court system, multiple ownership of the land remains an important feature of land titles in the district with a quarter of the land base still Māori freehold land.

Mana Moana

¹⁵⁵ Tautahi, T., Mahupuku, H., Tunuirangi, H., Matenga, H., Kakaura, W., Erihana, R., Omipi, H., Eketone, P., Mangakahia, H. & Ngata, P. (1890). Opinions of various authorities on native tenure – The Effect of mana on native tenure. *Appendix to the Journals of the House of Representatives*. G-1, 15-16.

¹⁵⁶ Tautahi, et al. (1890). 15-16.

¹⁵⁷ Tautahi, et al. (1890). 15-16.

¹⁵⁸ Wahawaha. (No date).

¹⁵⁹ Tautahi, et al. (1890). 15-16.

Turning to mana moana, this “is the term used when referring to rights and authority over sea resources.”¹⁶⁰ According to Āpirana Mahuika it has two aspects:¹⁶¹

- (a) *Mana over the elements;*
- (b) *Mana of rights and ownership of resources. (as per Hineauta's rock)*

Mana over the elements is that Mana that Paikea had over the children of Tangaroa. It is further illustrated by the Huripureiata incident, where.... Paikea and Ruatapu – through karakia and incantations commanded the assistance of Tangaroa and the sea, over one another. ...

Rāpata Wahawaha was before the Te Whānau a Iritekura rūnanga on charges of trespass for hunting birds on Iritekura’s territory. While in rūnanga, Iritekura’s whaling boats were chasing whales at sea.¹⁶² Monty Soutar records Wahawaha’s response “You have tried us for trespassing. How far will those boats go as there are also boundaries in the sea?”¹⁶³ The matter ended there as clearly the whales (followed by the boats) may have traversed into Te Whānau a Rākairoa territory as the two hapū were neighbours. This story demonstrates that passage through hapū areas required chiefly consent, as did the salvaging of waka. An example given by Rāhera Rairi demonstrates the point:

When a ship stranded on the beach at Te Kautuku, Whānau a Takimoana alone took possession of it. Messages were sent out and the people called together. It was loaded with timber which they demanded the Europeans come and take the timber away. The boat was broken up by Pāpē and Paratene and Pāpē erected a home. The ship was stranded on the papatipu portion.

This illustrates that boundaries determined mana moana and where breached, a vessel, its people and contents were trespassing and could became the property of those who held mana moana.

Mana moana has governed the Ngāti Porou approach to fisheries and to the foreshore and seabed of the district. The tribe is only 1 of 2 tribes to have negotiated a settlement enacted as the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019. Section 3 makes it clear that the purpose of this Act is to contribute to the legal expression, protection, and recognition of the continued exercise of mana by ngā hapū o Ngāti Porou in relation to ngā rohe moana o ngā hapū o Ngāti Porou.

¹⁶⁰ Mahuika. (1995). 65.

¹⁶¹ Mahuika. (1995). 69.

¹⁶² Soutar M. (2000). 161.

¹⁶³ Soutar. (2000). 161. Quoting Rāpata Wahawaha.

Boundaries

Boundaries, although loosely applied between whānau members, were strictly applied to others and these boundaries were public declarations of mana whenua and mana moana. According to John Thornton - Te Rongotoa Tamahōri who was born in 1915:¹⁶⁴

The boundaries that define a whānau or hapū are ancient. For a boundary to be recognised they had to be set in place by a person who had strength and mana. They would also have to be recognised by a person or people with mana. The Ngāti Porou boundary stretches from Pōtikirua in the North to Te Toka-a-Taiau in the south ...

Boundaries were important to Ngāti Porou as they were a symbol of identity. They were a means of preserving the resources found in that boundary.

