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The Waikato River: Changing Properties of a Living Māori Ancestor

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ABSTRACT

In Māori cosmology, rivers and other waterways are conceptualised as living ancestors, who have their own life force and spiritual strength. The special status of rivers in Māori society also explains why they are sometimes separated from other Māori claims to natural resources of which they were dispossessed in the 19th century. Until recently, Māori were often eager to contend that ownership of rivers is not their prime interest, but instead, they argued that they feel obliged and responsible to keep rivers fresh, clean, and flowing. This perspective, however, changed under the impact of a new government policy of selling shares in energy corporations that use freshwater and geothermal resources for energy production. In this paper, I provide an ethnohistorical account of the Waikato River and show how conceptions of this 'ancestral river' changed in the course of colonial and postcolonial history, more specifically in response to a recent shift in government policy. In 2008, a joint management agreement was signed between the government and Waikato Māori for a 'clean and healthy river', leaving the issue of 'ownership' undecided. Only two years later, however, Māori felt forced to claim ownership when the government moved to sell shares of power-generating energy companies located along the river, which effectively transformed their 'ancestor' into a property object.

Keywords: New Zealand Māori, colonial grievances, river, water, property rights.

Rivers and other sources of water used to be part of the commons, but currently, both are widely contested around the globe. This paper is concerned with the case of the Waikato River in New Zealand. The Māori people living in this river's valley consider it as an eponymous ancestor, but over the years colonial policies have turned their river into a property object that can be alienated and even traded. As a consequence, the Waikato people have had no choice but to dispute and challenge the ownership of the river that is claimed by the government. The neoliberal policies of the New Zealand government that triggered Waikato Māori to submit a counterclaim of ownership of the river and the water flowing through it indicate that legal ownership is claimed mainly to secure Māori *rangatiratanga* or authority over their ancestral resources. Although the link between (post)colonial policies and legal claims of ownership is rarely as direct as it is in this case, the general context of colonial failure to uphold indigenous rights and customary law is not unique in the global era that is characterized by climate change and a structural shortage of water (Wagner 2013).

The commodification of water in the history of industrial societies with market economies has not only entailed the use of water for commercial purposes, but it has also introduced a view of water that focuses primarily on its ability to provide measurable services to community. This modern notion of water emerged in the context of competing claims

over bodies of water, which caused governments to enclose water, to commodify it, and sometimes even to privatize it. Indeed, since it became necessary to establish guidelines for the fair distribution of water, water has not only become a commodity, but it has simultaneously become a contested object of ownership (Strang 2012).

Notwithstanding the commodification and propertization of water, it is necessary to avoid a sharp contrast between custom and commodity, between a spiritual conception of water and the commercial exploitation of water, or between pre-industrial or 'indigenous' conceptualizations of the commons and the seemingly irreversible global trend towards privatization of the public domain. In environmental discourses, there is a tendency to classify relationships with water as either spiritual or commercial, but this polarization is incorrect to the extent that it fails to recognize the economic aspects of pre-industrial interactions with water (Strang 2008:253–4). After all, indigenous peoples also maintained economic relations with their rivers and other sources of water in the past. By the same token, it is difficult to deny the emotional or even spiritual dimension of non-indigenous engagements with water (*e.g.* Ward 2011). What differentiates indigenous and non-indigenous relations with water more critically is a transition from relatively small-scale interactions with water to more intensive forms of engagement that build on a vision of human dominance over nature and which necessitates the promotion of economic growth.

The intensification of social relations with rivers and other water sources implies that there are winners and losers (Franco, Mehta, and Veldwisch 2013). In many countries, indigenous peoples have suffered most from the enhanced pressure on the natural environment ensuing from a history of colonization. Very frequently, they have been dispossessed of their lands and water resources by colonial settlers, which forced them to challenge the appropriation of their land and waters in courts of law. In the legal domain of western societies, they were confronted with a transformation of their natural resources into property objects. Given the personification of distinctive features of the natural environment in many indigenous cosmologies, however, it is rather peculiar to think of land and water as alienable property in indigenous worldviews. Rivers and other waterways especially are often conceptualized as living ancestors, who have their own life force and spiritual strength that cannot be owned in a legal sense. Indigenous views of water are also difficult to reconcile with a market conception of ownership since the material fluidity of water is incompatible with fixed and tradeable notions of property (Strang 2011).

The apparent contradiction between ancestral conceptualizations of water and the conversion of water into a property category in modern settler colonial societies explains why the appropriation of water has not gone unchallenged. Indigenous peoples continue to resist post-colonial domination and the ongoing dispossession of their natural and spiritual resources, most recently water and waterways, such as the Waikato River in New Zealand. Interestingly, Waikato Māori have consistently argued throughout the negotiations about their claim that ownership was not their prime interest, but that they feel obliged and responsible to keep their ancestral river fresh, clean and flowing. Responsibility as caretakers for the future of the Waikato River also characterized the settlement that was signed in 2010, which resulted in a joint management agreement with the government for a 'clean and healthy river'. In 2012, however, the government announced the partial sale of state-owned enterprises (SOEs) that use water for generating hydro and geothermal electricity, which triggered the Māori Council on behalf of the Māori population to lodge a legal claim of ownership. It demonstrates, I argue, that Māori claims of ownership are primarily generated by shifts in state policy. At the same time, it explains why Māori have no problem combining a discourse of water as spiritual with a legal discourse in which the ownership of water is claimed. I begin with a description of the historical significance of the Waikato River for the Māori groups living on its banks.

