

# KA TAKAHIA ANO O TĀTOU TAPUAE: RETRACING OUR STEPS A Māori Governance Literature Review

TE MATA HAUTŪ TAKETAKE – MĀORI & INDIGENOUS GOVERNANCE CENTRE

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Māori & Indigenous Governance Centre  
University of Waikato  
New Zealand, 2014



THE UNIVERSITY OF  
WAIKATO  
*Te Whare Wānanga o Waikato*

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A Māori Governance Overview and Literature Review

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TE MATA HAUTŪ TAKETAKE-THE MĀORI AND INDIGENOUS GOVERNANCE CENTRE

MIGC is a research centre within Te Piringa-Faculty of Law at the University of Waikato. The vision of the centre is to improve Māori governance generally, whether it concerns Māori trusts, incorporations, post-settlement entities, Iwi organisations, marae and hapū committee, and Indigenous Peoples' organisations globally.

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2014

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## **DISCLAIMERS**

The views and opinions expressed in this report are those of the authors and do not necessarily reflect those of Te Piringa-Faculty of Law and the University of Waikato. The authors also apologise for any editing errors in this report. While every effort has been made to ensure the accuracy of the information provided in this report, no warranty or representation is provided regarding the accuracy of such information, and the authors and Te Piringa-Faculty of Law do not accept liability for any losses or damage arising directly or indirectly from reliance on the information.

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*When the colony was founded the Natives were already far advanced towards corporative existence. Every tribe was a quasi-corporation. It needed only to reduce to law that old system of representative action practiced by the chiefs, and the very safest and easiest mode of corporate dealing could have been obtained. So simple a plan was treated with contempt. The tribal existence was dissolved into its component parts. The work which we have, with so much care, been doing amongst ourselves for centuries, namely the binding together of individuals in corporations, we deliberately undid in our government of the Māoris. Happily, there is yet an opportunity to retrace our steps, to get back into the old paths.<sup>1</sup>*

-William Lee Rees, 1891.

## **I. Introduction**

Te Mata Hautū Taketake – the Māori and Indigenous Governance Centre (the Centre, MIGC)<sup>2</sup> – is a new research centre within Te Piringa-Faculty of Law at the University of Waikato. The *aims* of the Centre include:

- (1) Meeting currently unmet demands for cutting edge quality research on Māori governance best practice models; and
- (2) Building a body of knowledge and wisdom to help improve Māori governance.

The Centre's *vision* is to improve Māori governance generally, whether it concerns Māori trusts and incorporations, asset holding companies, iwi organisations, post-settlement governance entities, marae and hapū committees and Indigenous Peoples' organisations globally.

In furtherance of this vision, providing research on the current situation of Māori governance entities in Aotearoa New Zealand is of paramount importance. This literature review seeks to provide an overview of the literature regarding Māori governance generally, paying careful attention to those structures, processes and systems that incorporate tikanga and mātauranga Māori, referred to in this review as traditional Māori governance. The literature review will also briefly address literature regarding transactional Māori governance with its economic imperatives, and transformational Māori governance whose focus should be on improving the general social, cultural, political and economic well-being of the Māori community the entity represents.

Furthermore, the status of Indigenous Peoples under international law, the situation of Māori governing entities within the New Zealand framework of governance, analysis of some of the

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<sup>1</sup> William Lee Rees 1836-1912: 1891 AJHR G4, at xviii. The above 1891 quote by Rees provides an appropriate title for this report given it succinctly captures many of the current challenges and opportunities for Māori governance. Māori need to 'retrace their steps' in order to move forward with some vision, legitimacy and clarity by drawing on the past to guide the present and future.

<sup>2</sup> Te Mata Hautū Taketake – The Māori and Indigenous Governance Centre, *Pamphlet*, (University of Waikato, 2012).



prominent governance challenges facing Māori communities today, and a review of several case studies that identify models and specific methods for enhancing traditional, transactional and transformational Māori governance are considered in this review.

