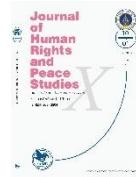




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Māori Self-Determination: A Case Study Analysis of Indigenising Self-Determination for Tapuika in Aotearoa

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ABSTRACT

This study investigates the views, values, and aspirations of Tapuika *iwi* (tribe) as a case study to understand if the Western concept of self-determination is compatible with the *Māori* worldview and how it may be indigenised for Tapuika. Fusing *Kaupapa Māori* (*Māori* approach) with Western social science methodologies (phenomenology and grounded theory), this paper investigates the collective right to Indigenous self-determination and its cultural, political and economic forms alongside *Māori* customary law, including the political aspirations of Tapuika participants collected between 2022 and 2024 in a series of interviews and focus group discussions. The study finds that the Indigenous right to self-determination is compatible with *rangatiratanga* (*Māori* self-determination) and *tino rangatiratanga* (*Māori* sovereignty) but requires decolonisation so that shared sovereignty is balanced with the State. Indigenous self-determination and *rangatiratanga* are both vital for Tapuika, but institutionalised racism in the treatment of Indigenous peoples in international and domestic law and the barriers posed by mono-legalistic hierarchies of rights are significant issues that call for political and sociocultural change. The paper concludes that constitutional transformation and reparatory justice are required for Tapuika to fully and effectively enjoy Indigenous self-determination and *rangatiratanga*.

Introduction

The State of New Zealand (the State), as discussed in this paper, is a democratic Westminster parliamentary system of government (the Government) that claims unitary, although disputed, sovereignty over Aotearoa, New Zealand (NZ) through 'the Crown'. A foreign and distant monarch as a symbolic head of state is a part of the complex culture of settler colonialism and White supremacy that provides an ideological basis for the Government's claim of exclusive sovereign authority in NZ. The legal distinctions between the Crown and the Government act as constitutional obfuscations.¹ In a political and mono-legalistic sense, the Crown within NZ law can also be identified as the executive branch of the Government. This paper will show that the Crown, the Government and the State form parts of the structuralist and culturalist means employed by the settler colonial regime to perpetuate their monopoly of constitutional power and sovereignty in violation of the Indigenous right of self-determination for Māori.

Tapuika (Sacred Fish) are a Māori tribe who belong to *Te Takapū o Tapuika* (The Belly of Tapuika), their ancestral homeland located in the North Island of Aotearoa. Tapuika are the sole case study of this research. Despite more than a century and a half of colonial violence, lawfare and dispossession, Tapuika have survived historical trauma with a resilience intent on recovering their sovereignty and self-determination. NZ history has revealed that the colonial foundations of the State lay in the violent usurping of Māori sovereignty involving land grabs that dispossessed Tapuika of more than 95 per cent of their ancestral homeland (King, 2003; Marsh et al., 2005; Mutu, 2019; O'Malley, 2019). Gray notes that the White majority in NZ ignore the damage done to Māori by colonisation, which blinds them to the institutionalisation of the perpetuated White privilege "through legislation and policy designed to meet their needs" (Gray, 2012, p. 20). Tapuika view their 2012 Settlement with the Crown as an unfair and unjust process that further entrenched colonial dispossession with the resulting 2014 legislation (Tapuika Claims Settlement Act, 2014), leaving them almost landless. Colonial confiscation and alienation have left less than 3 per cent of their ancestral homeland remaining under Tapuika ownership today (Marsh et al., 2005; Towers, 2009).

In 2024, the right-wing NZ Government began rolling back Māori rights in domestic law, ignoring Indigenous rights, diminishing Māori culture in public institutions and entrenching land and resource dispossession. Without understanding the links between NZ's history and the present inequalities experienced by Māori, there is insufficient empathy among the NZ public for

¹ The Crown's sovereignty is enacted in the *Constitution Act 1986* but contested by the sovereign status of Māori and also the inherited *Bill of Rights 1689*, which stipulates that sovereignty does not rest only in the Crown but requires the consent of 'the people'.

the historical and intergenerational trauma inflicted on *Māori* by ongoing colonialism. Instead, the causes of impoverishment for a once prosperous *Māori* population are gaslighted onto the victims through colonial myths and ideologies based on White supremacy, NZ European entitlement and settler dominance. The wealthy governing elites of NZ are mostly *Pākehā* (NZ European), who are the beneficiaries of colonial dispossession and aligned with right-wing political parties. There is an anti-*Māori* minority of the NZ public, including right-wing political parties, who are regressing back to colonial ideologies by either disregarding or completely denying *Māori* sovereignty and the Indigenous right to self-determination. This paper's objectives are to record Tapuika's views, values and aspirations; to indigenous self-determination for Tapuika; to evaluate the concept of self-determination and test whether it is appropriate for Tapuika. This paper will answer the research question: How does self-determination conform with the Indigenous views, values and aspirations of Tapuika, and what are the main barriers to their Indigenous self-determination?

The three main themes of self-determination in the data collected from Tapuika participants were cultural, political, and economic forms of self-determination; this paper will present the results of data analysis and findings relating to self-determination for Tapuika. The findings show that both *rangatiratanga*² (*Māori* self-determination, tribal authority, self-governance) and the Indigenous right to self-determination are critical for the political aspirations of Tapuika. *Rangatiratanga* is the culturalist indigenised perspective of Tapuika self-determination, whereas the structuralist Indigenous right to self-determination is defined in Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The argument of this paper holds that both culturalist and structuralist paradigms of self-determination can be included in just institutions that share sovereignty and adequately support Indigenous rights for Tapuika if NZ's constitutional order is reformed, transformed and decolonised. Achieving adequate constitutional transformation requires political, cultural and economic self-determination to provide the capacities and freedoms necessary for Indigenous self-determination and *rangatiratanga* to function feasibly for Tapuika.

