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LAND AND SOCIAL CHANGE : aspects of the Maori case

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ABSTRACT

This thesis sets out to examine some aspects of change in a modern Maori society as a consequence of alterations in traditional land tenure and partly of acculturation. It is simply divided into eight chapters. Chapters one and two are introductory and present a brief account of the history of Maori/Pakeha relationship in land since 1840. Chapter one shows how European settlers come in contact with Maori people and their land, Maoris' reaction against their loss of tribal estate, Maori Land Court and its power over Maori land, and Maori land legislations up to the end of the 1940s. Chapter two, dating from early in the 1950s discloses some major government policies that lead to a drastic change in the tribal custom and deterioration of tribal authority in land and in the community.

For a purpose of comparison, in chapters three and four I reconstruct the pre-European Maori society: its social structure, organization, land tenure, exercising of leadership, administration, and recognition of descent and kinship. This will assist the explanation of change that I present in the following chapters.

Chapters five and six provide another base for comparison, containing details of modern Maori society. Data in chapter five is based entirely on ethnographic accounts concerning Kotare, Orakei, and Waima Maori communities, whereas chapter six analyses the aspects of change and employs also evidence from other sources to support the assumptions stated in the outset.

Chapter seven covers some events that counter-challenge the change described in chapters five and six. This shows, in general, the Maoris' attempt to put together some threads which would restore their traditional values and Maori identity. Unfortunately, little attempt has been made in the three communities referred to as 'models' of change and, as a result, they have tended to become disintegrated.

The concluding chapter (Ch. 8) draws together the whole of the thesis. Using the land issue as a frame of reference, a general conclusion is reached in that a modern Maori community has changed at the expense of the traditional social, economic, and political systems.

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PREFACE

In pre-European times, the Maori people lived in a tribal community and had close association with land. Since the arrival of European settlers and the signing of the Treaty of Waitangi (1840), the native people have been continually affected by the loss of their land and changes in many other aspects of their tribal lives. The Maori relationship with Pakeha was not a very happy experience and was one which was vulnerable to exploitation. Throughout the history of contact they found that as more of their land was taken their social and political systems were also overwhelmed by Pakeha principles. The land wars of the 1860s were the early sign of conflict and marked the turning point of the future of Maori society. The Maoris' loss at the end of the war was permanent and the outcome was that they were to be assimilated into Pakeha society. Maori attempts to resist such assimilation was ineffectual because of Maori disorganisation and of the government's desire to unify the nation.

Thus, as I shall describe in this thesis, the government attempted several methods to Europeanise Maori people and their culture, specifically in land, and in their social and political practices. From 1862 onwards, a number of legislations were enacted to individualise Maori land and to make it available for sale on open market. At the end of the 19th century, of the sixty-six million acres that make up New Zealand, only approximately 10 million acres was left in Maori hands. More importantly was government's commitment transferring the power over land of the tribal chiefs to the Maori Land Court, the outcome of which was the weakening of the tribal authority and the liquidity of the local group.

At the turn of the century the government became concerned over the way Maori land was to be developed. Yet this came rather late, and as the Maoris had lost most of their land and the remnant was insufficient for large-scale production. As a consequence, the land development assisted only a few Maoris to settle on their land, while many others had to seek their livelihood elsewhere.

Towards 1950s, there was evidence that Maori people were dispersed throughout the country and a number of them were living away from

their local group. At the same time the government developed a clear policy to endow the Maori people with all privileges and rights of the Pakeha to assimilate them. Regarding this, a Maori Affairs Act was passed in 1953 under which many Maori customs, including those in land, were replaced by common laws. Taking the Act for granted later governments followed the same route to encourage modernisation in Maori society.

During the period 1950s - 1970s, some ethnographic accounts were published disclosing the conditions of a Maori community. The studies of Metge (Kotare, 1955), Hohepa (Waima, 1958) and Kawharu (Orakei, 1964), in particular, have shed some light on the area of social change. The authors found that loss of land and acculturation have resulted in high population movement and socio-economic changes in the communities. Even though the Maoris' expression of traditional values remain strong, many major aspects of tribal custom, *viz.*, recognition of descent and exercising of leadership (tribal authority) have declined in their significance and functions. Given these conditions, plus government policies the communities are heading towards disintegration.

This thesis attempts to examine a condition of change in a modern Maori community, as a result of alterations in traditional land tenure and in other relevant matters. Undoubtedly, land is not a sole cause of change; there are also many others, e.g. acculturation, Maoris' adoption of Pakeha principles, education, lifestyle, and a money economy. With the Maori people, however, land stands as the backbone of all aspects of tribal life. Once change in land custom occurs other elements connected to it fail to operate and there is a great social consequence for the community.

My approach to the topic of this thesis is to review changes in some major aspects of Maori custom that result in a collapse of the traditional social and political system. My discussion is based significantly on data derived from Kotare, Waima, and Orakei communities, which I selected as a 'model' explaining change in a modern Maori society. The selection of these three communities has some social significance. They provide adequate data enabling a comparison with the tribal society in the past and have a long history in contact with the Pakeha

settlers. Kotare and Waima are in the upper north where Pakeha influence has been persistently intense since 1840. From their dealings with Pakeha they have lost most of their land and subsequently their economic independence. Their people have become dispersed through emigration. Orakei, with its association with the growth of Auckland city, has been more exposed to extraneous pressures than any Maori community. Kawharu (1975) reveals that few can have been more perplexed and disconcerted by loss of lands, *marae*, and economic independence, and by an existence subject to the whim of government, or few more completely stripped of identity and self-respect than this Ngati Whatau *hapū*.

My investigation and discussion of change in this thesis is confined to the extent of available data, and I shall focus on the areas of descent and kinship, leadership, and social organisation. Such changes and deterioration of the tribal social and political systems might have been applicable elsewhere. Finally, I must make it clear that my discussion, given the scope of the topic, is general and my conclusion is tentative.

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LIST OF ABBREVIATIONS

<u>AJHR</u>	Appendices to the Journals of the House of Representatives
<u>JPS</u>	Journal of the Polynesian Society
<u>NZL</u>	New Zealand Listener
<u>NZMR</u>	New Zealand Monthly Review
<u>NZOYB</u>	New Zealand Official Year Book
<u>NZPD</u>	New Zealand Parliamentary Debates
<u>NZS</u>	New Zealand Statutes

CHAPTER ONE

MAORI AND EUROPEAN LAND RELATIONSHIPS, 1840-1950

I. An Early Issue

Retrospectively, European contact with Maori people began some years before 1840.⁽¹⁾ The first to settle in New Zealand were sealers, whalers, escaped convicts, traders, and missionaries. The settlement commenced in 1792 when Captain Raven of the 'Britannia' landed a sealing-party at Facile Harbour on the west coast of the South Island. A few years later, whaling stations were established at several points on the coast. In 1814, the first missionaries, Messrs Hall and Kendall, arrived and set up a mission at Rangihoua, Bay of Islands (NZOYB, 1931; 52). In 1825, three separate attempts were made to found colonies in various parts of the country. None of them were successful, and for some years the only settlements were those around the principal whaling-stations.

The pioneer settlers acquired some native land by way of exchange for material goods. Muskets and gunpowder were usually given to the Maori for use in their tribal warfare (Elder 1924; 68). Presumably, the settlers' holding of land in this initial period was under the traditional system of the native people.

British sovereignty took root for the first time in New Zealand in 1833 when James Busby was appointed a 'British Resident' to the country. In 1837, the New Zealand Association was founded in England by charter issued by the Crown for the purpose of setting up the New Zealand colony (Cf. King 1975; 125). In 1838, the Association became a commercial body, called the New Zealand Company, which was greatly involved in the purchase of native land. Most of land bought by the Company were paid for with very low prices but sold at much higher prices in England. Within a short time the Company turned acres of native land to the European and made considerable progress in establishing colonial settlements. The first body of immigrants arrived in Port Nicholson on the 22nd January, 1840, and founded the Town of Wellington. A few years after, the settlements of Nelson, Taranaki, Otago and Canterbury were set up (NZOYB, 1931; 53).

The Company's early dealing with native land came to an end after a short time. In 1839, Lord Normanby, a new Secretary to the Colonial Office, was not in favour of the Company's commitment. Aware of this, the Company pressed on with its plan by sending agents to set up a system of government independent of the Crown, in New Zealand. To Lord Normanby, this could jeopardise both the indigenous people and the British sovereignty. Late in 1839, he, therefore, suggested to Queen Victoria to appoint a consul to the new land and annex it to the Colony of New South Wales. In response, the Company, under its Governor Colonel William Wakefield, sent to New Zealand a pioneer ship call the *Tory* and purchased land from the Ngati Awa tribe in Queen Charlotte Sound. It later bought acres of land in Wellington, Kapiti, Wanganui and Taranaki. Most of the purchases were paid for with musket and gunpowder. Within a year or two, it had established settlements at Wellington, Nelson, New Plymouth and Wanganui, and had claims to almost the whole of the southern half of the North Island and the northern half of the South Island (Kawharu 1977: 8). The situation became so bad that the British Government at that time sought full control over the country.

On 29th January, 1840, Captain William Hobson, newly appointed as Lieutenant Governor, landed at the Bay of Islands and within a short time he had drafted a treaty with the assistance of Mr Busby and the missionaries. According to the treaty, the Maori chiefs ceded to the Queen of England the sovereignty of their country in return for Crown protection. On the 6th February 1840, the treaty was signed by forty-six head chiefs in the presence of at least five hundred chiefs of inferior degree, at Waitangi village in the Bay of Islands (Rusden 1974: 5). The Treaty, which was named the "Treaty of Waitangi"⁽²⁾ is supposed to be the basis of all laws regarding Maori land.

The Treaty of Waitangi was a document of few clauses but had a great impact upon Maori life and their land. It was designed to ensure harmony between the Maori and the European settlers. Even though the Treaty was regarded as an attempt to protect Maori land from being plundered by avaricious settlers, it has been misunderstood, misinterpreted, repudiated, and denied persistently (Buick 1936: 269). By the provisions of the Treaty, the chiefs' *mana*⁽³⁾ was transferred to the British Crown (Ibid).

However, Buick suggested that Hobson's persuasion of Maori chiefs to cede their sovereignty to the Queen of England was a condition which the Maori could hardly understand. He explained that this was due to the fact that there was no 'absolute authority' among the Maori tribes. Until the formation of the 'Confederation of Chiefs' in 1835, the sovereignty of each chief was limited to his own tribe and land. "The native mind had therefore learned nothing of what was meant by sovereignty as we understand it, from the union of their chiefs. All that they knew of a paramount authority, which it was their duty habitually to obey, was the *mana* of their personal chiefs" (Ibid: 282). The chiefs who signed the Treaty did not understand its provisions, and did not know with even moderate certainty what they were retaining and conceding. Twenty-three years after the signing of the Treaty, Rev. John Warren, one of the Wesleyan missionaries, who was also present at Waitangi, revealed that there was a great deal of talk by the natives at Hokianga, principally on the subjects of securing their proprietary right in the land and their personal liberty. This indicated that the chiefs only intended to surrender the magisterial control of their land to the Queen but to retain the possession of it to themselves.

The Treaty of Waitangi marked a major change in Maori life in relation to land. It gave right to the colonial government to claim full power over all land and people in the country. Regarding this it declared all private claims of land invalid unless ratified by a grant of the Crown (Cf King 1975: 130). As a consequence, all transactions of native land made before the Treaty became null and subsequently private purchase ceased.

Once the declaration was made, however, a number of claims arose. With a lot of encouragement from the New Zealand Company, some 1,200 claimants claimed land amounting to 45,976,000 acres (Buick 1936: 299). Many of the claimants had nothing to show as evidence of their purchase except an ornamental scrawl on a deed which was so phrased as to be unintelligible to the chiefs who signed it (Ibid).

To solve the problem, the Legislative Council, on 4th August 1840, passed a Bill empowering the Governor of New South Wales to appoint a

commissioner to examine the claims. William Spain was appointed, and the special Land Court was set up to investigate the claims. Under this procedure, many claimants who could prove a transaction of land sale were granted title of ownership over the land in many areas. Any land subject to an unproved deed of sale was vested in the Crown.

Despite the existence of the Treaty of Waitangi, the colonial government's land policy proved to be inconsistent because of the political situation in England. This resulted in frequent changes in the Governorship of the colony and the policy in land. Whatever the change, the Maori people continued to lose their land to both private purchasers and to the Crown. This aroused anger among many natives who wanted to retain their land. The event led to several obstructions of governmental surveys and of Pakeha dealing with their land. One incident at Wairau ended up with the massacre of Colonel William Wakefield and another twenty of his party (Cf. King 1975: 143). For the land-selling group, the government's interference with the pre-emptive right was a threat to their privacy. From their experiences, they knew that selling land through Crown negotiation⁽⁴⁾ provided them less money than selling to private purchasers. So when Fitzroy came to power in 1843, he was put under pressure to allow the Maori to dispose of their land at will. In response, Fitzroy allowed free trading of Maori land but subject to the Crown grant. Furthermore, in March 1844, he introduced the 'ten-shilling-an-acre' system, requiring a purchaser to pay to the Crown upon the issue of its grant the amount of ten shillings for any acre of land bought by the purchaser. He also set the rule that one-tenth of land purchased was to be reserved to the benefit of the natives. In October 1844, the 'penny-an-acre' was proclaimed by him for the same purpose (Smith 1942: 3). Both measures were later disallowed by British Government, but not before acres of land in the vicinity of Auckland had ostensibly passed into the hands of European settlers (Ibid).

In 1845, Sir George Gray, aimed at protecting the Maori from exploitation of their lands, waived the pre-emptive right. In the following year he set up 'Native Land Purchase Commissioners' to buy native land for European settlement. However, this, as similar to the Native Land Purchase Department set up in 1853, did not help

to improve the situation. The difficulty was related to the fact that alienation of tribal land was subject to power of veto of the chiefs (Kawharu 1977: 62). The government land purchasers ignored this rule but communicated directly with individual owners of land. When a protest arose, the government instead of reviewing the sale in the light of Maori custom, forced the Maori to accept its validity. Whenever the chiefs referred to their authority in land the government claimed that the Treaty of Waitangi gave them absolute right to rule the country as well as land. This land issue forced many Maoris who did not sign the Treaty to turn against the colonial government.

Before 1860, several Maori land protest movements sprang up in the North Island. In 1844, Hone Heke, a Ngapuhi chief, rebelled against the British sovereignty and against the Crown's exclusive right that opposed Maori's selling of land to private purchasers (Metge 1967: 42). In 1848, the Maori Land League came into existence for the same purpose. The League opposed the sale of land to European at Otaki and its vicinity. It also asked for the Maori land problems to be settled by *runanga*, the *hapū* council, instead of the European Court (Sinclair 1950: 8). After 1848, there were widespread movements in the North Island struggling to defend the remnant of tribal land. Two of them were established in Taranaki and the East Coast. Due to lack of central organisation, the movements were less than successful in resisting individual sales (Ibid: 11).

In 1858, Maori opposition to the sale of land began to crystallize into a movement towards unity. It was the King Movement, resulting from the consensus of the chiefs of the tribes of Waikato, Taupo and parts of Hawkes Bay (Metge 1967: 43). The Waikato chief, Te Wherowhero was chosen, crowned as King Potatau I, and provided with a flag, council of state, code of laws and police force (Ibid). The king, it was thought, would symbolise Maori social and cultural integrity, political equality with the European, and desire for self-determination (Kawharu 1977: 12-3). The movement did not gain much support from other tribes in the sense of loyalty to the king but on the land issue support was widespread.

The birth of the King Movement should have warned the colonial government that their way of dealing with native land was antagonistic to many Maoris. But Chief Land Commissioner, Donald McLean did not seem to be sensitive to the warning. Rather, he and Judge Fenton, in 1858, were determined to exploit a new method of land purchase that would destroy the traditional right of veto of the Maori chiefs to unlock the waiting million of acres for European settlements (King 1975: 146). The government's commitment led to land conflict at Waitara, the event that brought Maoris into war against the Crown troops at Taranaki in 1860 and forced the King Movement to become militant (Metge 1967: 44).

The Waitara dispute illustrated the great failure of the colonial government in its land policy. It stemmed from an attempt of Governor Gore Brown to take possession by force of the land bought at Waitara at 1859. The land in question was a key block on the bank of the Waitara River. It was offered for sale by Te Teira, a minor chief in the local Atiawa tribe, to the Crown. The offer was opposed by Wiremu Kingi, the paramount chief and the acknowledged tribal trustee in land, of the Atiawa (Kawharu 1977: 12).

According to Maning, ex-Judge of the Native Land Court, Kingi's reaction was absolutely incontestable. In 1883, he (Cf. Rusden 1974: 12-3) commented on the case;

"..The land was the domain of the people, and though by separate cultivation a man had a right to the product, he acquired no fee simple of the land.

Alienation to a foreigner could not be the act of the separate occupier. Only common consent could alienate the common property.

Where land was proverbially a cause of war, titles orally preserved became hopelessly involved. The paramount authority of the chief, his 'mana', was the only safeguard. Chiefs descended from the leaders of the emigration from Hawaiki were deemed to have special 'mana' over the tribal land. The chief could not sell the village of his friends, nor the patrimony of any of them; but the tribe required his sanction to make good their own transactions."

Therefore, Kingi undoubtedly had the right to veto the sale of his tribal land at Waitara. But the opinion of Brown and McLean was different (Ibid: 15). They believed that Kingi's action was not simply about the land but constituted rebellion against British sovereignty. In connection with McLean's suggestion, Brown sent a military force

to take possession over Waitara block and forced Kingi to give up his protest. When the first shots were fired from British guns, the so-called Taranaki War broke out in February 1860 (King 1975: 146). During the war, the Waikato tribes assembled their strength to support Wiremu Kingi. They had the King Movement as the core of their organised opposition to the land policy of the colonial government. The Maori claimed that the movement only aimed to bring justice to Maori people in regard to land. However, the government saw that the movement would endanger the sovereignty of the Queen and of further colonial settlement in the country. It, thus, sent an ultimatum to the Taranaki chiefs, "Offering peace on the condition that they accepted the principle of the individualisation of land titles, and the Waikato were asked to abandon the King Movement and allow roads to be built through their lands. The penalty for non-compliance was to be the forfeiture of their lands" (Ibid). The government pressure burnt deep in the heart of Taranaki and Waikato people and aroused them to prepare for another war.

Sir George Grey, on his return for the second term as the Governor of New Zealand, endeavoured to make the assembly give up the Waitara purchase and to honour the Treaty of Waitangi, but the Maori people no longer trusted the government. Hostilities were resumed in May 1863 and resulted in land war between Maori and Pakeha colonial government. The war ended with a defeat of the Taranaki and Waikato tribes.

The war marked the end of the tribal authority in tribal land. It was followed by the government's confiscation of acres of fertile Maori land. The Act of Confiscation was passed in 1863 empowering the government to take the land of the rebels, divide part of it among military settlers to protect the colonists, sell part to future immigrants to repay the cost of war and reserve part for the conquered natives in the hope that in the future they would live in peace with the Pakeha (Gorst 1864: 254).

Under the confiscation scheme, most of the fertile land of the Waikato tribes was confiscated. It was estimated that some 1,202,172

acres were initially taken, comprising the fertile lands between the Waikato and Waipa Rivers. King (1975: 147) described that the same pattern followed in Taranaki where 1,275,000 acres were confiscated. Some 290,000 acres were confiscated at Tauranga, and a total of 448,000 acres were taken at Opotiki. Further confiscation extended to the Gisborne and Wairoa districts. The confiscation scheme affected not only the land of the rebels but also that of the neutral tribes.⁽⁵⁾ This was to ensure permanent security of the colonists as well as to punish the rebels. Some years later, part of the confiscated land were returned to the Maori people. Some 314,262 acres were given back to the Waikato and 256,000 to the Taranaki, 244,000 to Tauranga tribes, and 230,600 to the owners at Opotiki. However, very little of the returned land survived the rapacity of land purchase agents and land speculators.

2. The Native Land Acts

In 1862, the first Native Land Act came into existence to replace the traditional land tenure by European individualisation of title, subject to English law (Smith 1960: 8-9). In 1865, another land Act set up the Native Land Court (later the Maori Land Court) to deal with Maori land.⁽⁶⁾ The Court was to record and settle disputes in native land, investigate the ownership of the tribal land, and grant a certificate of freehold title to it. According to Smith (Ibid), the Court was constituted for the following principal purposes;

- i) To settle and define the proprietary rights of the Maoris in the land held by them under their customs and usages.
- ii) To convert the Maori customary land into a title cognisable under English law.
- iii) To facilitate dealings with Maori lands and the peaceful settlement of the country.
- iv) To remedy the invidious position occupied by the Crown (Cf. Kawharu 1977: 16).

Consequently, tribal land began to be affected when the Court came into being and demanded that the boundaries of Maori land be clearly marked and owners determined. The Court encouraged Maori owners to transmit land held under customary pattern to freehold title. Once the land had been transmitted, the owners obtained absolute ownership rights plus power of alienation without an approval of the group. The tribal authority no longer had power of veto over the land, but it was the Court who decided all transactions, alienation, and succession. According to Kawharu (Ibid: 105-6), the Court's rules were totally different from those of the traditional practices. In particular, they provided a means for the severance of individuals from the group and for the elimination of the group's sovereign rights over its corporate estate in land. Subject to the new legal conditions, an individual had become independent and able to deal pragmatically with his land as he liked.

As a matter of fact, a Maori could hold land under a traditional communistic system, controlled by tribal authority of the chiefs. This land was not recognised by law in terms of alienation (NZS, 1953: 1144). To make the land alienable in the commercial market, the owners must come to the Court to have the land transferred to freehold title. Once sufficient evidence to the claim of proprietary rights was produced the Court granted a certificate of title specifying names of owners entitled. Under the Native Land Act of 1865, no certificate could be issued to more than *ten* persons,⁽⁷⁾ and if the piece of land adjudicated upon did not exceed five thousand acres, such a certificate could not be granted in favour of a tribe by name (NZS, 1865: 266).

According to Smith (1960) and Kawharu (1977), the government failed from the very beginning to prevent exploitation of native land by both colonists and Maori owners. The difficulty remained that while the Court had power to issue a certificate of title and to handle transaction in native land, it had no appropriate measurement to control alienation. So long as the Maori people were concerned, their cupidity was tempted and its growth encouraged by the sight of the things that money could buy, and the ease with which they could be acquired by the simple process of selling land (Smith 1960: 9). In this connection, Kawharu (1977: 16) enunciated that "Even tribal elders, named on early

certificates of title merely as trustees for the tribe or sub-tribe, soon learnt they were nothing of the sort and that each was able to sell his trusteeship as if it had been a personal freehold interest".

The legal provisions were the means of European penetration into native land, since traditional communistic holding would make land purchase difficult. After 1865, a mass of land legislation was passed by the Pakeha-dominated Parliament, the institution in which the Maori people had little say.⁽⁸⁾ The purposes of these Acts were all about native land purchase and the establishment of European settlement. As Mr H. Sewell, Minister of Justice, stated in 1870, the objective of the Native Land Acts was twofold. First of all, it was to bring the great bulk of native land within the reach of colonization. Ironically, the other objective was to demolish the Maori tribal and political system, upon which all social and economic practices were based. It was hoped that by introducing the individualisation of title to native land and by giving the Maori people the same individual ownership rights in land, they would lose their communistic character and, subsequently, their socio-political status would be assimilated to that of the Pakeha (NZPD, 1870: 361).

Following the aforementioned policy, the colonial government ceaselessly endeavoured to turn Maori land into freehold title to facilitate alienation to European settlers. With the power of the land legislation and the Court, Maori land was always taken, in some circumstances, without adequate compensation. Between 1860 and 1872 for example, some thirty million acres in the South Island were paid for with only 5,000 pounds and promises of schools, hospitals, and welfare. The promises were never fulfilled (Rusden 1974: 61). In the North Island, confiscated land returned to the Maori, was purchased under a formal deed of cession at 5s. per acre and re-sold at 6 pound per acre. Many more of Maori land in other districts were purchased in a similar manner.

In 1867, another Native Land Act was passed to redefine the holding of Maori land. In this connection, the Court was empowered to restrict alienation of native land, to determine all owners of a block of land brought before it, and to register all proven claimants in addition to

the ten owners permitted by the Act of 1865. In the first instance, the Court held that any beneficial Maori freehold land could not be alienated through sale but lease for a term not exceeding twenty-one years. Alienation by sale was allowed only when a beneficiary applied to the Court to have his shares(s) partitioned.

The Native Land Act of 1873 put things in the same manner, but added that leasing of land held in common required the signature of all beneficiaries in the 'Memorial of Ownership'.⁽⁹⁾ Later, the Court found that this provision was impracticable due to difficulties of getting all owners to sign a contract. Besides, some owners also declined to sign because they intended to keep land for their descendants. Facing these problems, the Court broke the law itself by allowing subdivisions of Maori land without assent of all beneficial owners. The government in 1878, however, passed the Amendment Act to the Act of 1873 to validate the Court's jurisdiction and to make all owners' signature inessential (NZS, 1878: 248). The new Act empowered a Judge of the Court to decide on his own, without making a preliminary inquiry, unless he considered that it was essential to do so. Furthermore, section 12 of the Act made it clear that any transfer, lease or other instrument of disposition of any lands held under certificate of title, memorial of ownership, or Crown grant, may be signed by any native interested in the same before any Justice of the Peace.

So to speak, the new provision tended to motivate Maori owners to conflict among themselves. Without the Court's preliminary inquiry, justice may not be achieved by some Maoris who, by Maori custom, would be entitled in the land. Dispute would also follow if some were not included in the list of the memorial of ownership, or if some memorial owners disposed the land without consent of the others.

In 1884, the government waived the pre-emptive right to preserve right to purchase Maori land to the Crown, by way of negotiation between Maori owners and the Governor (NZS, 1884: 255). Under the Native Land Alienation Restriction Act 1884, Pakeha settlers were not allowed to deal privately with Maori owners in land purchase, in the districts of

Auckland, Taranaki, and Wellington. This should have prevented exploitation of Maori land by the settlers. However, it turned out to be a hardship to both native owners and the European settlers. The fact was that the Maori could not sell land as they desired and the settlers could not purchase (Mackay 1887: 14).

Due to heavy criticism from both Maori owners and the colonists, the government passed the Native Land Administration Act of 1886 to replace the Act of 1884. However, the new Act did not favour either group because the Crown still retained the exclusive right in native land. It just required the native owners to elect a committee to act on their behalf for blocks of land owned by more than seven in number. The committee was formed from among the owners themselves, it had a duty to assist a commissioner in dealing with land owned by the owners, alienate it, or reserve part of it for future use. Nevertheless, the committee had limited power in making decisions upon the land, its authority depended much on a majority of its members. Moreover, the Act still conferred power of alienation to individual owners. For instance, the owners were able to convey or demise land to the Crown without the appointment of the committee (NZS, 1886: 137).

In 1888, the government restored direct purchase of Maori land. In regard to this policy, the Maori owners could dispose of their land at will, subject to only fraud control.⁽¹⁰⁾ As from the commencement of this Act, existing restrictions on alienation may be also removed or declared void by the Governor in Council, on the application of a majority in number of the owners (Ward 1973: 298). To conform to this policy, the government released a number of land cases held by the Court. From April 1, 1888 to March 31, 1890, some seventy-three cases of land transactions held up by the Court were returned to the owners for the purposes of lease and sale (AJHR, G-3, 1890:2-8)

The removal of the restrictions on alienation of Maori land was anything but an indication of another free-flowing of Maori land in the commercial market. For those Maoris who desired to retain land in a tribal group, the situation was worse. It motivated them to seek political autonomy so that they could save their tribal estate.

In 1891, the Confederation of the United Tribes of New Zealand was thus formed, aiming at establishing a separate Maori Parliament. Despite rejection by the Queen of England, the Parliament came to existence in 1892. Its first task was calling for reform of all laws affecting Maori land. Even though the Parliament had no legal authority, its influence contributed to slow down the rate of Maori land alienation at that time (Kawharu 1977: 21).

Until 1894, the power over the alienation of Maori freehold land was held by the Governor and the Trust Commissioners. In 1894, the Native Land Court Act was passed to transfer and strengthen the power of the Court in its dealing with Maori land, and to restore the exclusive right of the Crown. According to the Act, power to remove restrictions on alienation and to confirm alienation of Maori freehold land were conferred upon the Court. Due to its provision, land in the South Island could be alienated only in the form of lease. Alienation of other land to private purchaser was absolutely prohibited, except in special cases as determined by the Court. The alienable lands were those situated in a borough or town district and a block of land not exceeding 500 acres the title of which had been ascertained by the Court.

As we have seen, most Native Land Acts up to 1894 had only one aim, to transfer native land into the hands of Pakeha settlers. Alienation of the land depended totally on Pakeha politicians in the Parliament and the tribal authority. As the consequence, the Maori owners were always encountered with expropriation and sale of their tribal estate. There was no government policy to develop land for the benefit of the Maori people.

3. Maori Land from 1896-1950

Under the Seddon Government, the first hope of Maori to have own control over land came close to reality in 1896. It was the miserable living conditions of the Tuhoe people of the Urewera that motivated the humanitarian mind of Seddon. Remote, unmapped, and lack of infrastructure, Seddon considered that the people offered no immediate

threat to the onward march of Pakeha civilization (Ibid 23-4). With his Urewera District Native Reserve Act, Seddon gave the Tuhoe people authority to manage their own estates. The Act "empowered a commission (of five Tuhoe and two Europeans) to individualise titles, and elected committees of owners to administer group holdings. For the first time, investigation of tribal land rights was coupled to the use of them by their owners" (Cf. Kawharu 1977: 23).

In late 1898, Seddon advanced his native land policy as applied with the Tuhoe to other tribes. As Kawharu (Ibid: 24) pointed out, however, his latter legal device proved to be another Pakeha control and alienation of Maori land. It stemmed from his proposition to replace the Court by boards. Each board composed of a majority of Europeans, who would be responsible for all Maori lands in its district. Aware of this, the Maori Parliament launched a protest against Seddon's policy.

The protest was pacified in 1900 when the Maori owners were convinced by A.T. Ngata, the Secretary of the Te Aute College Students' Association, that they were to have opportunities to manage their own lands, even if under government supervision. Ngata proposed his land development idea to the government in 1900. His idea was developed into two Acts, the Maori Land Administration and the Maori Councils. Regarding these Acts, a productive future for the Maori and the administration of his land were promised. The Maori Councils were given some judicial powers, even though they possessed no exclusive authority in Maori land and they had Pakeha majority. When there was an issue in land, the Maoris' opinion was sought by them. The government provision in this matter seemed to satisfy the Maori people. They understood that the government recognised their rights in land, thus, disbanded the Maori Parliament in 1902.

However, the Maori people later found that the government's promise was illusory. It occurred that successive governments still desired to alienate their land. For one example, the Native Land Act 1909 and its Amendment Act of 1913 were passed by the government to increase power of the Crown Land Purchase Officers and of the Native

Land Purchase Board. Until 1920, the Maori people found that the unscrupulous steps taken by the government as such contributed to diminish their land to only a total of 4,787,686 acres.

The government showed its first responsibility for the well-being of the native people and their land in 1920. According to Kawharu, the reason for this improvement was not clear. "Among possible contributing factors would have been a widening Pakeha awareness of the Maori's moral claim to equality - the result partly of the Maori people's contribution to New Zealand's (1914-18) war effort and partly of the publicity given to the question of unsettled land grievances" (Ibid: 27).

The improvement began with the passing of the Native Trustee Act to assist Maoris to retain the remnant of their land and to aid development. The Act gave specific recognition to the Maori's need of finance for land development, took the initial step towards organising it, and led directly to further legislation in 1922 which made the Native Trustee banker for the Maori Land Boards. Consolidation of land and provision of individual titles were tried in the East Coast and the Bay of Plenty areas in order to make land eligible for mortgage to get a loan for investment. Difficulties, however, occurred when many land owners found it hard to get a private loan due to 'insecurity' in titles and status of their land. The Native Trustee and the Native Land Board could not assist the owners for very long because they had limited amount of funds. This problem lessened the Maori's incentives for improving the land and this affected the government land development policy.

During 1920 and 1926, Maori claims for return or compensation for land confiscated or taken unjustly became intense. To deal with this situation, the government in 1926 established a Royal Commissioner to investigate the claims. As a result, some claims were settled and land returned or compensated.⁽¹¹⁾ There were, however, innumerable claims which lapsed because of a refusal of successive governments to settle them. Most of these claims involved land purchased by the Land Purchase Department. The government reasoned that "transactions

with the natives for the cession of their title to the Crown are Acts of State and cannot be examined by any Court" (Cf. King 1975: 155).

It seemed that emergence of land development insisted Maori to make an issue of their land. They became aware that fertile land in sufficient amount would contribute to success in land development. But the unsuccessful claims was a grave concern of their effort when they found that they were given only small amounts of compensation rather than land. Some Maoris declined to accept compensation but demanded the land to be returned to them. Thus, the Waikato people refused to accept the sum of three thousand pounds per annum offered to them by the Confiscated Native Lands Commissioner in 1926. They argued that "if the Pakeha has admitted that he was in the wrong in regard to the excessive confiscation made, then the lands concerned should be returned to them" (Sutherland 1935: 100). Without success in land claims, the Maori entered into the land development with the already existent disadvantages of insufficient, infertile, and inaccessible land, when another government-aid program came into being in 1929.

The 1929 scheme was another attempt to develop native land with government supervision and aid. To achieve this end, the Minister of Native Affairs was given authority to incorporate Maori land into a scheduled departmental scheme of Crown land development. Apart from those relating to succession and trusteeship, alienation was prohibited and all other dealings in land were subject to the Minister's scrutiny and control (AJHR, G-6, 1931: vi).

During this period A.T. Ngata, an outstanding Maori politician, joined the cabinet as Minister of Native Affairs. With his plan on large scale developments, Ngata moved to consolidate the scattered interests of Maori land into economic units and turn them into grassland, sheep and dairy farms. The system was complex and included relocation, diversification, resettlement of Maori farmers and community development. The scheme contemplated that the Maori owners would supply labour and land to the Maori Land Board.⁽¹²⁾ The areas for development were selected by the Minister and developed by the

Board out of funds provided by the government for Native land settlement. Once the land was broken in and turned into several farms, sections would be allocated to the workers who had proved themselves capable of becoming efficient farmers. They would be supplied with stock and, despite government supervision, allowed to work out their own destiny. The expense of the preparation of the land for settlement and the cost of the stock were charged upon the land. The persons receiving the allotments were responsible for the payment of the expenses back to the Maori Land Board (AJHR, G-9, 1930: 2).

Ngata's attempt was not so successful because of two obstacles. First, relocation policy inevitably excluded some owners and also parted some Maoris from their tribal land. Only recommended workers were accepted to the settlement. Apparently, this led to dispersal of members of a kin-group in the rural community. Secondly, the scheme was also hit by the Depression. This affected most the young and unskilled farmers who just started investing on their lands. Due to accumulated debt arising out of the scheme many of them had become bankrupt. Some of them left the lands to join the pioneer Maori immigrants in cities. The years between 1926-1945 saw a large number of Maoris move into towns and urban areas searching for employment (Metge 1967: 70 ; Kawharu 1977: 31).

The Maori land development was hit for the second time by the Second World War and then by the Depression of the post-war years. The post war situation affected New Zealand economics as a whole. It inclined the government in the early fifties to declare that all lands in the country must be made productive to their fullest capacity, no matter they be Crown land, Pakeha land, or Maori land (AJHR, G-9, 1954: 18). On the part of Maori land, the Maori Affairs Act of 1953 was passed by the government to undertake massive development and to reform administration of it. Under the Act, the Maori land tenure was re-arranged, title improved, inheritance pattern modified, and effective utilisation projected.

NOTES

- (1) The first European to discover New Zealand was Abel Jansen Tasman, a Dutch navigator, who reached the country on 13th December, 1642. Tasman, however, did not set foot on shore nor claim the land he found. In 1769, Captain James Cook of the Royal British Navy arrived and claimed all islands of New Zealand in the name of the British Crown, for his majesty King George III. After this discovery, Europeans began to flow in and settle in the new land. (NZOYB, 1931: 52-3; Buick, 1936: 271-2).
- (2) See Appendix-I, the Treaty of Waitangi and its relevant discussion.
- (3) See Chapter Three on *mana* and *tapu*.
- (4) M.P.K. Sorrenson states that the Pakeha land purchase method produces a grave result to the Maori people. Before the establishment of the Maori Land Court in 1865, land transactions were made through a channel of tribal authority, despite some individual dealings.

After the setting up of the Court, land purchases were made through individual owners. This method paved the way for Europeans to acquire Maori land for settlement.

It was evident that both the Crown and private purchases involved fraudulent tactics. There were many who co-operated in this business, i.e. purchasing agents, lawyers, storekeepers, and even the Court itself. These agents (private) initially encouraged Maori owners into drunkenness, debts, and dissolute habits. They led the owners into debts by giving them credit in goods, liquor, and whatever they wanted. Later, they charged the debts against land.

There was also fraud by the government purchaser. Sorrenson revealed that in one case the purchase officer committed a forgery by asking Maori owners to sign a blank voucher which was later filled in as he pleased.

It was said that the Maori owners had also disadvantages in any land issues brought before the Court. This stemmed from their lack of understanding of the Pakeha complex legal procedure and lack of cash income. In dealing with the Court, they always found that they eventually had to sell their land to meet the cost of a Pakeha lawyer and other expenses. (JPS, 65.3:190).

- (5) The rebellious tribes were those in Taranaki, Waikato, and some East Coast tribes. In the land War of the 1860s, some friendly tribes such as Arawa fought on the Pakeha's side.

Neutral tribes were those in Northland, Hawkes Bay, Manawatu, and the South Island tribes. They took no part in the war, but their lands were also taken by the government to ensure safety of Pakeha settlers. Since the rebel tribes closed their territory at Maniapoto (known as King Country), the land of the neutral tribes became a main target of land purchasing agents, both private and government. Between 1865 and 1892, it was estimated that at least seven million acres were leased by Pakeha. (Metge 1967: 46; King 1975: 122; JPS, 1955-56: 184).

- (6) Maori land is the land subject to special laws. All transactions relating to it must be done in the Maori Land Court. Principally, it consists of land which has never passed out of Maori ownership but includes land returned to Maori ownership by Crown grant or legal process, and land vested in the Crown for the benefit of Maori people. There are two types of 'Maori land', customary land and Maori freehold land.

'Customary land' means land which has never been put through the Court to have the native title extinguished by sale or by transfer to European title. Smith (1960: 84) states that this class of land is to be held tribally and all dealings must be determined by Maori custom. There is no individual ownership of this land, except the right to occupy or to use certain portions for cultivation. Due to the Court's rules, customary land is inalienable.

'Maori freehold' means land other than European land, or any undivided share in which, is owned by a Maori for a beneficial estate in fee simple, whether legal or equitable. This type of land comes into existence by desire of the owners and the Court to convert the traditional holding into individual system cognisable in English law.

- (7) The Act of 1865 did not mention how the *ten* owners should be selected. Perhaps, the law leaves the case to the Court to decide on its own. It is possible that the Court takes the first ten Maoris named in the list of owners, on application, as beneficiaries entitled to a block of land. It could be also that the Court, after its careful investigation, granted a certificate of title to those it considered fit to be the owners of the land.
- (8) According to the New Zealand Constitution Act of 1852, the Maori people were totally excluded from the national government. Only from 1867, after the passing of the Maori Representation Act, were Maori representatives given four seats in the Parliament. The representatives could, however, accomplish very little for their Maori constituents, since their votes would be simply overridden by the Pakeha majority.
- (9) Section 47 of the Native Land Act, 1873, provided that any native could apply to the Court to have his block of land investigated so that a 'memorial of owners' be issued. The application must specify the boundaries of the land, names of the tribe and *hapū* concerned, and names of persons to be entitled in the interest. The Court shall make a preliminary inquiry as to whether such an application was in compliance with wishes of the ostensible owners. If satisfied, it then grants a certificate of title to the land. (NZS, 1873: 242-3).
- (10) In 1870, Mr H. Sewell, Ministry of Justice, introduced the first Native Lands Frauds Prevention Bill to the Parliament. The Act relevant to the Bill was passed late in the same year. The purpose of the Act was to confer protection on the Maoris in their land

dealings with Europeans. Smith points out that the Act invalidated all alienations of land by Maoris if made contrary to equity and good conscience, or in consideration of the supply of liquor, arms or ammunition, or which left insufficient land for Maori use. Trust Commissioners were appointed, and no instrument of alienation was valid unless it was endorsed with a certificate by the Commissioners.