If land was to be taken, the building of a whakaumu was a sign of the impending raupatu.¹⁶⁵ There were also various ways to define territories including declarations of areas by features, as in the gift from Te Aopare to Hinerupe, which was: “Mai i te moana tae noa atu ki te ao parauri” - “From the sea as far as the eye can see.”¹⁶⁶ Alternatively pou whenua could be used and sometimes this was a person’s head as in the case of Tataramoa’s daughter Moemoea after the division of land between Tamakautuku, Karuwai and Kōpuni. In addition, the land could be divided, a form of partitioning, between children of a rangatira and the boundaries were carefully pronounced as in the case of the division of land by Te Aokairau between her children Rākaimataura, Putānga, Huanga and Hinepare. Boundaries were closely monitored, and this explains why two of the brothers known as “Ngā kurī paka a Uetuhiao” were so affronted when Ngāti Ira (some say Te Whānau-a-Apanui) under Taniwha were caught poaching and trespassing within their hapū lands.¹⁶⁷

The hapū or subtribes of the district have jealously guarded their boundaries and still do so to this day.

Aroha & Utu

¹⁶⁴ Thornton/Tamahōri. (1999). 6, 8.

¹⁶⁵ Native Land Court *Re Kautuku* (1913) 53 Waiapu MB 164. Evidence of Rāhera Raire.

¹⁶⁶ Mahuika. (1992). 49.

¹⁶⁷ Thornton/Tamahōri. (1999). 8.

Moving on to other values, requires first looking at this word aroha. It essentially means respect. Respect for the mauri of all things was essential as all elements were related by whakapapa and any defilement could lead to a breach of tapu. The importance of aroha is seen in the narrative of Apanui-Ringa-Mutu and his pact (akin to a contract) with Tūwhakairiora after his son, Te Aowehea, was killed during the battle of Te Maniāroa. The killing led to the spilling of blood of a chief and that was a breach of tapu. Apanui accepted that the price would be the killing of his own son by Tūwhakairiora. However, utu in this case required a commensurate act, not just a reciprocal killing. So Apanui provided the opportunity to fight again at Apanui's pā. In doing so, he offered Tūwhakairiora the opportunity to take utu commensurate and incremental to the actions Apanui was responsible for. The alternative for satisfying utu was to offer some form of payment, but this was not available for the slaying of chiefs. Also, utu was often delayed and often inter-generational.

There remains a fundamental commitment to the value of aroha as does the concept of utu or reciprocity of action.

Tribute, koha, manaakitanga

Paying tribute, providing service, contributing koha, and manaakitanga were forms of aroha. These forms of exchange combined with the value of generosity were about managing and maintaining relationships or creating alliances. Generosity underpinned these values so that the greater the tribute, service, gift or extension of hospitality, the greater the mana of the chiefs and their people. The chiefly demonstration of all these values enabled the management of risk associated with trade, land and natural resource use, relationships, and warfare.

Failure to respect the grant of tribute, gifting, or manaakitanga could lead to loss of access to natural resources or land, the severing of relationships, and security threats. Thus, Ngāti Ruanuku acted against Poroumata and his sons because the sons lost respect for the people and had become tyrants. Chiefs were expected to demonstrate aroha to their people or face potential revolution as in the case of Poroumata. Ngāti Ira, who gathered birds for the christening of Roro's baby, failed to pay the same respect to Ngāi Tangihaere, and thereby they became trespassers on Tangihaere land, resulting in reprisals from Ngāi Tangihaere and their allies.

The quid pro quo of accepting tribute, koha, or manaakitanga was to acquiesce to tikanga that bound chiefs and their people with reciprocal obligations. Aroha, generosity, mutuality and reciprocity were and remain key to relationships, interactions and transactions.

Ngāti Porou Tikanga – Ngāti Porou Law

The Ngāti Porou legal system was governed by the chiefs who made the law. It was the chiefs who laid out the tikanga for the people. The people listened, for if they did not there were consequences such as being struck down or being subjected to muru or raupatu by a chief. This was done to ensure that the people would uphold the mana of a chief's words. Āpirana Ngāta wrote:¹⁶⁸

Ki te Māori, ko te rangatira te mana whakatakoto tikanga. I rongo tōna iwi ki tōna reo, ā, inā takahia tāua kupu ka whakatoro tōna ringa kaha ki te patu, ki te muru, ki te raupatu, ki te whakahaere i ērā atu tikanga e kitea ai te mana o tāna kupu.

The leaders of the tribe still exhibit the qualities of the chiefs of old, and the modern expression of their authority is to be found at hui on marae, through scholarship and the arts and in the political domain through Te Rūnanganui o Ngāti Porou.