Research Question

How does self-determination conform with the Indigenous views, values and aspirations of Tapuika, and what are the main barriers to their Indigenous self-determination?

² *Rangatiratanga* in the *Māori* worldview means weaving people together. Te Aka *Māori* dictionary defines it as "chieftainship, right to exercise authority, chiefly autonomy, chiefly authority, ownership, leadership of a social group... kingdom, realm, sovereignty, principality, self-determination, self-management" (Moorfield, 2024).

Objectives

The objectives of this paper are to make a record of Tapuika's views, values and aspirations; to indigenise self-determination for Tapuika, and to evaluate the concept of self-determination and test whether it is appropriate for Tapuika.

Literature Review

This study applies *Kaupapa Māori* (Māori approach) culturalist and structuralist decolonisation to address the power imbalance between the State and *Māori*; in doing so, it is necessary to acknowledge the dominant Western biases in academia. A balance of perspectives is provided by covering the foundations of settler colonialism in legal and political philosophy, while contemporary literature is focused on Indigenous and *Māori* perspectives. The main barrier to Indigenous self-determination is the Government, which claims unitary sovereignty entrenched in legislation with the Crown as head of state. However, this is disputed by *Māori*, who have a valid claim to Indigenous sovereignty dating back several centuries prior to the existence of the State. NZ constitutional law literature widely agrees that Te Tiriti o Waitangi 1840³ (Treaty of Waitangi) is part of NZ's unwritten constitution and *tino rangatiratanga* (Māori sovereignty) and *tikanga Māori* (Māori customary law) must play a role in any future written constitution (Constitutional Advisory Panel, 2013; Joseph, 2021; Mikaere, 2005).

This paper takes an Indigenous rather than a Western approach to the literature review by applying a decolonial *Māori* temporal perspective to the exploration of Indigenous self-determination scholarship. The Government's policies towards Māori self-determination are changeable and dependent on the political climate. NZ has a mixed-member proportional system with elections every three years. The current policies of the right-wing Government towards *Māori* include refusing to implement UNDRIP and diminishing the status of Te Tiriti, meaning suppression of the right to Indigenous self-determination and usurping *Māori* sovereignty. Academic discourses point towards the evolution of Indigenous self-determination in settler colonial states, while the literature that justifies settler colonialism is largely historical and based on forms of racial discrimination that this paper rejects because of its rights-based approach with an Indigenous lens. In order to understand the literature underpinning settler colonial liberal democracies, it is necessary to investigate the philosophical treatment of Indigenous peoples'

³ *Te Tiriti o Waitangi* (The Māori version of the Treaty of Waitangi) will be referred to as *Te Tiriti* or Treaty rights in this study. Tapuika are not signatories; this paper's focus is on UNDRIP Art. 3.

sovereignty and self-determination in international law and political philosophy, beginning with European colonialism.

Ka mua, ka muri (walking backwards into the future) is a *Māori whakataukī* (proverb). The Māori perception of time is different from the Western linear sequential view of moving forward; Māori face the known past, and it guides them into the unknown future. Tapuika are the descendants of Polynesian civilisation, which navigated the largest ocean in the world and reached the Americas centuries before Columbus set sail (Ioannidis et al., 2021). Indigenous civilisations and worldviews differ from those of the West, but they must be recognised as equals, neither superior nor inferior. This deconstruction of the superiority-inferiority complex lies at the core of decolonisation and the long struggle for Indigenous self-determination. To reveal the relevant literature, the paper will explore the Western concept of self-determination from a *Māori* perspective; hence, this literature review will be discussed by applying *ka mua, ka muri* through investigating the genealogy of sovereignty, self-determination and settler colonialism.

One of the earliest forms of European sovereignty claimed over Indigenous peoples' lands was the *Inter Caetera* papal bulls of Pope Alexander VI, issued in 1493 to demarcate the New World between Spain and Portugal. Along with the Treaty of Tordesillas 1494, *Inter Caetera* formulated the basis of the Doctrine of Discovery (Miller, 2011). The 1537 papal bull *Sublimis Deus* issued by Pope Paul III states that Indigenous peoples are entirely rational human beings with rights to "freely and legitimately enjoy their liberty and the possession of their property" (Pope Paul III, 1537). Francisco de Vitoria founded the School of Salamanca during the sixteenth century. He asserted that Indigenous peoples and Spaniards were bound by *jus gentium* (the law of nations) because both possessed natural reason. He confirmed Indigenous peoples' inherent sovereignty and rights to property ownership and dominion over their lands through their customs and laws (Seuffert, 2021). Vitoria rejected the notions of discovery and European authority in the New World, stating that "the Spaniards, when they first sailed to the land of the barbarians, carried with them no right at all to occupy their countries" (Vitoria, 1991, p. 264). However, Panzironi (2006) explains that 'cultural differences' were used by Vitoria to assume that 'just war' could grant the Spanish authority over Indigenous peoples through the conquest of their lands.

Both Vitoria and Grotius were influential political theorists who contributed to the foundations of international law in the sixteenth century. According to Wilson, Grotius was a proto-colonialist, anti-Papalist who drew his perspectives of Indigenous peoples heavily from Vitoria (Wilson, 2008). Wilson points out that Grotius is not 'pro-Aboriginal' and notes that he views resistance to "World-Economy as barbarism" (Wilson, 2008, p. 473). The Report of Matike Mai Aotearoa 2016 (Matike Mai) describes how Bodin claimed that Indigenous peoples could not

possess sovereignty because they were uncivilised. The IWGCT (Independent Working Group on Constitutional Transformation) states that:

Bodin's view of sovereignty was essentially based on a belief that it marked a hierarchy of progress from societies of apolitical barbarism (such as those of the recently 'discovered' Indigenous Peoples in the Americas) to those countries in Europe with a 'civilised' constitutional order. (Independent Working Group on Constitutional Transformation [IWGCT], 2016, p. 32)

Panzironi (2006) notes that Bartolomé de las Casas⁴ defended the self-determination of Indigenous peoples in Hispaniola against Spanish colonial slavery and brutality (Panzironi, 2006, p. 15). She contrasts natural law and the universal rationalism of humanity with the 'cultural dynamics' of Eurocentric sovereignty and White supremacists.