The original Act was replaced in 1881 by another Native Lands Frauds Prevention Act. The new Act remained in force until 1894. From 1894, the Native Land Court Act conferred the power of the Trust Commissioners upon the Maori Land Court (Smith 1960: 9-10).

- (11) See Appendix-II, for compensation given by the government to the Maoris in accordance with claims made between 1920 and 1926,
- (12) The Maori Land Board was established in 1909 to investigate the possibility of use of native land and to carry out its development. The Board was abolished in 1952; all of its functions were conferred upon the Maori Trustee.

CHAPTER TWO

SOME MAJOR CHANGES IN GOVERNMENT MAORI LAND POLICY

It was described in Chapter One how Pakeha penetrated into Maori land and how the introduction of individualisation of land title was made by the government to native land tenure. This Chapter examines some major changes in government Maori land policies which seem to have had a great impact upon a tribal society. There were further alterations involving succession on intestacy in land, and government dealings with fragmentation and uneconomic interest in Maori land. These changes tended to be part of government efforts to replace the remnant of the Maori custom in land with English land laws.

1. Succession on Intestacy⁽¹⁾

Viewed in retrospect, the government began to deal with succession in Maori land right after the land war of 1860s. Under the Native Land Act of 1865, the Court was empowered to ascertain proper representatives of any owner dying intestate. On application made by any Maori who had interest in that land, the Court made an inquiry and ascertained successors (NZS, 1865: 2678). Principally, the Court was to follow the Maori custom in its investigation of claims.⁽²⁾ Its jurisdiction was to be based upon a proof of genealogy and descent. A grant of succession order was thus made primarily to the nearest kin of a deceased owner in the line of descent through which the right was derived, with children being the first in line.

In 1867, another Native Land Act gave the same power to the Court for land held under the Memorial of ownership, Crown grant, or any certificate of title. In 1876, the Intestate Native Succession Act defined persons who were full-blood, half-caste Maori, or Maori descendants as those who were eligible to succeed to intestate estate in Maori land. The Native Land Court Act of 1880 empowered the Court to grant a certificate of title to land to a successor who inherited land as ascertained by the Court. The Native Succession Act of 1881, the Native Land Act Amendment Act of 1882 and the Native Land Acts of 1886 and 1888, all reserved to the Court the power to determine successors on intestacy. There was a minor

change in the Act of 1886, specifying that children of half-caste Maori were also entitled to succeed in intestate estate in Maori land.

Traditionally, adopted children were given rights to inherit the landed property of their foster parent. From March 1902, the Native Land Claims Adjustment and Laws Amendment Act of 1901 declared those rights invalid unless an adoption was made and registered with the Court. The Native Land Acts of 1909 and 1931 followed former legislations in determining succession in Maori land.

According to Norman Smith (1960: 57), until 1952, a modified form of succession on intestacy to Maori land appeared as follows:

- (a) If a deceased left issue, they were to succeed, and in equal share.
- (b) If a deceased left no issue, then the parent through whom he derived his right will succeed (if alive). If the right came through both parents, both sides will succeed, usually in such shares as the parents are entitled, and, where this is not ascertainable, then generally in equal shares unless there is evidence to the contrary.
- (c) If the parent through whom the right comes is dead, then his children, or the issue of such of them as may be dead, will take *per stirpes*. This means the living brothers and sisters of the deceased and the issue of those who predeceased him.
- (d) If the parent from whom the right comes is dead, and the deceased has left no brothers and sisters or children of brothers and sisters surviving, then it is necessary to go back to the grandparent through whom the right was derived, who, if alive, will take it. Failing him, his issue (that is, the uncles and aunts of the deceased) or their issue will participate.
- (e) Failing one generation, then it may be necessary to follow through the previous generation on the principles set out above, and so on until living issue is traced.
- (f) Step-children, as such, do not take any interest under these rules unless they also have a right as next of kin of the deceased.

A spouse had no right to succeed in the land of the deceased. Only for a purpose of family maintenance did the Court, on application

within two years after the death of the owner, order an interest for life to a surviving spouse. Gifted land also returned to a donor or his descendants upon the death of a donee leaving no issue. Next of kin of the deceased donee had no right to succession in that gifted land.

The existing succession pattern appeared to differ somewhat from the old practices. Any change resulted from the Court's effort to make Maori land tenure understandable to Europeans. The new system gave not only 'use right' but also absolute ownership to a successor, in accordance with individualisation of title to land. Both sexes were also given equal right to succession. Traditionally, land was ideally passed through the male lines. Rights of the female were implicit, and where it existed, it depended much upon a male's decision. The Court had weakened such practice. In addition, the new succession was unrestricted by the rules of 'occupation' because 'freehold' was not bound by actual use or residence. As long as one could trace genealogical link to the owner of the land he/she could claim right of succession to it. The Court had introduced bilineal succession into the place of ambilateral succession in that one could claim rights in both parents and succeed in several shares located in separate districts.

Yet some customary practices persisted in that primary rights of succession still belonged to descendants while spouses could only claim use right. Furthermore, next of kin of a donee had no right to succeed in gifted land. The Government at 1952 was concerned about this existence, and thus made an attempt to abolish the remnant of the old custom.

The proposition of change appeared in the Maori Affairs Bill of 1952. In regard to gifted land, the government referred to 'injustice' that existed in the old custom. In its opinion, "Injustice may result, for instance, where a donee has expended large sums of money on buildings and permanent improvements, an event not possible in ancient times, and it would seem to be unfair upon his death intestate without issue, that his wife should be excluded, or his own next of kin, and that the land should revert to the source from which it came" (NZPD, 1953: 58-9). The government proposed to abolish the existing rules, except in its

application to gifts made in land derived under the will of a person already deceased (Bills Thrown Out, Explanatory Notes to the Maori Affairs Bill of 1952, 1953: x). The proposition was accepted by Parliament and enacted in 1953. A new provision (section 117 of the Maori Affairs Act, 1953) read that gifted land, on the death of a donee leaving no issue, would be disposed of in the same manner as that of European gifted land. It would be succeeded by husband or wife or next of kin of a deceased donee.

Similar reasons were given by the government in its attempt to provide a spouse a right to succeed to ownership in land on intestacy. According to the Explanatory Notes of the government to the Maori Affairs Bill of 1952, the proposed amendment was based significantly on the Family Protection Act. The reason given by the committee who prepared the Bill appeared as follows:

".... it may be argued that no real hardship is suffered by the widow or widower, for relief can in all necessitous cases be afforded by the Court in its administration of the provision relating to family maintenance. But in the past there has been some reluctance to claim relief under those provisions, and hardship has resulted. The present rule may have been related in its origin to the practice of customary marriage (not necessarily monogamous), but as customary marriages entered into since 1 April 1952⁽³⁾ are not recognised in law such marriages have a steadily diminishing place in Maori life. Apart from these special considerations, the rule in question is a surviving example of discrimination between Maoris and Europeans, and the general policy is to abolish such discrimination wherever practicable" (Bills Thrown Out 1952: iv-v).

The proposition in the Bill was, however, for some unclear reason not accepted by the Parliament in 1953. A spouse was, thus, not granted a right to succeed in absolute ownership in Maori land.

In 1965, the government appointed a committee which was known as 'Prichard-Waetford' committee to inquire into laws affecting Maori land and to seek ways to reform them. The committee consisted of two men, Messrs I. Prichard (Chairman), a European and a retired Chief-Judge of

the Maori Land Court, and H.T. Waetford, a Maori and a serving Land Titles Officer in the Department of Maori Affairs. The committee released its report early in 1966.

One of the great concerns of the committee was rights of a spouse to succeed to land on intestacy. In its opinion, a modern Maori spouse was living in a disadvantageous condition. The disadvantage was seen when a widow had several children and the house was heavily mortgaged. Under the Maori custom, the widow received only a life interest with the ownership going to the children. But, in fact, it was she who struggled to pay off the mortgage only to find that her children, after marriage, brought their spouses into and dominated the house. The outcome was that the widow was slowly edged out of the property because she had no right of ownership of the house and the land on which it was built (Prichard-Waetford Report 1965: 54). The committee, therefore, recommended to the government that devolution of Maori land on intestacy be made in the same manner as that for Europeans.

The committee's recommendation was agreed upon by Mr J. Hanan, Minister of Maori Affairs, who then alleged that a discrimination in law between Maori and European widows must be eliminated. He proposed this in the Maori Affairs Amendment Bill of 1966 which was enacted in 1967. The new provision read as follows:

"The person entitled on the complete or partial intestacy of a Maori, or descendant of a Maori who dies after the commencement of this Act, to succeed to his estate, whether real or personal, and the shares in which they are so entitled, shall be determined in the same manner as if the deceased person were a European"
(NZS, 1967: 865).

According to the 1967 Act, Maori freehold land of a Maori who died after 1st of April, 1968, was computed as part of real and personal estate and was distributed in accordance with the Administration Act, 1951. The new distribution was to be made as follows:

- (a) If the deceased leaves a husband or wife, either of them shall take the whole of the first \$12,000⁽⁴⁾ of a total value of the estate.
- (b) If the deceased person has an issue, then,
 - one-third of the balance of the value exceeding \$12,000 goes to the surviving husband or wife,
 - two-thirds of the balance goes, in trust, to the issue.
- (c) If the deceased leaves no issue but parent or parents, then,
 - two-thirds of the balance goes to the husband or wife,
 - one-third of the balance goes to the parent or parents.
- (D) If the deceased leaves no issue or parents, the husband or wife take the lot (NZS, 1969: 545).

The new provisions brought a total change to Maori custom on intestate succession. It made available for the first time to a spouse the right to succeed in land ownership. Traditionally, the descendant took precedence in succession. The law made his right secondary to the right of a spouse. This reversion could affect the rights of *tangata whenua*⁽⁵⁾ in tribal land. The explanation for this was that where the estate's value did not exceed \$12,000 the descendant which was *tangata whenua* by descent rule would be excluded. Under a modern economic situation emigration for other source of livelihood could take place. This meant that the law kept them away from their local kin-group. Instead, it allowed outsiders to gain access into tribal land. It was true that a spouse, due to lack of ancestral link, gained no privileges of *tangata whenua*, but the fact that he or she owned Maori land could not be lightly dismissed. Should the spouse come into conflict with the tribal elders they could dispose of the land and live elsewhere. The tribal elders had no legal authority to veto them in alienation of the land.

2. Conversion of Uneconomic Interest in Maori Land⁽⁶⁾

The government also threatened Maori people by introducing a 'conversion' scheme to deal with fragmentation and uneconomic interest of their land. Initially, the Maori Affairs Act of 1953 empowered the Maori Land Court to decide what contributed 'uneconomic interest'. Under section

117(3) of the Act, uneconomic interest meant a beneficial freehold interest in the land the value of which did not exceed the sum of twenty-five pounds.

The following brief historical account is included to extend our understanding of fragmentation and uneconomic interest in Maori land.

Back in 1865, undivided tribal property was divided by the Court, under its individualisation of title and freehold system. Due to succession method operated by the Court so far, fragmentation occurred when a single block of land was passed to successors. Originally, the land could have belonged to few heads of families. When they died, their descendants succeeded equally to their shares. After generations, each share was divided into a number of small shares. Some of the shares became too small to use productively or to expect sufficient returns. For example,

"... In the Rakautatahi 5B Block (Ikaroa district), where a rental of nine pounds nineteen shillings and nine pence is distributed twice a year, there are about ninety owners, and some of the interests are so small that several of those who are beneficially interested in the land receive only one penny at each distribution. Originally, the beneficial interest in this block was divided into thirteen shares. Today, with the passage of time, some of the owners are entitled to no more than 1/420th part of one share. As the total area is just over 300 acres those interests on the acreage basis would represent about 9 perches (i.e. less than 1/16th of an acre)" (Hunn 1961: 52).

Regardless of this problem, Maori land was persistently allowed to pass to all descendants in equal shares. The outcome was that while a share in land became smaller number of owners in a piece of land increased. The following figures show the largest number of owners in one title.

TABLE II : The Largest Number of Owners in one Title

<u>District</u>	<u>Number of Owners</u>	<u>Name of Land</u>
Whangarei	1,107	Maungapohatu North
Auckland	966	Hurakia A-1
Rotorua	2,329	Matahina A-1-D
Gisborne	1,805	Paharakeke B

Wanganui	5,000	Lake Rotoaira
Palmerston North	634	North Island Tenths
Christchurch	1,350	South Island Tenths

(Hunn 1961: 54; Kawharu 1977:104).

To solve the problem of uneconomic interest, the Act of 1953 empowered the Maori Land Court, upon a grant of succession order, to prevent interest from being split up to the point of being uneconomic. The method employed by the Court was that it would not vest any interest in land which constituted an 'uneconomic interest' in any beneficiary or any person other than the Maori Trustee.⁽⁷⁾ The uneconomic interest which was compulsory taken by the Trustee was paid to the owners out of a 'Conversion Fund' established under section 152(3) of the Maori Affairs Act, 1953. The price paid by the Trustee was fixed by the Court.

The conversion scheme affected not only uneconomic shares on intestate succession but also other lands which were valued at not more than twenty-five pounds. Regarding this, the Maori Trustee had power to purchase such land held by beneficial owners in common as well as land held by Maori Land Incorporation if the Court determined it to be uneconomic.

Once the land was vested in him, the Maori Trustee had full authority to deal with it: to dispose of it to a Maori or to descendants of a Maori or to a corporation of owners of any Maori Land Incorporation or to the Crown for a purpose of Maori housing, development, or settlement scheme.

In 1960, J.K. Hunn⁽⁸⁾ supported the conversion scheme of the government. There was an argument that the scheme parted the Maori people with their lands and *turangawaewae* (the place to stand) and disallowed them rights to belong to the group. Hunn responded that, with the growth of Maori population and of social and economic problems, the Maoris had to alter their attitudes in land. They should regard the ownership of a modern home in town or country as a stronger claim to speak on the *marae* than ownership in a small piece of land that they had probably never seen. He insisted that the Maori people demonstrated

their love of land in a practical way (Ibid: 52). This meant that land must be thought of in terms of use. To achieve this target, Hunn suggested that the Court encouraged Maori owners to nominate, during their lifetimes, a sole successor to their lands. Undoubtedly, this would exclude some *tangata whenua* from the land, but prevent fragmentation. In addition, the government would also increase the minimum value of uneconomic interest from twenty five pounds to fifty pounds to enable the conversion scheme to operate widely.

Prichard-Waetford Report (1965) agreed with Hunn, but added some further propositions. The report was concerned that the Maori people no longer attached to their land and locality. It was estimated that by 1970 Maori urban immigrants would have outnumbered those living in the country (132,737/102,653). This indicated a tendency of Maori to live away from their land. Under this condition, many owners might want to dispose of their small shares to purchase other holdings which would produce effectively or to settle elsewhere. The report claimed that some owners even asked the Court to increase the minimum value of uneconomic land to one hundred pounds so that they would be able to eliminate their uneconomic shares (Prichard-Waetford Report 1965: 70). It also considered that the conversion scheme operated by the Act of 1953 was ineffective because the Maori Trustee had limited power and a limited fund to buy up large amounts of small interests. Therefore, it proposed the following:

- (a) The government increases the value of uneconomic land from twenty five pounds to one hundred pounds and also increases the rate of conversion.
- (b) Conversion scheme would be undertaken by the Crown instead of the Maori Trustee
- (c) Power of the Crown in the matter must cover a wide range of Maori land, *viz.* consolidated land, land of a deceased person held by administrator, hilltops, and land unsuitable for development.

The purchase should include live-buying on agreement between owners and the Crown.

- (d) Land acquired by the Crown under conversion fund will become Crown land and available for disposal. The Crown may dispose of the land to Maori owners on time payment, to other Maoris, or even to non-Maoris (Ibid: 86-7).

In 1967, the government came up with a slight modification of a conversion scheme for Maori uneconomic land. Under the Maori Affairs Amendment Act of 1967 which was based chiefly on the Prichard-Waetford Report, the government changed the minimum value of uneconomic interest from twenty five pounds to fifty dollars. This meant that, after the commencement of the 1967 Act, the Maori Trustee would continue buying Maori land which was determined by the Court as uneconomic. The purchase by the Maori Trustee covered not only any freehold land but also any uneconomic shares in reserved land and vested land of any beneficial freehold interest (N.Z.S., 1967: 897).

3. Comments on Government Policies ⁽⁹⁾

The change in the government policy toward Maori land since 1953 brought many criticisms because it proved to be as momentous in the history of Maori land tenure as the earlier introduction of individualisation of title to land. Most criticisms justified that the government considered land solely on economic and commercial bases but ignored Maori sentiment in land. As the Press Association commented, it always took for granted that land was primarily an economic entity to be bought and sold according to its productive value; and it was felt to be in a sense immoral that some land should not be used to maximum capacity (N.Z.L., 1967: 21). Prichard himself made it clear that the Maori must regard land as something that produced money rather than anything to be conserved.

In succession on intestacy, the Tai Rawhiti-New Zealand Maori Council argued that change in connection of spouse's rights admitted to full ownership not only non-members of a local group but also those who were not even Maori. Simultaneously, it excluded from ownership

direct descendants of the original owners; such exclusions occurred whenever the estate was worth less than \$12,000 (Cf. Kawharu 1977: 288). With reference to an increase in Maori emigration and inter-tribal or inter-ethnic marriages, the Council's argument was based on objective and discernible facts. If this were the case, it was predictable that Maori of new generations will establish their own livelihood away from the tribal group. Since fragmentation and uneconomic interest in Maori land apparently existed, few of Maori estates would reach the value of \$12,000. Consequently, only a few Maori direct descendants would gain benefit from their ancestral land, and since the customary succession had come to an end, replaced by the English law, a Maori hope of living together as a group would not be possible.

Severe criticism was made of government policy involving uneconomic interest in Maori land. In 1961, the Presbyterian Church published some interesting comments on the Hunn Report. The comment was connected with the fact that the conversion scheme drove the Maori people out of their *turangawaewae*. In his Report, Hunn insisted that Maori people modified their thoughts of land in terms of production. He also suggested that Maori owners took home ownership elsewhere as the place to stand and forgot about uneconomic shares in the country. In the Church's opinion, the proposition was unacceptable to the Maori people because their tribal society was communistic and all attributes and rights to belong to it were linked with land. Thus, the owners wished their names to be attached to land in order that they could claim rights of belonging. They also believed that the land provided them rights of *tangata whenua* and rights to speak on a *marae*. Their expression about land, thus, concerned greatly with an emotional need and security in a group. This need was more than a material base and was totally different from 'home ownership' that could fit only with the European habitation and individual way of life. To deny Maori right of any land was, therefore, to destroy their rights of belonging which would result in a serious disintegration of their local community (Presbyterian Church 1961: 32).

Harre, in his criticism of the Prichard-Waetford Report and of the Maori Affairs Amendment Bill of 1967, made a similar comment to that of the Church. He stated that Maori land was associated with all cultural attributes that combined to form the value of sacredness and identity of a group. The compulsory expropriation of uneconomic interest in Maori land destroyed Maori rights to belong to their kin-group. In his viewpoint, the conversion of uneconomic land should not be made without consultation with a body like the tribal elders who were competent to judge the issue from the Maori point of view (NZMR, 1967: 11).

Generally speaking, the government policy in uneconomic interest was not applicable to all situations. The reason was that there were still many Maoris who lived on land and in the community. They were rural people who were attached to the land not only in economic terms but also by ties of sentiment. Once they were driven from their land they lost their homes and opportunity to express their belief in a Maori way. Furthermore, the conversion scheme would affect large areas of Maori land and a number of owners, because most shares in Maori land were small. It seemed unjustifiable to allege that the money obtainable from selling the land to the Maori Trustee could redress an economic hardship of those willing to sell the land and live elsewhere. An obvious reason was that it would not be adequate even to pay travel costs or accommodation.

In the next two chapters, I shall describe the tribal society and traditional land tenurial system, in order to enlighten our comprehension of change in a Maori community that follows a replacement of Maori custom in land by English land laws, that I shall proceed in Chapter Five.

NOTES

- (1) Succession in this context applies to only Maori freehold land. Customary land is not recognised by law for the purpose of transaction and succession. Today, customary land does not form a significant part of Maori land because only a few acres of it remains. (NZOYB, 1953: 390; NZPD, 1967: 3592; King 1975: 121).
- (2) The Maori Land Court takes the view that 1840 (the signing of the Treaty of Waitangi) was a starting point of all claims in Maori land. If any one could trace evidence up to this point he was presumed to be the owner of the land. Investigation of claim in Maori land in any case is contingent upon the date of 1840 (Smith 1948: 65).
- (3) According to the Maori Purposes Act, 1951, customary marriage was invalid unless it was celebrated and registered in accordance with the Marriage Act of 1908. All successions arising out of such marriage after 1953 must follow the provisions of the Maori Affairs Act, 1953. (Joan Metge in Man, 1957, Vol. 57, pp. 166-70).
- (4) The Administration Amendment Act, 1975, increased this amount up to \$25,000.
- (5) See Chapter Three on "Concept of *Tangata Whenua*"
- (6) Conversion of uneconomic interest in Maori land had been in operation until the beginning of 1974. It was repealed by the Maori Affairs Amendment Act, 1974.
- (7) The Maori Trustee was established in 1922 to administer Maori Reserves and to assist Maori owners in finance concerning the use of their land. The Trustee himself had no staff, but all officers of the Department of Maori Affairs were officers of the Maori Trustee office. All district officers of the Department were also representatives of the Maori Trustee.

Apart from power given by the Maori Affairs Act of 1953 and its Amendment Act, 1967, to convert and manage uneconomic interest in Maori land, the Maori Trustee had general authority as follows:

- Administration of estates of a deceased Maori owner.
- Administration of the affairs of Maoris under disability
- Control land in various trusts, e.g. Maori Reserves and trusts for the disposition of land under orders of the Court.

- Act as an agent of Maori owners in land alienation; collect money and rents and distribute them to owners involved.
 - Control trust-money held in the 'Common Fund'.
 - Assist Maoris and Maori descendants in getting money from the 'Common Fund' and from the 'General Purposes Fund' for investment.
- (8) In 1960, Mr J.K. Hunn, Acting Secretary for Maori Affairs, reviewed the work of the Maori Affairs Department and the provisions of law as existed under the Maori Affairs Act, 1953. He then submitted his report to Parliament recommending measures that would have a fundamental bearing on the Maori people. His report indicated government concerns in Maori housing, education, health, employment, racial problems, land title problems, land settlement, administration of land, and so forth.
- (9) Criticism concerning change in government policy in succession on intestacy and conversion of uneconomic interest in Maori land was not in consensus. Some Maori owners, as the Presbyterian Church claimed, desired to retain the Maori custom and the land. There were, however, many owners who looked for change as well. When the Maori Affairs Bill, 1952, was prepared Mr Corbett, Minister of Maori Affairs, claimed a support from most Maori owners of Northern Maori District, Ngati Porou, and Ngati Kahungunu. In 1967, when the Amendment Bill to the Maori Affairs Act of 1953 was brought before Parliament, Mr Hanan, Minister of Maori Affairs alleged that the government conversion scheme was greatly supported by those who lived away from the land. It was evident that many urban immigrants had turned their land into cash on their own initiative. In succession on intestacy, Prichard-Waetford referred to one example that at one meeting of Maori owners, two-thirds of them were in favour of change and only one-third wanted to retain the Maori custom.

It seemed that this dissension on the Maori part, as Rosenberg remarked, that allowed the government to take advantage and change the land law (NZMR, July 1967:10).

CHAPTER THREE

TRIBAL SOCIETY

This chapter describes some aspects of Maori tribal society in pre-contact times. The description will include an investigation in retrospect of the historical background, tribal structure, social organisation, tribal institutions, and leadership.

1. Historical Background

Prior to the first European contact in the early 19th century, knowledge about Maori people was based on their mythical references, tales, songs, genealogical records, canoe traditions, and archaeological evidences. It was stated generally that the original homeland of the Maori was a place called 'Hawaiki'.⁽¹⁾ Hawaiki tended to be a place in Maori myth rather than in geographical reality. No one could point to where it was, even though some writers about Maori history claimed that it could be somewhere in the Pacific Ocean, Tahiti, the Cook Islands, or the Chatham Islands (Schwimmer 1974: 11; Siers 1967: 2). Wherever they originated from, however, the Maori people claimed that they migrated to New Zealand several hundred years ago.

There were three waves of Maori migration to New Zealand. The first migration came in three canoes, namely, Kahutara, Taikoria, and Okoki. These canoes were commanded by Maruiwi, Ruatamore, and Taitawaro respectively and landed on the Taranaki coast at Ngamotu, near the present town of New Plymouth. The first Maori settlers occupied land along the west coast of the North Island (Buck 1958: 10). It was estimated that this migration took place about 950 A.D.

The second wave occurring in approximately 1150 A.D., resulted from an expedition of 'Toi' from Hawaiki, who was searching for his missing grandson (Ibid: 22). Toi and his Crew landed and settled down in Whakatane on the east coast of the North Island. According to Maori myth, Toi was the great chief at that time who had influence over the Maoris of the east coast area. Many later tribes, especially the Ngati Awa tribe, descended from him. The Maoris coming at the time of

Toi claimed vast areas of land for settlement. Since the number of native inhabitants was still small, the boundaries of land were not fixed and the settlers roamed freely.

The settlers established unfortified villages called *kāinga*. Members of this social unit belonged to the same descent group. They lived together and managed all domestic affairs co-operatively. This type of early social unit persisted until the arrival of the Great Fleet. ⁽²⁾

The Great Fleet, the last wave of Maori migration, occurred around the fourteenth century. Buck (1958) stated that many references indicated that this migration came in seven canoes, *viz.* Tainui, Te Arawa, Mataatua, Kurahaupo, Tokomaru, Aotea, and Takitimu. All these canoes except Aotea landed on the east coast at the Bay of Plenty of the North Island. The Aotea, which lost its way at sea, managed to land on the west coast (Ibid: 51). This migration brought some of the most famous chiefs in Maori history, many of whom appear at the head of the noblest genealogies of many tribes (Schwimmer 1974: 11). From them, many Maori tribes in New Zealand traced descent. The European, basing the conclusion on Maori tales and canoe traditions, estimated that the Great Fleet could have arrived in the country in 1350 A.D.

The arrival of Maori in the Great Fleet created problems over land and tribal territories. The problems stemmed from the fact that while each group claimed vast areas of land, no clear signs of boundaries were displayed. Because of this, incidental intrusions into others' territory always occurred and these often led to bloodshed. The situation forced the Maori to fix their territory and to devise a protective measure to prevent a possible attack from enemy. It was under these conditions that love of land grew into an absorbing passion which demanded that every effort be enlisted in its defence. The fortifications which were built up for defensive purposes were termed *pa*. The *pa* was normally built in an area which was difficult for the enemy to approach; on the hills and cliffs, and surrounded with stockades.

2. Tribal Structure and Social Organisation

The Maori society was originally organised in three major forms, *iwi* (tribe), *hapū* (sub-tribe), and *whānau* (extended family).

2.1. The *Iwi*

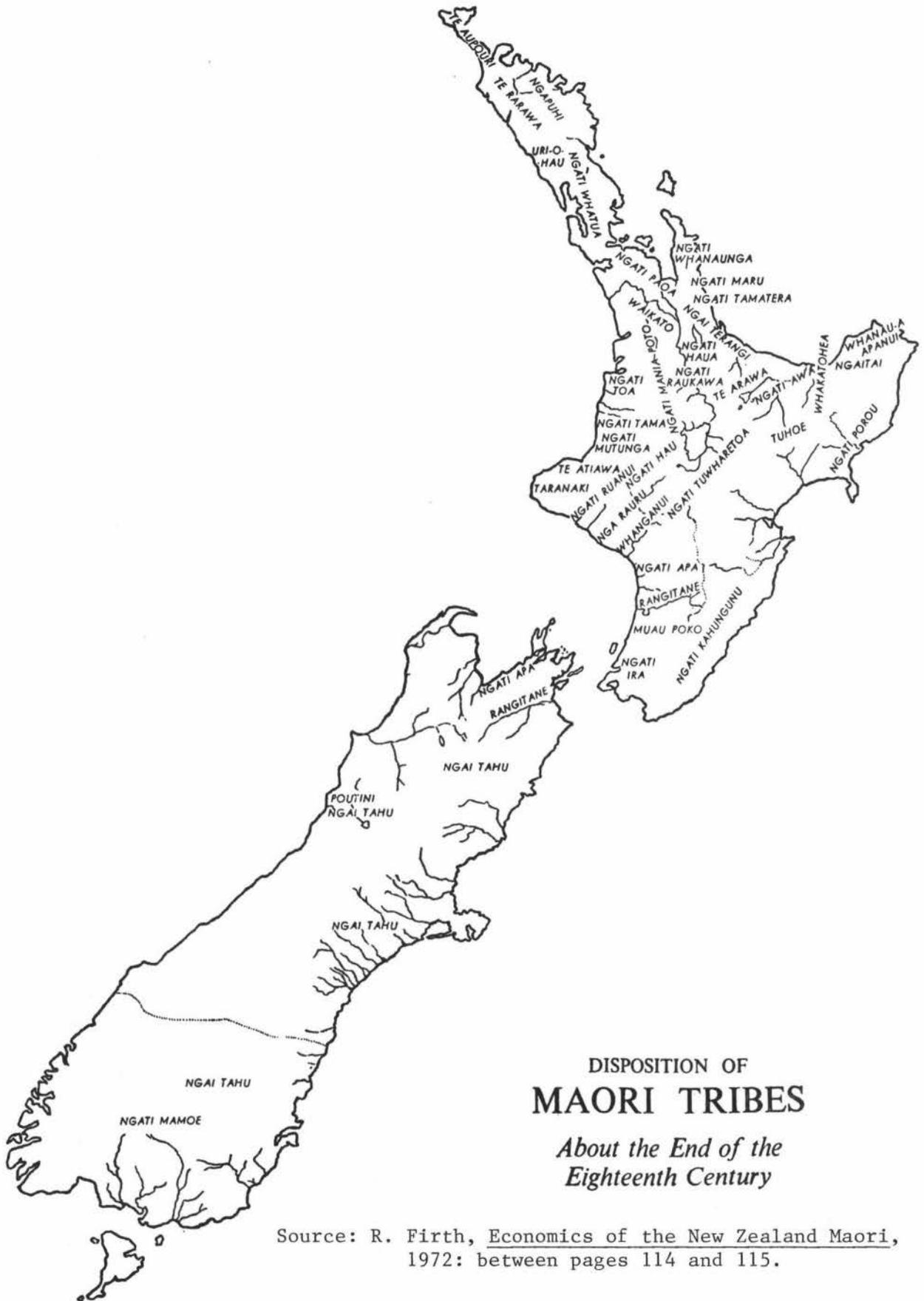
Iwi was the largest social and political unit in the Maori society. It constituted of several *hapū*. When the Maori was first discovered by Captain Cook in 1769, there were some fifty distinct *iwi* in New Zealand (Metge 1967: 5). Each *iwi* was an independent political unit possessing separate and defined territories. The size of each *iwi* varied from a few to several thousand members. In addition, its population included spouses from outside, slaves captured in war, and perhaps immigrants.

Each *iwi* was a descent group in a broad sense because all of its members linked ancestrally from the *iwi*'s founder, male or female. The people usually traced descent from the crew of the canoes of the first migrations. For example, Tama-te-kapau, Ngatoro-i-rangi, and Tia were important names in the Arawa canoe. "From the first-named are descended Ngati Rangitihi, Tohourangi, Ngati Whakaue, Ngati Pikia, and other tribes; from the second, Ngati Tuwharetoa and others; from the third Tapuika. These and other tribes descended from the remainder of the crew occupy a large district in the east and centre of the North Island and together are known as Te Arawa" (Firth 1972: 115). (See also the genealogical table on page 40). Politically, each *iwi* was led by a chief of superior kinship, the *ariki*.⁽³⁾

2.2. The *Hapū*

The *hapū* was a smaller unit of an *iwi*. It was a descent group in a real sense because its members not only had a common descent but also lived together on the *hapū* land. It had a head called *rangatira*.⁽⁴⁾

Each *hapū* composed of several *whānau* (extended family) and had populations numbering up to several hundred. When it grew too large, a *whānau* could form a new independent *hapū*. Yet the new *hapū* was still linked ancestrally to its original one.



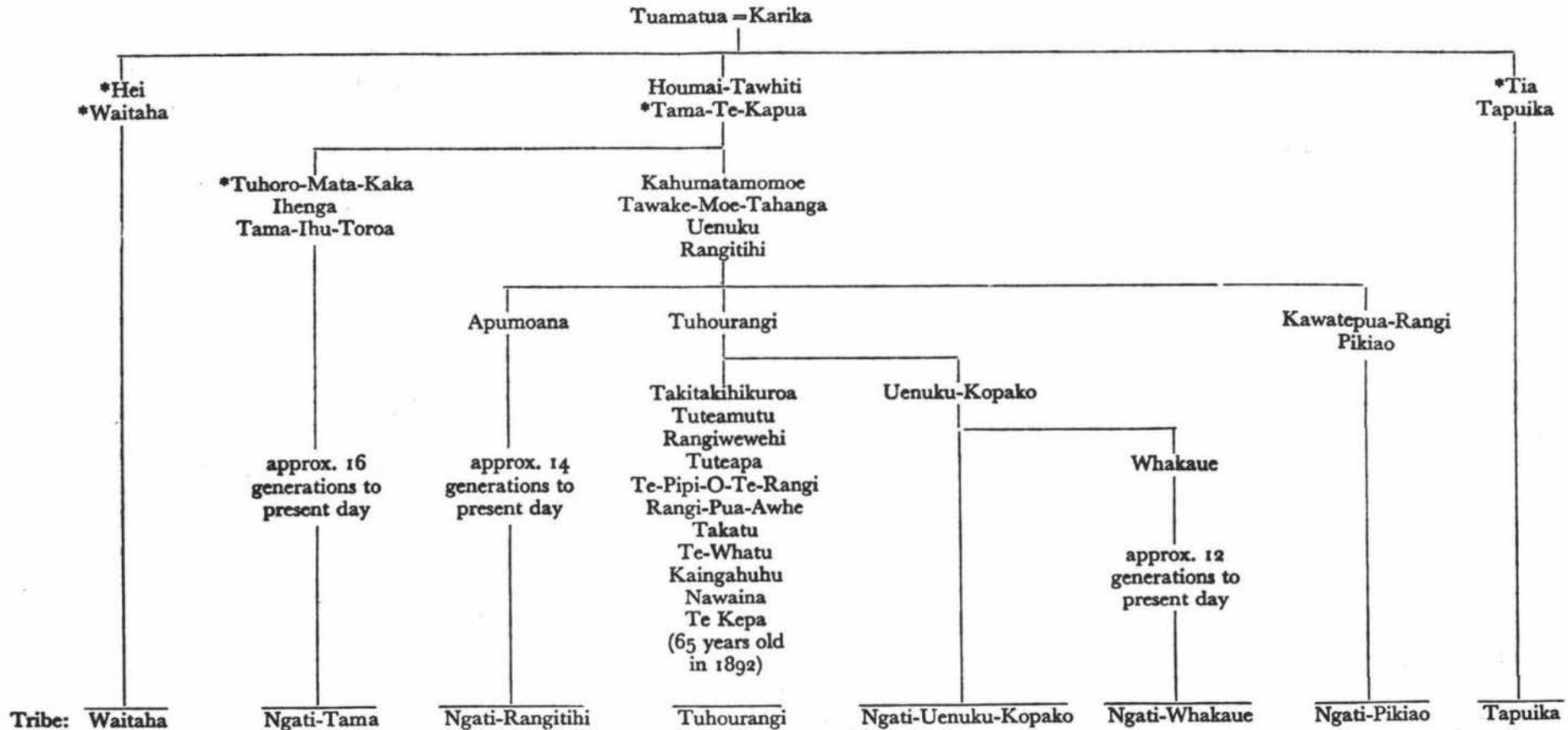
DISPOSITION OF
MAORI TRIBES

*About the End of the
Eighteenth Century*

Source: R. Firth, Economics of the New Zealand Maori, 1972: between pages 114 and 115.

TABLE II:

TABLE ILLUSTRATING DESCENT OF SOME ARAWA TRIBES
(Cf. Chapter III)



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*Came from Hawaiki in the Arawa Canoe.
 Compiled from: W. E. Gudgeon, *J.P.S.*, i, 222; ii, 157; iii, 47-8.
 Timi Wata Rimini and Takaanui Tarakawa, *J.P.S.*, ii, 242; 248-9.
 E. Shortland, *Traditions and Superstitions*, 310.
 Te Rangi Hiroa (P. H. Buck), *Trans. N.Z. Inst.*, liii, 433.

Source : R. Firth, *Economics of the New Zealand Maori*,
 1972: between pages 102 and 103.

The *hapū* was the most explicit social, economic, and political unit in the Maori society. As Firth (1960: 33) remarked, it had a character of corporateness. Theoretically, 'corporate group' refers to a group which is autonomous, discrete, closed by limited membership, and led by a chief who carries orders governing it into effect. The instrument of all actions in the corporate group is an administrative system which is framed by a politico-jural exclusiveness in its relationship with external groups (Max Weber 1974: 150).

Many others contribute to the explanation of a corporate conception. Maine (1881) and Goody (1961) point out that a corporate group is also characterised by its perpetuity. Such perpetuity depends on a specific rule of transmission of collective rights held in common in a form of trustee, from ascendant to descendant. This transmission keeps basic estate intact and keeps the group continued. This complies with that of Radcliff-Brown (1935) that a corporate body administers common property and land in the interest of succeeding generations. It has capacity to act as a unit to exercise rights and to fulfil obligation of its members. From within, it concentrates on socially recognised entities and interests of individual members. Rights of individuals in the group are judged by birth and descent. Externally, it organises its members to defend themselves against other groups. Political relationship with other groups is principally operated through the tribal authority, the chiefs.

The Maori *hapū* seemed to aggregate most attributes of corporateness mentioned above. This could be discerned in that it stood as a territorial group and was bound by descent unity of specified genealogical lineages. It recruited membership primarily on filiation and marriage. Filiation was an automatic qualification of membership. In contrast, membership through marriage rested on an individual's choice. Due to ambilateral rules of descent, an individual had rights in both parental groups. However, he chose to be loyal and to participate actively only in one group at once, leaving his rights elsewhere lying dormant.

Within a *hapū*, both politico-jural and ritual authority were vested in the office of the chiefs and elders who acted on behalf of their people. Land also belonged to the group but ideally vested in

the chief, *rangatira*. Individuals only acted in their capacity as citizens of the group. Their rights, duties, privileges and so on were determined and approved by the *hapū* and by their allegiance to the group and its related members. All affairs, e.g. administration, religious practices, land use, social gatherings, economic functions, were directed by the *hapū* which had a *marae* as its centre. The functions of all institutions in the *hapū* were correspondent to the needs of the existence of the group organism. A proof of genealogy, mutual reciprocity, and inter-dependence of kinsmen in the group ensured succession to office of leadership, membership, and all rights concerning tribal estates. As long as these survived, a continuity of the *hapū* was guaranteed, in spite of the loss of its members through death.

Despite its standing as a self-reliant unit, the *hapū* owed loyalty to the *iwi* in terms of tribal defence and absolute alienation of land. It linked historically, ancestrally, and politically to the *iwi* and to other *hapū* of the same kind.

2.3. The Whānau

The *whānau* was the smallest social unit of Maori society. It was an extended family that formed part of a *hapū*. Generally, the local people distinguished their kin-groups as 'family groups' identified by surname. These family groups consisted of a nucleus of persons descended through both male and female from a common ancestor, plus spouses, children, and foster children. Each family group usually composed of between thirty and fifty people distributed amongst several households. The head of these households was called *kawmatua*.⁽⁵⁾ Theoretically, the head was a local member who bequeathed his title to his descendants along with local land. Due to this fact, it was rare that immigrants could form a *whānau* unless they had lived in the locality for a long time.

Like the *iwi* and *hapū*, the *whānau* was basically a descent-group. It had great cohesion because its members were bound together by the closest ties of kinship, ranged through only three to four generations (Best 1974: 95). Within this domain, blood ties ran strongly and co-operation in all affairs was obligatory.