To provide a brief update on Māori governance in 21<sup>st</sup> century Aotearoa New Zealand however, the next section will depart from a standard approach to a literature review and will provide a brief overview of Māori governance outlining some of its strengths and challenges. The literature review sections will follow after the overview.

## II. Māori Governance Overview

The need for governance exists anytime a group of people come together to accomplish an objective. Every form of social organisation may be said to exhibit attributes of governance from family trusts to national and even global groupings such as the United Nations. The complexity of governance however, is difficult to capture in a simple definition.

‘Governance’ is a broadly defined term that can be found in numerous fields of study with specialised definitions and literature dedicated to the topic. To describe ‘governance’ as a distinct and easily identifiable area of research is deceptive. Rather than a singularly identifiable body of ‘governance literature’, much writing and research on the topic tends to be grounded within multiple fields of study.<sup>3</sup>

Indeed, definitions of governance are dealt with in multiple ways in and beyond the literature. Governance however, is as old as humanity and is reflective of multiple societies and cultures across the world.<sup>4</sup> Its ontological roots can be traced to the original Latin terms, ‘gubernare’ or ‘gubernator’: each an apt allusion for Māori and Indigenous People to the navigation of a ship or captain.<sup>5</sup>

Political scientists have tended to explore the evolution of national governing bodies notably illustrated in literature by Gallagher, Laver, and Mair<sup>6</sup> who focus on the growth of capitalist democracies before and after the recent global economic crisis. These studies of governance in practice and action offer specific disciplinary perspectives, inclusive of their own debates about the nature and form of governing processes and structures.<sup>7</sup> Rhodes writing of an emergent terminology in political studies at the end of the 1990’s, noted a propensity towards the use of ‘vogue’ words and phrases related to the reforming of the public sector as a type of ‘governance without government’, a trend, he argued, inherent in the movement towards ‘entrepreneurial governance’ and ‘new public management.’<sup>8</sup> Rhodes’ comments are

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<sup>3</sup> See Mahuika, R, ‘Ngā Niho Tēte o Pekehāua: Navigating the Pathway to Self-Determination’ (PhD Thesis Proposal, University of Waikato, 2013) at 11-15.

<sup>4</sup> Idem.

<sup>5</sup> John Farrar, *Corporate Governance: Theories, Principles and Practice*, (Melbourne, Oxford University Press, 3<sup>rd</sup> Edition, 2008) at 3.

<sup>6</sup> Michael Gallagher, Michael Laver, and Peter Mair, (Eds.) *Representative Government in Modern Europe*, (Fifth Revised Ed., McGraw-Hill, London, 2011); and above n 3 (Mahuika).

<sup>7</sup> Above n. 3 (Mahuika).

<sup>8</sup> R.A.W. Rhodes, ‘The New Governance: Governing Without Government’, *Political Studies*, (Vol. 44, Issue. 4, (September 1996) at 652-667. See also above, n. 3 (Mahuika) at 5.



indicative of the discernible influence of corporate ideas relating to governance, across a range of disciplinary perspectives articulated through the literature.<sup>9</sup>

A similar perspective is offered by Plumtre and Graham who assert that governance is not synonymous with government and the tendency to confuse the terms can have unfortunate consequences. Equating governance with government may constrain the way in which problems with policy and practice are conceived. For example, the confusion in terminology has led to policy issues being defined implicitly as a problem of government, with the result that the onus for fixing it necessarily rests with the government which can severely narrow the range of strategies that seem to be available to deal with problems. In short, definitional confusion related to governance has important practical consequences – it may affect not only the definition of a problem, but also the policy analysis over how to resolve it and the assignment of responsibility for taking action.<sup>10</sup>

While governments have a critical influence on many issues of public concern, it is only one of many stakeholders. As issues of governance, decision-making and accountability become more complex, and the limitations of government are more apparent, it is becoming clearer that government programmes are far from the sole determinants of socio-economic conditions within communities and regions. Many issues are simply too complex to be addressed by governments acting alone and require collaboration and partnerships with other sectors of society including the institutions of some of those other sectors such as the Māori community. Policy development and governance changes should be a bottom-up approach decided with the people (in this context the Māori and Indigenous community) and not exclusively by government.