Seventeenth-century European conflicts led to the development of Westphalian sovereignty originating in the Treaties of Münster and Osnabrück 1648, which are referred to as the Peace of Westphalia. Westphalian sovereignty did not extend to Indigenous peoples, and many influential political theorists continued to insist that Europeans should colonise Indigenous lands during the seventeenth and eighteenth centuries. Hickford describes the Vattelian approach to European claims to Indigenous territories, including having no objection to colonisation and justifying possession of the territories that "erratic nations scantily populated" (Hickford, 2006, p. 131). In Hobbes's formulation of natural jurisprudence and the exclusion of 'savages' from sovereignty, Moloney states that "He thus contributed a set of premises to natural jurisprudence that denied Indigenous societies statehood and excluded them from the family nations" (Moloney, 2011, p. 189). As the supreme and absolute ruler of a nation-state, the sovereign monarch was challenged during the Enlightenment, which began to advance notions of liberty and rights, with Westphalian sovereignty gradually moving towards popular sovereignty. However, the development of liberal rights for European and American citizens between the seventeenth and nineteenth centuries did not shift the status of Indigenous peoples in international law.

Despite the theoretical development of liberalism during the Enlightenment, many leading liberal theorists justified the oppression of Indigenous peoples (Carmichael, 1990; Iurlaro, 2021; Seuffert, 2021; Weinert, 2007). Squadrito asserts that Locke played a prominent role in the dispossession of Native Americans (Squadrito, 1996). Rousseau considered the 'natural man' as 'savage' in reference to 'exotic' Indigenous peoples being less advanced in societal evolution

⁴ Bartolomé de las Casas was a Dominican Priest and former slave owner who later advocated for indigenous rights.

(Wasserman, 1994). Arneil describes Bentham as a “pro-colonialist and anti-imperialist thinker” (Arneil, 2021). Bentham’s theory of legal positivism claimed that the will of the sovereign is the law and that law and morality should be separate. Kellner asserts that Kant regarded Indigenous peoples as ‘lawless’ and ‘bellicose’ against whom aggression was justified to force them to exit the ‘state of nature’ (Kellner, 2020).

The transition from a dynastic sovereign state to popular sovereignty in the form of self-determination is described by Mayall (2008) as occurring after the collapse of the Hapsburg, Hohenzollern, Romanov and Ottoman empires. He identifies this transition as problematic in that self-determination requires the recognition of a political collective rather than a single individual ruler. Castellino (2014, p. 30) states that the ‘right’ of self-determination, “initially expressed in the American and French revolutions at the end of the eighteenth century, was considered as one of guaranteeing democratic consent within an entity.” However, democracy does not guarantee that human rights apply equally to Indigenous peoples, especially in settler colonial states (Veracini, 2010; Wolfe, 1999). Resolving disputes involving sub-state groups claiming self-determination against states is wrought by power imbalances and a lack of processes or mechanisms to effectively deal with such claims in international law (McCorquodale, 1994; Pentassuglia, 2017).

Hayman and Williams (2006) distinguish between historical and contemporary sovereignty and investigate the challenges to contemporary sovereignty posed by human rights. They argue that Westphalian sovereignty requires a reformed conceptualisation in theory and practice. Anghie (2005) argues that imperialism is central to the formation of contemporary international law and that sovereignty is used to impose inequalities inherent in colonial structures; Fisch notes that self-determination is incompatible with domination and inequality (Fisch, 2016). Robbins asserts that the concept of 'shared sovereignty' is becoming possible for Indigenous peoples who are minorities in postcolonial nations (Robbins, 2010). Shared sovereignty to Indigenous peoples implies a shift from state-centric sovereignty towards Indigenous self-determination. Academic discourses and debates on self-determination are complex and revolve around peoplehood, identity, history, human rights, international law, decolonisation and legalistic or just authority and autonomy within specific territorial boundaries (Pentassuglia, 2017; Quane, 1998).

Knop (2002) critiques 'categories' and 'coherence' approaches to self-determination as vague and inconsistent. She explores norms, rules and principles regarding self-determination, revealing problematic questions such as what constitutes a 'people' and who deserves this status. Knop (2002) examines how international law has developed for Indigenous peoples historically throughout decolonisation, the International Labour Organisation Indigenous and Tribal Peoples

Convention 1989 (No. 169) and the United Nations (UN). Knop (2002) uses international legal inquiry to confront the structures, biases and power imbalances of international law regarding Indigenous self-determination. Buchanan's holistic and systematic approach to international law claims justice and peace should be the primary goals for the international legal order over the 'national interest' (Buchanan, 2003). Macklem (2015) and Beitz (1979) also share the view that the right to self-determination should function to achieve global justice. Jackson-Preece notes that despite the lack of formal mechanisms for dispute resolution, Indigenous self-determination is evolving in international law towards forms of sub-state self-governance and autonomy in complex power-sharing agreements (Jackson-Preece, 2008). Mikaere (2007) asserts that respect for *Māori* sovereignty requires *tikanga Māori* (*Māori* customary law) to be affirmed as the original law of Aotearoa and that Western legal principles, including human rights, should be adapted to fit *tikanga Māori* internally rather than being imposed on *Māori* from the outside. Mikaere states that "we should be asking ourselves 'what do human rights principles have to offer by way of useful adaptation to or development of *tikanga Māori* in a contemporary context?'" (Mikaere, 2007, p. 58). *Tikanga Māori* is a cornerstone of this study's indigenisation of UN-defined Indigenous self-determination.