The *whānau* acted as a group in most occasions, on behalf of its individual members. It made all decisions and in its domestic affairs it was always a closely knit unit that acted as a solidary group (Reed 1964: 57). In activities such as hunting, fishing, cultivation, its members co-operated and shared in produces. The *whānau* held land in common and had rights to use certain blocks of land for certain purposes such as house-sites and horticulture. These rights were well-defined from the rights of other neighbouring *whānau*. All affairs exercised by the *whānau* were independent of other authority beyond it, unless affairs as such affected the interests of a larger group as *hapū* or *iwi*. In a wider context, the *whānau* linked closely with other *whānau* in the *hapū*. In this regard, reciprocity was a keynote in their relationships, apparently expressed on the occasions of celebrations, ceremonials, social gatherings, welcoming of visitors, and any functions sponsored by the *hapū* on the *marae* and in the meeting house.

There was no further smaller social unit in Maori society despite the fact that many affairs were assumed by the elementary families comprising the *whānau*. It was true that land rights and personal properties passed individually from parents to children in the families (Firth 1972: 116). But the power of the families as such always based upon the greater power of the *whānau*. Best (1924: 361) explained that it was the nature of Maori social organisation, the communistic habits of the people, and the negligence of individual interests that made the nuclear family in the European sense lost in the wider group of the *whānau*.

3. Descent and Kinship

In Maori society, descent and kinship were crucial attributes that determined a set of relationship between individuals, rights and duties of individuals in a group, and rights in tribal estates.

All tribal groupings in a Maori tribe were related to each other by descent (Buck 1958: 338). All members of the tribe traced descent from a founder of the tribe, specifically from the crew of the canoe.

Thus, the Arawa people were descendants of those who came to New Zealand in the Arawa canoe. Members of *hapū* and *whānua* traced descent in a similar manner, back to the founder of the tribe. If a *hapū* grew very large it might split into several *hapū* which looked to their own founders. Nevertheless, the new group still identified itself with the tribe or the original *hapū* in terms of ancestral and kinship relations. A knowledge of this common tie was always preserved in the family's genealogical records which formed oral registers of birth and marriages. This knowledge served as an actor-centred instrument for assignment of rights and status or for establishing inter-personal or inter-group connection (Fortes 1969: 281).

Among all social units, the *hapū* was the most apparent descent group. According to Firth (1972: 112), it was not a purely unilateral group and was not a strictly exogamous group in terms of marriage. Endogamous was always encouraged within the group as long as parties involved were not too closely related. Genealogically, the *hapū* was an ambilateral group in that both parents were eligible for the purpose of kinship affiliation. In principle, neither patrilineal nor matrilineal was strictly taken as a rule in tracing of descent; male and female might figure in the same genealogical line. Thus, where a married couple were of different *hapū* their children belonged to both, and where they were of the same *hapū* the children had a double qualification for membership.

A distinction of descent group in the *hapū* appeared in a practical sense, that was an individual must choose to attach to only one group at one time. This was expressed in association with actual residence and participation in a certain group while leaving the rights in other groups lying dormant. It was notable that a preference was often given to the male lines.

The Maori people observed kinship ties both by blood and by marriage. Kinship ties between parents and children and between siblings were strongly recognised, especially in a consideration of land rights and succession to office. But Maori also traced kinship ties a long way out. As a result, any one who was able to trace descent through a common ancestor was accepted as kin. However, those who had no

ancestral links like a spouse from another group of descent including immigrants were not counted as kin.

Kinship terminology was used to express a relationship between any two members of the tribe, and if any doubts occurred, it was settled by a recital of lineages of the persons concerned (Buck 1958: 338). The kinship terms denoted the place in lineal descent in any generation and the order of birth of members of either groups. Here, the status of seniority (*tuakana*) was regarded as significant. Consequently, when two individuals traced a common descent they sorted out which of their ancestors was senior. Through this they decided the position in their kinship relation; with the person belonging to the senior family possessing higher status. Fried (1967: 120) called a society of this type a 'rank society'. Within it, status and role of a person were distinguished by birth, age, sex, heirarchy, and kinship rules. The status derived accordingly was termed 'ascribed status'. The most prominent criterion of this status was that it passed from ascendant to descendant by intestate succession. This explanation fits well into the Maori model in that both membership and property rights were transmuted at the death of a possessor in accordance with the rule ascribed in kinship relationship. This ideology was recognised by Maoris as an indicator of highly formalised categories and respect among members of a kin-group. In this regard, a highly born person possessed high status and received high respect in relative to commoners and male was relatively superior to female.

In short, the Maori people traced descent and kinship through a common ancestor. Members of one group may link ancestrally to another in descent categories. But descent group comprised of only members of a local group (*hapū* and *whānau*). Kinship was dominant in an extended family (*whānau*) but expanded to cover all kinsfolk traceable through both parents, within and without the local community. The relationship derived from marriage shared some parts in descent and kinship where it produced children to succeed in membership and land rights. In this context, a choice had to be made to clarify one's loyalty to a certain group. Once the choice was made all rights concerning himself, his spouse, and his children would be determined by the group he chose to belong to.

4. Marae and Meeting House

The *marae* and the meeting-house were among the most important institutions in traditional Maori society. Physically, the *marae* was just an open space "often roughly rectangular in form, grass-covered or worn to the bare earth" (Firth 1972: 95). It was a social and ceremonial core and a symbol of prestige of the community. It was *turangawaewae* or the place to stand of *tangata whenua*, and in fact the centre of all kinds of corporate activity in the *hapū*.

The *marae* served Maori people in many ways; meeting, gathering, sporting, playing, relaxing, ceremony, welcoming visitors, and so forth. Of all the gatherings held on the *marae*, the *tangihanga* (mourning for the dead) was the most important. Whenever possible, the dead would be taken to the *marae* where the mourning ceremony took place and culminated in the funeral feast, *hakari* (Cf. King 1975: 21). In particular, a dying chief was ideally brought to the *marae* so that he might utter his *ohaki* (deathbed will) and his *poroporoaki* (farewell words) to the people assembled there (Buck 1958: 95). The *marae* also served as the place to greet and farewell the war party of the *hapū*. As the centre of discussion, it functioned as the means allowing the community to reach a solution to any issue in consensus. One such occasions, a speaker may take the opportunity to express his feelings openly. Grievances and disputes could be brought into the open and solutions to problems be found, and consensus achieved. In extra-*hapū* relationships, the *marae* was the centrepiece of prestige which *tangata whenua* availed themselves of when welcoming important visitors with speeches, entertainments, and feasts. The prestige of the *tangata whenua* was largely contingent upon this hospitality, especially in the way in which the *tangata whenua* gave full expression of *Maoritanga* (Maoriness) towards their guests. To achieve this goal, the Maori believed that the *marae* must be supported by a plentifully stocked *pataka* (storehouse) and a fine *whare whakairo* (carved meeting-house).

A meeting-house, erected alongside, was an extension of the *marae* in bad weather or at night. Generally, it was the council chamber or guest house. To the Maori, it was just as sacred as the *marae*. Because of this sacredness, it was usually named after a prominent sub-tribal or tribal ancestor or a migratory canoe (Kawharu 1977: 43). Since it belonged to the descent group, it was normally built by

organised labour of the *hapū* and thus ensured the unity of the community. Its traditional values lied in its association with tribal history, which was shown on the carved slabs representing details of *whakapapa* (genealogies) and ancestors. Emotions related to these values were expressed in the efforts in art, skill, and decoration that the Maori put into the meeting-house. Since it was sacred, etiquette and *tapu*⁽⁶⁾ were observed in many parts of it, especially in relation to persons of high social status. "The part allotted to guests was on the right-hand side as one enters, close under the window. The chief men of the village then opposite, also near the front of the house. The chief of highest rank had his own sleeping place, near the centre pillar, and this could not be occupied or even touched by lesser persons. To do so was a great insult to him. Moreover, no food might be brought into the house, as this was destructive to its *tapu* (sacredness) and that of the people within" (Firth 1972: 99).

In brief, the *marae* and meeting-house were not merely visible objects, but were considered an invaluable property of the Maori in any *hapū*. Their values existed in all social and political events which were expressed by dignified ceremonial and traditional observations, and by the hospitality which *tangata whenua* expressed in their welcome of visitors. In all circumstances, the *marae* and the meeting-house functioned together to fulfill the needs of *tangata whenua*.

5. Concept of Tangata Whenua

Tangata whenua was a concept of social importance of the Maori. Literally, "it means 'people of the soil', and the central idea is that of a local community and the collective rights and obligations of its members over and against non-members" (Kawharu 1975: 15). Rights of *tangata whenua* derived from common ties of descent and kinship and from actual occupation of local land. Other obligations in its association appeared in the forms of hospitality extended to non-members of the local group.

The ideology of *tangata whenua* originated from the Maori's conceptualisation of land as a sacred heritage. Ritually, he believed that land was a union of the earthmother and the skyfather. It was

given to him for use as a source of food supplies and as a place to stand. Because land was related to the Gods, it carried a quality of sacredness and was inalienable at all times. Significantly, it must be kept in close association with those who were entitled to it and who belonged to a common ancestor who founded the land. Due to this importance, the Maori always held that land remained forever whereas man perished. This belief insisted him to dedicate all efforts to protect land from being exploited or captured by enemies. In addition, he was taught by ascendant to appreciate every type of land; housing, hunting and fishing ground, burial ground, landscape, and natural environment (Firth 1972: 372). Where essential, *tapu* was applied to determine sacredness of the land. *Tapu* was normally invoked to protect well-defined areas such as lakes, rivers, waterways, or stretches of the seashores, from human exploitation or defilement. It remained in application for a certain period of time, long enough to preserve or to recover the sanctity of the soil or water. There were also special cases where *tapu* were applied permanently, for instance, in the connection with the burial ground (Cf. Sinclair in King 1975: 116).

According to Metge (1967), every individual was qualified for the title of *tangata whenua* and all privileges attached to it if he were descended from a common ancestor, and if he also held land in the locality. *Tangata whenua* must have both common descent and land. A local resident who had a descent tie but no land could not claim a status of *tangata whenua*. Similarly, a person possessing land but no ancestral link could claim no *tangata whenua* status either. Due to this restriction, immigrants and spouses from other groups were ineligible for the status of the people of the land.

Traditionally, a person could be *tangata whenua* in more than one group, by virtue of the ambilateral rules of descent. As mentioned in the outset, marriage in some cases produced double qualification of membership, if husband and wife belonged to different *hapū*. In this respect, their children claimed membership and land rights in both parents' groups. Practically, they chose to participate actively in one place and left their rights in the others lying dormant. As long as they kept in touch with the people and land there, in accordance with the

rules of occupation, ⁽⁷⁾ their claims of *tangata whenua* remained good for them.

The status of *tangata whenua* was also judged by rights on the *marae* and in social functions of a local group. This had kinship ties at its very root. In this respect, *tangata whenua* took precedence in all undertakings; they led in communal discussions, meetings, ceremonials, public gatherings, and welcoming of visitors. The difference between *tangata whenua* and non-*tangata whenua* was distinct where it concerned with rights on the *marae*. *Tangata whenua* obtained automatic rights over their *marae* and to act as hosts to visiting guests (*manuhiri*). Immigrants, despite the fact that they lived in the community, had no recognised rights to use the *marae* unless they were approved by *tangata whenua*. Also, they had no automatic rights to speak on the *marae* or to decide in any social activities of the local group. Their participation in any context was given by *tangata whenua* merely out of courtesy. Strictly speaking, immigrants were trespassers on the land of *tangata whenua*; if their presence was challenged by the local people they had no descent and kinship ties to support their claims to live in the locality.

The importance of *tangata whenua* reflected the needs of a local group for 'solidarity'. The protection of essential rights of hosts against visitors, land rights, and rights in social, economic, and political functions ensured the continuity of the group. The integrity of *tangata whenua* combined with the other two social elements, *marae* and meeting-house, formed a triple complex by which the prestige and identity of the *hapū* and its members rose or fell.

6. Leadership

To understand the position of traditional Maori leadership I shall examine the origin, bases of authority and function of Maori chiefs in the pre-contact times. In the pre-industrial society, where a politico-jural institution was not explicitly defined, the chiefs tended to play important parts in all affairs of their people in connection with internal organisations as well as with the relationships with their outside world. The following description showed the ancient Maori chiefs

in various tribal groupings, *iwi*, *hapū*, and *whānau*.

6.1 Types of Maori Leadership

There were four types of leadership in the traditional Maori society: *ariki*, *rangatira*, *kaumatua*, and the *tohunga*. The first three stood at the head of the tribe, sub-tribe, and extended family respectively. They were leaders who were given their authority by descent. On the other hand, the *tohunga* was not a chief in a political sense, he was a leader or specialist in various fields (Metge 1967: 155).

6.1.1 The *Ariki*

The *ariki* was a paramount chief of the tribe.⁽⁸⁾ His status as such was recognised, due to his superior kinship background, by other chiefs of lower kinship status, even though there was in effect no clear governing body at the tribal level. Principally, the *ariki* was the first-born male in the most senior lines of descent. In kinship respect, he was thus superior and most senior to all other chiefs in the *hapū* that made up the tribe.

The *ariki* assumed two roles in the tribe. First, he acted as a chief of his own *hapū*. He exercised his authority in land and in general administration in similar manner to that of those related *hapū*'s chiefs (see *Rangatira* under 6.1.2). Secondly, he assumed a political role as a paramount chief at the tribal level.

The most apparent power of the *ariki* as the head of the tribe was in warfare and in land. Formerly, war was an affair of a kin-group and was based on a social grouping, tribe, or sub-tribe. All fighting men in a war company were usually close kinsmen of the chiefs (Maning 1863: 186). Thus leaders in war were simply those at the head of the kin-group (Vayda 1960: 24). Where war was the business of the tribe, the most high-born chief, the *ariki*, assumed the leadership position (Best 1930b: 82). In this regard, the chief, with his initiative and gestures, urged his tribesmen to offer their support. When his tribe decided to go to war it was his responsibility to summon forces and to call for allies. Although he lacked the power to 'command' any tribesmen to engage in war he, because of his superior kinship status, was able to mobilise support from his kinsmen (Ibid: 40). He may send for the minor chiefs of other

hapū or even other tribes to join in his company at war. He was also responsible for foods, feasts, and sometimes compensation for his war allies. Furthermore, where the war ended in victory he made the decision to enslave, free or incorporate the captured people into his tribe and whether to seize land of the conquered or not.

Authority of the *ariki* in land was very important. Firth (1972: 375-7) stated that the *ariki* was regarded by his tribesmen as the guardian of the tribal land. Politically, the tribal land was vested in him to hold as 'trustee' for his people. Accordingly, he had a great voice in handling, disposing, and transferring the land on his people's behalf. He preserved a right to veto any dealings that were detrimental to the tribal welfare as well as the right to give the land as a gift and to lead his people to defend it (Winiata 1967: 32).

In other affairs of the tribe, the *ariki* played roles as arbitrator, persuader, advisor, supervisor in assembly, initiator of social and economic affairs, and trustees of the tribal *marae* (Ibid). His authority in the general affairs of the tribe was subject to consensus and support of minor chiefs according to their respective status. His decisions were effective due to the Maori's recognition of his importance as the father of the tribe, with kinship association at its very root. It was notable that the *ariki* did not have decisive authority of command in any communal affairs nor could he call upon his people to work for him. He had to work as hard as commoners (Firth 1926: 139). His authority in any matters affecting the tribe and tribal land required consent of his tribesmen and support from public opinion (Metge 1967: 34). His authority beyond his own *hapū* was always of political kind and was counter-checked by the chiefs of other *hapū* of his tribe.

6.1.2 The Rangatira

In general, the use of the term *rangatira* by Maori produced some confusion. Best (1934: 88) found that *rangatira* represented not only the chief of a sub-tribe but also people of chieftain class and persons of good birth. It was rather difficult to distinguish between the commoner and the people of aristocracy class because a principal head of a *whānau* normally considered himself as *rangatira* and everyone related

to him claimed the same status. However, in this context, I shall refer to *rangatira* in terms of leadership, as the head of the *hapū*.

By kinship status, the *rangatira* was also a high-born male in the senior lines of descent. He was slightly lower than the *ariki* because his lines of descent was junior to that of the *ariki*'s lines.

The *rangatira* could be regarded as the chief who was closely associated with all affairs of the Maori social group, specifically the *hapū*. According to Winiata (1967: 33-4), he was in charge of various functions of his *hapū*; economics, social undertakings, warfare, alienation and administration of *hapū* land, settlement of internal dispute, supervision on the *marae* and in the meeting-house, ceremonials, welcoming of visitors, and so forth.

In a day-today activity, he acted as commoner in his own family. When it came to communal tasks however he always stood as a director, initiator, and supervisor. He gave incentive to his people by providing knowledge, gifts, and feasts. His leading role in the community was due to his interest in the welfare of his people and a desire to increase his own prestige. Thus, if a large tree had to be hauled the *rangatira* would control the organization of labour. He encouraged the work party with his chanting, rhythm, and stimulation. In a large scale social and economic activities that required a deliberate mutual arrangement, command, and co-operation, the responsibility of *rangatira* was great and dominant. Firth (1972: 226) observed that in one large scale fishing activity, fishing with a large net, many took part. The participants performed various duties as makers of the net, paddlers of canoes, fishing experts and those who provided support on the shore. In this event, which was held in 1886, the chief Te Pokiha played important roles as initiator, leader, and supervisor. He supplied the stimulus to the whole affair and assumed all social obligations in connection with it. His leading position in this circumstance derived from his birth and from his social status by inheritance. It was he alone who had power to handle fishing with the great net and he alone had the ritual right to lead.

In warfare, the *hapū* was always favoured as a fighting unit because it constituted of close kinsmen descended from the same ancestor. The chief *rangatira* who was the most senior person among them led the war company. Where the war was an affair of the whole tribe, he was a direct leader of warriors of his *hapū* and all controls over them rested on him. Wherever it was his *hapū*'s business, he was the great leader who decided the fate of the war from the beginning to the end. In land, he had similar authority to that of the *ariki*; that the *hapū* land was ideally vested in him. He acted as 'trustee' on behalf of his people in all matters affecting the land and common interest of the *hapū*. The *hapū* people looked to him for guidance where alienation of land was involved. In short, the authority of the *rangatira* in land and in general affairs of the *hapū* was of a socio-political kind (Ibid: 377). It had kinship at its base as the authority of the *ariki*.

The *rangatira* normally expressed his authority on the *marae* and the *hapū* council (*runanga*). Here, he together with *hapū* elders and *tohungas* met in congress to discuss and decide internal affairs of the *hapū* (Winiata 1967: 59). Land, economic activity, social gatherings, war, ceremonial and ritual functions, welcoming of visitors, or any undertakings under the *hapū* sponsorship was brought to the *marae*, discussed openly in public, and led by the *rangatira*.

6.1.3 The Kaumatua

Not a leader in the political sense, the *kaumatua* stood at the head of a *whānau*. Metge (1967: 153) explained that, in general, the term *kaumatua* referred to 'elder' which could be classified into three types. First, it meant the elderly as a group, regardless of sex and social standing. Second, it referred to elderly men and, thirdly, it represented those elderly men who were distinguished as leaders by seniority of descent, age, wisdom, and experience.

The status of *kaumatua* based much on age and experiences. Because of this fact, a person of good birth did not automatically gain a *kaumatua* status. He must build up his prestige. Metge stated that, to become a *kaumatua*, a man must engage regularly in all activities expected of *kaumatua*, e.g. attending at *hui* (gathering), giving speeches at public gatherings, and learning knowledge of *Maoritanga* (Maoriness) and

traditional etiquette (Ibid: 154-5). He must accumulate general knowledge required for his status; oral literature, tribal land, tribal history and tradition, fighting records, poetry and mythology, ceremonials, cultivation, hunting and fishing, and all social courtesy (Winiata 1967: 30). This took him until he reached the age of fifty-five or over, he was then qualified for *kaumatua* status.

The role of the *kaumatua* was dominant in the *whānau* and in the *hapū* council (*runanga*). Within the *whānau*, he took control over all affairs; economics, land holding and use, education of his *whānau*'s members, and settlement of dispute. Even though domestic affairs of each family comprising the *whānau* were responsibility of a head of each family, general administration over them was conferred upon the *kaumatua*.

In the extra-*whānau* affairs, the *kaumatua* joined other *kaumatua* and the *rangatira* of his *hapū*. In this respect, the *kaumatua* watched all interests of his *whānau*. As Schwimmer (1974: 33) cited, he lent support to all family members and saw that proper consideration was given to their rights and claims. On any occasions, he acted as a spokesman of his *whānau* and if necessary he rallied his men to fight in war or in defence of his people. Due to his status, he gained high recognition from his people. When he spoke at *hapū* gatherings, on the *marae* or in the meeting-house, none of his *whānau*'s members dared to challenge him.

6.1.4 The Tohunga

By the meaning of the term the *tohunga* referred to 'expert' in any branch of knowledge. Anderson (1948: 1) stated that there were three major types of expert in Maori community: expert in carving (*tohunga whakairo*), expert in tattooing (*tohunga moko*), and expert in charms and incantation (*tohunga karakia*). It was because the *tohunga* usually employed magic and mythical knowledge in his performance he was also given a priestly status. Some *tohunga* even indulged in shamanistic jugglery or black magic and practiced a sort of sorcery. The *tohunga* thus gained both respect and fear from the Maori people (Cowan 1910: 115).

The *tohunga* was in no way a chief even though he might in some cases belong to the aristocracy or be the head of a family group (Winiata 1967: 35). Besides, the *tohunga* could be male or female. Principally, the

tohunga status derived partly from succession and partly from training. According to Best (1934: 74), there were two classes of *tohunga*, lower and upper. The lower class *tohunga* was not a trained one, occupied non-restricted *tapu*, and less in importance. By contrast, the upper class *tohunga* was well-trained in all superior versions of tribal lore and all knowledge pertaining to religion and cosmogony, ceremonials, and rituals. Usually, youth of superior intelligence were selected to be trained as the *tohunga* of this class. The trained person then became *tapu* for life and the knowledge he possessed was also extremely *tapu* in that it could only pass orally to a few eligible persons.

Due to the fact that the Maori society was oriented towards religious and mystical beliefs, the *tohunga* gained a firm hand in the community (Winiata 1967: 35). With knowledge in magic, rituals, and ceremonials, the *tohunga* was employed in various fields; social, economic and political. In warfare, for example, he contributed a great deal to his fighting party. With his magic he predicted the outcome of the battle, and with his sorcery he weakened the enemy but strengthened the chiefs and warriors of his side. In the economic field, he always stood alongside of the chiefs. His ritual knowledge reflected the chief's *mana* and enhanced the prestige of the chief. Firth (1972) stated that the position of the *tohunga* was explicit and well-defined in a large scale economic function. In the fishing with large net and in the shark fishing he acted as a right hand of the chief. While the chief provided all initiative and leadership the *tohunga* provided the direction of all undertakings. As mentioned in 6.1.2 (*rangatira*), when the chief Te Pokiha held the fishing with the large net in 1886, Te Whanarere, the *tohunga* who was the expert in fishing lore, assumed all executive responsibilities and technical supervisions of the fishing fleet.

The importance of the *tohunga* was also apparent in the agricultural field, specifically the planting of *kūmara* (sweet potato), a *tapu* plant. It was important to note that, to the Maori people, *kūmara* was a high status crop which required great care in every stage of cultivation. This fact brought the *tohunga* into a crucial position in all tasks concerning the planting. From the initial stage he was the one who

recited incantation at various proceedings. When the plant sprouted he directed the people to look after it. The organisation of labour, tilling the soil, harvesting of first fruit, and storing, all required help from him. Apart from the *kūmara* planting, knowledge of the *tohunga* applied with other economic events. According to Firth (Ibid: 58-65), the Maori economic life was closely associated with natural surroundings. Therefore 'economic lore' that denoted all solutions to their economic problems was essential. Everybody did not know about the lore, only a few experts. The Maori people, thus, needed someone to inform them of natural phenomenon in their lines of work; names of trees, birds, fish, stars, weather, wind, feature of stones, streams, waterways, habit of animals, and so forth. All of this knowledge was stored in the *tohunga*. Best (Cf. Firth 1972: 61) cited that the *tohunga* knew all of the natural environment because of his long experience. He knew when and where to set snares for birds, how to trick and trap the animals, and in what season the fruits of any species were to be found.

The *tohunga* played also an important part in the development of the chief from his birth till his death. He cared for the chief's mother before the child was born, invoked the chieftainship for the child, named him, educated him, and performed all ceremonials required for his chiefly status. Once the chief stepped into his real political roles as leader of the tribe or sub-tribe, he assisted him in policy and decision making. As Winiata (1967: 36) stated, the political thinking and administration of the chief were, consequently, in no small measure moulded by his relationship with the *tohunga*. In most cases the chief looked to him for advice, and success or failure in his administration depended much upon the *tohunga*.

To conclude, the *tohunga* acted in many roles; assistant in war, historian, record keeper, the conserver of old-time ceremonial and ritual, astrologer, spirit doctor, military adviser, agricultural expert, leader in all kinds of work, conserver of tribal lore, and many others. His mass of accumulated knowledge permeated by magic, myth, and religious beliefs, earned him high recognition from the Maori people. His expenditure of time and skill was paid for in the form of gifts and prestige.

6.2. The Bases of Leadership Authority

In Maori society, the most essential bases of authority and power of leadership were primogeniture in accompanied with acquired skills and prowess and inherited spiritual potency or *mana* (Ibid: 28). The Chiefs were ideally imbued with these qualifications to act on behalf of their people in any certain social groupings, tribe or sub-tribe. It was these principles that determined their place hierachically in all social organisations in the group and in all relationships beyond it.

6.2.1 Primogeniture

Apart from the Ngati Porou case,⁽⁹⁾ Maori leadership was decided primarily by primogeniture, based on the prerogative of male issue. Kinship and descent entered into this conception in that a determination of chiefship required a proof of genealogy and order of birth in the first place. Firth (1972: 109) noted that if those in the line of succession for chieftainship were all first-born males, then the one who had the highest status assumed the chiefship. Mahuika (King 1975: 86) added that the terms *tuakana*(senior) and *teina* (junior) were employed on this point to judge a hierachy between a paramount and a minor chief. To follow Firth's statement and the conceptions of seniority/ juniority as explained by Mahuika, the first-born issue in the most senior lines of descent assumed the position of *ariki*, the paramount chief of the tribe. Those junior to him in the lines of descent claimed the position of *rangatira*, the chief of the sub-tribe or the head of the *whānau*. Seniority was based soley on the descent lines (preferably patrilineal) and not on age. Therefore, despite being younger in age, the first-born issue in the most senior family took precedence.

Despite the pre-eminence of birth, a nomination of successor in chiefship depended not only on seniority but also on suitability. To the Maori, the chief must also possess qualities of decision-making ability, good personality, foresight, and initiative. If the first-born male was not a person of proven ability the chiefship might be given to the junior-born male or to other relatives such as a nephew of the chief. Firth (1972: 108) gave an example of this as follows:

"... Te Hira was by birth the hereditary chief of Te Taou hapu of Ngati Whatua, but neither he nor his brother were men of force or character. Hence their father passed his mana (authority) on to Paora Tuhaera, his nephew. To this man the Ngati Whatua of that hapu looked for guidance, and he was their recognised political head, restrained them from participating in the 'king' movement, and conducted the affairs of the people to the time of his death".

However, the ascribed but ineffective chief still retained his prestige and *mana* which derived by primogeniture. Since such *mana* was in him at his birth, nothing could deprive him of it. Furthermore, he can pass his *mana* to his eldest son who, if he were a man of proven ability, could claim a position of chieftainship.

6.2.2 Mana and Tapu

Bishop Herbert Williams (1971: 172) defined the term *mana* as authority, control, influence, prestige, power, supreme rights to order things, and might to rule. Mahuika (King 1975: 90) stated that there were two types of *mana* for the chiefs; *mana tangata* (power to rule) and *mana whenua* (power to claim territory). These *mana*, a divine right of a person of chiefly status, were with the chiefs since they were born. The *mana* lay dormant in them till their death and passed to their descendants in successive generations.

Metge (1967: 152) stated that *mana* could increase or decrease in connection to behaviour, roles, and marriage of the possessor. For the chief, his *mana* increased relative to a good political performance, success in war, lifting of *tapu*, and marriage to a high-born female. The chief must be brave so that his people could rely on him. People who suffered a series of defeats in battle lost faith in their chief and as a result the chief's *mana* decreased. Therefore, *mana* of the chief relied much on the strength of his warriors and support of his people. According to Firth (1972: 131), the support was guaranteed also by the chief's hospitality and generosity. Accordingly, the chief must be wealthy enough to entertain relatives with foods and gifts and to welcome visitors with feasts. His storehouse must be full to ensure that he could serve that end. Exhaustion of food supplies and poor cultivation were sources of shame and diminution of *mana* of the chief.

Marriage had a great effect on the chief's *mana*. It was believed that the chief must marry a woman of the same class or higher class than himself. Marriage to a woman of a lower status diminished the chief's *mana*. If he married a slave he lost his *mana* to the extent that it became insufficient even to support his chieftainship.

Mana was the natural power and prestige any person may acquire and possess (Buck 1958: 345). But for the chief, his *mana* derived by birth differentiated him in his social and political position from the commoners. It provided him with the natural right to rule and to lead. Because of his *mana* his people had a trust in him, his opinion, his advice, and his sanction.

The *mana* of the chief was reinforced by *tapu*, the element that kept a ruling class in a sacred place. Tregear (1891: 472) explained that *tapu* has two meanings, prohibited and sacred. It applied in two senses: first, sacred, holy, hedged with religious sanctity; and second, to be defiled, as a common person who touches some parts of the chief or his belongings or enters a prohibited dwelling place or handles a human corpse or bones.

According to Firth (1972: 246), Maori *tapu* expressed the recognition of the social value and conduct. It standardised individual's behaviour towards important objects of nature and of social environment. It carried a religious sanction in itself and it was reinforced by supernatural punishment for infringement. Simply, it taught people how to deal with others of lower or higher status, in their day-to-day relationships.

The chief possessed a special *tapu*. His *tapu* applied not only to his body parts and his property but also to his authority. Consequently, commoners were not supposed to touch the chief's belongings since that was an insult to his *mana*. This special *tapu* reinforced his *mana*, hence his authority had a decisive effect. With this *mana* he could proclaim things *tapu* for the benefit of his people. For example, he may declare *tapu* on crops, products, plants, and animals, in times of scarcity. When he lifted the *tapu*, such as in the duck hunting season, to allow his people to have sufficient food supplies he increased his *mana* and prestige.

Mana and *tapu* were a combining force that enabled a person who had rights of chieftainship by birth to claim his status, to exercise his authority, to maintain law and order, to control land, and to rule over his people. Their significances sustained the whole fabric of the Maori social organisation in connection with the leadership and the political system.

NOTES

(1) Recently, an ambiguity has arisen about the Maori origin, despite general belief that the Maori crossed the ocean from Hawaiki to New Zealand some hundred years ago. D.R. Simmons (1976), with reference to his investigation of Maori tradition of canoes, genealogical and archaeological evidences, argues that many Maori stories are contestable. For instance, the naval expedition of Kupe and Toi. He found that Kupe settled in the country in the early 14th century rather than 950 A.D. There are also two mystical accounts about Toi. The first Toi belongs to Arawa tradition and has never left Hawaiki. The second Toi who belongs to the Bay of Plenty Maori never left New Zealand. Furthermore, evidence shows that expedition occurred not only by sea but also over land. At least, the Tamatea and Kahungunu were migrated overland from the Far North. Additionally, it is also found that many Maori traditions include things of New Zealand stock such as plants, birds, and animals. This simply suggests that Hawaiki is not outside New Zealand.

(2) The story of the 'Great Fleet' also raises doubts in the minds of some current scholars. They ask if the fleet ever existed at all. Simmons, from his re-examination of Maori traditions, argues that the fleet would be a Pakeha invention and interpretation of the Maori myth. If so, S.P. Smith is the first to create such chronology.

Smith (1904) investigated Maori genealogies in New Zealand in comparison with the Rarotongan account. He concluded that Maori migration began from the west side of Tahiti. The naval migrants stopped over for some time in Rarotonga and moved on in search for new land for settlement, since Rarotonga at that time was fully occupied. He assumed that the fleet comprising of six large sea-going canoes arrived in the country around 1350 A.D. Many scholars in the later years, such as Best (1924), Dansey (1947), and Kelly (1949), seem to follow Smith's explanation.

In Simmon's opinion, the explanation arises out of the desire of European scholars to understand a coherent framework by which to interpret the pre-history of New Zealand (1976: 316). It is

doubtful if that explanation could represent the history of all Maori tribes. The reason is that each tribe has its own tradition which is apparently incompatible with that of the others. Some tribes have traditions in their own areas whereas some others do not have canoe traditions. (D.R. Simmons 1976; S.P. Smith 1904, pp. 206-223).

- (3) See *ariki* under Leadership, page 50.
- (4) See *rangatira* under Leadership, page 51.
- (5) See *kaumatua* under Leadership, page 53.
- (6) See Chapter Three on *mana* and *tapu*.
- (7) See "The Rule of Occupation" page 68.
- (8) Firth (1972: 106) explains that *ariki* as a class refers to three types of persons; a high-born chief, a descendant of first-born children in a continuous elder line, and a first-born male or female of a leading family of a tribe. In leadership, the *ariki* refers to the paramount chief of the tribe.
- (9) To the Maori people, in general, women are inferior to men by kinship status. They are not allowed to undertake any crucial political position and social activity such as speaking on the *marae* or holding office as leadership.

However, there is an exception among Maori of the East-Coast tribes. Within this area, high-born and elderly women often gain social respect and sometimes exercise great political functions as leader. Mahuika (King 1975: 91-2) found that more of Ngati Porou sub-tribes are named after women than men. This is due to the fact that the Ngati Porou people trace descent through first-born issue and use the term *tuakana* (senior) and *Teina* (junior) regardless of sex, while this is not common in other tribes. As a consequence, sister could be *tuakana* to brother and a female could gain leadership status due to such superior kinship position. Moreover, because the people.

regard personal ability as equal to birthright, some women of *teina* status, but outstanding ability, are recognised as leaders. Hinetapora and Hinerupe, for example, were *teina* but became the chieftainess of their time. In addition, some women leaders in Ngati Porou tribe were not only figureheads but real leaders. They spoke and led in social and political activities on the *marae* and they even represented their people outside the tribal area.

CHAPTER FOUR

TRADITIONAL LAND TENURE

Problems over Maori land were rooted in the different way that Maori and the Pakeha regarded land and land administration. In this Chapter, the traditional Maori land tenure will be studied so that in later Chapters the effect of government policies can be understood.

1. Traditional Land Rights (*take*)

The Maori tenurial system in land commenced in the early days of the natives settlement of New Zealand. At that time, each *iwi* claimed vast areas of land. The boundaries of the land occupied by each *hapū* comprising the *iwi* were marked. Within each *hapū* land was divided into areas of subsistence, i.e., food gathering section, fishing and hunting ground, house site, and cultivation plots. Land was not owned by individuals but by the *iwi* or the *hapū* in common.

Initially, a claim of land right originated from discovery, followed by cession, occupation, and inheritance in successive generations. Due to increases in population and conflict between tribes in the later years, however, war often led to capture of land. This circumstance gave rise to another source of right, the right of conquest.

Principally, there were three types of land rights in pre-European times, namely, ancestral right, right by conquest, and right by gift.

1.1 Ancestral Right (*take tipuna*)

This right was based on early discoveries of land. Discovery occurred when the people travelled over and named the land. When a chief travelled in the forest he could claim land by placing his *tapu* on it and visiting it from time to time to keep his claim alive. Most land was claimed by the native for various purposes. As Firth stated, a swamp could be claimed for eels, raupo pollen, and flax. Lakes and streams were for fish while forests were for game, berries and timber. Other portions of land were also valued as sources of various kinds of subsistence (Firth 1972: 383).

Normally, the boundaries of land so claimed were marked with natural signs such as big trees, peaks of mountains or with artificial devices such as carved posts and protected by strict *tapu* (King 1975: 119). Chief Judge Sir William Martin (1864) noticed that territories between two tribes were usually well-marked with tracts of land called *kainga tautohe* which specified 'debatable land'. Moreover, the tribal land itself did not form one unbroken district over which members of all *hapū* of the tribe wandered. It was divided into a number of districts appertaining to several *hapū* the members of which were recognised as owners of the land (AJHR, G.I, 1890: 3).

The right of discovery merged into ancestral right and right of inheritance. In this context the strength of ancestral association was the most important factor determining ownership. The ancestor discovered the land, appropriated it to his use, occupied it, and passed his right in that land to his descendants. According to the Maori custom, discovery gave an undebatable right to the descendants to succeed in the land of both parents (Smith 1960: 98-9). The descendants could claim their right back to the right of their grandfather and grandmother.

All descendants in the male line had equal rights to inheritance in undivided land of their ancestor so long as they could trace their origin up to the same ancestor. White (AJHR, G.I, 1890:12) stated that the right of female did not expand in the same way as the male. As a rule, only a grand-daughter of a chief had an equal claim to her male relatives in lands of her grandfather. Nevertheless, the right continued valid to her grandchild only. On the death of the grandchild the land reverted to the male line.

White's statement casted doubts as to whether Maori women of commoner status had rights in land at all. Judge Mackay once judged that "When a woman of one tribe or *hapū* marries into another tribe or *hapū* and leaves the land of her own tribe or *hapū*, her right become extinguished, unless some act of ownership is exercised either by herself or her immediate descendants" (Smith 1960: 95). Metge (1967: 89) and Hohepa (1964: 64) also stated that the rights of Maori women always existed in Maori tradition and succession in land rights was not restricted by sex or number.

of offspring. Despite this, however, the rights of women were submerged by male dominance and patrilineal bias (Firth 1963: 36).

1.2 Right of Conquest (*take rau patu*)

Whenever war broke out, between *hapū* or *iwi* a Maori was in the possible condition of losing his claim in ancestral land. In the pre-contact times, war was common and it often made land change from one group to another. When the conqueror captured land of the defeated, a new type of claim to land right, the right by conquest, came into existence.

According to Smith (1960: 101, 102), however, the right of conquest was not valid unless it was followed by 'actual occupation' of the land to the exclusion of the vanquished. A mere raid, even though successful, did not produce ownership over the conquered land. As a result, it was insufficient to support a claim to that land. Furthermore, if the conqueror allowed the defeated to continue their living on the land their claim to absolute ownership in that land was incomplete. The right of conquest, thus, seemed to rely much on military strength to wipe out the original owners or to prevent their return. If the conquerors became weak they too could lose possession in the land and subsequently lose their claim.

1.3. Right by Gift (*take tuku*)

On some occasions, a Maori gave land as a 'gift' to outsiders. Disposal of land in this manner was made in the case of dowry in marriage, compensation, or gift to allies in war. A gift of land needed to be made by a person who had authority to do so. Normally, it was made by the chiefs or person of chiefly status, with consent of the whole tribe or group involved, since land was ideally vested in the chiefs. Due to the fact that land belonged to the group the donation could be made only in the interest of the group as a whole (King 1975: 121). The rules concerning a gift of land appeared as follows:

- A donor must have a right to make a gift and he must at least obtain a tacit approval of his action.
- The boundaries of the gifted land must be made clear to all

concerned and must receive public recognition.

- A donee or his/her direct descendants must continually occupy the land (Cf. Kawharu 1977: 56).

Smith (1960: 103) gave a further explanation that a donee could use the gifted land and pass his right in it to his issue. If he died without issue the land reverted to a donor or his descendants. There was no succession in gifted land by any person other than the donee's issue.

There were many examples involving a gift of land in the ancient times. According to Firth (1972: 388), a vast stretch of land in the Bay of Islands District was given by Kawiti to the chiefs with whom he had been at war. Other instances showed a gift of land to assure peace between two tribes, as *utu* (compensation) for a breach of *tapu*, for a murder, for adultery, and so forth. In peace-making between Ngati Hamiti and Ngati Ira, Tu-te-rangi-ka-tipu, a chief of the former tribe gave Nuiwhiti and other lands to the latter people. "Again, when Te Purewa was speared and left for dead by a war party, Te Hani, the chief of the district where this occurred, afterwards made over to him a piece of land in the vicinity of the fight, in satisfaction for his blood having been spilt there."