Another example is provided by Kaufmann, Kraay, and Mastruzzi who assert that ‘good governance in education requires enabling conditions: the existence of standards, information on performance, incentives for good performance, and accountability.’<sup>11</sup> The attention to standards, performance indicators, and accountability, is reflective of the ideas that shape corporate understandings of best practice in governance.<sup>12</sup>

Rosenau on the other hand defined governance as “encompassing the activities of governments, but it also includes the many other channels through which ‘commands’ flow in the form of goals framed, directives issued, and policies pursued”.<sup>13</sup> Governance methods include ‘structures, processes, norms, traditions and institutions and their application by group members and other interested parties.’<sup>14</sup> Others assert that ‘governance’ is the process

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<sup>9</sup> For a more in-depth and comprehensive discussion of the theories of corporate governance and the application of its principles and practices within Australia and New Zealand Company law, see John Farrar, *Corporate Governance Theories, Principles and Practice*, (Oxford University Press, Melbourne, 5<sup>th</sup> Edition, 2008) and idem (Mahuika).

<sup>10</sup> T Plumtre and J Graham, *Governance and Good Governance: International and Aboriginal Perspectives* (Institute for Governance, Ottawa, 1999) at 2.

<sup>11</sup> Kaufmann, Kraay, and Mastruzzi in Maureen Lewis & Gunilla Peterson, *Governance in Education: Raising Performance*, (World Bank, 2009) at 3-4; above n. 3 (Mahuika).

<sup>12</sup> Even within the more refined focus of corporate governance, further distinctions can still be made between best practice governance of companies, and best practice in the public sector or with not-for-profit organisations. See for example Matheson, Doug *The Complete Guide to Good Governance in Organisations and Companies*, (Auckland, Profile Books, 2004), chapters 3, 4, and 5. See also above, n. 3 (Mahuika).

<sup>13</sup> J Rosenau and I E Czempich (eds), *Governance Without Government: Order and Change in World Politics* (Cambridge University Press, 1992) and J Rosenau, “Governance in the Twenty-First Century” in *Global Governance* (Vol. 1, No. 1, 1995) 14.

<sup>14</sup> World Bank, *Governance and Development* (World Bank, Washington D.C, 1992) 1.

through which institutions, businesses and citizens articulate their interests, exercise their rights and obligations and mediate their differences.<sup>15</sup>

Given the plethora of governance definitions, most do agree that the central component of governance has to do with making decisions about direction and the art of steering communities and organisations to achieve their aspirations.<sup>16</sup>

It is no wonder then that governance is actually quite a complex concept in theory and practice particularly where different cultural and political systems interface. The emphasis given to different aspects and practices of governance vary in different contexts because societies value processes and outcomes differently. In more utilitarian Western cultures for example, great value is placed on efficiency. In some Indigenous and tribal societies, a desire for consensus may override efficiency. Some cultures give primacy to individual rights while others stress communal obligations. Some societies may see economic growth as their primary goal while others accord more importance to environmental sustainability, social justice and cultural diversity. For constructive discourse to take place however, it is important that different governance traditions, institutions and values are acknowledged and understood and perhaps even celebrated, including for Māori in 21<sup>st</sup> century Aotearoa New Zealand.