It took decades for the adoption of UNDRIP in the UN General Assembly in 2007, but the NZ Government initially rejected it. Pitty and Smith (2011) argue that the distribution of self-determination to Indigenous peoples is not a threat to the territorial integrity of states. Te Aho (2020) argues that the belated endorsement of UNDRIP by the NZ Government in 2010 marked the beginning of 'rights ritualism' rather than the effective implementation of Indigenous rights. The NZ Government briefly indicated a willingness to consider the implementation of Indigenous self-determination in the He Puapua report, which states that:

Indigenous peoples' self-determination is expressed in various forms, such as self-rule in Greenland and the Saami parliaments in Norway, Sweden and Finland. ... In most cases, Indigenous peoples in these jurisdictions exercise more power and authority independent from the state than *māori* in Aotearoa (Te Puni Kōkiri, 2019, p. 30).

However, a change in the NZ Government subsequently brought in a policy of abandoning Indigenous rights in 2024, with the right-wing coalition declaring that they have no intention of implementing Indigenous rights.⁵ Watene and Merino (2018) investigate the importance of self-determination, decolonisation, and Indigenous philosophies in achieving wellbeing and

⁵ In contrast, Canada passed the United Nations Declaration on the Rights of Indigenous Peoples Act in 2021.

development goals. They note the need for Indigenous communities to participate in governance processes and institutions that meet the minimum standards set by UNDRIP. The UN Human Rights Council recommends “that the government work with the Monitoring Mechanism and iwi to progress constitutional transformation discussions and implement the recommendations of the 2016 *Matike Mai Aotearoa report*” (United Nations Human Rights Council [UNHRC], 2018). The IWGCT produced *Matike Mai* as the result of a series of 252 hui (meetings) with Māori throughout NZ between 2012 and 2015 (IWGCT, 2016).⁶ Clavé-Mercier (2024) investigates the politics of sovereignty in the context of settler-colonialism in NZ. He explores competing narratives of sovereignty that “entrench or challenge the structure of settler colonialism”, critiquing “fixed and state-centrist” views of sovereignty and the “(dis)empowering and (de-)authorising” methods of the Crown (Clavé-Mercier, 2024). Clavé-Mercier notes that *Māori* views have the potential for alternative forms of sovereignty and decolonisation. It is clear from the investigation of relevant literature that there is a need for the settler colonial conceptualisation of unitary State sovereignty to change for the process of constitutional transformation towards *Māori* self-determination and sovereignty to occur in NZ. The scope of potential changes is wide and politically sensitive, ranging from incremental progressive reforms to radical revolutionary transformation towards *Māori* self-determination. However, the right-wing government of NZ is suggesting an alternative, regressive political vision in which *Māori* rights are denied or ignored completely. The primary focus of this paper is the perspectives of Tapuika as the case study. The next section will outline this study's research methodology.

Research Methods

This study has a reflexive research methodology that combines *Kaupapa Māori* (Māori approach) with phenomenology and grounded theory as a methodological framework for listening to and interpreting the voices of Tapuika. *Kaupapa Māori* is the primary methodology because it is the most appropriate and ethical for Tapuika as the case study. Methods are being drawn from Husserl's phenomenology (2012) of embodiment and transcendental phenomenology combined with Merleau-Ponty's (2002) phenomenology of perception alongside critical realist grounded theory (Kempster & Parry, 2011; Oliver, 2011) in conjunction with Charmaz's (2019) constructivist grounded theory for social justice inquiry (Charmaz et al., 2017). As an outsider-insider with a mixed ethnic heritage, the researcher views himself as between and within the *Māori* and Western world whilst maintaining mindfulness of reflexivity and positionality (Dwyer & Buckle, 2009;

⁶ Margaret Mutu was the Chairperson and Moana Jackson the Convenor for the *Report of Matike Mai Aotearoa*. Tapuika did not formally take part in this report.

Greene, 2014; Pollack & Eldridge, 2015). Tools used to assist in reflexive analysis methods included a methodological log, field notes, and a journal with analysis of sociocultural spaces throughout the research phases (Greene, 2014; Lincoln & Guba, 1988). Awareness of personal biases and background factors were anticipated, such as the researcher's private school Western education and experiences of racism as a Brown person in White environments.

Qualitative research methods utilised for the collection of data included in-depth, semi-structured, one-on-one and group interviews alongside focus group discussions with a total sample of 31 Tapuika participants, including 14 experts and leaders (expert leaders) and 17 ordinary community members. Tapuika expert leaders included key informants from a group of Tapuika members with specialised insights and understandings recognised by Tapuika as having the *mana* (authority) to lead.⁷ Demographically, seventeen participants were female, and fourteen were male. Ten of the participants were *rangatahi* (youth) aged between 18-32, eleven *pakeke* (adults) aged between 33 and 59 years old, and ten *koeke* (elders) aged 60 and older. Twenty-four participants resided in the Tapuika tribal estate of Te Takapū o Tapuika (the Takapū); nine participants resided outside. All four Tapuika *hapū* (subtribes) were included to ensure that the synthesised findings are as accurate, balanced and inclusive as possible.