Apart from those three major claims to land aforementioned, marriage imposed some complication of land right. This was of minor importance where the marriage involved people of the same group. However, right to land became a matter of concern when marriage was a cross-*hapū* or inter-tribal affair. The crux of this instance was substantially related to the Maori ideology of 'solidarity' in a local group derivable through an appropriate system of holding and succession in land right. Inter-group marriage could allow, through children's right of inheritance ambilaterally, outsiders to gain access into land of the local group. As Firth remarked, this was contrary to the best interests of the group owning the land. Thus, in marriage, the opinion of the brothers, for instance, of a girl was influential upon her decision. For the group interests, the girl might be sent off landless to wed. If land was given, and there was no issue out of her marriage, the land reverted on her death to her brothers. Her

husband could claim no right in it beyond cultivation during her lifetime (1972: 386). The same rule applied to uxori-local marriage, where a husband resided in his wife's group. Since marriage gave no 'membership' right to the spouse, he could claim no land in his wife's locality. He may be given right to use land after his wife's death, but this was also decided by her kinsfolk.

2. The Rule of Occupation

In Maori custom, a claim to land right must be supported by an act of 'actual occupation'. This ideology developed out of a Maori's desire to help those living away from their original settlement to maintain rights in their land (Schwimmer 1974: 81). Actual occupation could be either an act of actual use, possession or "the exercise of some act or acts indicative of ownership in order that the claims made might be deemed well grounded and effectual" (Smith 1942: 48).

The application of the rule of 'actual occupation' could be explained in connection with two types of land, land possessed by a family group or individuals for dwelling and cultivation, and *waste land*.⁽¹⁾

Actual occupancy was the primary foundation of a claim to land in the first type. The occupancy was of a permanent nature exercised by an occupant, in the form of residence or any of the usual ancillary acts where no residence took place. "Individuals, by cultivating or erecting houses or appropriating portions of the tribal estate acquired an absolute right to the occupation and usufruct of such land as against any other individuals of their own tribe....." (Smith 1960: 92).

The right to claim in this land ceased if the possessor showed no act indicative of ownership or use. Principally, if he left his *hapū* and lived elsewhere and he as well as his descendants remained away for three consecutive generations, his right in that land became cold (*mataotao*) and extinguished. Judge Mackay once explained that the extinction of right as such rested on the degree of absence. "Absence for one generation would not materially affect the rights of the absent parties. Absence for two generations would diminish their claim and absence for

three generations would entirely obliterate it" (Ibid 1960: 95).

However, the land right lost through failure of an individual to follow the rule of actual occupation could be restored by some essential acts. One practice was that an individual, while remaining away, sent some of his children back to occupy the land and to exercise a right of ownership. If there was no objection from the group to which he belonged, his commitment was adequate even if he only kept a fire alight on the land. Restoration of land right could result from an invitation from the group owning the land. Such an invitation was, however, ineffective unless it was approved by the group involved (Ibid: 94). Adoption could also regain an individual the right in land. In Maori custom, "adopted children had the same kind of rights, duties, and obligations" in the land of their foster parents (Kawharu 1977: 57-8). Once adoption was approved by the family-group or *hapū* concerned, his right in the land was restored.

Another point to be mentioned here was that 'occupation' and 'membership' must be taken together to prove a claim in land. The absence of either of these made the claim questionable. As described in Chapter Three, 'membership' was traceable through a knowledge of genealogy involving a common descent. This genealogical proof enabled an individual to claim a right to participate and subsequently the right to use land in a group (JPS, 1975: 137). Non-members of the group occupied land only with consent of the true owners. Such occupation did not in any way lead to a right to ownership in the land. As in the case of inter-group marriage, a spouse was not given right in the land of the local group except to use it during a lifetime, since marriage did not incur a spouse 'membership' right.

The rule of 'actual occupation' did not seem to apply to waste land. It was true that a tribe or sub-tribe may lose a claim in their land if they showed no appropriate occupation and use of the land against other groups. Abandonment of the land by the whole group, without any indication to retain it, could terminate the right of that group.

For an individual member of the group, however, his right in the waste land was justified by his use over a period of time. Normally, the waste land was claimed by any member of the group for various purposes such as fishing, hunting, fowling, snaring birds, digging fern roots, gathering berries, and so forth (Smith 1942: 55-6). Where any specific part of the land was used, a device called *rahu*⁽²⁾ was usually placed to notify a claim. An expenditure of some labour plus regular visits to the place kept the claim valid.

Right of individuals in waste land was not necessarily confined to a particular portion. In effect, a user could abandon the land in use and claim a better place. Moreover, all members of the *hapū*, by virtue of common descent, had automatic right to a share in the waste land as long as their claim created no problems against other members of the same *hapū* (Firth 1972: 383).

There was no permanent occupation in waste land by individuals. The main reason was that occupants could not be defended from attack from other groups. Besides, the permanent occupation was deemed to disturb birds or to interrupt other members of the same group who had also a right to use the land.

3. Succession to Land Rights

In pre-European times, succession in absolute land ownership by an individual was not known amongst the Maori, since land was an undivided estate held commonly by a group. The only custom in existence was in respect to small pieces of land used for the purposes of dwelling and cultivation. There was no custom of succession to waste lands (Smith 1960: 55-6).

Inheritance of land occurred in the *whānau*, when rights in land passed from a holder to his descendants, usually, from grandparents to grandchildren. The rights were limited⁽³⁾ and accompanied by the rule of occupation, marriage rules, and patrilineal bias. Thus, in the first instance a claimant must be able to prove his genealogical link with the group owning the land. He must prove also that his claim was not

affected by a breach in the rule of occupation in the generations before him. Once these were proven beyond doubt he could succeed to land ambilaterally. Theoretically, he was able to claim land in both his parental groups. In a practical sense, however, he could choose to attach to the land only in one place, leaving his claims in other places lying dormant. If he had some contact with land of the latter type and his descendants did the same continuously his claims in such land remained firm. If he or his descendants failed to do so for three continued generations his claims became weak and eventually extinguished (Kawharu 1977: 105).

Succession to land rights was preferably made in the male lines. This practice was due to the Maori's desire to secure ancestral land for *tangata whenua* and to prevent outsiders from becoming involved in land of the local group. Kawharu (Ibid: 57) quoted Swainson, a former Attorney-General, to show the significance of males in succession to tribal property as follows:

".....the disposition of a man's property; it relates only to the male children. The custom as to the female children is not to give them any land, for their father bears in mind that they will not abide on the land. They may marry husbands belonging to another tribe, not at all connected with their parent's family; therefore no portion of land is given to them. Not so the male children: they stand fast always on the land".

This statement supported the dominance of Maori males in succession to land rights. The females had no share in succession to tribal land at all. There was, however, an exception in that a grand-daughter of a chief could inherit equally with the male relatives. As mentioned earlier (page 66), the customary practices in succession were not restricted despite a patrilineal bias. Thus, a female may be given rights to use land of her parents' group. After her marriage she would enjoy possession and use of the land herself, provided that she lived with her own group. At her death, rights in the land passed to her issue. In the case of her living with her husband's group, rights to land in her parental group lay dormant. If she or her descendants kept the fire alight on that land their claims to it were still good (Cf. Webster, JPS, 1975: 137).

As with other land rights, a spouse had no right to succeed in land ownership. In practice, the spouse may be given right to use the land enduring for the lifetime. In this regard, the right was contingent upon his/her acceptance by members of the group that controlled the land. The same condition applied to the gifted land. That was at the death of a donee leaving no issue, gifted land returned to its donor or his descendants. Maori custom entitled only children of the donee to succeed in gifted land, but not the next of kin.

4. Administration of Land

The need of the Maori people to hold land in common property was considered by Buck (1966: 382) to arise out of the necessity to live and co-operate as a unit to defend it against outsiders. They believed that only numbers could safely hold land and this belief inhibited any trend towards individualism of land. As far as the individual was concerned, he could claim only a share in the undivided tribal land. Such claim was made only in connection to usufruct right and not absolute right of ownership. No claim in any particular portion of land was held in perpetuity.

Despite the existence of the communistic system, the rights to land and administration over it by each group in the tribe were clearly defined. Firth (1972: 382) described that each *hapū* of the tribe held land in its exclusive possession independently of other *hapū*. Within the *hapū*, a set of rights to land pertaining to various groups, *viz.* extended family groups, single family, and individuals, were fixed. The *hapū* was the most explicit social unit that exercised land rights in nearly all circumstances: administration, control, and defence. Ideally, the whole of these rights were vested in the head of the *hapū*, the *rangatira*, who had authority to safeguard the land from being exploited, alienated, or taken by intruders. The boundaries of the *hapū* land were prescribed and trespassing could lead to fighting to the point of bloodshed. Thus, when the Ngamaihi people from Puketapu Pa entered the territory of Ngati Tama Oki *hapū* for fern root, fighting broke out between them, irrespective of the fact that they both belonged to Ngati Awa tribe.

The *hapū* land was allotted to the *whānau* to use. The rights of each *whānau* in occupation and use of the land was counter-checked by each other. Each *whānau* had a claim to use rights in both the waste-land and to land used for specific purposes such as gardens, house-sites, rat-run sections, clumps of flax, shell-fish beds, fishing stands, and trees attractive to birds. The claim in the waste land was derivable from some acts: the first discovery of trees, shooting pigeons, constructing eelweirs, digging fern root, making a road, receiving a wound, losing a friend, and recovering from sickness (Cf. Kawharu 1977: 59). Land in all cases belonged to all members of the *whānau* who held them as joint property. However, allotment of rights was made to individual families, according to economic needs. Subdivisions of land into family plots and plantations, for example, were common and, the boundaries of such subdivisions were fixed by natural signs or by devices such as fence or carved posts (Schwimmer 1974: 82). Individuals could be also given sole rights to specific areas for certain purposes such as setting snares and netting fish. However, rights of individuals in this context were implicit and subject chiefly to the greater rights of the *whānau*. The individuals could hold and use the land given to them for their lifetime and could pass the rights to their descendants. But power to control the land such as to direct alienation or distribution fell upon the *kaumatua*, the head of the *whānau*.

The traditional tenurial system, operated through two substantial mechanisms, the chiefs and public opinion. Generally, the chiefs themselves had equal rights to commoners in a claim of tribal land. They could claim certain plots of land for their own families. Their rights in this context derived from their ancestor. They also possessed rights in the land held in common with relatives in the *whānau* and in the waste land in the *hapū* in which they led.

Their authority in the remainder of the tribal land was, however, of a socio-political kind rather than economic. Chiefs had no special rights to claim as they desired, any pieces of land for their own benefit. But due to their inherited *mana* of chiefship (*mana tangata* and *mana whenua*, see Chapter Three on 'Leadership') they had great authority to control and administer land on behalf of their people. They were regarded as protectors, guardians, and trustees of the land.

The authority of the chiefs in land was hierachical. The hierachy of power was determined by kinship association. Thus, the *ariki* assumed the greatest authortiy in the tribal land on behalf of his whole tribe. He had great power to veto in land alienation or in any dealings with the tribal land. The *rangatira* had his authority within the boundaries of his *hapū* but in alienation of the *hapū* land he required a guidance of the *ariki*. The *kaumatua* exercised his right in the land of his *whānau*. All dealings with *whānau* land rested upon him, but where these concerned the interests of the *hapū* he also looked for the *rangatira* for advice. The chain of authority in land was, however, not only checked by lesser and greater power of the chiefs but also by public opinion. These included chiefs of all *hapū* and all descendants who had laid out the tribal boundaries of the tribe (Schwimmer 1974: 82). A chief of any status had no privilege to alienate the tribal land unless the power to do so was confered upon him by the rest of the tribe (Firth 1972: 376). This was solved in open discussion on the tribal *marae* where representatives of all tribal groupings had a right to express their opinion so that a solution was achieved by consensus.

To conclude, Maori land tenure was determined by the relationship of all social and political elements that linked the people together. These elements were reinforced by kinship bonds, mutual reciprocity, and the need for group integrity. Land rights in the group were determined along these lines. Neither group nor individual alone had exclusive rights in any portion of land, apart from a claim of temporary use right. Simply, rights of possession and use were divided among individual families. But for security and integrity of the tribal group, administration of land was manifested in the forms of political hierachy. In this regard, administrative authority was delegated down from the paramount chief of the tribe to the chief of sub-tribe, and the head of extended family group respectively.

NOTES

- (1) *Waste land* refers to 'unoccupied lands' of each *hapū*, apart from specific sections reserved for private use as dwelling places and cultivations. It belongs in common to the whole community, and is controlled by a group for the benefit of all. Any member of the group can claim a right to use the land temporarily for the purposes of food supplies, e.g. hunting, fishing, snaring birds, digging fern roots. A sign and the *rahui* (Note 2) may be placed to make such a temporary claim. Right of a Maori to claim the waste land derives from his being a descendant of the founder of the *hapū*. (Smith 1942: 55-6; Firth 1972: 382).
- (2) *Rahui* is a ceremonial device, made of a bunch of hair, grass, or old garments, and with a spell or incantation cast on it. It is used to reserve and protect the fertility of natural resources, land, products, and food supplies, against any unauthorised person. In some cases, it is used to signify that a certain place is *tapu*. The *rahui* may also be placed where a person has died, to remind people to honour the *mana* of the deceased person. If the deceased is a person of a chiefly status then the place is strictly *tapu*.

The *rahui* usually determines temporary reservation of a place. It can be lifted at any time. Thus, the chief may set the *rahui* on the lake to prevent exploitation of natural resources. On a special occasion, such as his wife's pregnancy or in a hunting season, he removed the *rahui* to allow his people to catch fish or to hunt wild ducks. The lifting of the *rahui* also increased the chief's *mana*.

There are two types of *rahui*; one is comparatively mild in its effect while the other carries a destructive force. The mild one is set to reserve or to protect a place, without a deadly soul-destroying spell. The destructive one is cast with deadly magic and spells. In general, an infringement of the *rahui* is punishable by magic, witchcraft, a supernatural being, or by the

setter of the *rahui* himself. Any infringement of the destructive *rahui* is believed to result in the loss of the life or well-being of an offender. If the infringement is made by members of other *hapū* or tribes, a war may break out. (Firth 1972: 258-262).

- (3) 'Limited Rights' means right of usufruct but not ownership right of land. The right can be passed from a holder to his descendants only. Transfer of the right to any person without descent and kinship ties requires an approval of the *hapū* or even the tribe as a whole.

CHAPTER FIVE

THREE COMMUNITY STUDIES

I have described in the previous chapter how tribal society is based on the principles of descent and kinship, exercising of leadership, and customary practices in land. With European contact from 1840 onward, the society was affected so much that it underwent changes in many aspects of its traditional elements.

This chapter provides information about a modern Maori society, using three published accounts of Maori communities; Kotare (Metge 1964), Waima (Hohepa 1964), and Orakei (Kawharu 1975). Kotare and Waima are rural Maori communities, while Orakei, at the time of Kawharu's study (1964), was situated in a suburb of Auckland city. Even though they are different in background, they have one thing in common: their relationship with the Pakeha. They lost their lands,⁽¹⁾ tribal authority over land and people, and their tribal identity was placed in jeopardy. The social consequences were felt by them and they attempted to avoid such by practising many aspects of *Maoritanga* (Maoriness). Nevertheless, they found that change was irresistible and that they had to modify their Maori custom.

KOTARE

Kotare, studied by Joan Metge in 1955, was a rural Maori community in the Far North. It had 537 in the Maori population, dispersed in 98 households in eight settlements; Te Kainga, Hakea, Seashore, Puriri, Southwest Valley, Southeast Valley, Karaka, and Northern Lowland. Among these settlements, Puriri and Hakea, with a population of 173 living in 29 households, were the place of *tangata whenua*. In effect, there were 384 *tangata whenua*, who made up 72% of the total Maori population, in Kotare district. The rest (211 in number) were scattered in six other settlements along with immigrants of other tribal origins.

Principally, *tangata whenua* were those who belonged to Te Rarawa tribe and who traced descent through the founder of Kotare. In practice, this included close kinsmen brought in by the local chiefs, from other districts

to counter losses by death and emigration. Some of them had no land in Kotare but, due to genealogical ties, were recognised to be on equal terms with the local *tangata whenua*.

Immigrants (*tangata haere mai*), numbering 72 or 14% of total Maori population in the district, were those who lacked ancestral association with *tangata whenua*. These people had origins in other tribes, e.g. Aupouri, Ngati Kahu, Ngapuhi, Ngati Whatua, Waikato, Taranaki, Arawa, and Ngati Awa. Some could lay claim to a Rarawa forebear but that was too remote to assure them of acceptance by *tangata whenua* of Te Rarawa origin. As a result, none of the immigrants could claim membership rights in any *tangata whenua* families in Kotare.

There were also Pakeha settlers in the Kotare district. Ten were married or had been married to Maoris. Another nine farming families had been connected with Kotare for several generations. In everyday life, the Pakehas were separated from their Maori neighbours, since they had different cultural backgrounds. They, however, communicated to some extent with the Maoris in certain social and economic spheres. Those with large farms, for example, hired many local Maoris. They also sent their children to the local Maori Primary School, attended Maori *hui* and gatherings, joined in local sport clubs and the School Committee. One of them, a County Councillor, was accepted by the Maori as a spokesman for Kotare district in any public affairs.

Using Metge's evidence, I will examine descent and kinship, social organisation, leadership and social control, in Kotare.

1. Descent and Kinship

In pre-contact time, the Kotare Maori belonged to Te Rarawa tribe in general and to Ktoare *hapū* in particular. *Tangata whenua* of Kotare traced descent and ancestral link through knowledge of *whakapapa* (descent lines or genealogies), by which their relationship with others could be demonstrated.

A claim of membership of Kotare was made on the grounds that the people were descended from the founder of the community and that they owned land and actively participated there. Children of later generations

inherited their membership rights from their parents and grandparents.

Traditionally, a person could claim membership in any descent-group to which one of his forebears belonged. The rule demanded that he chose only one place at a time. There was a change in Kotare in this practice. In the modern situation, a person claimed membership in many groups by virtue of 'bilateral' rules of succession in land and in membership rights. Metge (1964: 56, 57) stated that the choice of membership was simply determined by both patrilineal and matrilineal affiliation and, often, by personal preference.

An individual could recall his right in any group if it were to his advantage. As such, at least half of *tangata whenua* of Kotare had links with other tribes. These people were attached to Kotare because they were born there. But Te Rarawa as a whole had no assets or land in common, nor did it have money in trust. Consequently, those also having origins in other tribes applied for grants for education of their children from these other tribes when they were living in Kotare.

The Kotare people also traced descent and claimed membership rights in several *hapū* simultaneously. However, due to the fact that many *hapū* to which the people belonged had ceased to be corporate groups and no tract of land was identified with them, the tracing of descent seemed to be confined within a *whānau* (extended family). About a dozen or so families in the district e.g. the Timotis, the Browns, the Samuels, the Hohaias, had their own founders. All real members of the Samuels family, for instance, were descendants of Hamiora Waimangu who died some fifty years previously. It was notable that the trace of descent in Kotare was shallow. Usually, a person would refer back to only one progenitor, a parent, grandparent, or great-grandparent. None counted back to more than three generations.

The Kotare Maori also recognised kinship ties extending to those living outside the district. Theoretically, kinship was based on descent. Thus, any person who was able to link with *Ego* ancestrally was counted as 'kin'. This included those who were related by parents or other known kin. There seemed to be two circles of kindred, close and remote. The close one was composed of members of the same elementary family or

whānau. They were consanguineal kinsmen who were direct descendants of the founder of the family. These kinsmen usually lived together in the same compound, though some might have emigrated elsewhere. Therefore, kinship obligation and duties remained strong among them, especially among older residents. Under modern conditions, emigration seemed to affect many of the close kin in their fulfilment of duties and obligations in the locality. Some living a distance away had a diminished participation in Kotare, and if frequent contact was not kept they were forgotten.

In contrast, remote kin referred to those outside the fourth cousin, and often included affines. No matter where they resided they were less important than close kin. Where they lived elsewhere their relationship with *tangata whenua* in the community became more or less attenuated and was likely to lapse altogether.

2. Land

In 1955, no land was held under a communistic system by the Kotare community or even by any *whānau* within it. All land in the district had been transmuted into individual titles and registered by the Court in the names of several owners, under multiplicity of ownership. Excluding holdings in the hills and on the gum-land, there were some seventy blocks, called family land, held in this form. The beneficiaries were descendants of former owners of the blocks, many of whom lived elsewhere. Roughly three-quarters of the total area of land held by Maoris in Kotare was held under multiple ownership.

Succession on intestacy to the land made shares in each block smaller. Therefore, what appeared in 1955 was that there was only one individual who owned enough shares in land and freehold farm to support his family. The rest had shares as small as a house lot. Metge (1964) found that twenty-six of them were under ten acres, only fifteen were over fifty, and none exceeded a hundred. Most of them were scattered, inaccessible, and infertile.

During 1932-33, the Department of Maori Affairs introduced a consolidation scheme⁽²⁾ to help overcome title problems, and to assist land

development. The scheme was not so successful due to owners' lack of capital, skill in farming, and incentive. The outcome of the land development was that only a few owners were left farming lands for their livelihood. The others, while keeping shares in land to guarantee their rights of belonging to Kotare, sought for new sources of income elsewhere. Many took casual employment in Raumati township nearby, or in other urban centres. Between 1951 and 1956, the community was continually losing its inhabitants at the rate of 20-25 per annum. At 1955, it was found that 274 *tangata whenua* were living away from Kotare.

Added to the problem of multiple ownership was the Maori's conception about their land and housing. Aware of so many difficulties, many owners declined to invest in the land and houses they shared with other relatives. Some made an attempt to set themselves free from other beneficiaries by cutting a house section out of a block held by several owners. But they found the process too complicated and more costly than buying or building a house on a freehold section in Te Kainga.

Irrespective of change in a pattern of land holding and in attachment to land as a result of change in land law and of social and economic necessities, most Kotare Maori still thought of land as a sacred heritage. Thus, they desired to keep land and to pass it onto their descendants. Immigrants were not given ownership rights in Maori land. There were only two immigrant occupiers; one was the wife of a Pakeha, leasing a farm from his first wife's family. The other was nominated by the Department of Maori Affairs, before the death of his first wife who owned shares in family land. He had managed the land so successfully that the Department and the shareholders agreed to his continued occupation, though he re-married. However, it was made known to him that, by Maori custom, the land would revert to its owners, perhaps to one of his sons by his first marriage, after his retirement (Ibid: 29).

3. Marae Rights

As a Maori community, Kotare had its centre on a *marae*. There were three *marae*: the community *marae* at Puriri, and the family *marae* at Karaka and Hakea respectively. The community *marae* was on a Maori Reserve, accompanied by a forty-year old meeting-house. The two family *marae*

were set up by a group of kinsmen for their own use. They were not officially recognised.

Rights on the *marae* were determined by kinship and land ownership. Thus, every *tangata whenua* claimed automatic right on the community *marae* at Puriri. Rights on the family *marae* were slightly different in that they were reserved for those owning family land. In this regard, only members of the Samuels and Hohaias families were entitled to the *marae* at Karaka and Hakea respectively.

Rights to speak publicly on the *marae*, to participate in its management, to use it free of charge, and to welcome visitors, belonged to all *tangata whenua*. The family *marae* were open to outsiders for a fee. Hence all local Maoris could participate in any *marae* in Kotare and could even launch a speech in formal discussion. Traditionally, immigrants had no right to use a *marae*. In practice, however, *tangata whenua* of Kotare allowed them to share privileges out of courtesy, though they took precedence. Metge (Ibid: 31) found that, on all three *marae*, immigrants married to *tangata whenua* spoke more often than immigrant settlers.

4. Social Organisation

There were two types of social organizations in Kotare, kinship-based and non-kin grouping. The kinship-based type had its centre in an extended family or elementary family. By contrast, an organization outside the field of kinship was formed cross-cutting the principles of descent.

4.1. Kinship-based Organization.

This type of organization retained much of traditional values and was based on a confinement of kin-groups. In so far as a kin-group under modern conditions was no longer a productive and landholding body, an organization was restricted to a few occasions, mainly in connection with life crises, e.g. birth, marriage, and death. Family committees and gatherings at *hui* were examples.

4.1.1 Family Committees

There were a number of committees set up by various families to meet special occasions. Some were *ad hoc* and some were permanent. There were five families that established committees on a permanent basis. Two of the committees were dealing with family *marae*. These were comprised of subscribers who were mostly married, family members, real or attached. Two committees included a couple of immigrant kinsmen, and one family *marae* committee accepted a couple of complete outsiders.

Subscribers of each committee elected a Chairman, Secretary, and Treasurer, to act as an executive committee in emergencies and to keep minute and account books. Ordinary committees had the primary tasks of handling *hui* and *tangi*. A *marae* committee had the same function but it also controlled the family *marae* by caring for buildings, grounds, arranging dates and terms of hire, and control of funds and income.

The *marae* committee in Kotare was also known as *komiti wahine*, (women's committee) because women assumed most of its executive positions. Chief burdens of preparing for *hui* and other work, except discussion, rested on them. The *marae* in Puriri was originally managed by the *komiti wahine*, though it later included some men. Four years before 1955, the committee lost its control to the local branch of Maori Women's Welfare League, a pan-Maori organization which recruited members regardless of kinship bonds.

4.1.2 Hui

Hui in Kotare in 1955 was an affair of an extended family group. Yet, only few social crises, traditional and non-traditional, were considered important to be performed ceremonially by the family on the *marae*. As far as Kotare families were concerned, twenty-first birthday (non-traditional), unveiling (non-traditional), weddings (traditional/non-traditional), and *tangi* (traditional) were important.

Whether the *hui* had a Maori or Pakeha basis it was principally handled by all kinsmen who belonged to a sponsoring family. The people were involved in preparation, finance, management, and control. Assistance, of course, came from remote kin, friends, and even

immigrants but it was less sustained. A brief example would illustrate the significance of kinship in *hui* organization.

When Mavis Tatana and Rob Matthews agreed to marry, Rob asked his eldest brother, Manu, to arrange a meeting with Mavis's family. *Tomo* (betrothal) was later held at Tatana's home, and was attended by the closest kin of both sides. Afterward, *hui* for the wedding was decided to be held on the *marae* of the Samuels, to which Rob and his siblings belonged. Before the wedding, six meetings were held on the family *marae* and a resolution was passed that bridesmaids, groomsmen, and a flower-girl, be allotted to kinsmen of the main lines in each of the families to which the bride or groom belonged.

Members of the Samuels family assumed most of the initiative for the *hui* because they had a family *marae* and most of family members lived together. A high proportion of the bride's family members (the Tatana) had emigrated; there had been a breach between branches over a religious issue, and it had no permanent committee (Metge 1964: 73). Nevertheless, assistance in cash and kind came from both families. More than half of the attendants were kinsmen from the Samuels and Tatana families. On the Samuels family *marae*, these people, led by the *kaumatua* performed the ritual challenge, *haka*, and speeches.

4.2. Non-kin Organisation

A non-kin grouping had no kinship loyalty at its base. Rather, it was an interest-based group comprised of members of different background, including non-Maori. At 1955, there were many non-kin organisations in Kotare, e.g. religious groups, sport clubs, Maori Women's Welfare League branch, Tribal Committee, the Country Women's Institute, and the School Committee. Out of these organisations, I shall mention the religious group, the Tribal Committee, and the School Committee, as they showed explicit deviation from Maori custom.

4.2.1 Religious Groups

The Kotare Maori belonged to several religious groups. The biggest group was the Church of England, comprising nearly half of the Maoris. It had two churches administered by local Maori Church

Committees. Second to it was the Ratana group with a small temple in Puriri, a church committee, and a Youth Club. The Roman Catholic Church had eleven families and the Brethren Hall in Te Kainga had five. Only a few families and individuals were members of Mormon, Jehovah's Witnesses and Seventh Day Adventists Church. None had a resident minister.

Religious allegiance in Kotare exhibited both conflict and co-operation. On one hand, all groups co-operated peacefully in public gatherings and services, e.g. *tangi* and other *hui*. In some cases, however, differences in faith brought about conflicts. Members of different families would find it hard to compromise if their religious beliefs were not satisfied. Metge revealed that discussion and argument over which church and minister should perform the ritual at the *tangi* and wedding *hui* often took place. In 1955, one *tomo* failed because the parents of each side refused to accept the match unless the wedding was held in their church.

4.2.2 The Tribal Committee⁽³⁾

The Tribal Committee was created by Act of Parliament in 1945. It was constituted of 5-11 members chosen from and elected by Maori residents. The election was open to anyone, irrespective of descent, age, and sex. At 1955, the Tribal Committee in Kotare was composed of men only, which included 3 immigrants and a *tangata whenua*. It also included a Welfare Officer appointed by the Minister of Maori Affairs, and one or two Wardens nominated by the Committee itself.

The main functions of the Tribal Committee were to assist the Maori people in Kotare in any matters pertaining to their well-being. It was supposed to collaborate with State departments and other outside bodies. However, the Kotare Tribal Committee played a very negligible role. It did not provide any framework for the progress of the community. Its only effective role was to collect tax for the government and its success in the community was limited to a slight decrease in the public consumption of alcohol achieved by the Warden.

4.2.3 The School Committee

Similar to the Tribal Committee, the School Committee was a Pakeha-oriented body. It derived its membership from election which was also open for anyone in Kotare. The committee, at 1955, had equal numbers of men and women. Out of a total fourteen, nine were immigrants and three were non-Maori (Pakeha). None had the status of *kaumatua*.

The purpose of the School Committee was to work for the school, and to support the Headmaster and staff in improving school grounds and equipment. Metge (Ibid: 81) remarked that because there were Pakeha on the committee, it was assumed that things would be done the Pakeha way out of courtesy.

All the non-kin formal associations had ties with similar groups outside Kotare community. The Tribal Committee was tied directly with the Department of Maori Affairs, while the School Committee was tied to the Education Department. Kotare religious groups were all part of denominations with national status and organization. The women's groups were affiliated to national movements. Finally, all sport clubs (football, tennis, softball, and basketball) were registered with regional associations to secure regular competition with other teams (Ibid).

Social organization in Kotare, kinship-based or non-kin grouping, was not strictly tied by the rules of descent and kinship. The line between kin and non-kin might be rather clearcut in the case of kinship-based organization, e.g. *hui* and family committees. Here, members of a kin-group always took precedence. However, remote kin and outsiders were never excluded if they were to participate and to support the events. In the non-kin associations, the participation of immigrants was quite obvious. It was acceptable for them to speak on the *marae* though a few declined to do so due to inability in oratory and inexperience in Maori lore. Some were given positions on various committees. The Chairman and Treasurer of the sport clubs, women's groups, and the School Committee were, in 1955, immigrants.

The recognition of immigrants in Kotare was due to the fact that the Four Northern Tribes (Aupouri, Rarawa, Ngati Kahu, and Ngapuhi) stemmed from founders who were related. This might be traceable as far back as the early settlement of New Zealand. Descent and blood ties were not a basis of this recognition but a kinship of spirit linked the tribesmen in the broadest sense.

Apart from the acceptance of non-kin into its organization, any body in Kotare was also characterised by what Metge called 'voluntary association'. It was true that each body had its own members which were loyal and would provide support when needed, and this was expressed most obviously in the organization of *hui* and family committee. However, participation in either case was not from duty nor obligation but for convenience. In the kinship-based type, close kin living close to each other might be active in all functions of the family, but this was not compulsory. Those kin who had emigrated elsewhere became infrequent participants. While this happened, the ties with spouses and remote kin living in the same community became strongly recognised and they took part more often in various affairs of the family. It was also evident that membership of various organizations overlapped because one person could always be a member of several bodies at the same time. This was most apparent in the non-kin associations.

5. Leadership and Social Control

There were two types of leadership in Kotare, traditional and non-traditional.

5.1 Traditional Leadership

At 1955, Kotare *hapū* had no *rangatira* chief who had authority over the whole community. The only class of traditional leadership left was *kaumatua*. There were ten of them, all men, who were over fifty-five years old. They were leading members in their respective families. None of them fully represented all sections of Kotare community, but three of them were regarded as 'the big chiefs of Kotare' because they always represented the community in public gatherings and in other places. The others were too elderly or too inactive to perform any leading roles.

However, as long as these men had been accepted as leaders they were always referred to whenever a discussion about leadership arose in the family or in the community. But these *kaumatua* were dying out and it took a long time for the community to accept any of the rising generation as a leader.

The traditional leaders were active in the field of customary usage, such as ceremonial performance at *hui*, and in the kinship-based organization like family committees, and family *marae* committees. They usually assumed the leadership position of Chairman. They also had a say in the field of social control where it involved a breach of *tapu*, religious observance, and misbehaviour of their people. Metge (1964: 90) revealed that some years before 1966 the *kaumatua* used to call a public meeting (*korero*) to discuss matters of community significance, to censure offenders of community mores, and if necessary to impose penalties. The exercising of their authority was reinforced by public opinion on the *marae*.

However, at 1955, the sanction of tribal authority seemed to have declined and in fact was confined only to the families. The main reasons were that the community ceased to be a centre of socio-economic functions and co-operation. Households were dispersed and each concentrated on its own affairs, while ignoring the other. Under this modern situation, the community sanction hardly had a real effect upon any individual person or household. Each family protected its own members and it depended mostly on Pakeha administrative and judicial bodies. Should it meet with disapproval from the community it still had many avenues of escape in the Pakeha world. The decline in the tribal authority extended to the family where the *kaumatua* were only listened to but not necessarily followed. Their views were often challenged, and they themselves clashed frequently with each other over specific issues.

Outside the field of customary usage, where kinship loyalty and birthright were not counted, the traditional leadership found it hard to gain a leadership position. Here, personal ability was important and the traditional leader needed to earn the recognition of the public in order to win the election. Most non-kin association

required a leader who was able to do a specific job. The School Committee, for example, looked for those who knew about the school and education. The Tribal Committee also needed persons who could administer the community in the Pakeha way and who were able to link with outside bodies and government. Some traditional leaders were not qualified for these tasks and this allowed persons of non-chiefly status to take a leading position. In 1955, the School Committee was constituted mostly of members of non-kinship status and the Tribal Committee comprised only four traditional leaders out of its total twelve members.

5.2. Pakeha-oriented Leadership

There were a number of leaders in Kotare who had no status of the *ariki* or *rangatira* class or even qualified *kaumatua*. These people became leaders because of their ability and knowledge to do some thing in a Pakeha way. This type of leader emerged in both kinship-based and non-kinship based organizations. In the kinship-based type, while the traditional leadership automatically held leadership in the ceremonial field, the achieved leaders took a lead in manual tasks. As in the *hui* wedding mentioned earlier, the *kaumatua* launched speeches and led on the *marae* but preparations of various tasks, e.g. cooking and labour, fell upon younger leaders.

Achieved leaders were important in non-kin associations, *viz.*, sport clubs, the Tribal Committee, the School Committee, and the women's group.

At 1955, Kotare had 16 men and 16 women of non-traditional leadership status, and all but two of each group had no *kaumatua* status by age. Most of them were in their thirties and forties. They were, nevertheless, active in leadership positions of various bodies. They served as officers in family clubs and committees, half of them in two or more. Six of the men were elected to the Tribal Committee and one was appointed Maori Warden. Women were active in families, in the Maori Women's Welfare League branch, and on the School Committee. The Maori Women's Welfare League was controlled entirely by women.

5.3. Leadership and Conflict

Kotare as a community had no 'head', and was not ruled in the traditional manner. It had become part of the local administration of Raumati township and subject in general to the politico-jural system of New Zealand. All matters concerning the community, e.g. education, housing, crime, health, services, land development and employment were operated by State mechanisms. Within the community, the Tribal Committee represented Kotare people with the government.

Conflict arose out of the Maori's attitude over the existence and function of the Tribal Committee. There were a few factors that led to this (Metge 1964:87-8). First, the people thought of the committee as a Pakeha institution, set up to displace the council of elders (*runanga*). Many distrusted it and this resulted in lack of support. Secondly, the election that brought the committee into being threatened the integration of the community. In the first place, the traditional leaders took it as a threat to their inherited *mana*. Metge claimed that in some areas, *kawmatua* of *rangatira* rank were reported to have refused to stand for election, though this did not happen in Kotare. Furthermore, the lines of division in the community were reproduced on the committee itself between the older and younger men. This extended to members of families that supported each side in the feud.

Due to lack of public support, the Tribal Committee which was supposed to be the arbiter of social control, failed. This caused Kotare some trouble because the traditional leaders themselves had no legal authority to administer the community. The absence of power from both sides made the people of Kotare confused and insecure.

6. Conclusion

At 1955, Kotare was not an autonomous tribal *hapū*. Descent and kinship had ceased to be the sole basis of group organisation. The recognition of kinship ties had extended further to cover a wide range of kin, both by affiliation and marriage, inside and outside the community. Social organisation in the community followed this line. Thus, the distinction between *tangata whenua* and non-*tangata whenua*

who participated in various bodies was not clearcut. People seemed to think of Kotare as a community that included Maori of *tangata whenua* status, immigrants, and non-Maori. They did not think of it as a descent group or the Maori community. Division into groups was apparent. But, apart from family committees and organisation at *hui* all other groups were interest-based. None of them represented the whole community, even though their services concentrated upon Kotare.

As a community, Kotare owned nothing in common, except the community *marae* in Puriri. It had no land which was held in common by the Kotare *hapū* or even by the *whānau*. All lands were transferred into freehold holding, held by several owners under multiple ownership. It had no chief, the *rangatira*, who could lead the whole community. *Kaumātua* existed but they were scattered amongst various families and they assembled as the council of elders only on rare occasions. There were a number of leaders who gained leading positions by personal ability and achievement. These leaders could be found in various bodies, along with the *kaumātua*.

Despite change, however, Kotare Maoris were still conscious of themselves as Maoris (Ibid: 93). They attempted to preserve *Maoritanga* where possible. They placed high value on doing things the Maori way. They tried to learn the Maori lore, speak the Maori language, recognise Maori genealogies and observe Maori obligations of kinship bonds. However, the older people found it hard to persuade the young people to follow Maori custom. The latter had gone far into the Pakeha world; they went to Pakeha schools, learnt Pakeha knowledge, spoke English, and when they grew up they emigrated to look for employment elsewhere.

ORAKEI

Situated on the Tamaki isthmus in Auckland, Orakei is another community showing a tendency to decline in tribal character. This Ngati Whatua *hapū* has a lengthy history as a corporate and land holding group in Auckland. For several generations from the mid 18th century, kinship and descent were significant in determining

hapū membership, rights in land, and social, political, economic, and ritual obligations. The founder of the *hapū* was Tuperiri.

European settlement in Auckland after 1840 brought changes to Orakei. Thus, "Land has been the cause not only for the working out of family fortunes and even for a partial withdrawal from the Maori world beyond Orakei, but also for the growth of certain attitudes towards the Pakeha" (Kawharu 1975: 6). After the Treaty of Waitangi, the Orakei began to sell land to the Crown and to European settlers, and by 1869, there were only 700 acres left to them out of what was to become Metropolitan Auckland. These 700 acres enclosing the village at Okahu Bay were in that year declared by the Court to be inalienable and to be reserved for the Ngati Whatua of Orakei. The land was to be administered by a trust board made up of thirteen *hapū* elders. This trust was, however, destroyed in 1898 when the Court partitioned the land and parcelled it out to the original trustees and their immediate descendants. This included the village proper, *marae*, cottages, gardens, cemetery and chapel. The Court thus created a new form of land holding different both from the traditional one and from the tribal trust which it itself had earlier set up. The rights of a descent group owning land in common were dropped and replaced by individual shares in the land. But to endow individuals with absolute rights in a group's estate, rights over which a group could exercise no collective control, was to strike at the very roots of the Maori political system. The fact was that the Court granted shares in the land only to the chiefs and heads of lineages, to the exclusion of many legitimate descendants, and without recognition of the customary rules of actual occupation. The Court also allowed absentee 'owners' and women, rights in the *hapū* land: rights to own and to dispose of the community's estate at will. The outcome was that from 1916 shares in the 700 acres Orakei block began to be alienated to the Crown. By 1928, Orakei land had decreased to approximately 3 acres. Despite this, the Crown still put pressure on the community; and by 1951 it had demolished the Orakei *hapū* by using the Public Works Act to evict them from their *marae* and relocating them in State rental houses nearby. The new settlement (mainly in Kitemoana Street and without the *marae*), was physically

isolated from the rest of the Orakei suburb and socially separated from the Pakeha community. By 1952, the Orakei people had also tended to become divided among themselves. "Once settled in their new homes unfamiliar responsibilities began to accumulate about them. Each tenant became liable to the State for regular payments of rent. This meant new habits of work, because co-operative enterprise in gardening, fishing, and so on, was now no longer feasible. They still had their leaders, yet there were few spheres left in which this leadership could be exercised. From being once master of their destiny, Ngati Whatua had finally sunk to the level of landless labourers" (Kawharu 1975: 13).