THE MEANING OF THE WAIKATO RIVER

The Waikato is the longest river in New Zealand, flowing over a distance of 425 kms from the slopes of Mount Ruapehu to the Tasman Sea at Waikato Heads. Along its course, it drains in Lake Taupo, in which it is captured (*kato*) until the waters exit again before the Huka Falls, after which they continue streaming through the lowlands of Cambridge and Mercer, the Waikato Valley (Jones 2010 [1959]:226). The tributaries running from the sacred mountain Tongariro and the Tongariro River are sometimes viewed as part of the Waikato River. The Waipa River, which rises in the King Country, meets the Waikato River at Ngaruawahia, the centre of the Māori monarchy (see below).

The Māori tribes that have been living in the Waikato Valley are a river people, more than any others in New Zealand. Six centuries of occupation of the river's banks have embedded the river deep into the collective consciousness of the people who consider themselves the first to settle along the river. When Māori arrived in New Zealand, they were drawn to this river for a variety of reasons. From the outset, the river served a multitude of purposes, ranging from spiritual sustenance to material needs, a source of food, cleansing and healing, and a network for trade, travel, and communication. The spirits of ancestors were believed to have mingled with its waters, which for that reason were used in ritual. Orators addressed the river as having a life force of its own (King 1977:50).

Oral history shows that food in the river, its swamps and tributaries was indeed plentiful, and included eels, mullet, whitebait, smelt, freshwater crayfish, shellfish, waterfowl, and water plants like watercress. The waterways are also said to have provided irrigation for *kumara* ('sweet potato'), taro, and *hue* ('gourd'). In addition, they offered a network for travel and communication, especially from the mid-1800s when Māori began taking the surplus produce of commercial agricultural enterprises to overseas markets in Australia, the Pacific Islands and as far afield as California (Petrie 2006). It caused the Austrian geologist Ferdinand von Hochstetter, who travelled in the region in 1859, to label the Waikato River as 'the Mississippi of the Māoris':

> The impression made by the sight of the majestic stream is truly grand. It is only with the Danube or the Rhine that I can compare the mighty river which we had just entered. It is the principal river in the North Island . . . it surpasses all others. . . . Its waters roll through the most fertile and most beautiful fields, populated by numerous and most powerful tribes of the Natives, who have taken their name from it. . . . They look upon the Waikato more than upon any other river of New Zealand as being exclusively their own. . . . Never up to the time of my journey had a boat of European construction been known to float upon the proud Native stream (Von Hochstetter 1867:294–5).

The economic importance of the river paralleled its religious significance. The Waikato peoples conceived of the river as a living ancestor, with its own life essence and spiritual integrity. The spirits of the dead were believed to be merging and moving with its currents. The connection between the river and the people, living and dead, was continuously addressed in prayer and oratory. For that reason, too, the river became a source of spiritual as well as physical cleansing. In case Waikato people were ill, in trouble, or about to embark on a new journey, their healers, priests, and elders would invariably advise to go to the water: *Haere ki te wai*. At the water, they would invoke ancestral support by patting its surface, turning in the direction of the rising sun and sprinkling themselves (King 1977:51).

The inter-linkages between the people and the river are also captured in proverbial sayings, such as the following:

Waikato taniwha rau, he piko he taniwha, he piko he taniwha
Waikato of a hundred *taniwha*, at every bend a chief, at every bend a chief

Waikato Māori believed that the bends of their river were populated by *taniwha* or guardians, who manifest themselves when supernatural interventions are called for. By the same token, the many *taniwha* indicate that on the banks of the river there are many powerful chiefs to be found. Thus, the *pepeha* of the Waikato Māori also refers to the strength and importance of the tribes of the district by expressing their chiefly *mana*.

KO WAIKATO TE AWA

The prestige of the people occupying the banks of the Waikato River has a long history. As naming traditions in Māori society are important ways of clarifying identity and evidence of *mana* over resources (Berg and Kearns 1996), it is highly significant that in some oral traditions, the name Waikato was ascribed to the river by the captain of the Tainui canoe, Hoturoa. As the people in the region trace their descent back to the crew of this canoe, Hoturoa figures prominently in tribal genealogies of origin so it is relevant that he is said to have named the river Waikato when he observed the lively waters rippling against the side of the canoe (Te Aho 2011:148).

Given the length of the river and its many tributaries, the crew members of the Tainui canoe later spread over the area from Manukau Harbour on the west coast to the Mokau River in the south, including the Waikato valley and what was later named the King Country. The boundary of the Tainui tribal territory runs through the Kaimai Ranges in the east, extending to Thames Valley and the Coromandel Peninsula. Indeed, Tainui became one of the largest *waka* (‘canoe’) or super-tribes in Aotearoa (see map, Fig. 1). It includes a number of prominent tribes, such as Ngaati Haua, Ngaati Maniapoto, Ngaati Raukawa, Hauraki, and last, but certainly not least, the Waikato tribe. The Waikato people might be considered the central tribe of the Tainui confederation, not only because of its central location, but also because the tribal network meanders out from the original locations of settlement along the banks of the river.

In the mid-19th century, the central position of the Waikato tribe and the *mana* of its paramount chief, Potatau Te Wherowhero, who had genealogical connections with most other tribes in the country, also played a major role in the dynamics of inter-tribal debates about anti-European sentiments when relations between Māori and Europeans began to turn hostile. Although initially, Māori and British explorers, traders, missionaries, settlers, and colonial officials had engaged in exchange relationships that seemed mutually beneficial, the increasing number of British arriving in New Zealand with the intention of settling permanently after the signing of the Treaty of Waitangi in 1840 soon created enormous problems (Owens 1981). The most pressing problem was over access to land.