Tikanga

While the Ngāti Porou legal system may have been led by chiefs, often in consultation with the elders, the common underlying values of the legal system meant that there was a high degree of consistency in how tikanga was applied across the Pōtikirua ki te Toka-a-Taiau district.

As a result, it is possible to identify the following tikanga with accompanying offences and sanctions that were practiced and accepted by the communities of the district:¹⁶⁹

- Pantheism as in the belief in the superior god Io and other gods identifiable with the forces of nature, the departmental gods such as Rongomaraeroa, and the hapū and whānau gods such as those used by Ngāi Tuere to find Pūngāwerewere. This remains a feature of the Ngāti Porou way of life.

¹⁶⁸ Kaa & Kaa. (1996). 113.

¹⁶⁹ Ngata & Sutherland. (1940). 337.

- Deification as in the infusing of godly or ancestral power into pou, or wood carvings or rocks such as those brought from Hawaiki on the Horouta waka and carried overland in gourds to Tūranga-nui-a-Kiwa, and the use of pou or rocks to demarcate kūmara grounds or boundaries of different iwi and hapū. This remains a feature of the Ngāti Porou way of life.
- Classism as in the ranking of people by whakapapa and status by some hapū. For example, Rāpata Wahawaha's full name was Rangi-wahawaha-aruhe-ki-Te Puia-ki-Te Reinga-a-Tamateahiwera-o-Ngārangikakautu-mā-te-poaka.¹⁷⁰ In this name are references to a fern root plantation worked by Wahawaha. In describing his upbringing Rāpata Wahawaha referred to the chief Ngārangikakauta as “a rangatira of Whānau-a-Rākairoa” and Wahawaha’s elder cousin.¹⁷¹ Wahawaha and his family were required to provide service to his cousin as the hereditary chief.¹⁷² Wahawaha explained that Ngārangikakauta’s father (Ngetengeteroa) was tapu and grew no food.¹⁷³ That is why “I and my ancestors grew the food for them … We had no rights as we were cooks for Ngetengeteroa.”¹⁷⁴ This remains a feature of the Ngāti Porou way of life in the sense that whakapapa still determines relationships within the tribe.
- Marriages were in the main endogamous (internal to the hapū or iwi), for the sake of perpetuating the line, and preserving mana whenua unless engaged in for political purposes.¹⁷⁵ Marriages could also be a means of acquiring mana tangata and mana whakahaere. Marriages did not result in the transfer of mana whenua to a spouse. This remains an encouraged feature of the Ngāti Porou way of life.
- Polygamy and polyandry. Polygamy is well covered in the histography including the example of Tūterangiwhiu who had six wives. Such marriages were usually practised within one’s own whanaunga to ensure the retention of land and avoid any trouble from extended hapū where a spouse was not well treated or cursed.¹⁷⁶ That was because women were at all times protected by their own whānau and in-laws were required to

¹⁷⁰ Soutar. (2000). 51-52.

¹⁷¹ Soutar. (2000). 51-52.

¹⁷² Soutar. (2000). 51-52.

¹⁷³ Soutar. (2000). 51-52.

¹⁷⁴ Soutar. (2000). 51. Quoting R. Wahawaha.

¹⁷⁵ Mahuika. (1992). 56.

¹⁷⁶ Ngata. (1972). 20-21.

ensure she was well treated. Polyandry was also practised. According to Āpirana Mahuika in “times of war, men were away from their wives for long periods and often women would take defacto husbands in their absence, usually men of lesser rank.”¹⁷⁷ While this no longer remains strictly a feature of the Ngāti Porou way of life, a person who has had multiple relationships is not judged for it.

- Levirate. This tikanga was akin to the Jewish custom of levirate. It required a brother take his brother’s widow to wife.¹⁷⁸ In this district the custom was extended to require a brother, nephew, father or other near relative of the deceased to take a widow to wife.¹⁷⁹ An example of this was Tahu taking his brother’s widow Hamoterangi as his wife and Roro marrying his daughter-in-law Rākairoa II. This no longer remains a feature of the Ngāti Porou way of life.
- Koha or tribute as in the narrative of Ngāti Ira bringing birds for Roro’s son’s christening. Another example is Ngāti Ruanuku providing fish to Poroumata and his whānau. This remains a feature of the Ngāti Porou way of life through the tikanga associated with koha.
- Adoption or whāngai to maintain land within correct whakapapa lines as was the adoption of Hirini Te Kani by Te Kani-a-Takirau. This remains a feature of the Ngāti Porou way of life.
- Collective child rearing recorded by Kuni Jenkins (nee Kaa) as follows:¹⁸⁰