There are two opposing tendencies at work in contemporary Orakei. First, with the loss of land there has been a loss of opportunity for the sub-tribal political system to function. Second, despite this, Orakei people retain a strong belief in their cultural values and express them wherever and whenever possible. Nevertheless, the new Orakei no longer has land for the elders to control and this, together with the new economic way of life, has had a net effect of reducing their authority.

In order to understand the present condition of Orakei it is worth investigating the background of the community. I have described in chapter three how descent and kinship are the most important criteria of Maori social, economic, and political life. I shall begin my discussion of Orakei with descent and kinship to see how these characterised Orakei in the past and how a decline in their function affect the community's social organization.

1. Kinship and Descent

Raymond Firth says (Schapera 1963: 30)

"The *hapū* in traditional Maori society was a group of kin tracing their relationship to one another by genealogies with ultimate point of reference to a common ancestor. The members of the *hapū* were categorised by the use of a common name, transmitted from one generation to another. They operated as a group on specific occasions and in regard to specific resources, but

occasions and resources were multiple. The generation depth of a *hapū* varied according to the level of segmentation, but recognition of eight to ten generations was common. The *hapū* was not unilineal. Although weight was attached to tracing group membership by descent through males, membership was recognised if a line of descent included several female names. The point of attachment of a person to the *hapū* could be then through a woman, and choice would be exercised by a person as to whether he would claim *hapū* membership through his father or through his mother or through both. In such a choice a person might take as his basis the difference of status between his parents in their own *hapū*. But the criterion which primarily determined his membership - granted consanguineal kinship ties - was residence. Officially, the Maori marriage practice, which tended to favour unions within the *hapū* rather than the outside, meant that for many members of the *hapū* differentiation between membership through father and membership through mother was not a relevant issue."

This statement shows that the most prominent characteristic of the *hapū* is that it is a group of kin recognising descent from a common ancestor. Rights of membership and other rights are all defined in this context. Orakei was a *hapū* in this sense. It was a descent group in that its members claimed descent from the acknowledged founder of the *hapū*, Tuperiri. The concept of descent here applies also to the related hamlets of Reweit and Haranui; indeed some living there also have ancestral links to Tuperiri.

Kawharu (1975) described how the Ngati Whatua people obtained title to Orakei by conquest of the Waiohua people of Tamaki about the year 1750. Te Taou *hapū*, which later consolidated itself in Orakei, was perhaps the most prominent *hapū* in the struggle between Ngati Whatua and the Waiohua. After 1750, some of Te Taou people married those whom they had conquered and this resulted in segmentation in succeeding generations. Eventually the segments became independent *hapū* called Ngaoho and Te Uringutu, although in recent generations they have diminished in significance, leaving Te Taou identity in the ascendancy. "Today, the principal elder of Orakei himself

gives precedence to Te Taou as a sub-tribal name for the community, in recognition of the Te Taou identity of the ancestor Tuperiri....." (Ibid: 24).

From the genealogical record, it seems clear that the Orakei *hapū* has been made up of maximal lineages descended from Tuperiri's three sons. Over time, these maximal lineages have undergone segmentation, with increasing numbers at each generation having to live - through shortage of ancestral land - away from Orakei.

Like other *hapū*, Orakei was organised according to a principle of ambilateral affiliation. For instance, whenever there was no male issue females were regarded as maintaining lines of male kin. This status in the maximal lineages did not, however, mean that females were politically superior to males. In practice, there was no transmission of rights of membership and rights in property through the female line. In short, at any time before 1950, it appears that Orakei subscribed to the ideology of patrilineal descent and virilocal marriage - concepts an elder employed once to justify a claim to live in Orakei and when to act on its behalf (Kawharu 1975: 46).

The concepts of descent and kinship persist in Orakei, since the Maoris identify themselves with the group they are connected with ancestrally. Kawharu found that, between 1954 and 1964, all four *kaumatua* of Orakei, despite their residence and former land interests in Orakei devoted much attention to Reweti. They spoke on the Reweti *marae* and there expressed opinions on matters affecting the Reweti community and its development. When two of them died they were buried in the Reweti cemetery. In 1960, the Reweti *Marae* Trust Board was appointed by the Maori Land Court. Of the eleven members on the Board, seven were actually resident in Orakei. The appointments reflected Maori custom: thus the members represented the maximal lineages in Orakei, Paewhenua, Tarahawaiki, and Whakaariki. Orakei women have also taken part in Reweti affairs. On many social occasions those with kin ties to Reweti have worked as hard for the community as they do for Orakei. There is no doubt that co-operation between Orakei and Reweti stems from the fact that both communities are linked by common descent. Most of those having ties with Reweti feel obliged to help their kin at a time of stress, in ceremonial, and in administration. The same applies to Orakei-Haranui and to Haranui-Reweti.

Orakei since 1950 has no longer been a *hapū* in the traditional sense. Physically, it had become little more than a segment of a state housing suburb. Men married to *hapū* women found local employment easy to obtain and in the absence of a housing demand from their male in-laws were able to settle with their wives in the community.⁽⁴⁾ Uxorilocal marriages began to be common in the 1950s - the more immediate rights of the issue thus being derived from the mother's father. Occasionally, however, they were derived from the mother's grandfather, which in turn led to the prospect of recruitment to the *hapū* by matrification. This prospect might be kept under review.

2. Land Rights

Another point to be mentioned in connection with change in Orakei is an individual's claim to membership and land rights. Kawharu stated that these claims were traditionally justified by the concepts of filiation and descent. A person may become an active member of any of the communities in which either of his parents had ties by descent. He could claim membership and the rights adhering to it in several places at the same time, but all was subject to the rules of actual occupation. While he lived and enjoyed rights permanently in one place, his rights in other places lay dormant. They might lie dormant for some three years and still be revived by a descendant willing to join the community and work the land.

In contrast, the land rights of an individual today are determined by the Maori Land Court. Under a Court order the individual is freed from the rule of actual occupation and from obligations to the community where his land interest is derived. The Court also gives a Maori the right to succeed (in an intestate estate) bilineally without limit to the number of generations. The outcome is that Maori land has become fragmented generation after generation, and one Maori could own land in many places at the same time. The case of Peter Amorangi illustrates the nexus of rights held by an individual in Orakei.

Peter Amorangi is a resident of Orakei. He has three main sets of tribally defined rights in land interests outside Orakei. "Firstly there are those in the Te Taou hamlets of Reweti and Haranui in the Southern

Kaipara. His land rights there are derived through both his father's and his mother's lineage (essentially, those of Whakaariki and Paewhenua). Secondly, bilineal succession and the absence of occupational obligations have given him fairly substantial interest in the Mahurehure lands of his maternal grandmother in the Waima Valley, Hokianga. Thirdly, collateral ties derived from political marriages made between Ngati Whatua and Ngati Raukawa, at the third and fifth ascending generations from Amorangi, have resulted in rights of minor social importance to himself and to the Ngati Raukawa families concerned at Otaki and Levin" (Ibid: 37).

There is no doubt that Peter Amorangi has rights in accordance with Maori custom in land in the Te Taou *hapū* because his parents belonged to that community. What is unusual, however, are his rights in Waima and among the Ngati Raukawa tribe. His rights in Ngati Raukawa ceased long ago due to the failure of his forebears in keeping fires alight on the land. According to Maori custom, his claim to that right is therefore invalid. But, under the Court's rules he and his children could still claim that right. Bilineal succession gives him rights in Waima in the same manner, even though he knows very little about the Waima people and they know nothing about him. Thus his children who stand at the fourth generation as non-occupiers are likely to succeed to land interest in Waima. They are able to claim social (*tangata whenua*) rights in the community as well.

3. Social Organisations

Despite change, descent and kinship still play parts in some areas of social organisation in Orakei. The following citations exhibit the way in which descent and kinship were retained and the degree of decline in their significance.

3.1 Descent Group Focus

Kawharu discusses descent group focus in the context of two organizations, the Orakei Urupa Trust Board, and the Maori Women's Welfare League.

The trust board reveals Orakei's effort to retain Maori values. It was set up in 1959 to control and develop the burial ground, the *hapū*'s last link with its ancestral land in Okahu Bay. The persistence of Maori custom is to be seen in the formation of the board and its operation. Of the members of the board, seven were from Orakei, and two were from the Department of Maori Affairs and Auckland City Council. The representatives from Orakei were, apart from a woman selected mainly because of her role as a welfare officer, all chosen on a descent basis. The selection was an approximate reflection of the lineage representation among the tenancy-holders - certainly to the extent that it was understood that there had to be at least one representative on the board of each of the three maximal lineages, irrespective of other considerations and qualification (Ibid: 44).

As an example of the concern of the Board with the community as a *hapū*, we may cite the following. At a general meeting convened by the Board, six members of the *hapū* proposed to rebuild the chapel to meet the *hapū*'s religious needs. Six others, in agreeing, proposed to use communal funds for the purpose. All these speakers were senior representatives of two of the three maximal lineages in Orakei. There was also a proposal to use the same funds for the proposed *marae* on Crown reserve behind the houses in Kitemoana Street. The majority of Orakei people felt this was unacceptable because the title to the land was not vested in them nor even in the Ngati Whatua people. They expressed the desire that the money should be spent only on ancestral land. Thus, the ideas determining the trust's operations underline the significance of tribal values based on land. There was, however, an objection against the plan and the use of the communal funds in the reconstruction of the chapel. Though the objection was not taken seriously by the majority it showed some interesting points in connection with tribal values. The proposal was objected to by the head of one of the lineages which had descent ties with both Orakei and Te Taou. In speaking against the objection, the principal *kaumatua* of Orakei referred to the same fact that his ancestral link with the Orakei and Te Taou gave him right to speak on their behalf. Both cases turned on one crucial point, *viz.* that the people still placed significance on descent and kinship criteria. The effort made

by the Orakei people in reconstructing their chapel was motivated by notions of kinship and descent and indicated the persistence of *Maoritanga* in the community. But in the heart of all, it was the Board that showed its great concern in its attempt to retain the Maori values. There was no doubt that its selection of members placed significance on descent. Besides, the roles it performed and the dominant beliefs that governed such performance were traditionally Maori. In this context, none or little heed was paid to non-descent factors, and as a result, affinal roles were excluded.

Despite being less descent-oriented, the Maori Women's Welfare League in Orakei also emphasised the retention of tribal values. It was concerned with the *hapū* as a local group and its objective was to carry out community tasks on a co-operative basis. Originally, Orakei women joined the Waitemata District Council when the Maori Women's Welfare League organisation was established in 1951. They later broke away to form, with two other branches, a district council of their own, which they called Nga Iwi. When this district council grew to five branches in 1964, three were found representing the Orakei *hapū*. The remainder, though not *hapū*-oriented, were at least sympathetic to Orakei. Irrespective of geographical divisions, all three Orakei branches united for the *hapū*'s welfare such as the development of the Play and Education Centre.

3.2 Descent Category Focus

While descent refers to kinship tied to local residence, descent category expands to include those kin living outside the *hapū*. These kin, on certain occasions, join with the local people to stiffen the solidarity of the *hapū*. Basically, the bonds between members of the bilateral extended family provide this strength. The family as referred to here consists of a married couple, children and married children, the latter's children and married children with issue. Members of the family include those living outside Orakei as well as in-marrying spouses. An individual may affiliate bilaterally and affinally, but having made a particular choice, that choice tends to become permanent.

Most members of a family take part in the life cycle celebrations for each other, e.g. *tangi* and birthday celebrations; and more generally, they bring various problems to joint discussions and seek solutions by consultation. When conflicts arise they tend to be re-solved within the family. The transmission of Maori lore is also made within the bilateral family (often from grandparents to grandchildren). Members of all Orakei's families own shares in a southern Kaipara land company, a descent-oriented land incorporation, since the title for the land belonged to the Te Taou *hapū*, and since Orakei was originally a segment of Te Taou.

Beyond the bilateral family, a sense of tribal identity is also strong. With increasing number of other Maoris in Auckland a distinction between the Ngati Whatua people and immigrants has become an important issue.

Characteristically, being *tangata whenua* is something best expressed on the *marae*. In 1964, however, Ngati Whatua had no *marae*, only a belief in Ngati Whatuatanga. Their recognition of their Ngati Whatua identity help to remind them of Maori values. In inter-tribal relations, all members of the family, consanguineal and affinal, are united in support of Ngati Whatua. Since Orakei is geographically a nucleus for Ngati Whatua people living anywhere in the City of Auckland, it has become a centre for mobilising social and ceremonial activities for large numbers of the tribe.

3.3. Household Focus

While a family is not necessarily a local group a household is a group of people living together to form a functioning domestic unit. It may or may not constitute a family, and if it does, it may or may not be a simple nuclear family (Bohannan 1963: 86). In the former times, a household was the basic social unit of the Maori society. It usually consisted of an extended family: a *kawmatua* and his wife or wives, their unmarried children, some of their married children (usually the sons), and the latter's spouses and issue. Many also included slaves (Metge 1976: 6). A household could be patrilocal or matrilineal depending on the way in which an individual concerned

exercised his choice of residence. In this regard, a Maori only had right to attach himself to one of his parents' household or, when he married, to his own group or his wife's group. The composition of the old times' household was determined by birth and marriage. Emigration was not a major factor of change in the structure of the household, since most Maoris at that time lived together as a group within a defined territory for the purpose of defence. In fact, emigration was rare.

This is not, however, the case in Orakei in 1964. For years, Orakei households had been affected largely by external forces. Change in the composition of the household was obvious, as a result of economic change and of the Government's housing scheme. Economic pressure had driven some Maoris out of the household while, at the same time, marriage brought in spouses from outside. Many households in Orakei had become more female-dominated due to increase in uxorilocal marriage. Besides, the government had done much to cause innovation in the household's structure. This was connected with the expansion of the elementary family as a result of birth and maturation of young generation. This made the original household crowded. Kawharu revealed that, at mid-1964, "...nearly two-thirds of the *hapū* lived in households of 8 or more people....; that 35 percent consisted of 2 or more elementary families....; and that 1 in 3 comprised three or more generations...." (Ibid: 62). This very fact suggested that each household needed more space to meet the rising situation. Nevertheless, it was unfortunate that the government forbade the erection of additional houses in the community. Lack of an opportunity to add to existing houses as such had driven many Orakei people out into Metropolitan Auckland where alternative housing is available.

The Government's housing scheme in Orakei, thus, reshaped the organization of household in the community, and of the future of the local Maoris. Only a limited number of Orakei inhabitants had prospect for living in the community. That was, once a person (normally a married couple) chose to live in Orakei with the Department of Maori Affairs he was bound by the departmental rules. When the family grew up some of them had to move out to make a balance of space and members

in the original household. But to live away meant also to limit a close relationship with the parental household and so the outcome was a weakening in the relationship among local members of the descent group.

4. Leadership

Descent and kinship played crucial parts in leadership in Orakei. Of the three types of leadership, the first two are descent-oriented. The ceremonial leader is the *kaumatua* who gains status by virtue of age, command of oratory, and seniority of descent. It is true that the lack of a *marae* at Orakei has lessened his authority to some extent and the loss of land there has had a great effect upon his influence in his family. Nevertheless, the informal sanctions available to him are still effective in the life of his family.

Leadership in manual labour is a combination of kinship and skill. In any activity, for instance, *tangihanga* tasks are completed by the closest kin according to custom. There is no shortage of help. Except for traditional division of labour on a sex basis, there is no hierarchy, no stratification of tasks, no chain of command, and no closed membership. However, if there is a need for leadership in any of these tasks, a person carrying the greatest social and moral responsibility, normally the immediate next-of-kin of a deceased or a person of superior knowledge in certain circumstances, will be referred to.

In contrast, administrative leadership appears to cut across the notions of kinship and descent. With the exception of the Urupa Trust Board and the Welfare League, other groups such as the Orakei *Marae* Trust Board and the all-male Tribal Committee, were Pakeha-oriented and led more by officers of the Department of Maori Affairs than by *hapū* elders.

5. Conclusion

To conclude, Ngati Whatua's social organisation seems to be

determined on the basis of genealogy. Therefore, one who is able to connect himself to Tuperiri, through male or female antecedents may claim the right to live in, and to act for, Orakei. A consanguineal tie is an important indicator of an individual's right to stay, to leave, or to return to Orakei, at any time. But kinship also applies to a wider range of relationships. As a consequence, kin living elsewhere also have rights to participate in the community's activities. In social and cultural pursuits these Ngati Whatua people come to Orakei and assert their identity as *tangata whenua* against immigrants from other tribes in Auckland.

Orakei between 1954 and 1964, shows symptoms of change and deterioration. Loss of land and the *marae* at Okahu Bay has resulted in change in social organisation, especially with respect to tribal authority over land and the recognition of the importance of descent. However, descent and kinship are still observable in Orakei. Individual rights, relationships, and social positions may be derived from the recognition of descent, e.g. the right of a person to live in Okahu Bay. Kinship also remains significant for those living away from Orakei. When it is in the interest of the *hapū*, descent and kinship unite Orakei people against other groups. Yet the continuation of Maori values in the community is in doubt. Individualization of title to land, and bilineal succession to intestate estates, as well as the growing individualism within the community itself, have modified many aspects of *Maoritanga* in Orakei. The loss of land and *marae* at Okahu Bay has also done much to diminish the overall significance of descent and kinship in the *hapū*. It has destroyed the means by which the tribal authority could exercise its *mana*. Loss of land has meant a loss of opportunity for the growth of co-operative enterprise in the community, and so on. The Orakei people have thus become like a king without a kingdom; without the means by which they could turn their most profound beliefs into practice. At the time of Kawharu's study, Maori culture in Orakei seemed unlikely to survive and would gradually disappear.

WAIMA

1. Background

Waima was a rural community in a remote area of Northland. Situated in the Hokianga district, it had in 1958, a population of 342, of which 329 were Maori. Of the Maori group, 307 were regarded as *tangata whenua* and 27 as newcomer immigrants who had common genealogical ties, cognatic or affinal links with the local group. The remainder were complete outsiders. These people were scattered in sixty-one households located on separate holdings. Most houses in the community were the outcome of the 1950s Department of Maori Affairs housing scheme, some of which were sub-standard, over-crowded and showing signs of depreciation.

There were five *marae* and meeting-houses in Waima, one was left unused because its custodians had embraced the Jehovah's Witness faith. The other four, were well-equipped with modern facilities. Of these, Raukura and Ootaatara were gazetted as community *marae* because they were financed and built by a community effort with the additional aid of a government subsidy. Another two were family *marae*, financed and constructed by the members of a few families. Moehau family *marae* came into existence because of the desire of the local *tohunga* to have a *marae* on his own property, since he considered the two community *marae* were too far away from him. Tuhirangi family *marae* was the outcome of a quarrel between certain families over the custody of the community *marae* at Raukura.

2. Maori-Pakeha Land Relationship in Waima

According to historical evidence, the Hokianga district was known as one of several trading centres between Maori and Pakeha and of Christianity for some years before 1840. The small trading base was set up there in 1827. Yet it was not until 1837, that Waima people began to trade with Europeans by carrying goods down river for sale at the Hokianga station. After the signing of the Treaty of Waitangi in 1840 (the Waima chief was one of several signatories), communication with the European settlers increased and the sale of timber logs to European traders became the most lucrative source of income for the Waima people. Despite this contact however, the fundamental principles of Maori culture, particularly descent and kinship bonds, as well as the tribal authority of the chiefs, remained unimpaired. It was not

until several years later, that the Waima people realised that their relationship with the Pakeha would finally result in misery, with the loss of tribal estate and political independence.

The threat from this external force became a reality in 1863 when the colonial government encouraged a settlement of Europeans in Hokianga, directed missionaries to use English in the mission school, and banned all consumption of alcohol in the community. The government policy was such that the Waima people lost large tracts of their land to European settlers. In 1877, land amounting to 194,014 acres was alienated through sale (Hohepa 1964: 42). Many pressures followed this incident. Thus in 1886 the Immigration and Public Works Act, 1870, came to facilitate the government-sponsored Pakeha settlement, followed by bush clearance, the building of roadways, establishment of a timber enterprise, and further purchasing of Maori lands. These events made land the major subject of discussion in the Waima community. Reactions against the sale of land to the Pakeha often emerged and resentment against government land policy was apparent. In 1880, some leading men of Waima openly declared that they would cease land sales to both government and private purchasers. Many also withdrew from co-operation with the Pakeha. In 1883, a land protest movement, the *Kotahitanga*, was formed to unite all tribes in the North Island outside the King Movement. Waima joined this organization and it became a centre for several meetings. The land organization paved the way for the rising of the Young Maori Party, comprising of outstanding Maori scholars like A.T. Ngata, P. Buck, M. Pomare, Bishop Bennett and others, in the latter years.

While the Waima people were watching the end of their tribal life, the colonial government was increasingly more benevolent towards Pakeha settlers. With the Native Land Act of 1892 it increased the maximum size of an individual section in the settlement from fifty to one hundred acres. The settlers were also given financial assistance to develop their lands. With this incentive, there followed an influx of European people into Hokianga and they became the majority in this district. With the government providing a lead, they continued to purchase more land from the Maori people (Ibid: 44). As the land flowed out of their hands and the gum industry boomed, the Waima

people ceased their subsistence agriculture. In 1896, most Waima families turned to kauri gum digging and sold the produce to Europeans. Digging gum and living on the gum-lands was disastrous to the well-being of these people and of their community. On one hand, the workers met with miserable conditions on the gum-fields; ill-health, disease, and epidemics. Moreover, the sale of land and gum produce did not yield a good return because the Maori were inexperienced both in trading and in the handling of money. Most cash obtained from such business was spent on European goods and liquor. Many became indebted to the Europeans, who were always prepared to recover their money with Maori land. On the other hand, working away from the community caused the disintegration of the local kin group, since the absence of the people made the fulfilment of kinship obligations and duty and other customary practices, impossible.

Waima entered the 20th century with insufficient land to support its members. It had merely an approximate area of 15,000 acres communally owned, but this land was also fragmented under the Court's rules and those of bilineal succession. The incidents left Waima with a number of small individual holdings and because their land was located in separate places the use of it was difficult. The government had some methods of dealing with the problems of Maori land, for e.g. vesting land in the Maori Land Board to farm on the owners' behalf, incorporation of lands, and consolidation of titles. This last method was adopted in Waima.

With a lot of encouragement from the Young Maori Party, the consolidation scheme brought about a remarkable change to the landscape of the community. Between 1906 and 1939, most Waima land was developed and turned into grass and pasture or used for dairy farm purposes. The scheme was European in technique and operation but it also yielded an emotional return to the owners in that it assisted them to obtain a Maori identity in connection with their land.

Due to some difficulties, however, the scheme was not entirely successful. It was hit by the depression (1919-1935), an event which forced many Maori farmers into debt. Besides, it failed to draw widespread co-operation from many owners because it concentrated solely

on commercial use of land. To achieve its goal it only nominated some good farmers on developed land. Many were thus excluded from their own property.

Apart from the government land policy aforementioned, other interventions came from the Department of Maori Affairs. In 1937, the Department assumed long-term control of a large block of Waima land with the intention that it would be turned into 'base farms', developed and returned to the owners. This plan was never accomplished and the land consequently remained in the hands of the Department. In 1938, the Department negotiated with the owners to develop the land as a 'station'. The initial reason given was that such land still lacked a water supply and was therefore unsuitable for subdivision and return to the owners. This incident aroused ill-feeling among the Waima people against the Department, and they came to fear further loss of land.

The government land policy had overall done much to divide the Waima people. Dispersal of members of the kin group was obvious, as a result of alterations in the land tenurial pattern and the introduction of individualization of titles, which detached individuals from the group. Apart from this factor, many *tangata whenua* excluded from land development schemes had lost their social and economic prestige in the community. Many had emigrated to look for economic opportunities elsewhere. Even those nominated to the lands, later suffered inadequate returns and had to look for support from other sources of income. Their break from routine farmwork to supplementary wage-earning always resulted in negligence of land use in the community.

Hohepa found that in 1958, the economic pressure was so intense that it drove many *tangata whenua* to emigrate. Subsistence agriculture had ceased in Waima. Only a few Maori worked on their lands and, out of thirty households involved in farming, only two operated dairy farms directed by government. Instead, many *tangata whenua* of Waima looked for jobs as far away as Kaikohe, the Moerewa Freezing Works, and the Northland-Auckland railway line. It was also found that the majority of Waima people had been away from the

community, at least for a certain period of time. For example, three farmers were employed elsewhere throughout the year, leaving their farms for their wives and children to manage. They had been working in this manner for some three years even though they claimed the jobs were temporary. Other farmers worked occasionally for cash during the off-season of farming. Emigration was also apparent among younger people who foresaw that their future lay in the cities. These people tended to leave Waima permanently. Between 1951 and 1958, Waima lost one-fourth of its population permanently to Auckland, Rotorua, and other urban centres. As emigration continued, Waima population in 1958 decreased by fifty per cent. But the worst consequence was that the community was left with an imbalance in the age group and the workforce. Most emigrants were in a working-age group, while those who remained in the community were children, older people and those who had least likelihood of succeeding in a competitive life in the cities.

2. Descent and Kinship

Waima people were linked ancestrally with those who came in the Ngaatokimata Whaorua canoe which landed in the mid-north of the North Island some twenty-five generations ago. The people, calling themselves Te Mahurehure, later migrated to Kaitaia and Hokianga and after expelling the Ngatiawa people from these areas, settled there. When Puhi was born the group was then named Ngapuhi. Waima people belonged in general, to this tribal group.

In particular, however, the *tangata whenua* of Waima descended from Nukutawhiti, the founder of Waima *hapū*. As a consequence, those who were direct descendants of Nukutawhiti and who had occupied land continually there, claimed automatically the rights of *tangata whenua*. The line of descent in this context was ambilateral, in that one could claim rights through both parental groups but choose only one at once. This choice then determined a persons' rights, duties, obligations, and privileges in the community. This was different from the claim of immigrant kin who were newcomers to Waima. The immigrants, despite having common genealogical ties, cognatic or affinal links, did not have an automatic right to membership of the community. Their claims

to the status of *tangata whenua* were yet to be proved and this depended significantly on the recognition of local members. A complete outsider had undoubtedly no rights to any claims. Numbering 12, they were only neighbours of the first two groups.

In pre-European times, descent and kinship were crucial determinants of all rights of members of a kin-group. Expression of these was explicit in an extended-family group (Hohepa referred to this group as '*whaamere*'), but extended to cover other groups of the same kind in the community. Within the group its principal members were all consanguineal kin who traced descent back to many generations. The members normally lived together and worked co-operatively on a mutual reciprocal basis. Kinship bonds always resulted in the mutual protection and care of each of the members of the same group. This was not limited to a mere *whaamere*, but extended to the wider domain of the community. Co-operation of all community members on the *marae* (e.g. in social, economic, ceremonial functions) was expected as a means of strengthening the local group.

Descent and kinship as found in Waima in 1958 was however, a reflection of an amalgam of two cultures, Maori and Pakeha. Acculturation in the past had modified many aspects of the old custom so that it could survive in a changing world. Thus, the claim of membership rights were no longer made strictly according to ambilateral rules but were bilateral. An individual choice in most cases was made without consultation of the tribal authority and often without recognition of descent. Explicitly, a trace of descent was limited to a *whaamere*, the only existing bilateral cognate group of some social significance. Normally an individual traced descent from a progenitor deceased within living memory, usually the father of the oldest living member of the group (Ibid: 93). Besides, the members of each *whaamere* lived in scattered households while some had already migrated to the cities or to other rural communities and towns. Each household was therefore an independent socio-economic unit and tended to become only a temporary base for many of the younger generation who when they grew up, sought better economic opportunities elsewhere.

Thus in general, Maori adoption of Pakeha culture, for e.g.

money economy, education, modern lifestyle, English language, and so forth had altered the structure and organization of the *whaamere* in Waima. Descent and kinship had diminished in their significance in most aspects. Not only had they become less practicable in social and economic functions but they were also losing their place in the people's recognition. One major reason for this was that knowledge concerning these factors was no longer passed on in Waima, the ultimate outcome being that by 1958, such knowledge was limited to only a few persons, none of whom knew accurately about Ngapuhi ancestors. Even the use of kinship terms had gradually disappeared.

Due to lack of such knowledge many *tangata whenua* lost interest in participation in communal meetings because they did not understand the value of Maori lore expressed by the elders. They might still recognise the importance of tribal lore and old customs, but because knowledge as such bore little significance to their means of livelihood in the new environment, they did not bother to study them.

3. Social Gatherings

Organizations of some kind showed the nature of cultural persistence and cultural change in Waima. Hohepa cited four types of gatherings and organizations, *viz.*, rights on *marae*, the *hui*, death and mourning, and the annual cleaning of the cemetery, as examples.

3.1 Rights on *Marae*

Traditionally, a *marae* belonged to all members of a local kin-group, *tangata whenua*. Outsiders might use or participate in it only with the approval of local inhabitants. This was not the case in Waima in 1958. It was found that all four *marae* in use were open to all members of the community, though the choice of which *marae* an individual should use was based on personal suitability, previous experience and the wishes of the elders involved. For the community members, *tangata whenua* or non-*tangata whenua*, attendance at functions held on any *marae* was never restricted (Ibid: 103).

3.2 The *Hui*

At 1958, there were only a few *hui* held by a kin group. Perhaps, *tangi*, unveiling, twenty-first birthdays and weddings could be regarded as the only occasions which indicated a common effort by the Waima people in the midst of change.

Most *hui* in Waima were held at the *whaamere* level. In this regard, all families comprising the *whaamere* provided the nucleus for organization, arrangement, and finance. All responsibilities were shared among the *whaamere* members living in the community, according to age, sex and status. Thus the *kaumatua* and *kuia* (elderly women) assumed the leading and ceremonial roles. They were responsible for launching speeches of welcome and oratory on the *marae* and in the meeting-house. Other manual tasks were shared among other members of the group including teenagers. The younger people participated actively in all tasks of non-traditional kind in order to earn themselves recognition in the community.

It is important to note that the *hui* in Waima retained aspects of traditional custom to some extent, at least in the field of leadership and sentiments. Ideally, decision making and utmost responsibilities fell upon the elders and real members of the *whaamere*. Most organization and arrangement were carried out in the Maori way, and co-operation among the kin was relatively high.

3.3. Death and Mourning

Organization of some kind could draw co-operation from the whole community. *Tangi hui* had this cultural value and significance. To the Maori people, death was not only a source of social and economic disruption for the family involved but also a loss to the whole group. Therefore, even though *tangi* was the direct responsibility of a certain *whaamere*, co-operation from the whole community was widespread. Contribution and donation usually came also from other *whaamere* and in some cases this was sufficient to cover all expenses. Hohepa pointed out that this co-operation was due to the people's belief that kin must help each other in times of need and stress. Not only did

this belief persist in the community but also the customary practices involving a death. Thus, during the *tangi*, all other functions in the community were to be cancelled, mourning practised, and *tapu* observed. Apart from this, the social significance of the *tangi* was that it provided an opportunity for the community members to work together on the *marae* and in the Maori way.

3.4 The Annual Cleaning of the Cemetery

Co-operation of members of the community in this event implied a great social significance - the honouring of ancestors and their deaths. All *tangata whenua* were expected to participate in the task and the ceremony. Usually, any family with relatives buried in the cemetery sent all or some of its members to help. The cleaning of the cemetery was to be carried out in the Maori way. Thus, those participating in the ceremony must undergo the ritual of cleaning and must also observe the *tapu* involved. Additionally, a restriction on gardening and on fetching produce from the garden must be observed while the ceremony was in progress.

Despite the persistence of Maori custom aforementioned, a deviation from traditional values could be found in many places. In terms of participation for example, the distinction between *tangata whenua* and outsiders was not clearcut. In most cases, both groups tended to work together and this made it difficult for *tangata whenua* themselves to single out their exact roles. Needless to say, the *tangata whenua* had accepted immigrant kin as 'our kin' and allowed them to share rights and privileges on the *marae* and in the meeting-house. Some were given a place in local bodies, for e.g. the Maori Women's Welfare League branch, the Football Club, the Tennis Club, the School Committee. These people could always speak with impunity on the local *marae* (Ibid: 25). Even complete outsiders were never excluded from the activities of the community. Though this last group gained none of the privileges of *tangata whenua*, they were also given places on various committees of local bodies as mentioned above, and the use of the local *marae*.

While co-operation drew members of a kin-group together in some

cases, adoption of principles from outside also brought about conflict and division within Waima. A line of division was drawn at least between the Jehovah's Witness faith and the rest of the community. The problem was that supporters of this religious group saw Maori customs as being too irksome. They declined to follow the traditional values and refused to obey restrictions and *tapu*. Due to this objection they did not co-operate in any of the ceremonials, such as the cleaning of the community cemetery, which was performed by the community.

To conclude, Waima in 1958 had ceased to be a corporate group nor did it continue to be a Maori *hapū* in any real sense. It had no chief, *rangatira*, but the *kaumatua*, whose authority was confined only within an extended-family group. Maori custom persisted in a modified form while change in the social and economic aspects was apparent. The change was a consequence of Maori adoption of Pakeha elements; e.g. land law, administration, commercialism, individualism and a money economy. The old and the adopted values formed a new entity which was neither completely Maori nor totally Pakeha. While this was taking place many *tangata whenua* expressed their concern about *Maoritanga* and identity. This they exhibited in the organisation of *hui*, rights on *marae*, mourning of the death, and in the cleaning of the cemetery. Regarding these aspects of Maori life and culture Maori sentiment was high and kinship bonds were recalled. Yet change had taken place and, as a result, the old principles could not be strictly followed. Thus, in all organizations, immigrant kin as well as outsiders, were allowed to participate to a great extent.

NOTES

- (1) The New Zealand Official Year Book (1951), Hunn's Report (1961), and the Prichard/Waetford Report (1965) estimated the amount of Maori land retained by the Maori at approximately 4,000,000 acres. These estimations, made at different times, are rather strange, for Maori land should have decreased, over the passage of time, by way of sale and compulsory conversion by the Maori Trustee, between 1953 and 1973. Moreover, it is found that many acres of Maori land are not used by real owners but by occupiers or lessees. In 1955, the Maori Affairs Department estimated that 750,000 acres were leased to Europeans and 1,477,770 acres were farmed by the Maori Trustee and by Maori Land Incorporations. At the 1956 Census, idle land suitable for development was 550,000 acres.

- (2) The 'consolidation scheme' is the re-grouping of interests in land fragmented by succession into larger holdings, to make productive use of the land. The process involves adjustment between owners, exchanges, amalgamation, repartitioning, outright purchase or any combination of these. Once the scheme is complete, redistribution of interests will be made to owners fit for the new subdivisions. This scheme required the close co-operation of special agents such as administration, land utilization officers, and Maori owners. (See Kawharu 1977: 93-4 and 108-9).

- (3) In 1945, the government passed the Maori Social and Economic Advancement Act, to promote and maintain the health and general well-being of a Maori community. The Act appointed two administrative bodies, namely, the Tribal Executives and the Tribal Committees. The Tribal Executive Committees consist of two representatives from each Tribal Committee within a tribal district, and a Welfare Officer. They function to promote, encourage, guide, and assist members of the Maori race in administration, education and well-being, and collaborate with other government departments for the interests of the Maori in industry and employment. They control, advise and direct

activities and functions of the Tribal Committees within a certain district. In every tribal district, there is one Tribal Executive Committee who act as a body corporate, with perpetual succession and a common seal.

There is one Tribal Committee in every tribal committee area proclaimed by the Minister of Maori Affairs. This administrative body consists of 5-11 elected members representing the tribes or tribal groups within a tribal committee area, and a Welfare Officer appointed by the Minister. Members of the committee are elected by the Maori residents in the committee area. They hold office for two-year terms. The Tribal Committee has the same function as that of the Tribal Executive Committee but is subject to the control of the Tribal Executive in the district.

- (4) The rate of Maori's inter-tribal and inter-racial marriage increases every year. Harre found that almost half of Maori marriages made in Auckland in 1960 were to Pakehas. During the same period, Biggs found the same situation in the East Coast District - that 41 out of 147 marriages were inter-tribal and 16 were to non-Maoris. This mixed marriage pattern is presumed to be the outcome of change in the tribal society in the process of acculturation. Marriage in modern times has become a personal affair and a result of personal initiative. It needs no approval of a kin-group for its validity, but the Court in accordance with the Marriage Act, 1908. (Harre 1966: 143; Biggs 1960: 23; Metge in Man, 57, 1957: 166-170).

CHAPTER SIX

ASPECTS OF CHANGE

Earlier in this thesis, I hypothesised that the Maori tribal society has changed due, significantly, to alterations in the tribal tenurial system in land. In this chapter, I will discuss generally the aspect of change, with reference to information in the earlier chapters.

Before going into details, however, I must make it clear that my concern is to pinpoint change in major principles that characterise the tribal society. They are descent, kinship and leadership. Some authors on Maori society, like Joan Metge (1964), conclude that these cultural attributes still persist. We must, however, take this statement carefully and not allow it to confuse when discussing change. In my understanding, Metge means 'sentiment' or 'emotional expression' when she refers to the persistence of Maori culture. My discussion is, indeed, different in that it attempts to show to what extent the cultural elements are kept in action.

1. Change in Descent and Kinship

Change in this context could be discernible in three areas: tribal organisation, social organisation, and control of land property. As explained in Chapter III and IV, descent and kinship were principles of such organisations and control. They have, nevertheless, tended to decline in their significance in the post-European contact.

1.1. Tribal Organisation

To refer briefly to the past, the traditional society was organised in the forms of *iwi*, *hapū* and *whānau*. Each of these was formed on a basis of descent or filiation. The most important criteria of this was that each group recruited membership by birth and by holding of land. Marriage played crucial parts in such membership recruitment and a claim of land right. That was one could claim the rights ambilaterally. There was, however, a rule that distinguished between members and non-

members of a certain descent-group, so that 'group solidarity' could be achieved. Succession was the key in the continuity of the group. The rules of succession always covered all factors, e.g. occupation of land, residence, active participation in a certain group, and rights of heirs produced in marriage, needed for group solidarity. Normally, each social unit was self-reliant but linked with others, politically, especially in regard to tribal defence and alienation of land.

None of the tribal groupings today was formed on a purely-descent basis. The following discussion will elucidate the change.

1.1.1 The *Iwi* (tribe)

Metge (1976: 131) stated that some forty-two groups of Maori claimed the title of *iwi*. Evidence showed, however, that they were not tribes in ancient sense. The tribes' membership was not based on descent and the internal structure of the tribes had changed. Regarding this the native way of life had been transformed into the modern one. Under the new life-style the natives experienced money economy and gradual growth of individualism that marked them off subsistence economy and the communistic system, of the former days. These, together with Pakeha's threat on land, became a chief factor that liquidated tribal organisation (Firth 1972: 452).

We must first accept, as Ngata (Sutherland 1940: 156) stated, that Maori tribes were no longer territorial groups as they were nor could they be distributed geographically as tribes in the pre-contact times. With the passing years, after European contact, change had taken place in the Maori society.

The loss of land since the initial stage of contact and the loss of the chiefs' *mana* over land to the Maori Land Court had a grave effect on tribal boundaries. The remaining tribal land, if any, had been individualised by the Court. For years, Pakeha settlement had penetrated into the tribal areas by purchasing of native lands through the Court. At the same time Pakeha land laws in holding, succession, and use of land led to dispersal and emigration of tribal members. The figures below showed the decrease in rural Maori population and the growth of urban immigrants between 1951 and 1971.

TABLE III: Number of Urban/Rural Maori Population, 1951-1971

Census Year	Maori Population		Percentage of total Maori Population	
	Urban	Rural	Urban	Rural
1951	33,529	82,054	29.0	71.0
1956	47,630	89,452	34.7	65.3
1961	76,792	90,240	46.0	54.0
1966	122,942	78,153	61.1	38.9
1971	159,497	67,801	70.2	29.8

Source: New Zealand Official Year Book 1973: 64.

Note: Watson (1965: 5) and Schwimmer (1968: 197) stated that the prime causes of Maori emigration were (i) increase in rural population, (ii) insufficient land resource and lack of opportunity in a locality, (iii) government policy in land development and, (iv) the Department of Labour's encouragement to draw Maoris to high employment areas.

Emigration brought about change in the tribe's population structure. Not only that it drew away people of common descent from the tribe but it also brought in outsiders through mixed marriage. Traditionally, marriage was important in that it produced legitimate heirs to strengthen and perpetuate the local group. The validity of marriage thus required the unanimous approval of a kin-group involved. After adoption of christianity, European wedding custom and etiquette, and with the increasing participation in European society, however, the kin-group declined in its significance (Man, 1957: 167). A dispersal of tribal members throughout the whole country decreased the potency of kin in the establishment of marriage. Now, marriage was a matter of a young couple initiation, subject of Pakeha law (Marriage Act, 1908), and to the Magistrate Court. The approval of kin-group was no longer essential.