At first, Māori had not appeared unwilling to negotiate arrangements about land with Europeans, but when it came to light that the latter believed they had obtained the land permanently, problems emerged. In a Māori worldview, a right of disposal did not exist in the strict sense of the term, or it rested with the tribe as a whole, so Māori generally thought to part only with usufruct rights when striking a deal with Europeans about a block of land. When this difference in interpretation of land deals became apparent over the course of the years, Māori became increasingly resistant to the ‘sale’ of land (Parsonson 1981).

In order to stop the sale of land and to protect the Māori population against land takeover by the British, Māori felt it necessary to develop a more coherent, pan-tribal political

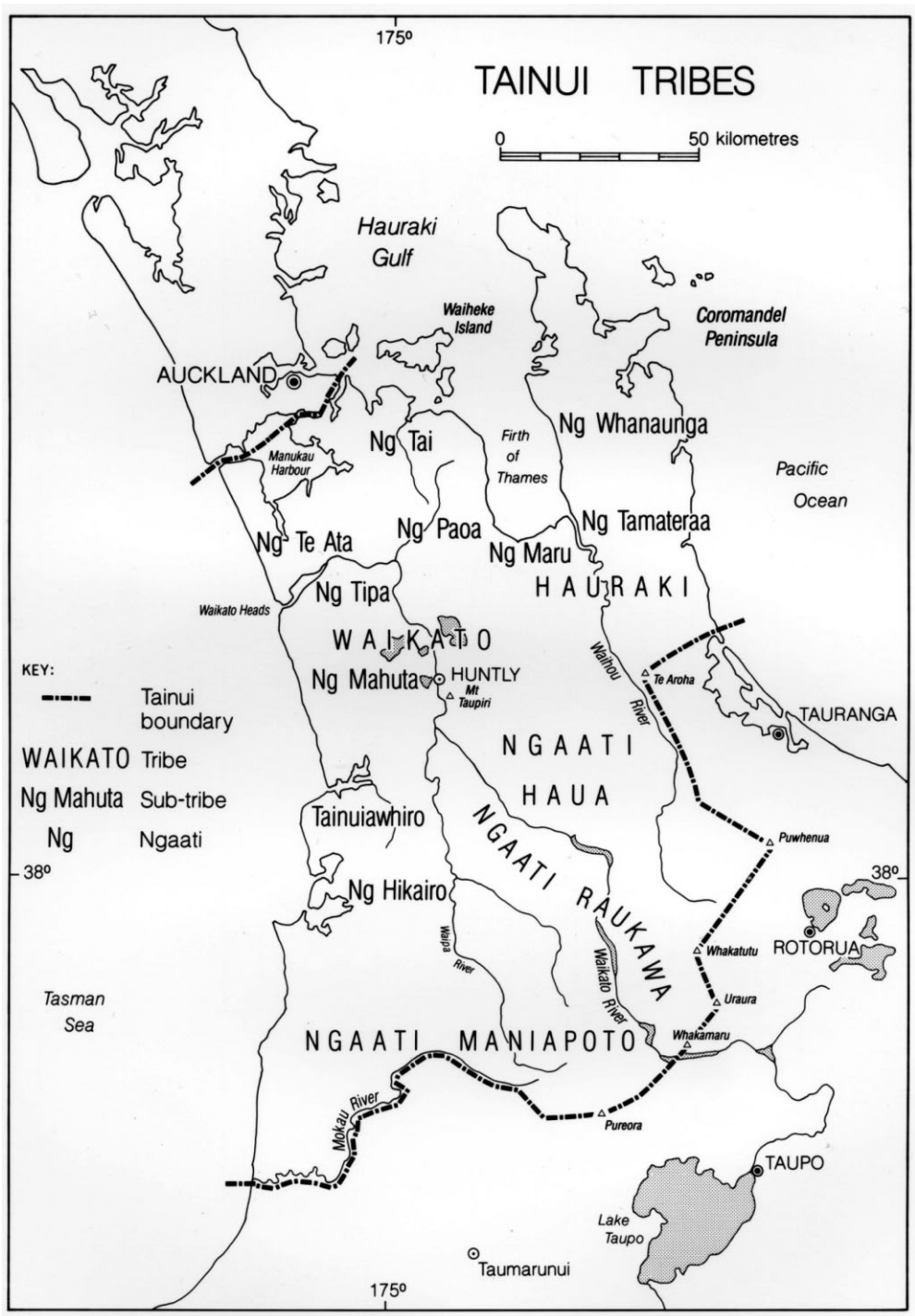

Figure 1: Map of Tainui tribes.

organization. Several tribes united in inter-tribal councils to discuss a common strategy to maintain control of the political and economic situation in New Zealand. Initially, the idea of putting a *tapu* on the sale of land was discussed at the meetings of these councils for *kotahitanga* or 'unity', but soon, the notion of having a Māori king arose. The main aim of the Māori King Movement or *Kingitanga* was to orchestrate the widespread discontent among the Māori about the continuing sale of land by individual renegades and to unite Māori tribes throughout New Zealand under the authority of a king (van Meijl 1993).