In her cultural role the Māori women was part of a community. The home unit was part of the whole kāinga. Grandmothers, aunts and other females and male elders were responsible for rearing the children of the kāinga. The natural parents were not the sole care-givers The routines of the whānau were such that couples could not be isolated to lead independent lifestyles. Their communal living required constant contact and interaction with other members of the tribe in a concerted effort to keep the affairs of the group buoyant and operational.

This remains a feature of the Ngāti Porou way of life.

¹⁷⁷ Mahuika. (1973). 129.

¹⁷⁸ Ngata. (1972). 58.

¹⁷⁹ Ngata. (1972). 58.

¹⁸⁰ Jenkins, K. (1986). Reflections on the status of Māori women. Unpublished paper. 12.

- War with associated ritual, karakia and tikanga. Men were primarily the warriors, but women could also participate. Tuta Nihoniho referred to the ancestress Te Inapuku of Te Whānau a Rākairoa who rallied her hapū with the war cry when Te Whānau-a-Ruataupare No. 1 of Tokomaru avenged the death of Pouramua, who had been killed by Te Whānau a Rākairoa at Ōmarumangamanga.¹⁸¹ This woman, he recorded, accompanied many war expeditions to Te Pourewa and to Te Kaha-nui-a-tiki.¹⁸² There was also the example of Te Aowhāriua who fought at the battle of Tārera Kōau. This remains a feature of the Ngāti Porou way of life through the commitment the tribe has made to the armed services of the state of New Zealand.
- Forced marriages. An example of this was the taking of Rākaumanawahe of Uepōhatu for Hauiti. This no longer remains a feature of the Ngāti Porou way of life.
- Serfdom as in the case of Ngāti Whakapuke, who were gifted by Pakanui to Iritekura to be her workers in her kūmara cultivation. This no longer remains a feature of the Ngāti Porou way of life.
- Slavery as with prisoners of war. They were treated as labourers (like the way prisoners of war were treated in Europe), but they could at any time be killed.¹⁸³ According to Monty Soutar:¹⁸⁴

In enslavement pononga (slaves) lost whatever mana they had once possessed and had no security of life. Captors treated slaves exactly as they desired and could kill on whim. Slaves could be forced to exhaustion in work or just as easily killed and eaten. Some were traditionally killed on the death of a chief or for the occasion of celebration... if not freed slaves were doomed.

Slavery ceased approximately the same time as when the 13th Amendment to the USA constitution was enacted in 1865. This no longer remains a feature of the Ngāti Porou way of life. Furthermore, not all hapū kept slaves. For example, Te Kani-a-Takirau

¹⁸¹ Nihoniho. (1913). 43.

¹⁸² Nihoniho. (1913). 43.

¹⁸³ Petrie, H. (2015). *Outcasts of the gods? The struggle over slavery in Māori New Zealand*. Auckland University Press. 273-274.

¹⁸⁴ Soutar. (2000). 87.

Poata born in 1912 explained the tikanga of Te Whānau a Ruataupare was one of equality.¹⁸⁵

- Transactions occurred according to principles akin to contract law. A key element of these transactions was the provision of some form of consideration, e.g. entering into peace arrangements (tatau pounamu) through the gifting of taonga, or the handing of a kōpaki (a gift that had to be returned either directly or in kind).¹⁸⁶ This remains a feature of the Ngāti Porou way of life.
- Respect for the mauri of all things as set out by Tuta Nihoniho above (even for the chiefs of an enemy who were only ever consumed by other chiefs). This remains a feature of the Ngāti Porou way of life.
- Rāhui as in the example of the placing of the rāhui over the sea where Poroumata had been slain. This remains a feature of the Ngāti Porou way of life.
- Kaitiakitanga used to protect areas set aside for bird or rat snaring as in the Te Rarawa narrative. This remains a feature of the Ngāti Porou way of life.
- Ritual and karakia required for safe voyaging, successful hunting, growing kūmara, fishing, warfare, travelling, boundary marking, constructing houses and pā, giving birth, baptism – in fact nearly all aspects of life. This remains a feature of the Ngāti Porou way of life.
- Land and resource succession based upon ancestral right, conquest or gifting with details explained above. This usually entailed allocation to children as was the case of Te Aokairau who gifted her land to all her children resident in the district. Hauiti and Konohi also did the same. Noteworthy is the fact that children who left their parents' districts were not included in succession. This remains a feature of the Ngāti Porou way of life with respect to all resources other than land, where the tikanga was altered by the Native Land Court system.