The fieldwork between 2022 and 2024 involved Tapuika participants being asked to express their views of self-determination and *rangatiratanga*, exploring the spaces between each concept in the Western and Māori worldviews to identify key differences and similarities. They also participated in the formulation of *rangatiratanga* (Māori self-determination) values for Tapuika based on twelve constitutional transformation values drawn from Matike Mai (IWGCT, 2016) used as a deductive framework to test whether they were appropriate for Tapuika. Participants engaged in a card sorting activity beginning with the twelve Matike Mai values; each was rated as 'most', 'fairly' or 'least' important to decide which *rangatiratanga* values were essential for Tapuika. Each participant progressively added new values and made amendments and adaptations to the *rangatiratanga* values to ensure that they were based on Tapuika beliefs and aspirations. The synthesised collective *rangatiratanga* values for Tapuika were generated by combining the rated value lists of expert leaders with those of the community and youth.

Follow-up fieldwork was done by checking and verifying the analysis and findings with participants both in-person and online via email and Zoom. According to the principles and protocols of Kaupapa Māori, the preferred method of engaging with participants is *ā-kanohi* (eye-to-eye) (Smith, 2012). In total, 65 per cent of participants engaged *ā-kanohi*, and 35 per cent

⁷ *mana*: "prestige, authority, control, power, influence, status, spiritual power, charisma" (Moorfield, 2024); *mana* also includes spiritual aspects in the Māori worldview.

participated online due to geographical proximity limitations that included the researcher being based in Thailand and COVID-19 travel restrictions. The qualitative methods of this research mean that findings are limited by subjectivity, and the interpretivist data analysis is limited in its ability to conclusively determine all relations between concepts and Western and *Māori* worldviews. Suspending all presuppositions is considered unfeasible in this study, with the researcher being a member of the case study tribe. In order to mitigate this limitation, the researcher's biases were reflexively noted during all research phases, and the methodology is open and transparent in its critical Indigenous political orientation and prioritisation of *Māori* perspectives. Limitations were mitigated as much as possible to achieve clarity and accuracy of the findings.

Ethics protocol approval was achieved prior to data collection with a combination of Western academic and *Māori* protocols. Western ethical research principles included beneficence, justice and informed consent. The Principles of Research Ethics for Human Rights Research rights-based ethics protocols were also followed (Institute of Human Rights and Peace Studies [IHRP], 2021). This study needed to be made aware of potential ethical issues regarding Indigenous research, including racism, imperialism and colonialism of ontologies, methodologies and epistemologies (Smith, 2012, pp. 38–41). Smith's ethical protocols for *Māori* research engagement were applied (Smith, 2012, p. 124). Other issues identified by scholars are listed by Porsanger (2004, p. 106), including the potential for misinterpretation, mystification, false representation or fragmentation of Indigenous knowledge; objectivity, legitimacy, issues of power, control and ownership of Indigenous knowledge; respect, responsibility, reciprocity and accountability of Indigenous research.

Theoretical and Conceptual Frameworks

The ontology and epistemology of this research balance Western and *Māori* worldviews by combining a critical realism paradigm with *Kaupapa Māori* and *He Awa Whiria* (The Braided River) as a theoretical framework through which Tapuika perspectives were interpreted (Barnes, 2019; Bishop, 1999; Henry & Pene, 2001; Martel et al., 2022; G. H. Smith, 1997; Smith, 2015). This study uses *Kaupapa Māori* (*Māori* approach) to empower the voices of Tapuika and as an approach to analysis and theorising, placing the *Māori* perspective at the centre of the research. Structuralist and culturalist decolonisation approaches of *Kaupapa Māori* were drawn from Moko-Painting et al., who assert that:

Culturalist approaches centre *te reo* (Māori language), *mātauranga* (Māori knowledge) and *tikanga* (Māori customary laws and practices). A structuralist approach means paying attention to and dismantling the structures within science, which continue to exclude Māori knowledge and people. It encourages us to think about the colonial roots of science and how science has been used to justify colonial violence and oppression of Māori (Moko-Painting et al., 2023, p. 13).

This research indigenises the concept of self-determination within *te ao Māori* (the Māori worldview). It uses a culturalist approach to decolonisation based on the values of Tapuika, while its structuralist approach uses critical social science to analyse colonial systems experienced by participants, deconstruct cultural and structural forms of violence, and decolonise self-determination discourses. The next section will explore the concept of self-determination through a Tapuika lens.

Māori Self-determination

Rangatiratanga (Māori self-determination) means the weaving of people together, and Tapuika participants view it as a collective bottom-up process of leadership as well as a top-down one. Tapuika expert leaders view *rangatiratanga* as their traditional form of political leadership sourced in pre-colonial *tikanga Māori* (Māori customary law). Tapuika participants consider *mana motuhake*⁸ (independence, authority, autonomy, self-determination) and *rangatiratanga* are interchangeable terms for Tapuika self-determination; this is a common perception among Māori (Durie, 1998). Tapuika are politically centred in *hapū* (sub-tribes), in which groups of several *whānau* (families) make collective decisions through *hui* (communal decision-making) processes. *Mana wāhine* (female leadership and authority) and community were found to be particular strengths of Tapuika. Tapuika participants strongly linked self-determination to their unique identity and *Tapuikatanga* (Tapuika culture and practices), showing that the cultural component of self-determination is important for Tapuika. *Tino rangatiratanga*⁹ is the pre-colonisation form of Māori sovereignty guaranteed in Article 2 of Te Tiriti and is the ultimate political aspiration of Tapuika. It is important to note that *tino rangatiratanga* is something that Māori never ceded to

⁸ *Mana motuhake*: “separate identity, autonomy, self-government, self-determination, independence, sovereignty, authority” (Moorfield, 2024).

⁹ *Tino rangatiratanga*: “self-determination, sovereignty, autonomy, self-government, domination, rule, control, power” (Moorfield, 2024).

the Crown ¹⁰, and Tapuika did not sign *Te Tiriti*. It was found that Tapuika do not seek separatism, but they do seek mana motuhake as a form of independence from other *iwi* (tribes) and autonomy within the State. The next section will present the findings, including *rangatiratanga* values, the political perspectives of Tapuika and their alignment with constitutional transformation.