In the discussion about who was to become the first Māori king (Jones 2010 [1959]:175–85), the Waikato chief Potatau Te Wherowhero was soon nominated under reference to the saying which epitomized his chiefly characteristics:

Ko Waikato te awa	Waikato is the river
Ko Taupiri te maunga	Taupiri is the mountain
Ko Te Wherowhero te tangata	Te Wherowhero is the man

This *pepeha* or 'tribal saying' indicates that Te Wherowhero had *mana tangata* or prestigious kinship status, as his line of descent was linked with the senior lines of all canoes (Kelly 1949:table 84). In addition, Te Wherowhero had *mana whenua*, standing attached to important lands symbolized in Taupiri Mountain, the sentinel of his tribal territory. Finally, Te Wherowhero had *mana kai*, the control of abundant resources of food and fisheries, both in the lakes and the Waikato River, which was regarded as the artery of the tribes living in its valley (Winiata 1967:63).

Ultimately, Potatau was crowned as first Māori King in 1858. The establishment of the Māori monarchy, however, intensified conflict between Māori and Europeans instantly. The desire of the colonial settlers to have access to the fertile valleys of the Waikato River, where Potatau's tribe produced a significant portion of the food supply in New Zealand (Petrie 2006:261–74), was diametrically opposed to the aim of the Māori King to withhold land from the market. Europeans therefore interpreted the Māori monarchy as a tribal league to stop the progress of colonial settlement and the expansion of European society in New Zealand. In 1859, the conflict between Europeans and Māori escalated into a war, which subsequently spread gradually across large parts of the North Island (Belich 1986; Sinclair 1961). These wars about the control of the political and economic situation in New Zealand lasted until 1864. After the British had declared victory, they confiscated large tracts of Māori land that were considered necessary for offering to European colonists a chance to develop a new society in the South Seas. Among the confiscated lands was the entire territory of the Waikato tribe.

IN SEARCH OF REDRESS

The confiscations after the New Zealand Wars were obviously in violation of the Treaty that had been signed between a significant number of Māori chiefs and the British Crown at Waitangi in 1840. This Treaty of Waitangi guaranteed Māori proprietary rights, although it was drawn up by the British in order to secure sovereignty over New Zealand following the intensification of contact between Māori and European colonists (Orange 1987). The debate about the Treaty of Waitangi is complicated as there are significant differences between the English version and the Māori translation that was signed by most Māori chiefs. Undoubtedly, both signing parties had different understandings of key aspects.

The first two articles of the Treaty address the alleged Māori cession of 'sovereignty' in exchange for the retention of their lands, forests, fisheries, and other resources, including

waterways. In Article One, the English version states that the chiefs ceded 'all the rights and powers of Sovereignty' over their respective territories, but the Māori version does not use the nearest equivalent to sovereignty, *i.e. mana*, but *kawanatanga*, a transliteration of 'governorship' improvised by the missionaries, which to the Māori might not have meant more than the coming of the first governor. In Article Two, the English version guaranteed the Māori 'the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties'. The Māori version of this clause was less specific yet all-embracing as it confirmed to the Māori, according to Mutu's translation (in Matiu and Mutu 2003:223; see also Kawharu 1989:319–20), 'the unqualified exercise of their paramount authority over their lands, villages and all their treasures'.

The signing of the Treaty of Waitangi marks the formal notification of the first steps towards comprehensive European control of the Māori and New Zealand societies. It opened up the avenue for the arrival of growing numbers of European settlers, which made Māori people more reluctant to share their country with others. As early as 1842, some tribes endeavoured to achieve an exceptional status in the process of colonization because they had refrained from signing the Treaty. Contrary to the tribes attempting to reject the Treaty, other tribes tried to have the Treaty recognized by the Crown. These included tribes who had not signed the Treaty, but who realized that the sovereignty which the Crown had proclaimed was irrevocable. Thus, the paramount chief of the Waikato tribe, Potatau Te Wherowhero, the future Māori King who had never signed the Treaty, argued for justice on the basis of the Treaty from as early as 1847 (van Meijl 1994:422).

After the wars and the confiscations, the Māori people massively had recourse to the law in order to settle their grievances over breaches of the Treaty. Their experiences in court, however, demonstrated that the Treaty offered them no protection. In 1877, Chief Judge Prendergast declared the Treaty of Waitangi 'a simple nullity', which set a precedent for all legal cases with which Māori attempted to secure redress through the courts until 1987 (Williams 2011). For 110 years, the Treaty of Waitangi was consistently ignored by the British Crown and its legal representative, the New Zealand government, in spite of an unceasing Māori quest for acknowledgement of the Treaty. Needless to say, the supporters of the Māori monarchy who lost all their land and their major river took a leading role in this pursuit of redress for the confiscations.

In the history of the Māori King Movement, the British Crown was twice sought out to redress the confiscations. In 1884, Tawhiao, who in 1865 had replaced his father upon his death, led a deputation to England with a petition to the British Queen, because he believed she had an obligation under the terms of the Treaty of Waitangi. He asked the Queen to return all the confiscated lands and to approve an independent Māori government. The petitioners, however, did not even get to see the Queen, as, from the granting of responsible government to the colony of New Zealand in 1852, all Māori matters were to be dealt with by the New Zealand administration (Jones 1968:137–8).

In 1914, the fourth Māori King also decided to visit the British Crown in England, in this case King George V, with a petition about the confiscations being in violation of the Treaty of Waitangi. Te Rata was the first Māori King who was granted an audience with a reigning British monarch. He presented cloaks and Māori weapons to King George and Queen Mary in order to convey his submission and to pledge his loyalty to the British Crown, but no breakthrough was reached (King 1977:75). The Kingites were again referred to the New Zealand Government. However, Te Rata soon found out that deputations and petitions to the Crown, successive New Zealand governments and even the Privy Council of England could not secure a settlement of Waikato grievances. The Kingitanga remained frustrated at not receiving a fair settlement of the confiscations.