¹⁸⁵ Poata. (1999). 4-5.

¹⁸⁶ Mahuika. (1973). 79-80.

- Succession and the use of ōhākī for the transferral of mana whakahaere or mana tangata, as in the transfer from Hauiti to Kahukuranui. This remains a feature of the Ngāti Porou way of life.
- Maritime law - to obtain safe passage or berthage, chiefly consent was required or there was a risk of attack by canoes. This no longer remains a feature of the Ngāti Porou way of life.

Ngā Hara – Offences

Offences against the gods usually consisted of a breach of tapu. Transgressions through cursing or insults, any form of slander or defamation, fraud, theft, adultery, rape, sexual harassment, killings, or any spiritual or physical assault on chiefs or the ‘nobility’, or any disobedience would be punished. This is because such transgressions of mana and tapu were contrary to the societal ranking of the leadership and their sovereign authority.

Other offences included trespass, theft, poaching, coveting another’s wife, failing to care for children properly, adultery, tyranny, nuisance, failing to provide or honour tribute or koha to chiefs, failing to meet reciprocal obligations, escaping slavery, sorcery leading to death or sickness, reprisal killings or war. Notably, killing people of the same whakapapa, no matter how just the cause, was not sanctioned so it required special karakia or it was a task that was committed by slaves or other kinsmen.

This definition of what are offences (to the extent not modified by Christianity, colonisation and the criminal law) has changed.

Ngā Whakautu – Penalties

This was a system that provided a range of penalties. Such penalties could be imposed for transgressing tapu, engaging in unacceptable behaviour, belittling the mana of chiefs, or breaching tikanga associated with the gods. Atua, whanaunga, or aligned iwi could be used to

seek punishment. Infringement of tapu was punished by the gods or by man, and punishment swiftly followed the offence. Penalties for serious offending were collectively applied. In other words, they were not only directed at offenders but also to their entire whānau, hapū or iwi. There were also penalties for transgressing the will of the gods, or any ritual or karakia for the gods or any chiefly or elder decrees or tikanga. The penalties included utu, muru, banishment, war and cannibalism, payment of ransoms, whaiwhaia (sorcery), mate Māori or death.¹⁸⁷ In detail these penalties could be described as follows:

- War governed by the laws of tapu and its regulation of conduct, and the use of tohunga and atua used to successfully conduct war. Chivalry governed war and there were no sudden surprises, unless the enemy previously acted duplicitously. Thus, before the battle of Maniāroa warnings of the impeding attack were provided. While war (other than through military service) no longer remains a feature of the Ngāti Porou way of life, chivalry is still valued.
- Utu and ito (object of revenge) of which there are many examples in the histography. to demonstrate how these tikanga applied. The events leading to the battle of Maniāroa and the cycle of revenge fighting with Te Whānau-a-Apanui that followed is particularly illustrative of the effects of these tikanga. Utu or ito was reciprocal action, and revenge was pursued until extracted sufficiently. While revenge fighting no longer remains a feature of the Ngāti Porou way of life, battles between hapū are still orchestrated on the sport fields of the district.
- Raupatu was undertaken to ensure the complete annihilation or subjugation of an enemy and it required the appropriation of all property of the enemy including land – as was the case by Ngā Oho when they killed Tamatea Ūpoko's father and her section of Ruawaipu fled south of Whāngārā, to the people of Ngāi Tuere. This no longer remains a feature of the Ngāti Porou way of life.
- Muru as a means of restoring balance and removing the effects of the hara or wrong committed. A muru was normally a bloodless form of punishment and it was generally carried out between whanaunga and hunaunga. One such hara for which muru would