Inter-tribal marriage produced descendants of more than one tribe. With a support of individualism in holding and new rules of succession in land an individual could attach himself to several groups at once. Many Maoris in Kotare, for example, were loyal to more than one tribe apart from the Te Rarawa. Metge (1964) revealed that at least thirteen per cent of them gave allegiance to Aupouri, Ngati Kahu, Ngati Whatua,

Ngapuhi, Waikato, Taranaki, Arawa and Ngati Awa. For the same reason, Orakei people could claim rights in membership and in land in Ngapuhi, Rarawa, and Ngati Awa, apart from their own tribe, Ngati Whatua.

Above all, a Maori gained no advantage in material kinds by being loyal to one tribe. Without land, fighting band, chiefs, the tribe no longer provided protection and privileges to its members (Metge 1976: 133). What remained for the tribe today was a recognition of a common history based on records of *whakapapa* (genealogy). With this record, a Maori knew where he belonged. When the Taranaki Football Team visited Ngati Porou of the East Coast they claimed themselves representatives of the Taranaki tribe (Sutherland 1940: 163). Orakei people also thought of themselves as Ngati Whatua in the presence of other tribes in Auckland. Apart from this emotional expression, the tribe was just an abstract to the Maoris. It owned no land, had no chief, nor retained a political link with its smaller units, *hapū*. In fact, no real tribe ever existed today except in the mind of those who still recognised descent.

1.1.2 The Hapū

Traditionally, the *hapū* was a territorial group based on descent. It had a character of corporateness, since it had common residence, common exercise of land rights, and common recognition of certain genealogies (Firth 1960: 33). Within this corporate body, a kin-group assumed its common effort in all affairs, in respect of external units (Fortes 1969: 279). Both politico-jural and ritual authority were vested in the chief, *rangatira*, who exercised them on behalf of the group. All rights, privileges, duties and obligations were assumed by the group.

Like the *iwi*, the *hapū* had lost its corporateness. For the same reasons, it no longer owned or controlled land in common and it had no chief in the traditional sense. Descent and kinship which were crucial determinants of membership in a group had declined in their significance. Recruitment of membership had changed from the ambilateral rules to bilateral. Endogamy and patrilineal bias ceased to be important while exogamy and uxorilocal residence had increased and become common. At present, descent and land do not govern an individuals' choice in his attachment to any particular group. Either of them alone is adequate

to validate his claims to live anywhere and at any time as he desires. In traditional times, an individual could claim land rights in any group where he had ancestral links, but these were merely rights of use and were dependent upon occupation of the land in question, i.e., active membership of the land holding group. Under Pakeha land law, however, an individual is now entitled to rights in any blocks of land in which he is a beneficiary by descent. He does not have to occupy or use the land or be a member of the local land owning community; and he can alienate his interests without reference to others. Moreover, as a result of succeeding to such land rights, he may claim the more general rights of a *tangata whenua*. This contrasts with the traditional system in which land rights were consequent upon the status of *tangata whenua*. Thus, Maori people tend to live where they can maximise their Pakeha protected rights in order to survive in a Pakeha world. Similarly, many non-*hapū* men, as in the case of Orakei (Ibid: 33), have come to live in their wives' *hapū* because of convenience and economic prospects. This also gives rise to new forms of membership recruitment through maternal lines, which is strange to the ancient ideology of patrilineal bias. Land rights are also passed in the line of female. Moreover, due to change in the law of succession in connection with the rights of husband and wife (Chapter Two) the non-*hapū* members could gain a footing in the *hapū* land and claim other rights attached to it.

Descent has failed to hold members of a local group together. Added to this fact is the State housing policy that concentrates on individual households. Thus houses in any Maori community today are built on separate holdings or sections, many of them are too far away from the community *marae*. By keeping them apart in this way, the Maori people have become divided and have lost their opportunity to pursue their usual communal life on the *marae*. Each family-group has become independent of each other and it even establishes its own 'family *marae*' to serves its desire in *hui* and any other activities that the family might sponsor.

To the Maori people, the *hapū* today is an abstract. It has deviated from its territorial base to a far greater extent than the tribe. No tract of land is identified with it nor with any particular *marae* within it. Even the Maori themselves talk about their belonging to a family group but not to a *hapū* (Metge 1964: 60).

1.1.3 The *Whānau*

Because of the absence of the tribe (*iwi*) and sub-tribe (*hapū*) as a political unit, corporate and land-holding group, the *whānau* is the only tribal grouping that survives today. It stands dominantly in any Maori community; all social, economic, political, and religious affairs are organised on this basis. On some occasions, it acts as a group representing the tribe as a whole. This could be seen in the case of Orakei. Kawharu (1975: 56) reveals that since the loss of Orakei *hapū* and *marae* in Okahu Bay, "... representing Ngati Whatua beyond the tribal boundaries has tended to become more a family than a hapu concern". In this event, the family thinks of itself as Ngati Whatua rather than Orakei. When the October Coronation Celebration was held at Turangawaewae Pa, Ngaruawahia, by the Waikato Federation, those families from Orakei attending the event claimed themselves as representatives of Ngati Whatua.

In general, the *whānau* retained much of its traditional features, as a descent-oriented group. In Kotare, Metge (1964: 61) found that all dominant *whānau* (the Timotis, the Browns, the Samuels, and the Hohaias) were composed of principally, members descending from a common ancestor, but there were some attached members. The principal members were consanguineal kin who thought of themselves as *tangata whenua*. They had automatic rights in membership, land, and other privileges in the family group. Attached members were spouses and affinal kin. They had no membership right and as a consequence claimed no land and privileges. An example given by Kawharu (1975) will clarify this point.

Orakei and Te Taou are linked ancestrally - the later is a parental *hapū*. Due to bilineal succession, members of Orakei families claim both membership and land rights in Te Taou. Most of them are shareholders in the Southern Kaipara Land Company outside Orakei. There is no ambiguity in their claims because, genealogically, they are descendants of the owners of land in Te Taou. Sentiment of tribal values is thus strong among them and they hold that all rights and privileges are to be reserved for them only. Thus, in the election of the Committee of Management in the Land Incorporation, they disallow non-shareholders to stand candidacy or to vote.

Pat Hohepa (1964) found a similar expression of sentiment in Waiāma. In the community, members of the same *whaamere* (family-group) regarded the significance of kinship ties. They could enter houses of each other without asking for permission. In times of need, they supported their kin with help, money, labour, and equipment. In an event in which the *whaamere* is involved, e.g. wedding, *tangi*, *hui*, all households assembled as a unit and share all responsibilities.

Similarly, in Kotare and Orakei celebrations of life crisis and *hui* are undertaken by the *whānau*. Though the events always draw kinsfolk and friends from a wide range, all major tasks, organisation and financing fall upon the *whānau*. Besides, all other affairs affecting common interests such as succession and alienation of family land, allocation of land for house-site, settlement of internal dispute, transmission of Maori lore, education of children, fund-raising, and a call for support in church, are normally discussed and decided in the *whānau* forum.

In general, members of the *whānau* still regard one *kaumatua* as their ultimate leader, despite several other elders.

Where is then, a change in the *whānau*? Superficially, change does not seem to occur much in the *whānau* where kinship ties and expression of tribal sentiment remain strong. We must not, however, allow this persistence to blind us. Changes, in effect, have taken place in many contexts of the *whānau*. First of all, it is discernible that 'bilineal succession' in land has had a great repercussion in the recruitment of *whānau*'s membership. Traditionally, the recruitment is based on the ambilateral rules of descent by which an individual could claim membership right only in one group at once. The recognition of the bilateral rule today allows him to claim a potential membership in several groups at one time, without any restriction in actual residence or occupation of land. By genealogy he claims land and membership rights in his father's and mother's group. After marriage he has an additional claim in his spouse's group. He has free choice to live and to participate actively in any group. As Hohepa (1964) observes, such choice is guided by personal relationships and economic prospects rather than a desire to strengthen any group solidarity. Because of this

practice, membership of several *whānau* overlaps, especially where inter-marriages are involved. In some cases, the choice leads to a decrease in *whānau* members, where individuals choose to attach to the *whānau* with better economic prospects. For example, because of this, Wiremu *whānau* in Waima loses its members to Ranga *whānau*.

Secondly, components of the *whānau* are not grouped together. Today, households and individual members are scattered. Households are dispersed on separate holdings partitioned under the Court's procedure, and each household acts as an independent unit in all affairs. They come together as a group only in special occasions such as *hui*, *tangi*, etc. Furthermore, many of the *whānau* members have emigrated due to social and economic hardship in the locality. According to Kawharu (1975), this situation is obvious in Orakei, the landless community. That is, expansion in a household plus lack of opportunity to set up a house drive many of the younger generation to Metropolitan Auckland. Marriage also illustrates a segregation of household members in that a new couple seeks their own residence away from the natal family. Metge (1964) also claims that in Kotare emigrants were always ignorant of regular participation in affairs of the *whānau*. Some permanent emigrants were even forgotten, if they failed to keep contact with their relatives in the locality.

Thirdly, the *whānau* has ceased to be a nucleus for common land holding and economic co-operation in the traditional sense. Most land is held individually. Where it is held in common, it appears that shareholders are from over the country. This indicates that even in the holding of land today is shapeless and lack of form (Cf. Mahuta, King 1978: 96). Because of this lack of centralization, each household in the *whānau* has full right to act on its own initiative. Often, an individual himself acts as a focus in any organisation of kin in order to accomplish casual jobs such as fencing of houses and arranging a private party. These organisations are temporary, informal, and have nothing to do with any type of social grouping.

As mentioned earlier, the *whānau* acts as a group in rare occasions and for certain restricted purposes, mainly in the celebration of life

crisis, e.g. birthday, wedding, *hui*, and welcoming of visitors. Due to an increasing individualisation and emigration, ties in the *whānau* are weak and participation turns out to be 'voluntary' rather than obligatory'. Thus, when a function is held in a *whānau*, major responsibilities usually fall upon the household who sponsors the event. Members of other households may participate and help as they desire.

While many *tangata whenua* are living elsewhere and could not return to fulfil their kinship obligations, most domestic affairs in the *whānau* seem to be undertaken by attached members like spouses. Although Maori custom gives them no land nor membership rights, their active participation in the *whānau* should not be dismissed.

Fourthly, Metge (1964) claims that despite a recognition of one senior male as *kaumatua*, head of the *whānau*, none of families are controlled by him. In effect, the term *kaumatua* is today applicable to all elders. To these elders, but not one in particular, the family members look for guidance. Moreover, there emerges leaders from among young generation. These leaders assume a leading role in manual tasks and they often take precedence over the *kaumatua*, in any activities in their own household.

In short, the *whānau* today is just a cluster of elementary families and individuals, held together by kinship bonds and sentiment. But it lacks cohesion in its structure and organisation. It is no longer a unified domestic group nor centrally controlled in connection to land and property holdings, co-operation in economic life and day-to-day affairs. Due to the fact that the *whānau* has little or no land in common its members tend to seek emigration for a better life elsewhere. Most of these emigrants are young and when they marry they tend to settle down permanently away from the local group. It is this lack of opportunity (specifically economic opportunity) of members of a descent group to live together that has a great impact on innovation of the structure and organisation of the *whānau*.

1.2. Social Organisation

Due to the fact that the Maori social organisation was tightly-knit with the social groupings, discussion of change in this context will be thus made in connection with *iwi*, *hapū*, and *whānau*. Regarding this I shall refer to individual *vis-a-vis* group in terms of rights, duties, and obligations. More specifically, the discussion will show how descent was retained in a modern social organisation and how change in land law affected its significance in that sphere.

Keesing (1971: 148) once stated that the basic principle of social organisation in the pre-industrial society was kinship. The element carried within it certain rules that indicated a kind of people to be included in the organisation, their duties and their privileges. In this respect, Maine (Cf Smith 1948: 11) cited the importance of group rather than individual. The application of the kinship rules and the emphasis of an aggregation of group were to achieve 'solidarity' in the local group.

Firth's description (1972: 139) on Maori social organisation fits into the above statement. He explained that all social activities in the Maori society were associated with the groups and determined by descent and kinship rules. Births, sex, age, and marriage status were determinants of rights and obligations of individuals participating in the organisation. The centre of social organisation was the *marae* and the bonds that tied individuals together were concepts of mutual reciprocity and Maori *aroha* (love of kin) (Metge 1976: 71). In all, a support of kin based on blood relationships, in all situations, e.g. marriage, funeral, celebration of a life crisis, was obligatory and an expectation of this was unity in a group.

Thus in any organisation, e.g. *hui*, *tangi*, wedding, and organisation of an administrative body (*runanga*) *tangata whenua* were prominent. A war party had always constituted of near relatives of a chief of a *hapū* and was organised on a *hapū* basis. It was kinship and descent and the fact that they belonged to the same group that drew the kin-group together in support in war (Vayda 1960: 19). Those who participated in the communal economic activities were all kinsmen led by *kaumatua* of each *whānau*.

In the post-European times, the ancient organisation had changed from the 'kinship-based' to interest based. Changes in the land tenurial system, emmigration, and change in the tribal structure had threatened the value of descent in social organisation in that it had become inapplicable in many circumstances. An organisation today is not based on a purely-descent criteria. More often, non-*tangata whenua* is allowed to participate to a great extent (Schwimmer 1974: 136).

The following illustrates change and continuity of descent in social organisation.

1.2.1 Traditional Organisation

Organisation of the traditional kind showed the continuity of descent and kinship in the Maori society, despite a slight change in participation. Thus in *hui*, *tangi*, unveiling, wedding, twenty-first birthday, *tangata whenua* took precedence in all tasks and in leadership roles. Expenses, allocation of tasks, and contribution in cash and in kind were expected from kinsmen. Metge (1964: 48-9), in Kotare, revealed that specific duties were still allotted on a kinship basis. At *hui*, the roles of 'master of ceremonies' were assigned to men and the chief helpers to women with required skills. At a *tangi*, 'chief mourners' were also the female kin closest to the deceased. *Hui* held in Waima was also organised on the same basis. Above all, the *kaumatua* (elders) and the *kuia* (old women) always assumed leading roles in the organisation and in making speeches of welcome.

While organisation of the traditional type was significantly dominated by *tangata whenua* (who had common descent and owned land in the community) kinsfolk from outside and immigrants normally joined in all tasks. This participation was allowed as a matter of courtesy and from a new attitude of Maori over a wide range of close and remote kin. The fact that *tangata whenua* were dispersed and that Maori recognised a number of kindred prevented 'new organisation' from serving as an effective corporate group. Also, a failure to regard actual residence and land holding in the customary sense made a limitation of individual's participation to a single group unlikely.

Oftenly, this condition blurred the composition and the pattern of traditional organisation that distinguished clearly the roles and status of *tangata whenua* against non-*tangata whenua*, men against women, and elders against younger generation. As Metge (1964: 65-6) observed, the social organisation today was formed on an ad hoc basis; no form, no division of labour, no real leadership, and no recognition of age, sex and rank. There were always all types of participants; women, young people, and immigrants. Everyone just assumed his/her role as a matter of convenience. Since leadership was not officially appointed in Maori custom there were often too many bosses. This could be a direct result of the lack of the *hapū* chief (*rangatira*) as a core of social organisation, and of disappearance of knowledge in Maori custom among the Maori people. Due to such deficiencies, the participants did not know what actual roles to take and their participation fluctuated according to various circumstances.

The use of the *marae* and the scope of organisation today could be counted also in the context of change. Formerly, the *marae* was the source of identity of *tangata whenua*. The *marae* still served the same purpose. Nevertheless, change occurred in that the community *marae* often failed to serve as a core of the whole community. The fact that the Maori people were dispersed, directed many family groups to set up a 'family *marae*' for their own convenience. Thus, only for a rare occasion such as a welcome of a visitor on a community basis that the community *marae* will be used. Normally those who owned the family *marae* concentrated all activities on that *marae*. The community *marae* will be used by those owning no family *marae*.

Besides, the right to use the *marae* was also judged by the bilateral rules. Bilateral succession in land, with unrestricted obligation, allowed an individual to claim right on several *marae* at once (Stewart 1970: 131). Sometimes a proof of genealogy alone was adequate to make the claim valid. No longer did land and genealogy combine to determine a claim in a group organisation (JPS, 1966: 220). Under the new organisation, participation of individual bore no relation to the group nor did it require its approval. As this became fact, a modern social organisation was always attended by a category of kin, consanguineal and affinal, close and remote. Furthermore, kinship recognition

had extended beyond a limit to all immigrant kin living in the community.

The modern organisation was also limited in its scope. Due to the non-existence of the *iwi* and *hapū*, *whānau* became the only base of all organisation. Metge (1964: 60) found that, in Kotare, no *hapū* of which Kotare Maoris belonged acted at any time as a recognisable social group. No clubs or committees were formed on a *hapū* basis, and no gatherings were organised at that level. For the Orakei, the fact that it had no *marae* forced it to confine any organisation to a family group. Within these confines, the celebration of life crises, discussion of all accounts, *hui*, and so forth, were handled by the family members. Some matters may involve a wide range of kinsfolk and friends, but it was still the family who took all responsibilities and organisation (Kawharu 1975: 51).

1.2.2 Pakeha Organisation

To take Mahuta's words, organisation of this type was 'symbiošis', the term that referred to an amalgam of two values, the Maori and the Pakeha, (King 1978: 92). Deviation from the traditional value appeared in the way the organisation recruited its members, and the bond that tied its members together.

The Orakei Trust Board, the body that controlled and developed the burial ground of the community, appointed its members in accordance with the Maori custom. In this regard, all three maximal lineages in Orakei had representatives on the Board. Out of nine trustees, seven were Maori from the Orakei *hapū*. Due to reasons of courtesy and convenience, however, two representatives from the Department of Maori Affairs and the Auckland City Council respectively were included in the Board. Also one of the seven from Orakei was a woman of non-kinship status. She was selected as trustee because of her role as a welfare officer employed by the Department of Maori Affairs. To follow the rule of descent, the two representatives from outside and the woman should not have gained the place in the Board since the Maori always barred outsiders and women from playing effective parts in any organisation that affected the community.

In Kotara, all organisations outside the field of kinship were characterised by the Pakeha organisational principle. Sport clubs, Church committees, the Primary School Committee, the Tribal Committee, and even *Komiti marae* (*marae* committee), were all Pakeha-oriented in form. Primarily, members of these organisations derived from election and included also non-*tangata whenua* and non-Maori. The School Committee, for example, had three Pakehas among its fourteen members. It included men and women in equal numbers, nine of them were immigrants, and the age group of the members did not reach elder status. This indicated obviously a state of change, since the Maori custom favoured the exclusion of women, young people and 'immigrants' from position of community responsibility (Metge 1964: 81). The bond that tied members to the organization was not kinship. Instead it was 'voluntary association', the bond that carried no permanent obligation towards the perpetuity of the group.

1.3. Land Holding

Theoretically, the Maori descent-group had a character of 'corporation', a group that controlled land resource independently of individuals. In the concept of corporation, land was regarded as incorporated property, owned and controlled by the group. The land was ideally vested in the head of the group who then acted as a trustee. The trusteeship was perpetual (Fortes 1969: 279). Such perpetuity was reinforced by a certain system of transmission from ascendants to descendants, to keep the basic estate intact. In this regard, individual rights and the rights of successors were well determined (Maine 1881 & Radcliff-Brown 1935).

Thus, Maori land was formerly vested in the tribal chief, the *ariki*, but owned commonly by members of the whole tribe. The tribe held also absolute right in alienation of the tribal land. Individuals had no rights of alienation even though they could bequeath it to their descendants. Transmission of the right was subject to the ambilateral rules of descent. Thus, one could succeed and own land of either parent, father or mother, at one time. A spouse had no right to claim any land except a right to use it during his/her lifetime.

Bearing this in mind we now proceed to consider change and decline in the significance of descent-group in land.

It had been shown in Chapter One that native land problems began since the early days of European contact. After the Treaty of Waitangi the natives continually lost land to Pakeha settlers. In Northland district, for example, they lost most of their land through sale. Pearce (1952: 18) revealed that, at 1857, Ngapuhi and Ngati Whatua tribes alienated most of their land around the Bay of Islands, Hokianga, the Wairoa River, and Whangarei south of Kaipara. What followed this alienation was that they later found the remnant insufficient even for subsistence. The loss of land in this early period gave rise to a dispersal of native inhabitants that significantly caused disintegration in the tribal population structure in the latter years.

However, the real force that shook the group authority in control of land to its foundation was Pakeha law that came into existence in 1865. Under the law, the Native Land Act of 1865, the Native Land Court (later the Maori Land Court) was established to individualise native land ownership and to determine the title to native soil: to substitute individual for communal tenure. The Court divided native land into three categories: (i) customary land, the title to which had not been ascertained by the Court; (ii) customary land with title ascertained; and (iii) freehold land (Kawharu 1977: 77).

The most devastating effect upon the tribal group's authority was the emergence of 'freehold title'. The nature of freehold was that it carried no obligation in terms of residence and use. As a result, the customary rule of 'actual occupation' failed to apply to this type of land. Besides, absolute ownership including power of sale belonged to the owner, not the group. When alienation was involved the owner must obtain an approval of the Court. The group and the chiefs' *mana* in veto against such alienation was not recognised in law, thus it became invalid.

Steadily, the group had lost its influence in the tribal land to the Court, significantly in succession in intestate estate. As

mentioned before, succession in land was important to the Maori because it was the means by which they distinguished *tangata whenua* from outsiders. By this way they could form a solidarity group on a descent basis. But after 1865, the law had modified this rule of succession. Under the new order, land could be dissolved bilaterally to all descendants, without recognition of the old custom of 'actual occupation'. The outcome of this, as in the case of Peter Amorangi of Orakei, was that one could claim land right and thus participate actively in several groups beyond his group. As far as he could trace a link with both of his parents his claim could even go across his own tribe. The system also created a number of absentee owners- the owners who owned land in many places while they were working somewhere else.

Discounting the Maori Reserve and Maori Land Incorporation, none of the Maori tribes or sub-tribe today own land in common nor have they legal authority to control land in their own rights. All tribal land had been individualised by the Court. In Kotare at 1955, for example, even a family group held little or no land in common. All of its land had been individualised at various times in the past, though the process had not been brought up to date and most of the present blocks were held by several co-owners (Metge 1964: 65). All lands, whether derived from succession or from purchase, were legally registered in the Court. In Waima, most of the land that survived alienation to Pakeha was subdivided and fragmented. At the time of Hohepa's study, Maori land in Waima was handled by the Department of Maori Affairs under a consolidation scheme. All holdings in Waima were also held by separate family group or by individuals.

Early in the 1950s Orakei had no land but some of its people could claim land rights even outside the Ngati Whatua tribe, some had rights in Ngapuhi land in Northland and Ngati Raukawa land in Otaki and Levin.

With the loss of descent-group's power in land to the Court, land holding today was rarely identical with a group. Since the Court included many persons as well as spouses, who traditionally could not form part of the group due to lack of genealogical link and of residential qualification, the tribal group had lost its corporateness. Solidarity

of the group was also hard to achieve because the land owners were not obliged by the rule of descent and kinship but the Court's rules. The legal system had thus destroyed the strength of the group which derived from a deliberate recruitment of membership and deliberate selection of successors to land.

2. Change in Leadership

One of the most explicit change in the Maori society was change in the leadership roles. In this section, I shall discuss the change in three aspects: (i) change in attitudes about leadership, (ii) change in the chiefs' *mana* in land, and (iii) decline of the chiefs' authority in social control.

2.1 Change in Attitude About Leadership

To give a brief reconstruction of the past, Winiata (1967), Firth (1972), had a common view that the traditional leadership was ascribed, the prerogative of males determined by primogeniture and seniority in the lines of descent. It operated through the social groupings. Thus, at the head of the tribe stood the *ariki*, while the *hapū* and the *whānau* were headed by *rangatira* and *kaumatua* respectively. There was also the *tohunga* whose ritual roles were recognised also in the Maori community.

The *ariki* was the first-born male in the most senior line of descent while the *rangatira* was junior only to him. When he was born he acquired chiefly status. He inherited two types of *mana*: *mana tangata* (power to rule) and *mana whenua* (power to claim territory of his ancestor) (King 1975: 89). This *mana* remained in him till his death.

The *kaumatua* was also a man of rank, despite the fact that his leadership derived chiefly from his age, experience, wisdom and knowledge in Maori custom and *whakapapa*. Though not necessarily a person of rank, the *tohunga* won recognition from the public due to his magical and ritual expertise. The qualification always placed him in a leading role in various functions affecting the community.

In the early period of European contact, these leaders continued to be powerful since the Pakeha settlers recognised their authority and, in fact, all channels of communication were made through them (Firth 1972). Nevertheless, the Pakeha's introduction of money economy, modern technology, christianity, and education had great repercussions on their leadership roles in the years that followed (Winiata 1967: 45).

Above all, the major influences that weakened the Maoris' conception of leadership, were the adoption of Pakeha 'individualism' and education.

Ample evidence showed that coveteousness for Pakeha money and material goods influenced many Maoris to detach themselves from the communal bond and from their kin-group. Often, they sold land without the group's approval or the chief's consent. Needless to say, many chiefs themselves disposed of their tribal land for cash. In 1840, some minor chiefs of the Bay of Islands alienated nearly all of their estate (Firth 1972: 454).

There were, in effect, many who still were loyal to the group and the chiefs. This was very apparent among the Waikato and Taranaki tribes who marched onto the land war of 1860. However, for the pro-sale Maoris, the chiefs' *mana* was no greater than their desire for material goods. They even accepted a supply of ammunition from Pakeha to fight against their anti-sale tribesmen (Winiata 1967: 49).

The other powerful force that modified Maori attitude to leadership was literacy. Jackson (Cf. Kawharu 1975: 35) remarks that the work and ideals of the missionary conflicted with Maori ideals. These religious agents attempted three alterations initially. First, they directed the Maori people to believe that human beings are equal and, thus, enslaving is a sin. They therefore permitted commoners and slaves to attend schools as the equals of persons of chiefly status. This struck at the very root of the Maori ideology in leadership because the ownership of slaves was formerly a source of the chiefs' prestige. Allowing the

slaves to attend the same school diminished the chiefs' *mana*. Second, the missionaries taught that knowledge of any kind could be learned in a school and anyone could obtain it. This idea led to Maori's understanding that not only a person of rank but also a commoner could possess knowledge and subsequently gain administrative authority in a community. Thirdly, modern knowledge obtained from a mission school made Maori aware that the ritual power and magic of chiefs and the *tohunga* were ineffective and nonsensical. This loss of faith in the chiefs and the *tohunga* led to a decline of the significance of traditional leadership and the religious expert.

So long as acculturation was in progress the Maori people found it essential to learn modern knowledge. Even in the Waikato area, where traditional values were reasonably strong, a recognition of literacy was explicit. Wiremu Tamihana, the kingmaker, for example, accepted that modern education was indispensable if Maoris were to communicate with the Pakeha. In 1862, the King Movement established the Maori Press and newspaper of its own, to voice its opinion, political events, and Maori sentiment. A few years earlier Renata, the chief of Hawkes Bay, established a school in his tribe. At the same period, other schools were set up in various places in the North Island.

According to Jackson (Cf. Kawharu 1975: 45), the learning of Maori lore on the *marae* and in the meeting-house had declined due to changes in the Maori's lifestyle and livelihood. Maori people no longer need guidance of the chiefs or the *tohunga*. All they need is modern knowledge and a certificate, a passport to employment. These they could obtain from Pakeha school, college, and university. Hence, Maori Schools have replaced the *marae* and the meeting-house. Te Aute College and Te Raukahikatea College are examples of schools that have provided Pakeha wisdom to many Maoris, especially those of chiefly status. Many Maori leaders of modern times like A.T. Ngata, have gone through these institutions (Cf. Mahuika, King 1975: 107-8).

Jackson further explains that modern knowledge has no connection with the traditional beliefs. It thus encourages the Maori to detach from the traditional bond and his kin-group. This normally happens when

a literate person could not get employment in the locality. Ngata, Hohepa, and many others are educated Maoris whose life style is very close to Pakeha society and not the tribal community.

Modern knowledge not only broadens the atmosphere of traditional leadership but also creates a new type of leadership, based on Pakeha knowledge and skills. The prominence of the new leadership is that it includes all kinds of people, regardless of sex, age, kinship status or social background (Cf. Kawharu 1975: 35). This began in the early days when a mission school allowed persons of rank as well as commoners and slaves to have education at the same level. This evolution in the educational system resulted in decline in Maori custom. In the ancient times, knowledge of all kinds were *tapu*. Teaching and learning of such knowledge was, consequently, reserved to a few people, *viz.*, persons of chiefly status, *tohunga*, and *kaumatua*.

Metge (1964: 85) observes that, in Kotare at 1955, leadership of non-chiefly status emerged in most family affairs, formal association, clubs, social gatherings, and the like. There were 16 men and 16 women who were active as leaders of this type. They took charge in various leading roles such as chairman, secretary, and committee. Some of them were elected to join in the community administration. The Tribal Committee had quite a large number of these leaders. The similarity is found in Orakei, in the case of the Orakei Trust Board and the Tribal Committee. Here, leadership is based on a periodic election which is decided by ability and Pakeha values. It turns out that the Board and the Committee are led more by officers of Maori Affairs Department who know Pakeha skills of administration more than the tribal elders (Kawharu 1975: 70). The new leaders have final decisions in their organisations, even though advice may be given by tribal elders.

The rising of the Pakeha-oriented leadership brings about a condition of conflict and compromise into the Maori community. A compromise is the target where the needs for combination of efforts are desirable. In this respect, the traditional leaders hold a firm position to provide moral security whereas those possessing Pakeha lore stand alongside in support. Whenever needed, the latter steps forward and takes a leading role. Jackson (Ibid: 41) states that the people of

chiefly status in the *runanga* are often accompanied by literate persons, regardless of their social background. According to Mahuta (King 1978: 37) educated leaders are also important and indispensable in the King Movement. In Kotare, Orakei, and Waima, leaders of new type co-operate closely with persons of rank in various tasks, both traditional and Pakeha-oriented. They play important parts in *hui* and in ceremonials. In the administrative committees, such as the Maori Committee, the School Committee, and the *Marae* Committee, their voices are influential.

Conflict between the old and the new leadership however, emerges where they are incompatible. Metge's description of the role of the Tribal Committee illustrates this point. To the Kotare Maori, the Tribal Committee is a source of conflict and failure. It is because the Committee is a Pakeha invention; to replace the old tribal council of elders with the Pakeha-oriented council. The Committee is worked out in the Department of Maori Affairs who reserves the authority to control it by requiring that its boundaries, areas, and proposed members be approved by the Minister. Only the election of the Committee is left to the local people.

The Pakeha electoral system has become one that creates a line of friction in the community. This stems from the fact that the election allows anyone, regardless of a proven social status, to participate. Young and old and rival families challenge each other in a campaign. Metge claims that, in some other communities apart from Kotare, persons of chiefly status refuse to stand for election because it is an insult to their inherited *mana*.

As far as Kotare is concerned, the Tribal Committee is mistrusted because it has no traditional structure. This results in a lack of support from the Kotare people. One of the reasons that makes the Committee unattractive is that its members could not grasp a clear concept of their roles in the community. In the traditional times, a leadership role was well-defined, according to inherited *mana* each type of leader possessed. Thus, the *ariki*, *rangatira*, *kaumatua*, *tohunga*, and commoners all knew their positions in relation to each other. This had public opinion in the background. The Pakeha system of election destroys this principle and makes leadership roles confused. By

dishonouring the tribal value in leadership the government creates an atmosphere of reluctance in co-operation. It makes some people of rank unwilling to participate. The outcome is that the Pakeha-oriented leader, without support of the traditional leader and of public, feels insecure and hesitant in exercising the authority given to him by law.

The Maori people today judge their leadership on two bases, birthright and personal achievement by Pakeha as well as Maori standards. Traditionally, birthright was a sole qualification of leadership, despite a count of ability. *Mana tangata* and *mana whenua* remained in a person of chiefly status till his death. Today, the weight is in favour of personal ability and achievement. Male or female, young or old gain equal status in various fields. In this situation, a person of rank must learn Pakeha wisdom should he intend to compete successfully. Princess Te Puea, in spite of her background in the Waikato Royal House, gained a high public reputation because of her ability and her possession of modern knowledge. What earned Ngata honour in the Pakeha Parliament and among his Ngati Porou people was not only his belonging to the *rangatira* class but also his determined ability and his degree in law. The modern Maoris seem to look for this type of leader to assist their adjustment to the Pakeha world.

2.2 Change in the Chief's *Mana* in Land

Before the Maori/Pakeha land war of the 1860's tribal authority in land was, in effect, shaken. Change during that time was not explicit though the chiefs' *mana* in land was often challenged. The Crown still held principally that all dealings with native lands needed the consent of the tribe and an approval of the chiefs. For this reason, I omitted the early period from my discussion.

Radical change took place after the land war. The agents of change were a number of land legislations passed by the Pakeha Parliament. These series of legislations were designed to individualise Maori land tenure and to permit individuals to alienate land (Pocock 1965: 22). It was hoped that land legislation would destroy the principle of communism

in land which ran through the whole of Maori society. By the individualisation of title to land, the Pakeha expected that the Maori social status would be assimilated into their own (Ibid: 30). Thus in 1865, the Native Land Court was established to facilitate the government desire. The Court was totally different from the Maori *runanga*. It was presided over by a European Judge, assisted by two Maori assessors. The Judge was to ascertain owners of the land, award a certificate of title to the persons or tribes who held interests in the land, and approve alienation of land.

Thus, Pakeha land purchases first needed to encourage the Maoris to apply to the Court to have their land investigated, boundaries fixed, title issued, and subsequently alienated. This had to follow the Court's rules. For example, no more than ten individuals could be named on any one certificate, and if land was less than 5,000 acres a certificate could not be issued to a tribe. However, Maori demand for titles of land was meagre and most hearings in the Court were the consequences of European initiatives.

Due to the fact that land remained a focus of tribal politics, the individualisation of title brought a great disaster to the tribal society. The obvious outcome was a division among the tribesmen as a result of their desire to use land to gain material goods. This group of Maoris depended on the Court to dispose their tribal estate to the Pakeha even without reference to their kinsmen. Covetousness of money led them to betray their group and to ignore the tribal authority. Once their land was given titles by the Court the chiefs' *mana* in that land ceased. Thereafter, all dealings with the land, e.g. partitioning, leasing or sale rested upon the Court's approval.

Under the new order, an individual or a group of owners obtained absolute ownership and control in land. As referred to in the case of Kotare and Waima, Maori land was freed from the group and the chiefs. All lands were registered in the Court. There was some land which was held in trust but the trustees were nominated from owners of the land owning group. No piece of land was vested in the chief. In fact, no

tribe or sub-tribe held land in common. Apart from the Waikato-Maniapoto tribes, the tribal chief or hapū chief no longer existed in a practical sense. Today, a whānau holds some land in common called 'family land' and in this land the kaumatua has a great influence. His advice in the land is always listened to with respect by his people. Nevertheless, he has no legal rights to stop any of them from dealing with the land as they desire.

It could be concluded that the transformation of the communistic system of land tenure into the individual system has destroyed the Chiefs' mana in land. By allowing an individual to hold land independently from the group means that the chiefs' authority and sanction can not apply to the land. True, mana and tapu of the chief still exists in an emotional sense but in a practical sense it is unknown. Coupled with the fact that Maori owners are today living away from the land they own and that a tribe or sub-tribe holds little or no land in common, the chiefs' sanction has no real impact on what the owners decide. The Court thus paves the way for individual choice and decision that in turn makes the chief's role in land control insignificant. As Kawharu (1975: 176) stated, the Court drew the Maori into an indebtedness to the State where choices had to be made individually with a diminishing attachment to the community. Though the event was not the sole factor for disintegration the outcome of the disappearance of the tribal authority in land was discernible in the area of social organisation. At least, as we shall see in the following section, the loss of such authority denied the Maori leaders to exercise their rights leading to group co-operation in the traditional way.

2.3. Decline of Leadership Roles in the Community

Discussion in this context will be given in two areas, social organisation and social control.

2.3.1 Decline of Traditional Leaders in Social Organisation

Winiata (1967) and Firth (1972) described how (see Chapter Three) traditional leaders in former times played crucial roles in organisation

of all types. With their inherited *mana tangata*, the chiefs (*ariki*, *rangatira* and *kaumatua*) initiated and led in *hui*, *tangi*, discussion, social gatherings, religious practices, warfare, economic activity, and so forth. The chiefs would also supervise until the tasks were accomplished. While the chiefs assumed the leading positions, the *tohunga*, with his ritual skills, reinforced the roles of the chiefs. The authority of the chiefs was real, forceful, and reinforced by *tapu*.

The traditional leadership remained in the thinking of the modern Maoris. Change had, however, taken place in the sense that the *mana* and *tapu* which surrounded the leaders had lost their real force. The acceptance of modern education had diminished the importance of ritual powers of the chiefs and *tohunga*. Since the modern knowledge carried no religious values the chiefs' guidance was no longer needed. Also, the fact that the tribe and *hapū* had ceased to be a social grouping in a practical sense prevented the *ariki* and the *rangatira*, if existing, to act effectively as leaders in any organisation. In fact, the organisation at the tribal or *hapū* level was non-existent.

The only traditional leader that survived was the *kaumatua*. He took all responsibilities formerly belonging to the *ariki* and the *rangatira*. Yet his role was confined to the *whānau* and to organisations of the traditional kind, e.g. *hui*, *tangi*, and ceremonial performances. As in Kotare, Waima, and Orakei, the *kaumatua* always performed a priest-like role in addressing, chanting, and launching a speech of welcome on the *marae*. It was his superior kinship background that brought him into a leading position. In a manual task, leadership showed a combination between kinship and skill. As a *tangi*, various tasks were always assumed by the closest kin of the deceased. Even though the *kaumatua* assumed automatically a leading position, there were always a number of self-appointed leaders in each task. It was these temporary leaders who made the decision in the matter concerned, right on the spot (Hohepa 1964: 105).

The obvious change was normally found in a non-traditional organisation which was also mainly formed beyond the *whānau* context.

This organisation appeared to cut across the notions of kinship and descent. Principally, a leader was derived from nomination or election, directed by the Pakeha rules and committee procedures. The persons of superior kinship may be elected and recognised as a leader, provided that a kin-group was integrated and the voice of *tangata whenua* was still strong. But this was inessential because the Pakeha rule did not place a significance on descent and kinship. Thus, with the exception of the Orakei Urupa Trust Board, the others such as the Maori Women's Welfare League, the Orakei *Marae* Trust Board, the all-male Tribal Committee, and the Education Committee in Orakei, were all led by Pakeha-oriented leaders. In these organisations, young educated persons often emerged to claim a leading role. Where the traditional leaders were still strongly recognised, the would-be leaders always stood alongside in support of the old one.

In many other organisations of a modern type, such as sport clubs, recreational groups, leadership role was mostly assumed by young and active people. Even though the voice of the *kaumatua* was important, all controls and administrative functions were in the hands of the young leaders.

As Winiata (1967) pointed out, the leading role of the *tohunga* in social organisations had also declined. Since the Maori people had been included in the Pakeha society which was characterised by scientific knowledge the magical knowledge of the *tohunga* had become ridiculous. What the Maoris needed in farming or cultivation was knowledge about soil, weather, breeding, fertilizer, and so on. In education, they did not look to the *tohunga* but the Pakeha school where they learned how to get employment and good wages. The detachment of the Maori from the group and from the religious bound had diminished the significance of *tohunga*. The Maori lives today were depended largely upon Pakeha institutions.

2.3.3 Leadership and Social Control

Generally, social control in the modern Maori community was taken by the State. There were several agents formed in accordance with the Pakeha conception of 'committee'. Of several committees, the *hapū* committee, *marae* committee, and the Maori committee were

dominant. These committees derived from election. This created a controversy because while many Maoris accepted them, other, especially persons of rank, saw that they were a challenge to tribal authority. Moreover, the electoral systems gave rise to a *rangatahi*, a new leader based on modern skill, to gain a place in social control.

In particular, the maintaining of law and order was the responsibility of the Maori Committee and Maori Wardens. The Maori Committee was established by the Maori Social and Economic Advancement Act, 1945. According to the Maori Welfare Act of 1962, it was empowered to authorize summary proceedings against Maoris who committed specified offences (involving mainly misbehaviour) and to impose penalties of up to 10 pounds, and to issue permits for the provision of liquor at gatherings on the *marae* as they saw fit (Metge 1976: 208).