The issue of the confiscations became the central cause of the King Movement again from 1928, when the charismatic Princess Te Puea began negotiations for a settlement after the release of a report by a Royal Commission in 1917 concluding that the confiscations had been 'excessive'. However, it took 18 years before the New Zealand government and the leaders of the King Movement reached agreement about financial compensation in the form of a grant of £6000 per year for 50 years and £5000 thereafter in perpetuity. Initially, this deal with the government temporarily suspended the resentment of King Movement supporters. It restored a sense of pride among the staunchest supporters of the Māori King, who were inclined to believe that the government had finally recognized their movement, but this revival was based on a trade-off with respect to the confiscations. After all the years of negotiating a settlement, the King Movement had finally 'frozen' its demand for the return of all the confiscated lands and accepted financial compensation instead.

In the 1960s, the political climate in New Zealand changed steadily under the impact of the black civil rights movement in the USA. The Māori intensified their struggle for the recognition of the Treaty of Waitangi. In 1975, the government responded with the *Treaty of Waitangi Act*, which established the Waitangi Tribunal (Sorrenson 1989). Section 6 of the Act allowed any Māori to submit a claim to the Tribunal on grounds of being 'prejudicially affected' by any policy or practice of the Crown that was 'inconsistent with the principles of the Treaty'. The most important limitation of the Act, however, was that 'anything done or omitted before the commencement of (the) Act' was excluded from the Tribunal's jurisdiction. Māori could not therefore submit claims about their large-scale dispossession in the 19th century. In 1985, however, the newly elected Labour government led by David Lange provided for the extension of the Tribunal's jurisdiction back from 1975 to 6 February 1840 when the Treaty was signed. Needless to say, this clause opened up an important avenue for Māori people to seek redress for past grievances, although the Tribunal can only make recommendations to the Crown, which remains the only authority to make compensation for or redress grievances.

Towards the end of the 1980s some 600 claims had been submitted to the Waitangi Tribunal, most of which had been sparked by the government policy of corporatization, which involved a gigantic transfer of lands and resources held in Crown ownership to semi-private SOEs. In response to a request from Māori tribes, however, the Court of Appeal ruled on 29 June 1987, that the transfer of assets to SOEs would be unlawful without establishing any system to consider whether the transfer of particular assets would be inconsistent with the principles of the Treaty of Waitangi. It was the first time in New Zealand history that the legality of the Treaty was recognized.

One of the most massive land claims that was lodged with the Waitangi Tribunal concerned those of the Waikato-Tainui people, the main supporters of the Māori monarchy. Although Potatau had refrained from signing the Treaty, their claim was also submitted to the Waitangi Tribunal. The Tribunal, however, never examined the Waikato-Tainui claim as the government granted the Māori King Movement the privilege of direct negotiations about a settlement as it realised that their grievances were most severe. For that reason, too, the government opted to deal with the Waikato-Tainui claim first, which was also a way to show their goodwill to the Māori population as a whole.

In 1995, the Tainui were the first Māori group to sign a comprehensive settlement of their historic grievances resulting from the confiscation of their lands and natural resources in 1864 (van Meijl 1999). On the eve of the 29th anniversary of her coronation, the then head of the Māori King Movement, Queen Te Atairangikaahu, signed a 'Deed of Settlement' with the government. The deal included a formal apology from the Crown acknowledging it acted unjustly in dealing with the King Movement in 1863, and it provided for the return of

14 165 ha (about 35 000 acres) of Crown land. This amounted to about 3% of the land originally confiscated, to be returned over a period of five years, in most cases excluding all buildings. The value of the lands restored was estimated at approximately NZ$ 170 million, while the annual proceeds from the rents and leases of the lands could amount to between NZ$ 7 and 14 million per annum. In November 1995, this settlement was passed into law with the signature of the British Queen Elizabeth under the *Waikato Raupatu Claims Settlement Act* during her visit to New Zealand. Interestingly, however, the Waikato River was not included in the settlement. Why not?

THE STATUS OF THE WAIKATO RIVER

When the Waikato-Tainui people engaged in negotiations with the government about a comprehensive settlement of their grievances, the Waikato River, and the West Coast Harbours of Manukau, Raglan and Kawhia for that matter, were not included for a variety of reasons. First, the river traverses not only through the territory of the Waikato tribe, but also the lands of other tribes belonging to the Tainui confederation and even of the confederation of Te Arawa tribes (Muru-Lanning 2010:33–42). In this context, it is also relevant to point out that not all Tainui tribes were equally impinged upon by the confiscations. The Waikato tribe, from which the Māori King had been elected, lost all lands, but the confiscations scarcely affected other Tainui tribes, such as Ngaati Maniapoto and Ngaati Raukawa. The other major Tainui tribe of Hauraki remained even unaffected by the confiscations. Obviously, this had an impact on the unity among the tribes supporting the King Movement, as it shall not be surprising that after the confiscations the Māori King concentrated on redressing the confiscation of the land of his own tribe. His ultimate goal of centralizing his authority in order to strengthen his position in the negotiations for a settlement of the confiscations with the government was disputed by many tribes who could not accept his self-constituted claim to rule over the entire North Island (Williams 1969:47). The inter-tribal dissension about Tawhiao's actions still played a role in the 1980s, when the political tide in New Zealand gradually turned and it suddenly became possible for Māori to seek redress of their dispossession in the 19th century. The settlement that was negotiated and signed with the Waikato Māori therefore did not include any of the other Tainui tribes supporting the Māori King Movement, but through which territory the Waikato River also streams.