¹⁸⁷ Wirepa, T (1907). Mate Māori. In *Pipiwharauroa* 109. 8.

be used included failing to properly care for children. Reweti Kohere shared the following incident that occurred to his tipuna, Mōkena Kohere and his wife, Erana.¹⁸⁸ Their firstborn, Upaerangi, was burnt to death.¹⁸⁹ This rendered the chief liable to muru.¹⁹⁰ In Reweti Kohere's view, the "greater the person concerned the greater would be the demands on him."¹⁹¹ As the chief responsible, Mōkena could not stop it, for to "resist the exactions of the muru was to lower oneself in the eyes of Māori good society. In fact, to be robbed under the principle of the muru was regarded as honouring the robbed."¹⁹² Everything Mōkena owned was taken.¹⁹³ Reweti Kohere also noted that during a muru, small areas of land were often confiscated.¹⁹⁴ This no longer remains a feature of the Ngāti Porou way of life, but the value of muru is still adhered to.

- Banishment, an example of which was the direction of the rūnanga of elders to Tahu that he must leave Whāngārā. Another is when Hukarere II directed his three brothers to leave for Whakararanui, Horoera and Waiapu. This no longer remains a formal feature of the Ngāti Porou way of life, but families have been known to shun members of their whānau.
- Cannibalism: there are plenty examples of this in the histography. When Tūpaia of Tāhiti on the first James Cook expedition of 1769 asked tohunga at Ūawa whether it was true that they "really eat Men" he was told yes but only the bodies "of their Enemies who were killed in War."¹⁹⁵ Importantly, only chiefs could consume other chiefs. Notably there were incidents where cannibalism was practiced after war where tribes were made subservient. For example, at Taitai, after the Ngā Puhi raids following a tā moko ceremony, Ngāti Kaniwha "... not only provided birds for the feast but also one of their own, a man named Wharekiri, to be cooked and eaten. To celebrate the completion of the process a woman was served up in the same manner."¹⁹⁶ This tikanga

¹⁸⁸ Kohere. (1949). 31.

¹⁸⁹ Kohere. (1949). 31.

¹⁹⁰ Kohere. (1949). 31.

¹⁹¹ Kohere. (1949). 31.

¹⁹² Kohere. (1949). 31.

¹⁹³ Kohere. (1949). 31.

¹⁹⁴ Kohere. (1949). 31.

¹⁹⁵ Mackay. (1949). 56-57.

¹⁹⁶ Soutar. (2000). 75.

following war did not cease until at least 1836 at the battle of Te Toka-a-Kuku. This obviously no longer remains a feature of the Ngāti Porou way of life.

- Ransoms could also be demanded as in the case of Hirini Tuahine, the son of Rāwiri Te-eke-tū-o-te-rangi when captured by Ngāti Tūwharetoa and their allies at the battle of Kaiuku. As noted above, his father later paid the ransom of a greenstone mere named Pahikura and a toki poutangata called Te Heketua. This no longer formally remains a feature of the Ngāti Porou way of life, however tributes and koha can still be made.
- Whaiwhaia and mate Māori as with the death of Te Kani-a-Takirau's son, Waikari. There are still people who believe in this practice.
- Trespass was also sanctioned by actual physical retaliation or in a manner similar to that recorded by Tūtere Wirepa. He noted that in almost all villages there were tapu places where nobody was allowed to set foot.¹⁹⁷ They included, for example, “ahi taitai.” These were places where placentae or navel cords of chiefs were hung or buried. Other tapu sites were urupā where important members of the iwi or hapū were buried. The punishment for those who trespassed would be gruesome, with those responsible being “afflicted with a complaint not unlike an abscess caused by germ infection”; kurepe.¹⁹⁸ If the trespass occurred on a ‘umu pururangi’ (ovens or places where tohunga performed tohi or purification rites) the punishment would be an attack by a “plague of giant caterpillars or other insects.”¹⁹⁹ The identification of wahi tapu remains a feature of the Ngāti Porou way of life and many believe that trespassing on these places, or not taking proper pre-cautions on entry or exit can lead to sickness.