The Maori Warden was also created by the Act of 1945, even though his role was based more on the Maori precedents. The appointment of the warden is made by the Minister of Maori Affairs, on the nomination of the Maori Committee. The principal duty of the warden is to maintain law and order in respect of a consumption of alcohol on the *marae* and at public gatherings. His duty is voluntary and part-time.

What is the part of the traditional leaders in social control in modern times? With a few exceptions, the *ariki* and *rangatira* have been absent from the Maori community. One exception is found in the Waikato tribe where the *ariki* exists in the name of the 'Maori King'. As the head of the tribe the king acts as the mouthpiece of the Waikato people in social control. Even though his position is isolated from secular affairs, all sanctions derive from him (Cf. Mahuta, King 1978: 37). In Ngati Porou tribe on the East Coast, *ariki* and *rangatira* are still accepted as chiefs in the traditional sense and all sanctions in social control are supposed to derive from them. With their inherited *mana* and *tapu*, they are entitled to exercise authority to control and direct activities of the tribe and sub-tribe (Cf. Manhuika, King 1975: 109). As mentioned earlier, however, modern education has taken away most of educated people of chiefly status. By virtue of this fact, most responsibilities in the community rest upon the *kawmatua*. Even where traditional leadership is strong like Waikato,

the *ariki* and *rangatira* do not play a secular role, but a ritual and political one. They leave manual tasks to the *kaumatua*, *tohunga*, and educated leaders. Most of the speech-making over the dead and maintenance of local traditions are all assumed by the *kaumatua*. Thus, when the Queen of England visits Turangawaewae *marae*, Koroki, the Maori king, acts as the chief representative of the Waikato in welcoming her. But it is the *kaumatua* who recites a speech of welcome and it is an educated person who translates it into English (Winiata 1967: 86).

In the context of Kotare, Orakei, and Waima, the *ariki*, and *rangatira* exist only in the people's memory. All the responsibilities formerly exercised by them have now been assumed by the *kaumatua*, who in some cases emerge as the leader of the whole community. His skills in Maori lore and his ability to speak and to represent at public gatherings make him a real leader, not only in a name. In the internal affairs of the *hapū* he acts as an adviser, councillor, and chairman of tribal and *marae* committees. In the field of customary usages which is left untouched by law, his influence is discernible. As Metge reveals, he could call *korero* (public meeting) to "discuss matters of community significance, to censure offenders against community mores, and if necessary to impose penalties" (1964: 90). Some major concerns in this context are misbehaviour in sexual relationship, drinking, breaches of traditional lore and *tapu*.

Nevertheless, the *kaumatua*'s authority is also on a decline. The fact that a Maori community today is divided into sections, according to land holding title issued by the Court, lessens the opportunity of the *kaumatua* to exercise their authority at the community level. This results in the weakening of the council of elders and to lack of public discussion. Without this formalisation, public opinion today appears in the form of ostracism, criticism, and gossiping which have no force in social sanction.

In general, the *kaumatua*'s role seems to be confined within a family group, and more particularly within his own household. Even in this

context, however, his role is diminishing. As Kawharu (1975: 172) states, one reason of this is that the Maori lore is considered by both the *kaumatua* and the youth to be irrelevant to present needs. This keeps the *kaumatua* and young generation apart. In addition the present living conditions, and increasing emigration to cities, have effectively weakened the *kaumatua's* authority. Even in the Waikato district, Mahuta (King 1978: 38) found that the movement of young people to town had resulted in the weakening of the *kaumatua's* sphere of influence. The difficulty is that he could not cope with behaviour of his emigrant youngsters. Simultaneously, he could not ensure that kinship and obligations were upheld among them.

To conclude, due to the replacing of the tribal authority in land and so forth by State laws and authority, traditional leadership has declined. Except in Ngati Porou and in the Waikato-Maniapoto tribes, the *ariki* and *rangatira* have almost disappeared. The *kaumatua* is the only persistent and universally-found class of leader today. He has some influence in social control, especially in the field of customary usage. His authority, however, relies on a personal recognition from his people, not on his inherited *mana* or status obtainable by birth. Hence, the fact that a Maori today has many avenues to escape into the Pakeha world and that the community has little to offer in basic needs make the *kaumatua's* authority insecure and ineffective.

CHAPTER SEVEN

RETENTION OF TRIBAL/SUB-TRIBAL IDENTITY

The change in the tribal system as described in Chapter Five and Six is challenged by some Maori reaction. Regarding this, various organisations have emerged in response to the change. Some are to assist Maoris in their adaptation whereas the others endeavour to preserve traditional values. These organisations take two forms, non-traditional and traditional. As far as this Chapter is concerned, a focus will be given to organisation of the second type, since it symbolises a retention of tribal identity. However, a brief account will be also drawn to provide an idea as to how the non-traditional body is organised and operated.

Non-Traditional Organisations

Non-traditional organisation refers to a body which is formed outside the principles of Maori custom. So to speak, it has no descent and kinship nor traditional leadership as the basis of its structure, organisation, and function. Instead, it is based on 'biculturalism', an amalgam of Maori and Pakeha culture. Simply, it is a pan-Maori or a supra-tribal Pakeha-structured organisation. This means that it consists of members from various tribes who come together to pursue a certain kind of interest. Some organisations of this type are either permanent examples or ad hoc, created by statute or by Maoris themselves. The best known examples of this type of organization are the Maori Committees, New Zealand Maori Council, Maori Women's Welfare League, Ratana Movement, and the Te Roopu O Te Matakite Movement. The first three organisations aim at assisting Maoris to adapt their lives in the changing situation. The last two movements seem likely to be a protest group that look forward to preserving traditional values and tribal estate respectively.

The Maori Committee (originally Tribal Committee) was set up in 1945 by the Maori Social and Economic Advancement Act. The committee is to provide a local self-government and social control in a Maori

community, in the place of the traditional *hapū* council (*runanga*). Its general functions are (i) to consider and discuss matters relevant to the social and economic advancement of the Maori race, (ii) to consider and give effect to harmonious relationship between Maori and other people in a community and, (iii) to promote, encourage and assist Maoris in their physical, economic, educational, social, moral, and spiritual well-being. Even though the committee has the *hapū* as its base, it serves all people in the community. Also the right to vote and to stand as a candidate in an election of the committee is given to all Maori residents in the locality. Because of this, in 1962, the old name 'Tribal Committee' was replaced by the name 'Maori Committee'.

The New Zealand Maori Council, also a statutory body, was set up by the Maori Welfare Act, 1962. The Council is not an elected body but consists of delegates, 3 from each District Maori Council. The function of the Council is to represent the majority of Maori opinion throughout the country. It co-operates closely with State departments and with government national policy. It has a similar responsibility to that of the Maori Committee, but apart from that, it also serves to unite committees of different levels.

The Maori Women's Welfare League and the Ratana Movement are not statutory bodies, they were set up by Maori themselves. The Welfare League was established in 1951 to encourage welfare and health in a Maori household and to encourage Maori women to take more part in the community. At present it has branches in most Maori communities, and its functions deal with the *hapū* as a local group. Nevertheless, "League branches are essentially interest groups. Thus, it is only a coincidence if a branch is also a kin-based local group, and such groups are, of course, uncommon in urban areas" (Kawharu 1975: 49).

The Ratana Movement is a religious group and a protest organisation of non-tribal type. The movement was founded in 1920 by the prophet Tahupotiki Wiremu Ratana. The main purpose of the movement is to preserve Maori identity and to prevent Pakeha influence from taking over the Maori customs. Ratana felt that the Maori leaders compromised too much with the Pakeha and that resulted in the loss of their tribal estate and in the deterioration of tribal values. But he considered that the

Maori people should fight back as one people, not as separate groups. To achieve this end, he created his own religious faith (a combination of Methodist, Anglican and faith-healing of Maori *tohunga*) to be a basis for unity and to replace tribal loyalty. As Wi Tarei (in King 1978: 50) observes, members of the Ratana movement come from all over the country and include even some Pakehas. There is no tribal boundary, no territorial group, and no tribal status in the organisation. Originally, all members were drawn together to pursue their faith at Ratana Pa in Wanganui. Later, Ratana churches were built in many Maori communities and about 13.14% of the total Maori population is involved (NZOYB, 1962: 44).

The Matakite Movement is a pan-Maori group which became active early in 1975. According to Dr Douglas Sinclair, current chairman of the movement, the movement was born out of the desire of tribal elders of the Ngapuhi tribe to assist younger Maoris to carry on their retention of Maori land. Initially, the movement declared its policy was to press for the abolition of monocultural laws pertaining to Maori land, and to establish new laws based on Maori custom. This included the establishment of communal ownership of land within the tribe as a legitimate title equal in status to the individual title (Cf. Evening Standard, 18, September 1975, p.1).

Late in 1975 the movement which was still a small band, led by Mrs Whina Cooper (an outstanding figure in the Ngapuhi tribe) directed a land march to Parliament. The march included some 500 Maoris from various tribes of North Island, and some Pakeha supporters. The movement carried with it a petition signed mostly by elders influential in Aupouri and Ngapuhi tribes. On the 'Memorial of Right' it claimed that all dealings with Maori land must be made in connection with the assent of the Maori people. The assent was to be expressed by a majority of Maoris who were eligible to vote in a national referendum. In addition, all clauses in any statutes which have the power to alienate Maori land, e.g. the Town and Country Planning Act (1953), the Public Works Act (1928), the Rating Act (1967), and the Counties Act (1956, 1961), be repealed. Finally, it required that the power of administration and control over Maori land be returned to the Maori people and their descendants and that written assurance be given to protect the remnant of Maori land from compulsory acquisition.

Even though the movement failed to impress the government in 1975, it continues till today. After the land march it extended its policy

to include the whole nation and thus changed its name to *Te Matakite Aotearoa*. Its new policy is "to help any ethnic minority group in the retention of their lands, whether it be the people of New Zealand or other minority groups away from the shores of the country" (personal communication with Secretary of the Matakite movement).

Traditional Organisations

Traditional bodies refer to those possessing tribal criterion in their structure, organisation, and functions. They are formed to pursue common interests of the tribal groups at various level, tribe, sub-tribe, or family. They have descent and kinship at their core, composed of kin, and their leadership is partly ascribed according to birthright and kinship status and partly achieved. Examples of this type of traditional organisation are *komiti marae* (*marae* committee), the Ringatu church, Maori land incorporations, Maori trust boards, and the King Movement.

Marae committee is the formal expression of Maori sub-tribe which administers the *marae* and meeting-house. It consists of adult members representing each family group (*whānau*) in the community. Even though the committee's members are not necessarily all tribal elders its chairman is often a person of *kaumatua* status. The committee is to serve the whole community on the *marae*. Today, in some Maori communities like Kotare and Waima, there are 'family *marae*' and 'family *marae* committee' that serve only certain family groups apart from the community *marae*. The committee of the latter type is, however, still based on kinship principles.

The Ringatu church was founded in 1868 by Te Kooti Rikirangi, a Maori prophet of the Tuhoe tribe. The ideology of the church is to conserve Maori values in religious practice, even though its principles are based on the Bible. The Ringatu church is a communal base with a *marae* and meeting house as its centre. (Wi Tarei in King 1978: 65). According to Metge (1976: 187), the church is today administered by a symbolic head and an executive assembly of twelve elected every two years. The church appoints its own ministers from person of *tohunga*

status. There are three kinds of *tohunga* serving in the church; an ordinary *tohunga* who has the main duties of leading services, the *tohunga ture* who performs marriages and burials, and the *tohunga takuta* who specialises in healing.

Most of Ringatu religious beliefs are performed in the traditional style; including worship of ancestors, observance of *tapu*, reciting of genealogies, chanting of poems and songs, using the Maori language. In the former days, all gatherings of the church were kept secret from outsiders, especially Pakehas. Fairly recently it has moved away from these ideas and dedicated itself to peace and harmony with others.

Maori land incorporations, Maori trust boards, and the King Movement seem likely to be the most prominent traditional organisations representing tribal identity today. For this reason, I shall examine and discuss them in details.

1. Maori Land Incorporations

An incorporation originates from the Maori's attempt to use their land in a traditional way. The Maori Land Court has long destroyed the communistic system of land tenure and turned undivided tribal estates into blocks held by beneficial owners independently of a tribal authority. For more than one hundred years, bilineal succession introduced by the legislature has divided the land, often into uneconomic holdings. Added to this problem is the fact that Maori people are no longer subsistence farmers; and increasingly, they find themselves with insufficient land for profitable pastoral farming. This has resulted in emigration to urban centres and in absentee ownership - whether or not the 'owner' continues to live in the community.

Late in the nineteenth century, an attempt was made by the Ngati Porou people to develop fragmented lands by communal effort and under a guidance of tribal elders. This was not so successful, due to lack of capital for investment. Loans were difficult to obtain because their lands had no secure titles to attract a money lender. Their lands were held under multiplicity of ownership with a number of titles.

Under the provisions of an Act of 1894, the Maori Land Court was empowered to issue an order to constitute owners of any block of land or any adjoining blocks as a body corporate with a perpetual succession and a common seal. Once the body was established the owners themselves nominated a committee comprising of 3-7 persons to manage their incorporated lands on their behalf. The major task of the committee was to handle alienation of the land and money obtained from it (NZS, 1894: 336-7).

In 1903, the system of incorporation introduced in 1894 was extended to cover farming operations. McEwen (1976: 14) stated that a short time after that A.T. Ngata, a Maori scholar from Ngati Porou tribe, entered Parliament. From Ngata's initiative, a complete code of law governing the formation and administration of Maori land incorporations were enacted in the Native Land Act, 1909.

The general purpose of incorporation was to reintegrate the fragmented lands into one title, held by a single legal entity, and to benefit all owners no matter where they lived. The incorporation could be formed at any level, family, sub-tribe, or tribe,⁽¹⁾ and land involved could be as small as one acre. Any owner could apply to the Maori Land Court for an order of incorporation of owners, provided that tenants in common were at least five in number. Once the Court was satisfied that the majority of owners had agreed and the owners of not less than half of the aggregate shares gave consent, it issued an order to set up an incorporation.

The following elaboration illustrates a formation and operation of a Maori land incorporation today.

1.1. Nature and Objectives of an Incorporation

The basic ideology of incorporation is that Maori owners vest their land and assets other than the land (e.g. livestock) in an incorporation. Once the Maori Land Court has issued an order individual rights of the owners in their land and property cease. Instead, an incorporation assumes the legal ownership and acts as a single body on behalf of the owners. The incorporation thus has a distinct right

to administer the incorporated assets. According to Section 27 of the Maori Affairs Amendment Act of 1967, an incorporation has the following powers:

- To occupy and manage the land as a farm and to carry on any agricultural or pastoral business.
- To use the land for the growing of timber, the felling and marketing of timber, to establish timber mills or any other activity relating to timber.
- To engage in local mining or any other mining operations or to grant leases or licences for coal mining or mining of other materials.
- To sell or lease the land or any part of it.
- To carry on any enterprise or do any other thing in relation to the land that may be specified in the Court order.

(NZS, 1967: 824).

1.2. Shareholders

After an order of incorporation has become effective, the owners become shareholders in the incorporated land. Each shareholder is allocated shares in the incorporation proportion to the original value of his shares in the land.

A shareholder in an incorporation is recruited on a basis of descent and kinship. In an initial stage, the shareholders are all kin or direct descendants of the first owner of land possessed by a family-group, sub-tribe, or tribe. The Mangatu Incorporation in Gisborne district, for example, composes of some 2,400 shareholders who are all descendants of the Te Aitanga-a-Mahaki tribe. The first shareholders are persons who, before the order of incorporation is granted, are the owners of any freehold interests in the land specified in the order.

According to Section 38 of the Maori Affairs Amendment Act, 1967, shares in an incorporation are personal property and thus transferrable. Transfer of shares could be made both during a lifetime and on intestacy. In the first instance, a shareholder may transfer his shares to an incorporation, any other shareholder, the Maori Trustee, State Loan Department, the Crown, spouse, child or remote issue, or other next of kin.

He could also alienate his shares by way of sale to anyone nominated by an incorporation in conjunction with the Act of 1967. In any case, transfer of shares requires an approval of a meeting of the shareholders.

On a death of a shareholder, his shares are inherited according to his will or to Maori custom on intestacy.⁽²⁾ In succession on intestacy, those having descent and kinship affiliations with the shareholder are entitled. According to Section 117 of the Maori Affairs Act, 1953, these persons are child or remote issue, brother or sister, parent(s), brother or sister of the parent(s), child or remoter issue of a parent or of the brother or sister of a parent.

Today, a spouse has rights to succeed to shares in any Maori freehold land, as provided by Section 76 of the Act of 1967. However, he/she is not yet given rights to succeed to shares in an incorporation on intestacy. There is nevertheless an exception that a spouse could inherit the shares if they are given to her/him by will.

1.3 Administration of an Incorporation

Administration of an incorporation is exercised through a committee of management. The committee is a body elected by the shareholders and appointed by the Maori Land Court. It composes of not less than three and not more than seven members. The members need not be the owners of the incorporated land. The owners could nominate any person, not necessarily a shareholder, as a member of a committee of management if that will benefit a business of an incorporation. The committee hold office for a three year term.

The committee of management acts as 'trustee' of the owners. It exercises all powers and functions of an incorporation. According to Section 48 of the 1967 Act, it has power to alienate, charge, mortgage, dispose or deal with the assets vested in an incorporation. It could make a loan, acquire land by way of lease or purchase, or acquire shares in other business companies (Ibid: 845). In addition, it has authority and responsibility to make any decision affecting an incorporation. In administration, it appoints a chairman, secretary, establishes a registered office, and hires staff to run an incorporation's business.

At each general meeting of the shareholders, it is responsible for accounts and reports on affairs of an incorporation; to show a progress in business and to distribute a dividend, if any, to the shareholders.

The exercising of power of a committee of management is based on the resolutions passed at a general meeting of the shareholders. At the meeting, any shareholder may attend and vote personally or if he is not available he may send his representative. The meeting will approve or disapprove the works of the committee. Apart from this, it also decides a minimum and maximum number of shares to be held by a shareholder. This is to avoid shares becoming small to the point of being 'uneconomic' and to prevent any wealthy owner dominating an incorporation.

The committee of management and the incorporation as a whole are also controlled indirectly by the Court, in that the Registrar of the Court can require the accounts and management of an incorporation to be investigated. If there appears any fault the Court has power to remove any member of the committee from office, to appoint some additional members to the committee, to suspend the power of the committee, or to restrict the powers or if necessary to wind up the incorporation.

1.4 Goal of an Incorporation

The primary purpose of an incorporation is to conserve land by placing it in the care of an efficient management committee. Committees tend to view themselves as trustees responsible for the retention of the land for future generations of shareholders.

Over a passage of time, however, most incorporations have become involved more in business affairs. Its purpose of a corporate body then extends to cover various activities in a commercial enterprise, e.g. farming, forestry and timber, mining, trading, controlling of tourist camping ground, administration of building, and so forth. This involves a large sum of money and assets.⁽³⁾ Due to this expansion in business most successful incorporations do not confine their administration only within and among members of a kin-group, despite power of control still belonging to them. They tend to hire competent and professional manpower

such as the manager, adviser, accountant, lawyer and other employees from outside, no matter if they were Maori or Pakeha.

Thus, apart from a conservation of tribal estate, the business of an incorporation also provides some measure of material profit to the shareholders. This is made chiefly in terms of dividend and other contributions. Distribution of dividend depends on stability and policy of each incorporation. Take the Incorporation of Waerenga East and West Blocks for example. Between 1956 and 1972, it paid out a dividend at the rate of 5 per cent. In some years a healthy profit may possibly increase the cash dividend. But usually urgent needs, such as erection of a woolshed and other facilities and other maintenance costs, keep the increase fairly steady.

Some incorporations can provide very little in returns to the shareholders. Nevertheless, there are also many that provide a steady dividend to the shareholders. Apart from such dividend, they also contribute to various cultural and social activities concerning the shareholders. In this respect, parts of profits of an incorporation are used in a community, such as in the maintenance of *marae* and meeting-house, education of shareholders' children, donations to *hui*, loans in a promotion of Maori employment and housing. This use of money in the community may not be favoured by the shareholders who live away. However, as Kawharu (1977: 211) states, a reconciliation between the self-interest and communal demand can be reached as long as most shareholders still hold fast to a group loyalty.

1.5 Social Significance of an Incorporation

As mentioned earlier, an incorporation enables the Maori owners to utilise their lands with full capacity because the lands then have a single and secure title that guarantee the borrowing of money for investment. A subsequent benefit the shareholders could reap from the incorporation appears in the form of cash dividend, employment, and other contributions concerning them and their community (1.4 - goal of an incorporation). All of these benefits are traceable as long as the incorporation is in operation.

As far as the Maori people are concerned, however, what is more important in the system of incorporation is that it provides an emotional compensation. What emotional value does an incorporation provide to a shareholder? Ample evidence discloses that most Maoris today live away from their lands. Still their love of land persists but urgent economic needs make their attachment to the land impossible. Many of them are now 'absentee owners'. Under this condition, the owners have little opportunity to till their land and the loss of their lands through alienation is likely. The system of incorporation consolidates their lands into one title, uses them in an economic way and, thus, serves the owners' desire for retention of tribal sacred heritage. By placing their lands in the care of an incorporation the owners are guaranteed that they will have a place to stand and an inheritance to pass on to their descendants. This sense of belonging and an opportunity to associate with land and ancestors, that is provided by an incorporation, is important in the Maoris' expression of identity.

An incorporation also provides the link for the owners with their traditional past, since its structure, organisation, and function bear a similarity to the tribal socio-political system. First of all, it stands as a group (family-group, sub-tribe, or tribe) owning the land, with distinct rights in all matters. The shareholders, principally all kin, are members of the group. Similar to tribal people in the old days, they have no rights to deal with the land individually but benefit from all privileges produced by the land. They could pass the rights to their descendants according to the rules of succession on intestacy. By this way, land is kept forever in the group.

Another similarity with the traditional system is found in the field of administration and leadership. In this respect, a trusteeship of a management committee is comparable with the tribal chiefs and tribal council, in both status and authority. It is true that the committee is derived from election. As far as the Maori is concerned, however, a feeling of traditional value remains strong and, as a result, most members elected into the committee are persons of rank and/or achievement. The chairman of the committee is often a *kaumatua*.

A committee of management has authority, as the tribal chiefs had, to control land (alienation, farming, or whatever) as trustee of the

owners. But such authority is counter-checked by all members of the incorporation, the shareholders. The shareholders have a voice in all affairs and they could make it heard in a general meeting of the shareholders. In open discussion any issue could be solved and a resolution passed according to consensus and majority of vote. Undoubtedly, this process is similar to a meeting on the *marae* where all family elders took part and public debate was a keynote. The general meeting of the incorporation and the exercising of power of a management committee in its decision-making and so forth all comply with the customary practices that existed in the pre-contact times.

2. Maori Trust Boards

By definition, a trust refers to a body in whom the legal ownership of property is vested to hold or use for the benefit of another (The Oxford English Dictionary, T-U, 1970: 432). Hence, a Maori trust board is established to administer land and capital on behalf of the Maori people at the tribal level. There are at present seven boards formed on a tribal basis: Aorangi, Arawa, Aupouri, Ngai Tahu, Tuwharetoa, Wairoa, and Whakatohea. Another three Maori trust boards, Tainui (for Waikato and Maniapoto), Taitokereua (for the five northern tribes), and Taranaki (for the eight Taranaki tribes), control assets for several tribes jointly.

2.1. Organisation of a Maori Trust Board

A board comes into existence by law. Its membership derives from election. According to Section 13 of a Maori Trust Board Act, 1955, members on a board are elected by beneficiaries. Thus, in any tribe with a board, all tribesmen are entitled to vote for their representatives, on a *hapū* basis, on a board. The elected members are then appointed by the Governor-General to hold office for a term of three years. The board, in its first meeting, appoints a chairman, a deputy-chairman, and a secretary, from among its members.

2.2. Functions and Power of a Maori Trust Board

According to the Section 13 of the 1955 Act, a board is to be a 'body corporate' with perpetual succession and a common seal. It is capable of holding real and personal property, and of suing and being sued, and of doing and suffering all such other acts and things as body corporate may lawfully do and suffer (NZS, 1955: 247). A board thus stands as a single body in doing things affecting vested property and common fund on behalf and for the benefit of current members and of future generations of the tribe, in perpetuity. It has power to farm, acquire or alienate land and to borrow money or guarantee loans in its own rights. Its beneficiaries (members of the tribe) have no power to acquire any interest vested in a board and they have no authority to make any contract affecting the board's property. As members of the tribe, they only have rights to claim benefits from the tribal trust fund.

Apart from the Aupouri Trust Board, set up in 1947 to control a communal farm enterprise in Te Kao, other boards were originally created by law to administer compensation moneys paid by the Crown in settlement of land claims. For example, Tainui, Taranaki, and Whakatohea Trust Boards were set up to handle moneys obtained from compensation for unjust land confiscation. The Arawa Board controls money given for rights to the Rotorua lakes and Tuwharetoa for rights to Lake Taupo. The money obtained is to be put in a trust fund for the general benefit of the beneficiaries.

The tribal trust fund could be increased by various means, apart from compensation money given by the Crown for land confiscated or taken for reserves and roading. Other sources of income could be from land legally vested in a board, investment of money from the sale of non-individualised tribal land, from farming and other enterprises. The Arawa and Tuwharetoa Trust Boards, for instance, receive additional income from the Arawa Trust Board Building and from a proportion of fishing license fees in Lake Taupo respectively (Metge 1976: 133). It is important to note that all profits made by a board will go into trust board funds, while that of other bodies like a Maori land incorporation is distributed among owners.

A Maori trust board has authority to use its tribal trust fund for the benefit or advancement of any specific beneficiary or beneficiaries. It may apply the fund for the following purposes:

- the promotion of health
- the promotion of social and economic welfare
- the promotion of education and vocational training
- any undertaking it considers fit

However, a substantial amount of funds is normally disbursed for education. Grants are also made to *marae* committees (because most of them have a financial problem), to sponsors of tribal *hui*, and to *kaumatua* to present at *hui* in other areas in the name of the tribe (Ibid).

An understanding of Maori trust boards may be extended by examining the formation and function of the Te Arawa Trust Board (Source, Te Arawa Maori Trust Board: A review of its first 50 years, 1924-1974).

Arawa is one of the Maori tribes which was least affected by land loss in its early contact with European settlers. Since it was neutral during the land wars, of early 1860s, it emerged in the 1870s with its land virtually intact.

A few years after, however, the Arawa people tasted a bitter experience in land loss, through sale and lease. The major cause of this was the growth of the Rotorua township in the last quarter of the nineteenth century. A further threat was imposed upon them by the Tourist Department which wanted to discontinue their use of Lake Rotorua for a food supply and take away their rights in the thermal springs. A conflict emerged with the government, when it introduced trout into the lake and then prohibited Arawa people from catching fish unless they paid a license fee.

In response to their loss of rights in the lake and thermal springs, the Arawa people, in 1908, submitted their claims to the Native Land Commission (Stout-Ngata). The claim was accepted by the Crown in 1922 and compensation was given at the rate of six thousand pounds (\$12,000) per annum. As a result, the Te Arawa Trust Board was set up, in the same year, to administer the money for the benefit of

Arawa people.

The Arawa trust board derives its membership from election. Rights to vote in the election belong to all Arawa people based on the *hapū* to which they could legitimately claim descent. Besides, the persons first elected to the board were leaders of the tribe of that time.

Members of the board were constituted of representatives of each *hapū* of the tribe. The allocation, which was made on the ground of land interest, appeared as follows:

Uenukukopako <i>hapū</i>	5	members
Kawatapuarangi <i>hapū</i>	5	members
Tuhourangi <i>hapū</i>	3	members
Tarawhai <i>hapū</i>	1	member
Rangitihi <i>hapū</i>	<u>1</u>	member
Total	15	members

In 1941 the number of members of the board increased to 19: eighteen were elected from various *hapū* and the other was reserved for Arawa Returned Soldiers.

Te Arawa Maori trust board represents Arawa tribe as a whole. It holds a responsibility for all forms of *Maoritanga*, well-being, and tribal sentiment in connection with land and ancestor. To achieve these ends, it sets up a committee to care for housing in the district to help Arawa people living on their lands, assist land owners to solve a title problem so that they can use the land by themselves, and provide a grant for the maintenance of *marae* and meeting-house in all *hapū* of the tribe. Furthermore, the board also considers education of the Maori people as its uppermost concern. Thus, it grants a large sum of money to aid education of Arawa children. In all affairs, it always acts as a mouthpiece in the interest of the Arawa. Thus, it has applied to the Minister of Maori Affairs to vest control of Pipi beds in it, and an attempt has also been made to have the tax levy taken off the Board's income.

It is important to note that one of the most crucial commitments of the Arawa trust board has been in the purchase of land at Maketu point,

to erect a monument symbolising the great landing of Arawa ancestral canoe. When the plan was put forward, all members of the board joined in the intense discussion. Finally, a resolution was passed and the land bought. Later it was argued that the board spends too much money on the land that gives no monetary return. The argument is, however, ignored by the majority of Arawa people who see that the land would provide a connection with their ancestors, and it should not be thought of in a commercial way.

2.3. Social Significance of a Trust Board

A board shows great resemblance to the ancient tribal organisation. First, it is formed at the tribal level and constituted of representatives from all *hapū* of the tribe. Members of each *hapū* have rights in any affairs of the board, through their *hapū* representatives. They nominate their own representatives on the ground of descent, to look after their interests at the tribal level. This is no different from the tribal internal political organisation where *hapū* chiefs represented their people at the tribal *runanga* council to discuss warfare and any issue of tribal concerns. A slight difference may exist in that their representatives on a board derive their status from election and not necessarily succession. As far as the Maori's ^{are} concerned however, they tend to choose only persons of rank as members of a board. As in the case of Te Arawa Trust Board, most elected members are leaders of the Arawa tribe. The election shows also a connection with traditional value in that the beneficiaries express their desire to vote in a group where they could legitimately claim descent. A vote on a *hapū* basis fulfils this requirement.

Second, the traditional exercising of leadership is adopted in the administration of a board. A hierarchy of authority may be discernible in a board's appointment of the chairman. Thus, the chairman is chosen from among them, on a basis of superior kinship status. The chairman has, however, no absolute authority but only the right to lead and to direct the board's affairs. In any circumstances, he has a similar vote to other members of a board. Power to make decisions or to decide any issue rests upon the board as a body and on a majority vote.

Thirdly, a board acts as a body corporate, the most crucial feature of Maori tribal grouping. Its control of properties vested in it in perpetuity for the beneficiaries is similar to the tribal chiefs' control of vested tribal estate in the old days. In this respect, it has distinct power to manage the properties whenever it thinks fit, whereas individuals have only rights to claim benefit according to their descent and kinship status. It is important to note that a board and its vested properties remain intact forever, irrespective of change in a board's membership. In connection with Maori philosophy that "Men perish but land remains", consequently, the system of Maori trust board serves Maori's desire for retention of tribal identity.

3. The King Movement

Towards the end of 1850s, Maori experience of Pakeha expansion in their territory, loss of tribal estate, and confusion in tribal authority in the sale of land, reached its peak. The situation led chiefs of several tribes of the central North Island to look for a common leader to motivate them in their stand against sale of land and European domination. Eventually, they established a movement called the 'King Movement' and crowned the leader of the movement as 'king'. They believed that this would symbolise "Social and cultural integrity, political equality with the European, and desire for self-determination" (Kawharu 1977: 12). In 1858, Te Wherowhero of the Waikato tribe was elected and appointed as the first head of the King Movement.

3.1. Organisation of the Movement

Metge (1976: 196) states that the movement has two types of membership, basic membership and supporters. The basic members are tribes of the Tainui canoe occupying territory in the Waikato, King Country, and Manawatu, and the related tribes of Ngai Terangi and Ngati Ranginui of Tauranga. Ngati Tuwharetoa, Ngati Pikiao of Arawa, Ngati Tama and Te Ati Awa of northern Taranaki and Ngati Kahungunu are supporters.

The head of the movement has an office at the Turangawaewae *marae*, Ngaruawahia. Standing alongside of him is *Te Kawmarua* or the "Council

of Twelve" and the *Runanganui* or "Grand Council" (Ibid: 197). The Council of Twelve is chosen by the head of the movement, from among persons of chiefly and *kaumatua* status. Thus, the Council of King Matutaera, called the *runanga* of Ngaruawahia, is composed of a dozen members of the elder chiefs of the Ngatimahuta tribe and relatives of old Potatau, chosen by the King himself (Gorst 1864: 273). The Council of the present head of the movement, Queen Te Atairangikaahu, are also leading elders of Tainui canoe chosen by the Queen.

The Grand Council consists of representatives from various local *marae* committee. It is important to note that all *hapū* within the King Movement area are independent. Winiata (1967: 62) states that each *hapū* has of its own a *runanga* assembly (*marae* committee, *hapū* council), and a Kai Whakawa (Council of Judges), controlled by leading *kaumatua* and supervised by the *rangatira*. Delegates from these local *marae* committee combine to form the Grand Council, the main governing body of the King Movement.

3.2. Leadership and Administration

The title of leadership of the movement, King or Queen, is derived from the English term. However, it has nothing to do with the meaning of the adopted words, because the Maori King/Queen is different from the King/Queen of England. Principally, the head of the King Movement is surrounded by descent rules characterising the traditional paramount chief, the *ariki* (Pocock 1965: 21). Thus, the first King, Potatau Te Wherowhero, was elected due to his superior kinship status. He belonged to the most senior lines of descent among *ariki* families in the Waikato tribes. A succession to office of the head is made according to the Maori custom. In this regard, direct descendants of the first king are entitled, preferably the first-born male. All successive heads of the movement such as Tawhiao, Matutaera, Koroki Mahuta, the present Queen Te Atairangikaahu (only child of the late King Koroki) are members of the aristocratic families and linked directly with Te Wherowhero and the senior lines of descent from the captain of Tainui canoe, Hotorua (Winiata 1967: 83).

Other types of leadership in the movement is also determined by kinship and traditional value. Following this ideology, those members in the local *marae* committees, Council of Twelve, and delegates in the Grand Council are all persons of chiefly and tribal elders status.

The exercising of authority and leadership in the King Movement could be viewed in two categories. First, the head of the movement assumes the power of administration in the religious and political sense. The head has no real power of command but stands as a 'figurehead' in leading and encouraging his people to carry out any tasks. The following quotation elucidates this.

"In the words of a Kingitanga spokesman, Queen Te Ata-i-rangikaahu stands as the embodiment of Maori ideals and cultural values. Her leadership is not one of active participation but rather one of symbolism - a symbol of the past glories of the Maori people - that reminds them of their heritage and status in the modern world and that guarantees the conservation of such values for the country as a whole" (Metge 1976: 197).

Therefore, all activities of the King Movement are undertaken by the Council of Twelve and the Grand Council. The Council of Twelve, constituted of those of *kaumatua* status, is a personal adviser of the head, especially on matters of etiquette and procedure, Coronation, holding a seal, and publishing the news-sheet (Ibid). The Grand Council, the main governing body of the movement, takes charge in all major concerns that affect the movement and the well-being of its members. It expresses the views of the people, discusses matters of public concern, co-ordinates the Movement activities, supervises the organisation of *hui* at Turangawaewae *marae*, assists in the annual Coronation celebration, and mobilises fund-raising. All matters are undertaken on the Turangawaewae *marae*, where the Grand Council leads and *kaumatua* from all parts of the King Movement area participate in open discussion.

Within the King Movement area, the supreme authority in legislative and judicial matters reside in the village or *hapū runanga*. The *runanga* appears to be a gathering of the *hapū* people. In the former times, this institution was strictly oligarchie where the chiefs and *kaumatua* met to discuss plans of war and so forth. Commoners were expected to listen with respect to their speeches (Gorst 1864: 245).

Today it has become the most democratic assembly where everyone even women and children are admitted. The *runanga* exercises judicial authority in its own right and all practices undertaken by it are judged by consensus and public opinion, independently of any interference from the Movement.

The King Movement today stands as the rallying point of Maori integrity in a midst of change. It has a firm base in political, religious and ritual beliefs, but lacks decisive authority in terms of administration. Neither of its agents has real power to command or to compel obedience of its members. In some circumstances, the *runanganui* may act as a Court at the Turangawaewae *marae*. However, as an instrument for enforcing law it is less effective than the local *runanga*.

Beyond its area, the King Movement's administration wins no recognition from other tribes. Any tribe who joins the movement does not want to surrender its independence in tribal authority. It maintains its own administration and political authority. There is no room for doubt, nevertheless, that the Movement's basic policy in resisting European demand for Maori land in the beginning gained unanimous support from other tribes beyond Waikato.

3.3. Goals and Activities

Gorst (1864) describes that a short time before the establishment of the King Movement, many tribal chiefs were bothered on at least three major counts. Undoubtedly, the first one was the sale of tribal estate to Pakeha settlers. This not only led to the loss of land but also to confusion of tribal authority over the land where acres were sold without the approval of the chiefs and the tribal group. Second, they became concerned of 'demoralization' of native people as a result of trade and consumption of rum in the Waikato area. And thirdly, they were disturbed by the fact that the New Zealand Constitution Act gave them no party in the government of the colony.

The incidents, added by the growing number and influence of

Pakeha in the country, made the chiefs feel that their *mana* had reached the lowest ebb and that Maori political, social, economic, and cultural independence had come to the end. Fear of extermination of the Maori race spread over many tribes.

The Maori King Movement was set up to seek 'self-determination' and to provide the means of retention of the remnant of tribal estate. To achieve this goal, the movement established its own government system along the lines of Maori custom and traditional values. In land matters, it prohibited individual sale without the approval of the *runanga* (tribal council). Regarding this, the words of Takerei, provide an explanation. In his reply to a Committee of the New Zealand Assembly, he states,

".....It should not be yielded to the control of any one. If the great *Runanga* of the tribes consented, then only would it be right; but for one man to sell would not be right; although the land was his own, it should lie with the great *Runanga* to agree or to object to the disposal of it. The reason for this was lest trouble should arise in the midst of us Maoris and the Pakehas. This is the law that has been laid down for the land held by the Maoris of New Zealand. This, that I now make known to you, is the thought of the people, that of all the chiefs of Waikato, Ngatihaua, Ngatihinetu, Ngatiapakura, Ngatimaniapoto, Ngati-tuwharetoa, Ngatirahungaru, and Tauranga. That was the cause of the Maori King being set up; it was for a *mana* over the people and the land" (Cf. Gorst 1864: 71-2).

The King Movement followed this policy from the beginning. The first task it undertook was the support of Kingi's interference in the sale of land at Waitara, Taranaki (see Chapter One, p.6). It became involved deeply in the event by sending armed force to the aid of Taranaki in the land war of 1860 and 1863. The wars ended up with a loss for the Maori side. After the war, the King Movement closed its territory until 1883. During this time it continuously rejected the government and jurisdiction of the Crown, and boycotted the Court. Instead, it concentrated on its own political and judicial practices through its *runanga* assembly, magistrate, and religious faith. All Maori custom such as ceremonials, *hui*, and land tenure were kept intact

from Pakeha influence. Even though much land was lost through confiscation, the remnant was managed by common effort. Under the guidance of the Movement, the Waikato people produced a great amount of surplus crop for sale, improved their livelihood, and thus upgraded their tribal pride.

The Movement opened its territory in 1883. Following this event it recognized Pakeha land law, administration and government, and adoption of Pakeha culture by the Waikato people. Change also took place to a great extent, especially in the social and economic aspects. Some attempt was still made by the head of the movement to hold back Maori self-determination. In 1884, King Tawhiao, for example, led a deputation of chiefs to England to ask Queen Victoria to return confiscated land to them and to grant the Maori people a government of their own. This was not successful.

Yet, the Movement was still active, especially in conserving traditional values and in acting as a mouthpiece of Maori people. So far, it is regarded as the most active tribal group in *hui*. Anne Salmond (1975) states that there are at least two major *hui*, *Poukai* and the Coronation, which are held annually by the movement.

The *Poukai hui* is the feast held for the head of the movement. It was originally set up by King Tawhiao, after his return from England in 1884, due to his desire to see a regular gathering of his people. The king took this opportunity to heal the ailing and infirm of his people and thus secure his *mana* among them. The *hui* is followed by Waikato people till today. The responsibility is assumed alternatively by about 30 *marae* within the King Movement's sphere of influence in Waikato. Usually, it is attended by the head of the movement. If this were not possible, then, representatives will be provided (Salmond 1975: 203-6).