A second reason why the Waikato River was not included in the Waikato Settlement of 1995 concerns the special status of water, which is structurally distinguished from land. The strict separation of land and water is often explained with reference to a cosmogonic conflict between the brothers Tane and Tangaroa about the separation of their parents Rangi and Papa, the sky father and the earth mother. When Tane split his parents apart, some of his brothers were furious and in their anger raged war against him. Tangaroa was one of them. He fled to the seas, taking all the fish with him. He became upset, however, when finding out that some of his offspring, including reptiles, took shelter with Tane. He is said to have waged war against Tane ever since by swallowing up Tane's offspring. His waves sweep away land, houses, and trees. He also consumes canoes and their passengers as well as sea birds flying over his waters. Tane, on the other hand, supplies the fibres, plants, and trees with which spears, hooks, and nets can be made to catch the descendants of Tangaroa (Grey 1971 [1854]:1–5). To be sure, differences in detail about the realms between Tane and Tangaroa are widespread among various tribes. Some hold that all water, fresh and salt, rests with Tangaroa, while others hold that fresh water comes under the authority of Tane. Nevertheless, in Māori society, consensus exists about a strict separation of land and water (McCan and McCan 1990).

In this context, it is important to add that water is not less important than land, which is testified to by the fact that claims concerning water resources were among the first to be heard by the Waitangi Tribunal. In 1981, the Te Ati Awa tribe of Taranaki objected against the discharge of sewage and industrial waste from the proposed Motunui Syngas plant onto their traditional fishing grounds and reefs at Waitara, about which the Waitangi Tribunal recommended that the Treaty of Waitangi obliged the Crown to protect the Māori people from the consequences of the settlement and development of the land (Sorrenson 1989:161–4). In 1984, various Tainui sub-tribes living on the shores of the Manukau Harbour, Te Puaha ki Manuka, lodged a claim with the Waitangi Tribunal about the despoilation of the Manukau Harbour and the loss of certain surrounding lands. The immediate cause for the claim was the proposal by New Zealand Steel to take water from the Waikato River for a slurry pipeline and to discharge the effluent into the Manukau, but underlying the claim were the long-standing grievances ensuing from the confiscations. The Waitangi Tribunal upheld their claims that the Crown had failed to properly control discharge of sewage and industrial waste onto or near significant traditional fishing grounds and reefs, and argued that the ensuing pollution of the fishing grounds was inconsistent with the principles of the Treaty of Waitangi (Waitangi Tribunal 1985).

A third reason why the claim of the Waikato River was separated from the negotiations about a settlement of the confiscations was disagreement about the precise legal status of the river. The Waikato Māori argued that the bed of the Waikato River was not included in the *New Zealand Settlements Act* of 1863, on the grounds of which the confiscations took place in following years, and that ownership and control of the river therefore had remained with the Waikato people (Tainui Māori Trust Board and Ngaa Marae Toopu o Tainui 1984:40). However, when discussions about Māori claims gathered momentum following changes in the political climate in New Zealand in the 1980s, the Ministry of Justice clarified the government's position by stating that ownership of all navigable rivers was deemed to be held by the Crown under the *Coal Mines Act* of 1903 (Harris 1984). This Act vested all the beds of navigable rivers in the Crown, which at the time were owned by the various proprietors of the riparian blocks. And these, in turn, had acquired ownership following the distribution of Crown grants under the *New Zealand Settlements Act*, 1863. Legal rules as to the effect of these Crown grants on the Waikato River are that, unless a contrary intention was shown, the owners of grants directly adjacent to the river obtained that portion of the river bed that extended to the half-way mark. This aspect of English common law is known as the *ad medium filum aquae* clause, but as the Waikato River is clearly a navigable river, it came to an end with the passing of the *Coal Mines Act* in 1903.

The question of whether indigenous title to rivers had been fully and finally extinguished and whether that had been done in accordance with the principles of the Treaty of Waitangi was later examined by the Waitangi Tribunal. In *The Pouakani Report* of 1993, it was questioned whether the Waikato River could be described as 'navigable' from its source to its mouth as the course of the river was historically broken by a succession of rapids and waterfalls. It was argued that only since the construction of hydroelectric power schemes were some sections of the river impounded behind dams made navigable. Thus, it appeared that the term 'navigable' was difficult to define in unambivalent terms, which implied that the alleged extinguishment of Māori titles had taken place on the basis of so-called 'academic' interpretations (Waitangi Tribunal 1993:Section 16.4).

In 1999, the Waitangi Tribunal (1999) released *The Whanganui River Report*, in which it was argued at great length that when the Treaty was signed, the Whanganui River and its tributaries were possessed by the local Māori and revered as a *taonga* or 'treasure' of special significance. As a consequence, the Tribunal found that the extinguishments of the tribe's river interests emerged from legislation and associated policies of the government that were

inconsistent with the principles of the Treaty of Waitangi. Based on these findings, the Waitangi Tribunal recommended vesting the river in its entirety in an ancestor or a number of ancestors of the tribe. Furthermore, it proposed to grant local Māori communities the right of approval of resource consent applications in respect of the river. Subsequently, these two issues became also central in the negotiations between Waikato Māori and the government about a settlement in relation to the Waikato River.

DESECRATION AND POLLUTION

The imposition of European property laws and quaint legal distinctions between navigable and non-navigable rivers, as well as between tidal and non-tidal rivers, confronted the Māori with a mode of thought that was completely alien to their conceptions of water and waterways. Waikato Māori insisted from the outset that their title to the river had never been extinguished. They felt it annoying that their living ancestor, their *tupuna awa*, had been converted into a property object in the course of colonial history. It caused the principal negotiator of the Waikato tribe, Robert Mahuta, to argue that '(w)e don't need a bloody court document to tell us we own the river . . . (W)e know we do . . .' (cited in Muru-Lanning 2009:32). For that reason, too, the negotiations focused on the desecration of the spiritual integrity of the river and restoration of its polluted waters. After all, a ramification of the assumption of the Crown that English common law also applied to rivers in New Zealand so that the jurisdiction over rivers could be vested in government authorities had been that the clarity and the quality of the water had deteriorated in unacceptable ways.