He Whakarāpopototanga – Summary

The early ancestors of the Pōtikirua ki te Toka-a-Taiau district developed a legal system requiring participation from different classes of people who held varying status from chiefs to commoners and slaves. Women could hold chiefly ranks within this society. The chiefly and

¹⁹⁷ Mackay. (1949). 119. Quoting T. Wirepa.

¹⁹⁸ Mackay. (1949). 119. Quoting T. Wirepa.

¹⁹⁹ Mackay. (1949). 119. Quoting T. Wirepa.

‘noble’ classes, including tohunga, exercised authority and made laws. Tohunga conducted rituals for atua, and appropriate karakia to ensure prosperity, protection, and safety from harm.

It was a legal system underpinned by mātauranga or knowledge from Hawaiki that would evolve in the district to become Ngāti Porou knowledge. It was a legal system that operated in accordance with the values and principles of tapu, wairuatanga, mana, aroha, utu, manaakitanga, mātauranga, whanaungatanga and whakapapa. Mana ariki or rangatira, mana whakahaere, mana tangata, and whanaugatanga were the full expression of sovereignty and law-making authority in a legal system that determined mana whenua and citizenship based on whakapapa.

The teachings of the whare-wānanga, sanctions, and punishment such as banishment and death were utilised as forms of social control. This was the legal system that imprinted the ancestral basis of the land within the Pōtikirua ki te Toka-a-Taiau district. After reviewing the evolution of that legal system by exploring the ontology behind sovereignty, law and citizenship within the Pōtikirua ki te Toka-a-Taiau district, and the epistemology and axiology reflected in that legal system and its ethical underpinnings prior to 1840, it is clear that prior to 1840 the chiefs, tohunga and elders were exercising sovereignty at the tribal and hapū level, they were engaged in making and enforcing law, and they determined their citizenry through whakapapa.

I conclude that Ngāti Porou, made and still make legal decisions regarding, *inter-alia*:²⁰⁰

- leadership and governance concerning all matters including land;²⁰¹
- intra- and inter-relationships with whānau (extended families), hapū (sub-tribes), iwi (tribes/nations);²⁰²
- determining rights to resources based on take tūpuna (discovery), take tukua (gift), take raupatu (confiscation) and ahi kā (occupation);²⁰³

²⁰⁰ Fox, C. (2010-11). 228.

²⁰¹ See Swainson, W. (1859). *New Zealand and its colonisation*. C Smith, Elder & Co. 151; Cox, L. (1993). *Kotahitanga: The search for Māori political unity*. Oxford University Press. 3-4, and chs 4 and 7.

²⁰² Cox. (1993). 3-4, and chs 4 and 7; Kawharu ,H. (1977). *Māori land tenure: Studies of a changing institution*. Oxford University Press. 39; Erueti, A. (1999). Māori customary law and land tenure. In Boast et al. *Māori Land Law*, Butterworths. 33 – 35; Asher, G. & Naulls, D. (1987). *Māori land*. (New Zealand Planning Council. 7; See also Durie. (1994 unpublished). 5.

²⁰³ Kawharu. (1977). 40-60; Erueti. (1999). 42-45, Asher & D Naulls. (1987). 5-6.

- the exercise of kaitiakitanga (stewardship) practices including the imposition of rāhui (bans on the taking of resources or the entering into zones within a territory) and other similar customs;²⁰⁴
- regulating use rights for hunting, fishing and gathering and sanctioning those who transgressed tikanga or rights (or both) in land and other resources; and
- regulating hapū citizenship rights to land and resources.²⁰⁵

My great grandmother Kāwini lived when this system was fully operative, albeit modified during the colonial process. I knew her. Her daughter Rīpeka grew up with the values, principles and the remnant norms of that system. Kāwni raised my mother Pākura who carried the name of a chief that controlled that system. She raised us in an urban setting, but as I have demonstrated, my experience and research demonstrate that the values, principles and norms of the Ngāti Porou legal system continue to pervade our tribal way of life.

²⁰⁴ Cox, L. (1993). 18; and Erueti. (1999). 30-32, 37; Waitangi Tribunal *Muriwhenua Fishing Report* (Wai 22) (Government Printer, Wellington, 1988) 61, 181.

²⁰⁵ Erueti. (1999). 33-37 and 38-41.

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