Research Results

Rangatiratanga Values

In Durie's description of *Māori* customary law, he states that "The Māori legal conception was thus values-oriented, not rules-based" (Durie, 1994, p. 8). *Rangatiratanga* values for Tapuika is a list of *Māori* values and political aspirations identified by Tapuika participants; it is in a rated order of priorities, but all values are considered essential. The following are the *rangatiratanga* values for Tapuika:

Belonging

Rangatiratanga (self-determination)

Wellbeing of Ranginui and Papatūānuku (health of father sky and mother earth, nature)

Holistic health and wellbeing

Traditional knowledge, education

Community

Tauutuutu (reciprocity)

Balance

Mana motuhake (independence, authority, autonomy)

Aroha (love)

Tikanga and kawa (customary laws and practices)

Place

Structure

Conciliation

These findings will be discussed in the above list's order of values rated by Tapuika participants, beginning with those considered most important. Belonging is a value which Tapuika participants identified with the *Māori* concept of *tūrangawaewae*, meaning the place where one has the right to stand, reside and belong through kinship or *whakapapa* (genealogy). The primary

¹⁰ The Waitangi Tribunal found that *Māori* *hapū* and *iwi*, including signatories to *Te Tiriti*, never ceded sovereignty to the Crown (Waitangi Tribunal, 2014).

barrier to this value is land dispossession, with only 3 per cent of the Tapuika tribal estate remaining in their ownership. *Rangatiratanga* is the preferred term for Māori self-determination for Tapuika and is a vital concept inherently connected to Māori sovereignty. The well-being of *Ranginui*, the Sky Father, and *Papatūānuku*, the Earth Mother, represents environmental health, which is connected to holistic human health and wellbeing. Participants consider the health of nature damaged by the imposition of Western scientific and capitalist values. Education is a core value for Tapuika, especially their culture, identity, history, and *mātauranga Māori* (traditional knowledge) to counter Western cultural hegemony, assimilation and colonial epistemologies. The community was considered a core strength of Tapuika based around *whānau* (families) and *marae* (sacred meeting grounds). Values rated as fairly and least important will be discussed next.

Participants suggested *tauutuutu* as the process of reciprocity. *Mana motuhake* (self-determination, independence, authority, autonomy) was rated equally with balance, which was viewed as between *Māori* and non-*Māori*, humans and nature or Tapuika, other tribes and the Government. Often translated as love, *āroha* drew mixed perceptions as some participants considered it of low priority for the political context of Tapuika, and some thought it was most important because of its meaning in their communities and families. *Tikanga* and *kawa* are Māori customary laws that Tapuika participants view as essential for regulating the physical and spiritual worlds. Tapuika participants rated the structure as least important, associating it with the Government's imposed institutions and laws. Conciliation was the lowest-rated value, predominantly viewed as being with the Crown in the 2012 Settlement, but it was still rated fairly important and associated with other *Māori* tribes.

Beginning with belonging and *rangatiratanga*, analysis of the results shows that the culture and identity of Tapuika are considered of the highest importance alongside the well-being of nature and people. Education, traditional knowledge and community are also among the highest priorities. The low rating of structure and conciliation indicates that Tapuika are not satisfied with the Settlement and the Government's policies towards Māori. The *rangatiratanga* values of Tapuika could provide a framework upon which Tapuika may seek to advocate for their Indigenous right to self-determination based on their priorities. It was found that the forms of constitutional transformation proposed in *Matike Mai* are appropriate for Tapuika based on their views, values and political aspirations. The UN Human Rights Council and the National Iwi Chairs Forum have expressed their support for implementing models proposed in *Matike Mai* (UNHRC, 2018). However, the Government and public opinion remain significant obstacles. The next section will investigate collective political self-determination for Tapuika.

Discussion

Political Self-determination

As an indigenised form of self-determination, rangatiratanga is preferred by Tapuika participants because it is based on te ao Māori (the Māori worldview). Rangatiratanga is collective and has cultural, economic and political forms that must be equally present for the full and effective enjoyment of Indigenous self-determination. Professor Claire Charters states, "New Zealand is a leader in realising Indigenous peoples' rights to culture. However, Aotearoa falls behind other Western liberal democracies in giving effect to Indigenous peoples' self-determination. Comparatively, we also have some of the weakest legal protections of human rights in the world" (Charters, 2023). One significant finding is that less than half of Tapuika participants knew of self-determination; Tapuika were more aware of Treaty rights and focused on mana (authority, dignity). A plausible reason for this lack of awareness is the need for more human rights education, which is largely absent in the NZ curriculum; UNDRIP is not included in any subject area at any level (NZ Ministry of Education, 2022). Tapuika participants can infer self-determination in insightful ways. Rangatiratanga is considered an existential struggle by participants, and their views indicated experiences of institutional racism and the perpetuation of structural and cultural violence by the settler colonial State. The conflict between the sovereignty claims of Māori and the State is at the core of this struggle, which will be discussed next.

While Tapuika understood rangatiratanga as representing tribal self-determination, achieving *tino* rangatiratanga (Māori sovereignty) was their highest political aspiration. This finding was significant because it revealed that sovereignty is at the centre of their views of self-determination, broadening the temporal context to include their pre-colonial sovereign status in the Takapū and further indicating alignment between Tapuika perspectives and ideas of constitutional transformation. One possible direction is an adapted political status similar to that of Niue and the Cook Islands, which are independent and self-governing but also in free association with the State (Townend, 2003).