The Coronation *hui* (*koroneihana*) is held at the Turangawaewae *marae*, to commemorate the crowning of the head of the movement. This *hui* is always attended by a large number of participants, committees, and visitors, from several tribes. It thus provides the inter-tribal forum where various issues could be discussed and solved in the

traditional fashion.

The most important factor in both *hui* is that they are surrounded by traditional values and the spirit of *Maoritanga*. These they show in their organisation where members of local kin-groups take part and traditions, e.g. action song, *haka*, *poi* dances, exchange of speeches in Maori language. The *hui* are led by the tribal elders who also perform ceremonials, chanting, oratory, and speechmaking. In the *Poukai hui*, the responsibility falls upon elders of the local *marae* committee, whereas the *munanganui* and the Council of Twelve take charge of the Coronation at Turangawaewae *marae*.

The King Movement has been involved also in other functions affecting the interest and well-being of the Maori people. Mahuta (in King 1978: 41) sums up its activities upto mid-1970s as follows.

- Tribal concern over the siting of the Huntly Power Station next to Waahi *marae*. The movement presented a draft submission to the Town and Country Planning Appeal Board asking them to reconsider the scheme that affects a Maori sacred place.
- Submissions presented to the Parliamentary select committee on Maori Affairs concerning the Treaty of Waitangi Bill.
- Submissions presented to the Committee on Marae Subsidies regarding the Kimikimi Appeal and the construction of the Kimiora Cultural Centre.
- Submissions to support an increase in the annual grant of the Tainui Trust Board.
- Discussions of relationship of the King Movement with the New Zealand Maori Council.

In general, the King Movement is quite successful in its relationship with other groups, especially those of Maori origin. It maintains close relationship with all local *marae* committees and the Maori Women's Welfare League branch of the Waikato. It also acts as a 'mediator' and 'pressure group' between Maori and Pakeha.

3.4 The King Movement and Retention of Tribal Identity

Regarding its structure, organisation, and aims, the King Movement could be regarded as a model of tribal group. Perhaps it is the most prominent tribal organisation ever formed in the post-European times. The movement has its centre at Turangawaewae *marae* and is composed of several other minor *hapū* of the Waikato tribe. Each *hapū* is an independent social and economic unit with its own head, *rangatira*, and the *runanga* council. But all *hapū* in the area are linked to each other and to the office of the King in a political sense. Leadership in the movement is obvious, and this derives from birthright and kinship status. The head of the movement is from the *ariki* families and acts as the paramount chief in the tribe. Other chiefs of minor *hapū* are junior to him in the lines of descent. The *kaumatua* is greatly respected, especially in the local *runanga* of the *hapū*. In the exercising of authority, the traditional political system is employed. Thus, each *hapū* possesses supreme authority in administration and in maintaining of law and order. In the area of legal authority the movement can only recommend. However, right to veto alienation of tribal land is vested in it. Due to this spiritual recognition, the Waikato people could manage to save acres of their land, before Pakeha's penetration into the movement's territory in 1883. "Throughout the sixties and seventies their insistence on the retention of land as the only basis for the retention of their identity postponed the radical changes that Court investigation and trade with the European were frequently bringing about elsewhere" (Kawharu 1977: 87).

After the barrier was knocked down in 1883, however, the Waikato people were influenced by the same forces of change that affected the other tribes. Acres of land rapidly disappeared through the Maori Land Court, emigration occurred, and change in a livelihood of the people took place. The Movement itself has adopted Pakeha lore both in land and in government. Because of this situation, it has to modify its original aims (to retain the land and to uphold the tribal *mana*) because Waikato no longer has land and its inhabitants are dispersed. Metge (1976: 198) states that the movement today seeks neither political independence nor a formal place in the political structure of the nation. Instead, it aims to serve as a symbol for

its members, and to represent a major source and organ of traditional functions. As Mahuta (in King 1978: 33) sums up, it provides the means for the modern Maori to revitalise their past. Its practices in speech-making, teaching of local tradition, organising of *hui* and gatherings, expression of hospitality on the *marae*, and recognition of tribal leadership, all allow the Maori people to recall their tribal identity.

The Question of Disintegration

In this final stage of my thesis, the question of 'disintegration' which seems to follow the changes in the Maori community will be discussed. The discussion will be based on data provided in chapters 5 and 6 and earlier on in this chapter.

Rivers (1922) defines 'disintegration' as a breakdown of a culture to the point that people attached to it have lost interest in a normal life, and have lost their self-respect, and confidence. A cultural breakdown is caused by the accelerated pace of modernization under a process of acculturation. Here, normal modes of living in a traditional culture seem to become less well-defined. There is a tendency for people to adopt new values with heightened expectations. Such adoption, however, tends to result in conservative/radical divisions within a community. There are many factors promoting this; mass communication, education, increasing number of roles affected by contradictory cultural standards, more intimate interaction between people with diverse cultural orientations, anxiety about seeming inconsistencies in their own culture (Cf. Levine, International Encyclopedia of the Social Sciences, Vol. 7, 1968: 372). Such factors affect an inner coherence and unity of a community. Burke and de Maistre (Ibid: 373) compare a society with an organism. Integration of the organism is possible only when all parts of it function together. Extraneous influences might bring about inequilibrium and subsequently, a breakdown of the whole body.

Cohesion is a great sort of "social cement that binds together members of a group (Ibid, Vol 2, :542). It varies according to the

way in which the people value their group membership, and it depends on how people communicate and influence each other. Back (1951) suggests that there is a stronger attempt to influence each other in a more cohesive group than in a less cohesive group. Acceptance and tolerance are also high in a cohesive group. Such acceptance is connected to individual needs satisfied in the company of others. Substantial needs are prestige, security, approval and support from a group. Schachter (1959) points out, however, that the needs of individuals and of a group must be harmonious, in order that integration of the whole can be achieved.

There are still several theories explaining a degree of cohesion and integration. Deutsch (1949), for example, observes that 'competition' is one of the most important indicators. Thus, cohesiveness is lower where members in a group are competitive than in that of a group where members co-operate in pursuit of goal. High or low competition depends on how a group is organised as well as on the rules that govern the pattern of interrelationships among the group members. In Keesing's opinion (Keesing 1958: 406), a degree of integration is judged by a capacity of individual members of a group in maintaining their self esteem and sources of identity. If they are able to keep their identity intact, disintegration might occur, but only at a very slow rate. By contrast, the loss of the source of identity means the loss of security, prestige, and morale. Unless appropriate substitutes can be found, a drastic change and eventual disintegration in the community seem inevitable.

What, then, is the situation in a modern Maori community? Piddington (Schwimmer 1968: 258) states that a modern Maori community lacks the 'regularity' in its structure, social organisation, and political function of pre-European times. European contact since 1840 has brought a considerable change into the tribal system. The greatest changes are in landholding, followed by the loss of tribal authority, dispersal of members of local groups, and decline in the significance of descent and kinship as an organising principle in community life. Modification of traditional values and the adoption of Pakeha principles have had profound effects, reflecting

attempts by Maori people to fit themselves into a Pakeha world (Ibid).

Relating the foregoing theories to the information obtained from Kotare, Waima, and Orakei, we may assume that at least some modern Maori communities are moving towards 'disintegration'. In the three communities studied we find that many customs regularly practised by the Maori in ancient times have disappeared. Descent and kinship are no longer taken as a significant basis of any social organisation, membership right and land rights, and leadership. It is evident that governments have been successful in replacing the communal system of land tenure by one structured by English common law and commercial practices. The introduction of the sole ownership into Maori land has separated individuals from their group and directed them towards commercial enterprises and the pursuit of personal profit. Throughout the long history of contact, the people in Kotare and Waima have lost most of their fertile land and much of the remnant is no longer held under group control. Orakei has become a landless community. Notwithstanding government policy on land development, e.g. consolidation, relocation, amalgamation, and supervised credit, Maori people have become dispersed throughout the country. Where they remain on land they are scattered and apart on their own holdings rarely a viable community. Where land is insufficient, migration to urban centres is inevitable. This situation faces most Maoris of Kotare and Waima. The urban boom after the second World War, government housing policies, and employment opportunities have contributed to a dispersal of the people. Schwimmer (1968) states that, for some years governments have been concerned with Maori people in local areas. Two methods are used to solve the unemployment problem: the provision of social security benefits and the persuasion of underemployed Maoris to emigrate to centres of work elsewhere. Unemployment benefits, began in 1935, promoted individualism at the expenses of group co-operation because the money was given to individuals. Simultaneously, it lessened the incentive to make use of tribal land. In the late 1950s, the Department of Maori Affairs actively pursued a policy of urban relocation. This in turn hastened 'disintegration' of local communities.

At the same time, the government set up several alternatives to the exercise of tribal authority. Thus the Tribal Committee took the place of traditional *hapū* council (*runanga*), the School Committee took the place of *kaumatua* in supervising the education of Maori children, and other committees took the place of tribal authority.

Following the loss of land there was a general collapse of the socio-political system in Kotare, Waima, and Orakei, i.e. procedures regularly used to make decisions, issue orders, and apply sanctions (Ibid: 329). Traditionally, the system operated through the chiefs who exercised authority over land and in social control. In the modern situation, the chiefs' power has declined and none has real power in any field. Tribal authority in land has been superseded by that of the Maori Land Court.

There is no longer a reciprocal connection between a chief and his group at all times. In fact, there is neither *ariki*, nor *rangatira* in any of the three *hapū* studied. There exists only the *kaumatua* who also no longer form themselves as *runanga* to discuss problems or to issue sanctions affecting the whole community. *Kaumatua* in any of the three communities are at least as much employed in helping the younger people to deal with Pakeha authority, as in making judgements on internal community affairs.

Much custom has died away in the field of social organisation. Few tribal groups act in a concerted way to mobilise their members. Often they are divided into factions cross-cutting those that would be formed on the basis of descent. Each faction has its own structure and organisation which does not necessarily conform to traditional values. Church branches, sports clubs and committees, fund-raising groups, play centre committees, Maori Women's Welfare League branches, School Committees, etc., are all interest-based organisations and shaped by Pakeha principles. Without a single authority in the community, these organisations have often gone beyond the local group. They tend to be pan-Maori in structure and nationwide in purpose. The Maori people are dispersed in these organisations. Some become members of more than one group simultaneously. Often, difference in interest

brings about conflict in the community. As has happened in Kotare, a wedding was called off because a bride and a groom belonged to different religious groups and each side demanded that the wedding ceremony be held in their church. Difference in religious belief also causes factions in Waima. The problem arises from the Jehovah's Witnesses supporters who disregard Maori custom and, as a consequence, decline to co-operate with other groups in cleaning the community burial ground.

In general, we then find that Maori people in Kotare, Waima, and Orakei have little opportunity to get together at the community *marae*, apart from on rare occasions of which the community acts as a sponsor. Most social functions are limited to the family group and held on the family *marae*. The expression of traditional values remains strong in Orakei. But at 1964, Orakei had no *marae* and so its people had little chance to assemble as a group.

The loss of land and the adoption of Pakeha principles in major aspects of Maori culture in the communities studied have resulted in the weakening of the recognition of descent and has done much to prevent the Maori people from pursuing their traditional lifestyle. Loss of land denies the chiefs their opportunities to exercise their customary rights of administration in land and this contributed directly to the general loss of respect for their authority as leaders (Kawharu 1975: 177). Dispersal of the people as a result of land loss means a loss of chances for the practices of social and economic co-operation and loss of opportunities to fulfil duty and obligations required for unity of the local group.

Kotare, Waima, and Orakei, are likely to have a cultural breakdown. This has become the case due to the fact that they have been unable to retain the chief props to their identity, *viz*, land, descent, and traditional leadership. In fact, these traditional criteria still exist, but have become less well-defined. Cohesion in the community is relatively low in comparison with that of the *hapū* in pre-contact times. Modernization and acculturation plus the adoption of Pakeha values, norms, and mode of living, and increasing interaction with

the Pakeha world cause divisions in the communities. These alter attitudes of the Maori towards traditional values, e.g. descent, kinship, and leadership. Thus communication amongst members of the group is rare and an attempt of the tribal elders and kinsmen to influence each other, especially younger generation is not recognised. Modern conditions provide an individual with a wide range of choice for social actions. He thus needs no support from the group or kinsmen. Because he does not need protection, security, or approval from the group his acceptance of the group's influence is low. In pre-contact times, the group was well-organised, tight-knit by the rules of descent and kinship. Duty, obligations, and mutual reciprocity were highly valued. Members of the group supported each other to achieve a common goal and competition was, for the most part, kept in check by the elders.

Cohesion in the communities can be measured by the degree of attention people pay to the traditional values. Thus, where *Maoritanga* could be strongly expressed (e.g. in *hui* and in organisation of traditional kind), where land remains, and where most *tangata whenua* live together, cohesion is relatively high. However, this is more commonly limited to the extended family than to the sub-tribe. Beyond this, especially when it involves organisation of non-traditional kind, cohesion appears at a low rate.

Internal cohesion and thus integration could be restored if the means through which tribal identity could be expressed are re-established. As described early in this chapter, the King Movement, Maori trust boards, Maori land incorporations, the Ringatu church, *marae* committees, and the like, preserve many aspects of Maori custom. The contemporary Kotare and Waima had no trust boards, land incorporation nor were they members of the King Movement. The family *komiti marae* and family committees could be regarded as the only means of identity. But this is also limited to the family group level. Orakei had neither land nor *marae*, at the time of Kawharu's study. The only means of re-integration was the Orakei Urupa Trust Board which recruited members in terms of descent. Nevertheless, this had Pakeha influence so much that the Orakei members found it hard to administer the board in the Maori way.

NOTES

(1) Statistics provided by 128 out of a total of 170 incorporations, in a recent survey, show the following classifications;

- incorporation formed on a tribal basis	84
- incorporation formed on a <i>whānau</i> basis	17
- incorporation formed on a family basis	27
	128
Total	128

(Altogether have membership about 85,000 in number)

(J.M. McEwan in Kawharu *et al*, Maori Incorporations in New Zealand, 1976: 28).

(2) Due to change of the traditional communal tenure into individual tenure since 1865, this succession follows the bilateral rules as recognised by the Maori Land Court. As a result, a shareholder today needs not be a permanent resident in the group owning the land or living on the land incorporated. Furthermore, he could have interests in many incorporations at once, no matter where he lives.

(3) McEwen (1976) states that there are at present 170 Maori incorporations holding a total area of 306,000 hectares of land. In 1972, the total value of the assets owned by all incorporations was valued at approximately \$40 million. (Ibid: 27).

CHAPTER EIGHT

CONCLUSION

I shall now draw together the main threads of my investigation and discussion explaining the process of change in a modern Maori community. A hypothesis was set in the very beginning that "alterations in Maori land tenure has led to a far-reaching modification and change in the Maori social and political systems". To elucidate this I examined and compared ancient and modern Maori communities. This thesis is divided into three parts. Part one comprises chapters one and two and provides a brief account of Maori-Pakeha relationships in land from early contact to the past few decades. Part two includes chapters three and four and examines in retrospect the tribal society and land tenure of the pre-European times. For comparison, a review of three modern Maori communities is made in part three together with a discussion of the aspects of change. This part comprises of chapters five and six. Chapter seven shows the Maori's reaction against change and loss of their tribal identity.

The investigation of Maori past (Ch. 3 and 4) illustrates a close association between a tribal group and its individual members, with descent and kinship rules at its core. It was found that the ancient Maori society was organised in the forms of tribe (*iwi*), sub-tribe (*hapū*), and extended-family (*whānau*). These three social units were linked politically and ancestrally. Ideally, all tribal members were connected by having a common ancestor who was one of the crew of the canoe that landed in New Zealand some seven centuries ago. Members of each *hapū* were principally direct descendants of the *hapū*'s founder. They lived together in a well-defined village with a *marae* as their centre. They owned land in common, and co-operated in all social, economic, and political functions. They called themselves *tangata whenua* or people of the land.

The Maori people claimed rights in a group membership ambilaterally. Regarding this, an individual could claim right to belong to both parental group but choose to attach actively to only one of them.

Once a choice was made he became obliged to duty, obligations, and privileges in the group he chose. A choice of membership right was significantly connected with a choice of right to land. To the Maori people, land is one of the most crucial determinants of their social, economic, and political life. The rise or fall of the local group is often decided by allocation of right to land. Land belonged to the group and any individual dealings with it required the group's approval. There was no absolute individual right in ownership but a right to claim a certain portion for use as house-sites, cultivation, and gardening. This right passed on intestacy from a holder to his descendants. The passing of this right was also determined according to the ambilateral rules. Therefore, a Maori was able to claim right to use land of his father and his mother. Yet, a choice was to be made in a similar manner as that of the membership right. A Maori thought of 'group solidarity' counted much in the exercising of that choice. Normally, he chose to occupy and use land in the group he claimed membership right, often in a paternal group. He left his land right in the other group lying dormant. If he and his descendants kept in touch with the group owning the land their claim in it continued but lapsed if they failed to contact for three generations.

Descent principles play a crucial part in social organisation and in leadership. All social and often economic activities within the *hapū* and *whānau* were undertaken by kinsmen, on a co-operative and reciprocal basis. The kinsmen usually supported each other in times of need; in communal economic functions, defence of *hapū* territories, warfare, in social and ceremonial gatherings (*tangi*, *tomo*, etc.), and in any issue affecting the well-being of the group. All functions as such were carried out on the *marae* and in the meeting-house.

Each tribal group was led by a chief. The *ariki*, a paramount chief, stood at the head of the tribe, the *rangatira* at the *hapū* and the *kaumatua* at the *whānau*. These leaders were persons of rank deriving their chiefly status from birthright and succession. Only a person of good birth was entitled to succeed in the office of the chief. Principally, the first-born male in the most senior family obtained *ariki*

status. The *rangatira* and *kaumatua* were junior to him in the senior lines of descent. But all of them were born with *mana* and *tapu* to rule over people and to administer land. Tribal land was ideally vested in them and, as a consequence, they had right to veto in any dealing with it such as allocation of use right and alienation. All tribal members looked to them for guidance in all matters concerning the land. The chiefs also led in other fields, e.g. in social control, economic activities, ceremonials, warfare, settlement of disputes, and in all undertakings of which *tangata whenua* sponsored.

In short, the ancient tribal society had a characteristic of corporateness in that it stressed the importance of the group and within it all mechanisms were interwoven. All tribal institutions and elements functioned as a system to produce cohesiveness in the group.

The tribal system begins to breakdown after the European contact. As described in chapters one and two, it commenced with the exploitation of Maori land by the New Zealand Company a few years before 1840, and later by the settlers and colonial governments. After the signing of the Treaty of Waitangi, the Maori people continually lost their land through alienation to European settlers. The land purchase methods introduced by the Pakeha led to a series of conflicts between the Maori and Pakeha because they ignored the authority of the chiefs of the land. This resulted in an emergence of several land protest movements. Among them, the King Movement of the Waikato tribes was the most prominent organisation attempting to withhold the sale of land to Europeans and to assert Maori social and political identity. The colonial government felt threatened by the Movement. Conflict between the Maori and the government in land had burnt deep and thus war broke out in 1859 and lasted until 1863 with the Maori losing ultimately.

The wars marked the end of the tribal life and the beginning of a new phase in which the Maori people were to be assimilated into Pakeha cultural domain. It was a desire of the government to seek a complete control over the country and to replace Maori customs by western principles. It is important to note that before the wars, despite

Maori's adoption of Pakeha money economy, material culture, and extensive use of western products, the tribal social and political structures remained practically unimpaired. The new phase, however, brought about a drastic change to these systems. The change had its root in the alteration in the Maori tenurial pattern in land. For at least 40 years, starting from 1865, the introduction of individualisation of title to land by the Maori Land Court was a real threat to the tribal group owning the land. A number of statutes individualised and released land from group control and made it saleable on an open market. Towards the end of the nineteenth century, most of Maori land was transferred to the Europeans. Only when the Maori people were left with a few acres that some thought was given by the government to encourage development of Maori land. Throughout the first half of the twentieth century, the Department of Maori Affairs was responsible for Maori land development and settlement of Maori farmers in the local community. The consolidation and amalgamation schemes were employed to bring together interests which had been fragmented as a result of the individualising of title, partitioning, and bilineal succession carried out by the Court. Unfortunately, the Department's schemes have not been designed to restore the Maori communal system so much as to improve land development and increase production. The Department has resorted to relocation, selection, and exclusion of farmers in order to promote the economics of large-scale operations. Thus, only a few successful farmers have been settled on developed land. It is evident that the scheme is not only far from successful, due to Maori's lack of incentive and farming experience, but it also excludes many *tangata whenua* from their own land. In addition, land fragmentation still persists through partitioning, bilineal succession, and alienation through sale.

Assimilation of Maori people in the Pakeha society has become more apparent in government policies after the Second World War. Thus, under the Maori Affairs Act of 1953, an attempt was made by the government to replace all the remnant of Maori custom in land (e.g. succession on intestacy) and to include Maori land as a factor of production in the national economy. In regard to the latter matter, a conversion scheme was introduced by the government to solve fragmentation

in Maori land and to aid development. However, alterations in either case was contradictory to Maori attitudes in land. To the Maori people, land is not a pure economic source but also the source of social and political rights. Allocation of land rights determines solidarity and security of a group. To allow outsiders to gain rights in the local land is to interfere with the affairs of *tangata whenua*. Also, to disallow the people rights in their land is to destroy their right to belong to the group. These thoughts have been continuously ignored by government (Hunn report, 1960 and Prichard-Waetford report, 1965). Thus, in 1967, the government accomplished its task in changing all Maori customs in land to comply with a common law.

The change in Maori land law, which results in the separation of individuals from the group, is complimented by the process of acculturation. For years, Maori adoption of Pakeha culture, e.g. money economy, technology, education, material goods, and individual way of life, have supplanted the Maori lore. The adoption undermines the traditional social, economic, and political structure of the group because individuals have a wider choice based chiefly upon self-interest. The choice bears little or no relation to the interest of the group.

The consequence of change is discernible in at least three modern Maori communities, Kotare, Orakei, and Waima (Chapter 5). In comparison with the tribal society (Chapter 3 and 4), many aspects of Maori customs have disappeared in the process of cultural change. In effect, the communities were a tribal group in a real sense, dating back beyond 1840. But fundamental changes occurred in their early contact with Pakeha settlers and with the Court's operation against their lands.

Toward the end of the 19th century, most tribal land in the communities had been transformed into freehold, partitioned into individual blocks, and put through an open market. The Maori of Kotare and Waima now find that they have become dispersed in separate holdings while those without sufficient lands have emigrated elsewhere. The emigrants tend to settle down permanently where they work, even though they sustain

the bonds with their local kinsmen by occasional visits. This change strikes at the very roots of the traditional patterns in that the loss of land disallows *tangata whenua* to pursue their co-operative social and economic enterprises. Dispersal and the absence of *tangata whenua* lessens the opportunities of the kinsmen to fulfil their duty and obligations required for group solidarity. The loss of land together with government policies in other matters, e.g. land development, housing, social benefits, employment, encourage individuals to separate from the group. This contributes directly to 'disintegration' of the communities.

In Orakei, State intervention has done much to displace *tangata whenua* from their land. The forfeiture of Orakei *marae* to the Crown in the early 1950s is the great loss of the Orakei people in their social and political life. The loss deprives them of their standing place and destroys their opportunities to exercise rights of *tangata whenua*.

Added to the land issue is the Maori's adoption of Pakeha values and the general loss of his right of self-government. Throughout the history of contact, the communities have been oriented to Pakeha law, education, economic, and political systems. For years, they have been under the pressure of Pakeha influence and have had obligations to the government (as in the case of Orakei) for rates, have made hire-purchase and rent payments, and competed for jobs. Under this condition all major criteria characterising the tribal society have declined in their significance. Some have been abandoned entirely while those in persistence remain in a modified form.

Under modern conditions, the communities of Kotare, Orakei and Waima have changed in structure so much that there is little sign of a traditional *hapū* in any of them. In effect, they have become modern communities under New Zealand administration. None of them has a political link in a real sense with any other *hapū* of the same tribe except a recognition of a common ancestor. The structural change is related to change in the recruitment of a group membership as a result

of bilineal succession and individualisation of title to land. This has a great impact upon an individual's choice of residence and loyalty to the group. Traditionally, the choice was determined by descent ties and land rights, but today it is all about self-interest. The net outcome is that the communities are no longer composed of purely *tangata whenua* but immigrant kin and non-Maori. Furthermore, an individual and an elementary family has become dominant as a centre for mobilising of all domestic affairs. The *whānau* and the *hapū* have ceased in their being as a corporate group.

Formerly, descent and kinship were basic principles in all aspects of tribal life in the communities. They have, however, lost their ground in a modern condition, especially in two major areas, social organisation and leadership. In social organisation, Maori custom persists in a modified form in a kinship-based type such as, *hui*, *komiti marae*, and family committees. In this regard, kinship takes precedence and expression of *Maoritanga* remains strong, but adoption of Pakeha principles is discernible in various places such as in arrangement of functions, allocation of labour, and in the involvement of participants. Even though it is an affair of a kin group outsiders are never excluded. What is more important, however, is that such functions and organisations convey little sense of group solidarity. It is Maori 'sentiment' rather than actual assertion of the continuity of the community as a tribal group that is symbolised. The *tangata whenua* no longer take it as the means through which they could obtain prestige. As a consequence, their attitudes towards participation in it changes from 'obligatory' to 'voluntary'. A marked deterioration of traditional values is found in a non-kinship association such as the Tribal Committee, the School Committee, Sports clubs, the Maori Women's Welfare League branch. These organisations are principally governed by Pakeha principles, e.g. elections and committees that bear no relation to the rules of descent. Moreover, they usually link with other bodies of the same kind outside the communities.

Change in the field of leadership is also explicit. Evidence reveals that none of the communities has the *rangatira* chief standing

as a sole leader. The only survival of traditional leadership is the *kaumatua*. But his role is limited to an extended family and his authority is on decline. The deterioration of the *kaumatua* authority is a direct result of the loss of the chiefs' *mana* in land. This loss inhibits the *kaumatua* from exercising his customary rights in land and in administration. It results in a gradual curtailment of his roles in the community as well as a decline of respect for his authority in social control among his people. Today, the *kaumatua*'s knowledge of tribal lore is not recognised because it is irrelevant to modern needs. This decline also lessens the significance of the *kaumatua* as instructor or as *tohunga* who has a great influence in Maori life. Thus, his people may listen to him but they need not follow his advice, because it has nothing to do with their livelihood.

While the traditional leadership is dying out there emerges a new type of leadership deriving status partly from birthright and partly from personal achievement. Some have no chiefly status at all and some are even female. This type of leadership assumes leading tasks in various organisations, especially in a non-traditional one, in the communities.

The decay of the major tribal principles, namely land, descent and kinship, and tribal authority has a great effect upon 'cohesion' in the community. Anciently, the culture elements functioned harmoniously and they combined as a core upon which Maori people could depend to achieve a common goal. The disappearance of these elements means the Maori have lost the means through which they could seek their end in a Maori way. This causes an imbalance and a swing towards 'disintegration' of the community which was formerly grounded on customary rules. The existence of some traditional values in a modified form may help to retard the process of disintegration. Nevertheless, Maori consciousness in this respect is found mostly in the use of Maori language, art, songs, oratory, and the like, which bear no relation to the continuity of the tribal group. The loss of land and deterioration of tribal authority are thus not less traumatic because they lead to a collapse of the Maori social and political system as a whole.

Taking for granted the data obtained from Kotare, Orakei, and Waima, plus the fact that all Maori communities have for more than a hundred years been included in Pakeha government, a tentative conclusion could be reached that a Maori society has changed. Change at this stage is still incomplete because Maori people could manage to retain some traditional value in a modified form, even though many major culture elements have been entirely abandoned. In fact, Maori sentiment remains strong in the appreciation of custom and this will persist as long as it does not affect the people's adaptation to the Pakeha world.

Throughout a century of sporadic cultural conflict and cultural change, the Maori people seem unable to resist Pakeha culture. In fact, they do not resist change and seem to accept the entire loss of their tribal identity. Yet the *komiti marae* and family committees in Kotare and Waima, and the Urupa Trust Board in the case of Orakei all indicate an attempt of the Maori people concerned to gain the end of tribal identity. In general, there exists the King Movement, Maori trust boards, and Maori land incorporations, that pursue the same goal. True, the intrinsic merit of the past in the organisations has been penetrated by Pakeha principles. Yet, as described in Chapter seven, they have also managed to restore many aspects of traditional values, specially in the field of leadership and descent.

So to speak, to restore tribal identity is to create the means upon which traditional values, e.g. communal system of land-holding, exercising of leadership, and co-operation among members of a kin-group, could be expressed. The King Movement provides some traditional values but it emphasises chiefly in a symbolic sense and it is limited to a few Waikato tribes. Therefore, it seems that an incorporation and trust board would be an effective means to assist Maori people to grasp the full meanings of identity in a pragmatic sense in the future. Both of them fit well into a modern situation because they are 'bicultural' and they compromise between two values. On the one hand, they preserve tribal identity because they are formed and organised along the traditional lines. They hold lands in tribal

ownership (incorporation) or own property in common (trust board) and administer them for the benefit of the tribal group. They bring back the concepts of trustee and traditional leadership in their administration, and their structure, organisation, and aims are all rooted in descent and kinship. On the other hand, they are reconciled to commercial practice for the sake of their adaptation in the midst of an inevitable change. Because of the 'bicultural' status, they have been acknowledged by both Maori people and the Pakeha. Taking for granted that their principles could be the best means by which Maori people go about their search for identity in a changing world.

APPENDICESAPPENDIX I: TREATY OF WAITANGI

The original English text of the Treaty of Waitangi, drafted by Mr James Busby (translated into Maori by Rev. Henry Williams), has been lost. Due to the lack of an original text a number of arguments arose over the words that appeared in the later texts, both in the English and the Maori versions. There is no real consensus as to which version is the most correct. The text shown below is just one of the English versions available today.

Article the first: The chiefs of the confederation of the united tribes of New Zealand, and the separate and independent chiefs who have not become members of the confederation, cede to Her Majesty the Queen of England, absolutely, and without reservations, all the rights and powers of sovereignty which the said confederation or individual chiefs respectively exercise or possess, or may be supposed to exercise or to possess, over their respective territories, as the sole sovereigns thereof.

Article the second: Her Majesty the Queen of England confirms and guarantees to the chiefs and tribes of New Zealand, and to the respective families and individuals thereof, the full, exclusive, and undisturbed possession of their lands and estates, forests, fisheries, and other properties which they may collectively or individually possess, so long as it is their wish and desire to retain the same in their possession. But the chiefs of the united tribes, and the individual chiefs, yield to Her Majesty the exclusive right of pre-emption over such lands as the proprietors thereof maybe disposed to alienate, at such prices as may be agreed upon between the respective proprietors and persons appointed by Her Majesty to treat with them on that behalf.

Article the third: In consideration thereof, Her Majesty the Queen of England extends to the natives of New Zealand Her royal protection, and imparts to them all the rights and privileges of British subjects.

W. Hobson.

Now, therefore, we, the chiefs of the confederation of the united tribes of New Zealand, being assembled in congress, at Victoria, in Waitangi, and we, the separate and independent chiefs of New Zealand, claiming authority over the tribes and territories which are specified after our respective names, having been made fully to understand the provisions of the foregoing treaty, accept and enter into the same in the full spirit and meaning thereof.

In witness whereof, we have attached our signatures or marks at the places and dates respectively specified.

Done at Waitangi, this 6th day of February, in the year of our Lord 1840.

(512 signatures.)

There have been a number of controversies arising from the interpretation of the use of the Treaty of Waitangi. One of the controversies is the interpretation of the term 'sovereignty' and 'pre-emptive' right in lands. In the second article, the Maori chiefs ceded all the rights and powers of sovereignty to the Queen. Many chiefs later argued that they had not transferred their mana. Thus, in 1840, Chief Nopera Panakareao of Kaitaia claimed that he only gave "the shadow of the land" but not his mana over it to the Queen.

The application of the term 'pre-emptive' right also initiated a series of conflicts between the Maori people and New Zealand Government. Also in the same article, the English version says that the Maori chiefs 'yield' to the Queen the right over lands. R.M. Ross (New Zealand Journal of History, 1971-2, Vol. 6: 133) explains that, in effect, the chiefs 'granted' but did not 'yield' the right to the Queen. The meaning of the two terms is totally different in that 'yield' gives the Crown exclusive rights to buy or to halt private buying while

'grant' reserves for the chiefs their right of bargaining. Thus the term 'yield' is unacceptable and unintelligible to the chiefs. In 1843, the chiefs of Waikato made this clear, in their address to the Governor. . They said that they had only granted first right to the Crown to buy their land. If the Crown failed, then, it was their right to sell it to any one they thought fit.

Not only has the 'wording' of the Treaty been questioned but, in the past, many historians and lawyers held that the Treaty was not valid in international law because the chiefs who signed it were not the rulers of an independent state. In fact, it was not even all the chiefs of the New Zealand tribes signed the Treaty. However, "contemporary legal opinion rejects this reasoning and accepts the validity of the Treaty as an international instrument" (McKean in Victoria University of Wellington, 1972: 35-48, Cf. Metge 1976: 330).

Yet, there is still no consensus of the legal status of the Treaty in the internal law of New Zealand. Various claims by Maori requiring the Treaty to be enacted as part of land law have not been upheld. Recently, however, the government has changed its policy. In 1975, the Treaty of Waitangi Act was passed and a Waitangi Tribunal was set up. The Tribunal was to enquire into and make recommendations upon claims relating to the practical application of the principles of the Treaty. It was empowered to determine the meaning and effect of the Treaty (both Maori and English versions) and to judge a claim from Maori(s) that any current legislations, policy or act of the Crown prejudicially affect their rights enlisted in the Treaty.

(Joan Metge 1976: 330-331; New Zealand Journal of History, 1971-2, Vol. 6: 129-157; T.L. Buick 1936: 360-361).

APPENDIX II:SOME MAJOR TRIBAL LAND CLAIMS AND COMPENSATION SETTLED BY THE CROWN

According to Douglas Sinclair (King 1975: 158-9), Maori claims of lands which were taken by the Pakeha government by unfair means were not concluded satisfactorily. The settlements given by the Crown were apparently inadequate to provide reasonable compensation for the enormously valuable land claims. In his opinion, "the time is overdue to review the whole of these settlements in the light of modern knowledge of the culpability of the early perpetrators of so much malpractice who abused the good name of the Crown and their personal responsibilities. Every tribe in the country should possess adequate endowments of good land, sufficient capital and tax incentives to ensure successful farming by tribal incorporations, which in themselves would restore the mana of the tribes in their own districts and lay an economic base for continued socio-economic and cultural progress."

The figures below show the settlement of land claims made by the Crown to the Maoris of various tribes.

Summary of trust boards administering monetary settlements of
Major tribal land and lake claims settled in the 1940s

BOARD	CROWN SETTLEMENT	BASIS OF CLAIMS
Arawa Maori Trust Board, Rotorua	\$12,000 annually in perpetuity	In settlement of any claims which the Arawa people might have in respect of certain lakes in the Rotorua district.
Tuwharetoa Maori Trust Board, Tokaanu	\$6,000 annually in perpetuity, also half of fishing license fees above \$6,000	In settlement of any claims which the Tuwharetoa people might have in respect of Lake Taupo and the surrounding waters.
Taranaki Maori Trust Board, Hawera	\$10,000 annually in perpetuity	In settlement of any claims which might be made in respect of confiscation of lands in the Taranaki district.

BOARD	CROWN SETTLEMENT	BASIS OF CLAIMS
Tainui Maori Trust Board, Ngaruawahia	\$10,000 annually in perpetuity, plus an additional \$2,000 per annum for 45 years (first payment 1947)	In settlement of any claims which might be made in respect of confiscation of lands in the Waikato district.
Ngai Tahu Maori Trust Board, Kaiapoi	\$20,000 annually in perpetuity	In settlement of any claims which might be made in respect of purchase of lands belonging to the Ngai Tahu tribe in the South Island.
Whakatohea Maori Trust Board, Opotiki	\$40,000 lump sum	In settlement of any claims arising out of confiscation of lands of the Whakatohea tribe.
Wairoa-Waikaremoana Trust Board, Wairoa	\$40,000 lump sum	In settlement of any claims arising out of the cession of the Kauhoroa Block to the Crown, and rent for the lease of Lake Waikaremoana.
Aorangi Maori Trust Board, Takapau	\$100,000 lump sum	In settlement of claims arising out of the acquisition by the Crown of Aorangi Block.
Aupouri Maori Trust Board, Te Kao	-	Set up to administer communally owned land at Te Kao, and the proceeds of the sale of other assets.
Taitokerau Maori Trust Board, Whangarei	\$94,300	In respect of claims surplus lands passed to the Crown on review of early private purchases.
Tuhoe-Waikaremoana Maori Trust Board, Rotorua	\$200,000	In settlement of claims for lands allotted to the Crown and roads not constructed in the Urewera, and rent for the lease of Lake Waikaremoana.

(Source: Sinclair, D. "Land since the Treaty: the Nibble, the Bite, the Swallow". In M. King ed. Te Ao Hurihuri. 1975, pp. 158-9).

GLOSSARY

- ariki* : high chief, paramount chief
- aroha* : love, gratitude, sympathy especially in grief
- hāngi* : earth oven, a pit full of fire-heated stones on which food is placed, splashed with water, covered with leaves and earth, and cooked for several hours
- hākari* : feast; an essential feature of a Maori gathering, which usually follows the main ceremony
- hapū* : section of a tribe, sub-tribe
- hui* : assembly or gathering, from the verb *huihui*, to assemble; specifically used to refer to a Maori gathering on a *marae*
- iwi* : tribe
- kāinga* : an unfortified, nucleated settlement; also a single house ('home')
- kaumātua* : elder, especially a 'family' or community leader
- komiti* : club; Maori version of a committee
- kōrero* : (verb) to tell or speak; popularly used as a noun to refer to a public discussion
- kuia* : old lady; a term of respect
- kūmara* : sweet potato
- mana* : inherent power and prestige; power of supernatural origin; authority, influence, prestige
- manuhiri* : visitor, guest
- Maoritanga* : Maoriness, pride in being Maori, 'Maori ways'
- marae* : community assembly ground; open space associated with a meeting-house and used for community assembly
- mataotao* : cold
- ohaki* : deathbed will
- pā* : fortified village; often erroneously applied to any Maori village
- Pakeha* : Maori word in common use by both races for New Zealanders of European stock
- pātaka* : storehouse raised on piles; usually carved
- pipi* : bivalve shellfish in general

- poroporoaki* : farewell words; speech(es) given by visitors before departing, modern usage; reserved by elders for speech farewelling a person who has died and is lying in state prior to burial
- rangatahi* : young people with a capacity for leadership; the younger generations; a fishing net
- rangatira* : aristocrat; chief of *hapū*, director of an enterprise
- runanga* : council of sub-tribal or tribal elders, assembly
- take* : cause, reason, major subject of a speech, right
- tangata* : man, person
- tangata haere mai* : 'immigrant', person without rights in local Maori land
- tangata whemua* : a person connected with a place through a line of occupying ancestors and preferably also owning 'Maori land' there
- tangi* : weeping; stylized wailing performed over the dead by women; weeping together over recent dead when meeting after separation ; a chanted lament for the dead
- tangihanga* : a funeral wake lasting several days; commonly referred to as *tangi*
- tapu* : under religious restriction; sacred, prohibited, defiled or unclean according to context
- teina* : younger sibling of the same sex; cousin of the same sex and generation in a junior line
- tohunga* : expert, specialist; normally used to describe a Maori healer
- tomo* : formal meeting of kin to discuss a match and arrange a wedding; betrothal
- tuakana* : older sibling of the same sex; cousin of same sex and generation in a senior line
- tupuna* (also *tīpuna*) : ancestor, grandparent
- tūrangaawae* : literally, a standing place for the feet; used to describe the *marae* and 'Maori land' shares
- utu* : return for anything, good or bad; the principle of reciprocity
- wahine* : female, woman, wife
- whāamere* : family

<i>whakairo</i>	:	wood carving
<i>whakapapa</i>	:	descent-lines, genealogy
<i>whānau</i>	:	(a) extended family household in pre-European times; (b) living elder and his descendants
<i>whare</i>	:	a rectangular one-roomed house or hut
<i>whare hui</i>	:	meeting-house
<i>whare whakairo</i>	:	carved meeting-house
<i>whenua</i>	:	land

(Joan Metge, The Maoris of New Zealand, 1976: 334-350).

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