## **1. Māori Influence Increasing**

Māori as a people and community are a more visible and influential sector within 21<sup>st</sup> century Aotearoa New Zealand society. Te Reo Māori is an official language along with English and American sign language, the Treaty of Waitangi and its implications for Māori and the nation have been acknowledged and negotiated since 1975, Māori politicians currently occupy over 10 seats in Parliament and the Māori Party is a coalition partner with the National Government at present, Māori are involved in the highest levels of most national sports, Māori television, news and radio are broadcast daily to the nation, Māori place names are well known throughout much of the countryside and it is even becoming the norm to have dual names for some places, and Māori make up approximately 15% of the New Zealand population.<sup>17</sup> The growing prominence of the Māori community nurtures understanding of cultural similarities and differences.

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15 Aboriginal and Torres Strait Islander Commission (ATSIC), *The Importance of Indigenous Governance and its Relationship to Social and Economic Development* (AIATSIS, Canberra, Australia, 2002).

16 T Plumpre and J Graham, *Governance and Good Governance: International and Aboriginal Perspectives* (Institute for Governance, Ottawa, 1999) at 3.

<sup>17</sup> In Aotearoa New Zealand in 2013, around 1 in 7 New Zealanders were Māori. There were 598,605 people of Māori ethnicity and 668,724 people of Māori descent living in New Zealand in 2013 which is 33,276 more than at the 2006 Census. Around one-third (33.1 percent) of people of Māori descent were aged under 15 years, while 5.6 percent were aged 65 years and over. <http://www.stats.govt.nz/Census/2013-census/profile-and-summary-reports/quickstats-about-Māori-english/population.aspx>. (Accessed February 2014).

## 2. Māori Governance Different?

The values, laws and institutions of Māori governance are different in places to those of mainstream New Zealand governance. The multiple accountabilities of Māori governors to their whānau (family) and community members, and beneficiaries and external stakeholders, make their governance challenges somewhat unique. A number of other significant differences are that Māori entity ownership characteristics are collective, ancestry based and do not have easy exit mechanisms for owners; traditional tikanga Māori (customary law) is a unique consideration, they are often highly politicised; are sometimes subjected to restrictive legislation such as the Te Ture Whenua Māori Act 1993 and the Māori Trust Boards Act 1955; often aspire to quadruple bottom lines, and they usually include long term asset ownership and tribal regeneration strategies.

Māori governance then poses complex challenges in the design of optimal governance systems, processes and structures given the many overlapping roles and relationships assumed by individual collective members, and cultural dimensions of Māori organisations typically based predominantly around lineage and social standing. A new approach to Māori governance is required to deal appropriately with Māori governance values, institutions and aspirations in 21<sup>st</sup> century Aotearoa New Zealand.

Moreover, Māori governance in the second decade of the new millennium needs to appropriately acknowledge at least 3 key areas which are distilled down to:

- Traditional Māori governance – mātauranga and tikanga Māori;
- Transactional Māori governance – appropriate and successful economic development; and
- Transformational Māori governance – where the governance of a Māori collective or community of interest makes a positive difference in the actual lives and well-being of that Māori community.

These 3 key themes underpin much of the analysis of this literature review.

## 3. Not One Size Fits All

As mentioned earlier, the literature internationally concludes that there is no single world-wide ‘one size fits all’ model for best practice governance due to differences in legal systems, institutional frameworks and cultural traditions.<sup>18</sup> Governance in France is not the same as it is in England. Governance in Tonga and the Cook Islands is not the same as it is in New Zealand and Australia. These different values, laws, institutional frameworks and cultural traditions explain why governance varies in different countries and even between communities within a country. Just like Europe and other parts of the globe, it behoves New Zealanders to acknowledge, understand, and perhaps even celebrate diversity including with Māori governance.

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<sup>18</sup> Jacques Bourgault for example, suggests the basic aspects of good governance comprise: (1) perception of the legitimacy of power of the public authority; (2) citizens at the centre of decision-makers’ concerns; (3) a ‘society-centred programme’ based on listening to citizens; and (4) rapid adaptability of public administration to citizens’ needs in dispensing public funds. See J Corkery (ed), *Governance: Concepts and Applications* (IIAS Working Group, International Institute for Administrative Studies, Brussels, 1999) 173.



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