Both rangatiratanga and the Indigenous right to self-determination were found to be crucial components for the political aspirations of Tapuika. Rangatiratanga may be interpreted as the culturalist indigenised perspective of self-determination used by Tapuika, whereas the Indigenous right to self-determination, UNDRIP Article 3, is a structuralist perspective. Indigenous self-determination is vital for the well-being of Indigenous peoples, as shown by research at Harvard Kennedy School's Project on Indigenous Governance and Development, which found that increases in self-determination are the best predictors of positive increases in social and

economic outcomes (Harvard Kennedy School, 2023; Murphy, 2014, p. 327). The Indigenous right to self-determination alongside UNDRIP Articles 4, 5 and 32 align with the aspirations of Tapuika for control over their lands and resources within their collective communities and autonomous institutions. However, the imbalance of political power in NZ remains a significant barrier. An adequate mechanism for solving UNDRIP-based self-determination disputes would assist in enjoying Indigenous self-determination. Furthermore, the enjoyment of Indigenous rights would be enhanced by addressing mono-legalistic hierarchies of rights internationally and domestically. The next section will discuss Western mono-legalistic and Tapuika aspirational perspectives of rights hierarchies.

Mono-Legalistic Hierarchies and Indigenous Rights

Applying further political and legal lenses to rights hierarchies may be useful for understanding how rights systems function for Tapuika. All rights systems sit in mono-legalistic hierarchies of rights; identifying which rights take precedence in international and domestic law may be helpful to ascertain the difference between the mono-legalistic hierarchical rights system imposed by the settler colonial State and the Tapuika aspirational hierarchy. Figure 1 below has visualised two hierarchies based on the various rights systems discussed in this study. One is from a Western perspective that accounts for the realist power politics of rights distributions; the other is based on the views and aspirations of Tapuika participants, including a mixture of Māori and Western rights.

Mono-legalistic and Aspirational Hierarchies of Rights

Western mono-legalistic hierarchy:

State sovereignty
Economic and property rights
Citizenship rights
Te Tiriti o Waitangi - Treaty of Waitangi rights
Treaty-based human rights (minimum standards, binding)
UNDRIP declaration-based Indigenous rights (non-binding)

Tapuika (Māori mixed with Western) aspirational hierarchy:

Tino rangatiratanga - Māori tribal sovereignty = sovereignty of the State,
Rangatiratanga and mana motuhake - Tribal self-determination,
Te Tiriti o Waitangi - Treaty of Waitangi rights, co-governance
Tikanga and kawa - Māori customary law
Mana - authority, dignity (physical and spiritual worlds)
Tōtikatanga - social justice capability rights and process
UNDRIP declaration-based Indigenous rights
Tika Raraunga - citizenship rights
Tika tangata - human rights

Figure 1.

Source: Isaac Aesili Mcneill, 2024

These hierarchies use a combination of state-centric realism and international human rights law alongside NZ domestic law and the perspectives of Tapuika as interpreted by the researcher using phenomenology, grounded theory and Kaupapa Māori. The Government sees Indigenous rights as aspirational only, subject to the State's "legal and constitutional frameworks," and currently has no intention of implementing UNDRIP (Amnesty International, 2023; Sharples, 2010). Figure 1 displays the challenges of overcoming the mono-legalistic rights hierarchy and transforming it into a hierarchy of rights based on a paradigm that includes justice and self-determination for Māori. The tension between the two hierarchy paradigms includes decolonising the concept of sovereignty and self-determination as well as the challenges posed by human rights being skewed towards a Western worldview. For Tapuika to negotiate these challenges, this paper highlights rangatiratanga as the indigenised form of self-determination for Tapuika, with participants also strongly calling for the recognition of Māori sovereignty. The views of Tapuika participants show that an imbalance of power and the injustice of sovereignty and self-determination distribution are barriers to their effective enjoyment of Indigenous self-determination. Understanding rights hierarchies can contribute more clarity to the political map through which Tapuika needs to navigate and may be useful for locating their aspirations within

the reality of national and international political contexts. Constitutional transformation and shared sovereignty between Māori and the Government will be discussed in the next section.

Constitutional Transformation and Self-determination

It was found that Tapuika participants believe that rangatiratanga requires constitutional transformation, including Māori self-determined priorities balanced with those of the Government as sovereign equals with full implementation of all Indigenous and Te Tiriti rights. Analysis of the political views, values and aspirations of Tapuika participants has shown that they align with the vision of constitutional transformation proposed in Matike Mai. The United Nations Human Rights Council Universal Periodic Review of New Zealand 2018-2019 Recommendation 2 states "That government establish, support and sustain effective mechanisms to engage with the Māori Tiriti partner to recognise and protect Māori self-determination in its laws, policies and practices." (UNHRC, 2018). This paper posits that Māori sovereignty and Westphalian sovereignty can coexist in a balanced partnership, with just political institutions that share sovereignty. Possible forms of constitutional transformation will be discussed below.

The Matike Mai and He Puapua reports and Scobie et al. propose various models of constitutional transformation for balancing the spheres of influence between the sovereignty of Māori tribes and sub-tribes and the governance of the Crown (IWGCT, 2016, pp. 103–112; Scobie et al., 2023, p. 9; Te Puni Kōkiri, 2019). If a balanced constitutional partnership is achieved between Māori and the Government, and social justice is prioritised in effective outcomes-based policies, then shared sovereignty based on constitutional models will be able to provide Māori with meaningful self-determination, ensuring more balanced relations with nature and within NZ society as a whole. Tapuika consider themselves sovereign people in the Takapū because it has been their ancestral tribal estate for approximately 700 years. The views of Tapuika participants indicate that the architecture and mechanisms of any future NZ constitution must include Te Tiriti and tikanga Māori (Māori customary law) alongside common law and UNDRIP. To be effectively respected and protected, Indigenous rights for Tapuika need UNDRIP to be enacted in domestic law, and adequate resourcing and reparatory justice provided for Māori self-determination. The next section will investigate the operationalisation of rangatiratanga and economic self-determination.

