

## *Māori Legal Identity and the Rule of Law in Aotearoa New Zealand – Speaking Notes*

Ngā mihi nui ki a koe e tiamana

Ko Ngāti Tūwharetoa me Ngāti Kahungunu ki Wairoa ōku iwi  
Ko Ngāti Tūtemohuta te hapū  
Ko David Green tōku ingoa  
Kia ora tātou

I hope that in some way I can build on this ongoing discussion.

Thank: Bruce Harris and Valmaine Toki for their guidance with this paper and my whānau.

### **Outline**

- Definition of rule of law is limited to the purposes of this presentation.
- Disclaimer: looking at how policy and practice translates into the relationship between law and culture.
  - How the government interacts with Māori groups

### **Rule of Law**

- This is a normative goal of our legal system: informs how people act within legal institutions.
- Part of our legislation.

### **Rule of Law in Aotearoa New Zealand**

- Genesis of the rule of law was a social order conditioned by the relationship between the State and *individuals*. Didn't have to think about group rights
- Clear the rule of law has to respond to bicultural identity in the current legal system.
- Special position of Maori as evidenced by this country's constitutive foundations and the Treaty of Waitangi.
- However, there's lots of different ways to express a Māori indigenous identity
- Discuss different ways
- "If Māori can all be said to act and think in the same way, the law can more easily accommodate their aspirations"

### **Why iwi?**

- Perceived as easier to deal with larger groups
- Reflects partnership under the Treaty

### **Waitaha and Ngāi Tahu**

- Waitaha's Waitangi Tribunal (a specialist court designed to decide whether there had been breaches of the Treaty between the Crown and Māori peoples) claim was subsumed into the larger Ngāi Tahu settlement
- Treat as many people as possible as sharing the same interests.
- Freeze the interests of Waitaha in time: Murihiku (tail end of the land)

### **Māori identity and certainty**

- Something complex and changing is difficult to fit within a legal system that engenders a certain, predictable and final approach.

### **Tūhoronuku**

- Discuss what the numbers actually represent
- If you are a dissenting hapū and this process repeats itself what can you do?
- You can see that the issues that arise from how legal institutions react with Māori identity are pervasive
  - Eg, what happens if you say that urban authorities have rangatiratanga or a sovereignty status?
- What if you're a lonely dissenting voice? Is it ok for the law to ignore your claims in the interests of general principle?
- Link back to certainty

### **Conclusion**

- Be aware of competing push and pull of legal institutions and indigenous identity.
- Return to what Natalie Coates quoted Andrew Sharp: 'who is to plumb the depths of the human heart when people choose what they want to be'.
- Just like Natalie's presentation that sums up the issue here. Can indigenous identity be expressed in a diverse way and is legal certainty a barrier to such expression?