More settlement and more intensive uses of the land along the banks of the river entailed the draining of wetlands for agricultural and pastoral practices, while the river also became used for the discharge of human waste. In the course of the 20th century, the surface waters of the rivers, its streams and tributaries became gradually polluted by farm run-off and sewage. The amount of nutrients entering the river, in turn, contributes to the excessive growth of algae, which cannot only be unsightly, but also damages the ecosystems of streams and shallow lakes. The direct disposal of waste to water is found not only obnoxious, but also culturally abusive to Māori people. Furthermore, coal mining and industrial development in the Waikato district also added to the transformation of the river from a living 'ancestor' into an 'open sewer' (quoted in Stokes 1977:20). Indeed, whereas Māori regarded rivers traditionally as crucial for their survival and would adapt their needs to suit those of the river, European settlers adapted the river to the needs of economic development.

Since the beginning of the 20th century, the upper reaches of the river especially were repeatedly dammed as part of the construction of a series of hydroelectric power schemes, inundating significant sites, including some sacred sites, and causing ongoing problems with unstable flow regimes (Te Aho 2011:152). The first hydroelectric power scheme was Horahora, built in 1913 for the Waihi Gold Mining Company and later purchased by the Crown (Waitangi Tribunal 1993:Section 16.3). A second dam was built at Arapuni between 1924 and 1929, while the large-scale dam at Karapiro was commissioned in 1947. Eventually, the exploitation of the river involved a chain of eight dams and nine hydroelectric power stations, the last one constructed at Huntly in 1973 (Stokes 1978). To give just one example of the impact of power generation on the natural environment: the cooling water of the power station at Huntly is drawn from the Waikato River, but when discharged back into the river, it produces a plume of warmer water killing all the fish until it cools by mixing with more water two kilometres downstream, where there are no Māori settlements.

By the mid-1960s, the Waikato River produced approximately half of New Zealand's power, although with increased generation elsewhere that percentage has decreased to its

current 16% (Muru-Lanning 2010:22). Still, the once beautiful, blue-green majestic waters of the Waikato have been turned into a dirty and brown river. The degradation of the water quality is especially tragic for the elderly people of today, who remember the day when the waters of the Waikato River were of drinkable quality. Their stories about old practices no longer hold true for younger generations as the landscape and the waterways have been altered in such dramatic ways in recent decades (Hill and Dixon 2008:26). In the past, for example, the river had its own scent and the scent was said to be on the people, as one elder states:

> You could tell which waters those people had a wash from or came from because of their scent. Because we spent most of our childhood lives in the river. . . . It was a clear scent because the people were in the water all the time. (cited in Hill and Dixon 2008:31)

Many comments regarding the significance of the Waikato River, however, are concerned with its cultural and spiritual value: 'we lived on the river, lived off the river', 'the river to me was healing', and 'the river was our life-force' (*ibid*.:25). For these reasons, too, the river is deeply embedded in tribal consciousness as it is considered the ancestral river of the Waikato Māori, their *tupuna awa*, which is also expressed in the genealogical *pepeha* or saying that begins with the phrase *Ko Waikato te awa*, Waikato is the river. Waikato Māori people have always emphasized the cultural, religious, and spiritual importance of their unique relationship with the river and the associated need to respect the river's *mana* and to restore its well-being, in spite of the legal and political landscape of New Zealand. This is also the main reason why the claim in relation to the river was excluded from the settlement of the confiscations that was reached in 1995. And the settlement of the river did not focus on ownership, but provided for co-governance and co-management so that the water quality can be improved and the *mana* of the river be restored.

THE WAIKATO RIVER SETTLEMENT

When the Waikato Māori entered into negotiations about a settlement of 'their' river, the main question to be addressed was whether it is necessary to obtain legal ownership in order to restore the *mana* of the river (Muru-Lanning 2010:159). From the results of the negotiations it may be inferred that in the end, they considered recognition of the river's cultural significance and participation in the management of the river's resources as more important than legal ownership. This construction would enable Waikato Māori to reinstate their sense of belonging to the river, while it would leave the issue of legal ownership unresolved, not only because it is highly problematic, but also because it is politically sensitive given the fact that more tribes have a stake in the ownership of the river as its waters move through a range of different tribal territories.

The Waikato River claim was filed as part of the comprehensive Waikato-Tainui claim of the confiscations in the Waitangi Tribunal in 1987. When a settlement of the confiscations was signed in 1995, the Waikato River was explicitly excluded from this agreement as an outstanding claim. Negotiations for a settlement about the river subsequently did not begin until 10 years later in 2005. An agreement was eventually reached in December 2007. The Deed of Settlement was signed on 22 August 2008, 21 years after it had been lodged.

The settlement focused on restoring and protecting 'the health and wellbeing of the Waikato River' for future generations by heralding a new era of co-management (Deed of Settlement 2008:2). It recorded 'commitments to the highest level of good faith engagement and consensus decision-making' that were stated to be founded on the principles of, on the one

hand, the authority and rights of control of the Waikato people (*mana whakahaere*), and on the other hand, their physical, cultural, and spiritual relationships with the river (*mana o te awa*; *ibid*.). Interestingly, too, in the Deed of Settlement the Crown accepted that it had failed to respect, provide for and protect the special relationship that Waikato Māori have with the river, while it also accepted responsibility for the degradation of the river that had occurred while the Crown had single authority over the river.