Economic Self-determination

Moyn states that "economic self-determination in its treaty form protected the right of a people not to be deprived by outsiders of 'its own means of subsistence'" (Moyn, 2018, Chapter 4). However, Moyn emphasises that economic self-determination in the International Covenant

on Economic, Social and Cultural Rights 1966 (ICESCR) needs to meet the aspirations of decolonisation regarding distributive justice. Tapuika have yet to receive the return of ancestral lands and resources sufficient for meeting the minimum standards of ICESCR social rights; hence, they languish behind non-Māori in NZ socioeconomic indicators. Recent research by the Human Rights Measurement Initiative (HRMI) has indicated that a lack of adequate education, food, health, housing, work and justice are the main areas where the Government has not yet fulfilled the minimum human rights standards for Māori (Amnesty International, 2023; Human Rights Measurement Initiative [HRMI], 2022). Rangatiratanga for Tapuika depends on their economic self-determination, including ownership, authority and control of their ancestral lands, waters and resources, which sits at the intersection of Indigenous self-determination, reconciliation and reparatory justice. The next findings to be discussed will explore this intersection and some of the promising potential political and legal solutions to the fulfilment of rangatiratanga.

One of the strongest findings was that all Tapuika participants expressed a need for more of their traditional lands and resources to be returned, including meaningful authority and control, which are considered prerequisites for achieving rangatiratanga. Some progress has been made towards economic self-determination in the co-governance of *Te Maru o Kaituna*¹¹ (River Authority of Kaituna). However, in the view of some Tapuika participants, the role of Tapuika is effectively limited to consultation, the waters are being polluted, and the Government is intent on diminishing co-governance. The restitution of rangatiratanga must start with adequately returning the lands, waters and resources that embody Tapuika culture because they are the basis for their cultural well-being and sustainability as a tribe, which is protected by Article 27 of the International Covenant on Civil and Political Rights 1966. Many participants uttered the whakataukī (Māori proverb) *ko au te whenua, ko te whenua ko au* (I am the land, the land is me), emphasising that the return of their lands is crucial for their identity and self-determination. *Te Takapū o Tapuika* is the land, and Tapuika are the tangata whenua (people of the land); as its original Indigenous inhabitants, their inseparable spiritual bond to the Takapū is at the core of their struggle for self-determination. Scobie et al. assert that “Self-determination is vital for Indigenous Peoples in settler-colonial contexts. But self-determination needs to be resourced” (Scobie et al., 2023, p. 1). They explore the possibility of resourcing rangatiratanga through Government fiscal policy reform. Taxation in the Takapū is politically problematic but worthy of further exploration for Tapuika as participants showed enthusiasm for this possibility as an example of innovative

¹¹ The Bay of Plenty Regional Council defines *Te Maru o Kaituna* as a “co-governance partnership mandated to restore, protect and enhance the environmental, cultural and spiritual health and well-being of the Kaituna River” (Bay of Plenty Regional Council, 2024).

potential solutions required for the achievement of rangatiratanga. Another plausible possibility that may be a worthwhile aspiration for Tapuika is the legal personality enactment of important natural and sacred features of the Takapū, especially for the Kaituna River, Waiari stream, Maketu estuary and Rangiuru mountain.

Conclusion

The Indigenous right to self-determination and its counterpart, rangatiratanga, are essential to Tapuika's political aspirations. The views and perspectives shared by Tapuika participants show that UNDRIP, Te Tiriti, and rangatiratanga are interconnected and interdependent. Structuralist and culturalist decolonisation must be achieved together for Tapuika to fully enjoy Indigenous self-determination and rangatiratanga; this requires addressing the problems of the mono-legalistic rights hierarchy and implementing constitutional transformation. The rangatiratanga values developed by Tapuika participants may be of use to Tapuika in navigating their political aspirations in the future. The findings analysis has shown that Tapuika rangatiratanga requires the Government to revise domestic laws that suppress the self-determination of Tapuika and amend the unfairness of settlement policies to comply with the decisions of the Waitangi Tribunal, the minimum standards set out in the UNDRIP and address the mounting costs of intergenerational and historical trauma within Māori communities. Short-term and medium-term areas for the Government to address include the recommendations from the Human Rights Council Expert Mechanism on the Rights of Indigenous Peoples addressing Indigenous rights in NZ (UNHRC, 2018) and the State's failure to meet its minimum human rights obligations towards Māori highlighted by HRMI (2022). The Government should take responsibility for the full costs of devastation and loss caused by colonisation and provide adequate redress based on justice rather than politics.

Rangatiratanga for Tapuika may be operationalised with resourcing through fiscal policy reforms, including taxation within Te Takapū. The use of fiscal policy is just because Tapuika possess sovereignty and self-determination by being the tangata whenua (people of the land). Fiscal policy could assist in achieving the long-term aspirations of Tapuika members for more ownership of their tribal homeland by incrementally purchasing private land that may become available in the Takapū and returning it to Tapuika. This paper has argued that achieving adequate constitutional transformation and economic self-determination is necessary for Indigenous self-determination and rangatiratanga, with tino rangatiratanga (Māori sovereignty) being the ultimate political aspiration of Tapuika. A Māori parliament is a potential path that may help to advance Māori political goals, but unity is required on many levels. Tapuika will need to

unite internally and join with other iwi (tribes) in gaining public support for implementing Māori rights and constitutional transformation towards Māori sovereignty and Indigenous self-determination. The Government will not give up its self-assumed position as sole sovereign easily; however, with tino rangatiratanga being a key aspect of Te Tiriti, NZ's current unwritten constitution and the Māori population growing, the long-term sustainability of settler colonial policies that deny Māori sovereignty and self-determination is in question.

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