In 2010, the settlement was completed with the passing of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act (2010) in parliament. The preamble of this Act begins with a statement made by Robert Te Kotahi Mahuta, adoptive brother of the late Queen Dame Te Arikinui Te Atairangikaahu, and principal negotiator of the Waikato-Tainui people until his untimely death in 2001:

> *Noo taatou te awa. Noo te awa taatou. E kore e taea te wehe te iwi o Waikato me te awa. He taonga tuku iho naa ngaa tuupuna. E whakapono ana maatou ko taa maatou, he tiaki i taua taonga moo ngaa uri whakatupu.*
>
> The River belongs to us just as we belong to the river. The Waikato tribe and the River are inseparable. It is a gift left to us by our ancestors and we believe we have a duty to protect that gift for future generations.

This quotation in the Māori language (the translation is not mentioned in the Act) indicates that the two founding principles of the settlement have been maintained in the Act. *Te mana o te awa* is acknowledged as it is recognized that the Waikato River is a *tupuna* (ancestor), which has *mana* (prestige) and represents the *mauri* (life force) of the tribe. Furthermore, *mana whakahaere* is embodied in the Act, since it recognizes the authority that Waikato-Tainui and other river tribes have established in respect of the Waikato River to exercise control, access to and management of the river and its resources in accordance with *tikanga* (values, ethics, and norms of conduct).

The preamble of the Settlement Act continues with a brief history of relations between Māori and Europeans. It is stated that the Waikato-Tainui 'possessed' the river in 1840 when the Treaty was signed at Waitangi, and that they proclaimed their authority over the river ever since they first became concerned that the Crown might claim authority over it. When the Governor conveyed intentions to put an iron steamer on the river in 1862, for example, the editor of the newspaper of the Māori monarchy expressed local opposition and warned that the gunboat might not enter the river without permission. He asserted tribal authority with the following words:

> *E hara a Waikato awa i a te kuini, erangi no nga Māori anake.*
> The Waikato River does not belong to the Queen of England, it belongs only to Māori.

Still, the settlement is not about ownership, but aims primarily at reinstating the Māori sense of belonging to the river. The overarching purpose of the settlement is, according to the Act, 'to restore and protect the health and wellbeing of the Waikato River for future generations'. For that reason, too, it focuses on the notion of co-management across a range of agencies. The vision and strategy to achieve this was developed following public consultation by an interim co-management committee that had been established by an earlier Agreement in Principle (Te Aho 2011:154). It is set out at great length in Schedule 2 of the Act, that begins with a quote from King Tawhiao's lament (see also Kirkwood 2000:75–6):

Tooku awa koiora me oona pikonga he kura tanghia o te maataamuri.
The river of life, each curve more beautiful than the last.

It continues as follows:

Our vision is for a future where a healthy Waikato River sustains abundant life and prosperous communities, who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come.

In order to realize this vision, a number of objectives are set out, including an 'integrated approach to management of the natural, physical, cultural, and historic resources of the Waikato River' and 'the adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River . . . , in particular, those effects that threaten serious or irreversible damage'.

To achieve this vision, some 12 different strategies are outlined. The most important strategies of these are to 'ensure that the highest level of recognition is given to the restoration and protection of the Waikato River', and to 'establish what the current health status of the Waikato River is by utilising *maatauranga Maāori* [Māori knowledge] and the latest available scientific methods'. The latter strategy is currently being implemented in the form of the Waikato River Independent Scoping Study, which will report on the current condition of the river and identify restoration scenarios, the costs and benefits of these scenarios, and priority actions (Te Aho 2011:155).

In addition to the vision, the objectives and the strategies that are outlined to achieve the ultimate aims of the Settlement Act, it is significant that it also includes provisions for co-governance and co-management (for a comparative case, see Tipa and Nelson 2012). The Act establishes the Waikato River Authority that will carry out governance functions in relation to the Waikato River, while it will also administer a contestable clean-up fund for restoring and protecting the health and wellbeing of the river (see Sections 22–24). This statutory body will be made up of equal numbers of members appointed by the Crown and members appointed by the river tribes. The river tribes are also given a mandate to appoint commissioners in hearing committees and boards of inquiry with regard to applications for resource consents for activities, which include taking, using, damming, or diverting water in the Waikato River (Sections 25–31). In the final instance, however, the Waikato River Authority is responsible for monitoring and implementing the vision and strategy set out in the Act.

Regarding co-management level, the Act stipulates that joint management agreements are required between Waikato-Tainui on the one hand, and on the other hand, the regional council and relevant territorial authorities for specified functions under the *Resource Management Act* of 1991, at least insofar as those functions relate to the Waikato River and activities within its catchment (Sections 35–55). Furthermore, certain customary activities such as the use of traditional whitebait stands and eel weirs, and the right to continue traditional ceremonies, are explicitly recognized (Sections 56–63). Provision is also made to vest certain sites of significance in Waikato-Tainui, and for Waikato-Tainui to participate in the co-management of Crown-owned river-related lands (Sections 64–80).

CHANGING PROPERTIES OF THE RIVER

When the first agreement about a settlement was signed in 2007, Waikato Māori people were delighted with the outcome of the negotiations. Since then, however, a range of issues have

emerged, which have had a negative impact on the original euphoria about the settlement. Māori representation on the Waikato River Authority, for example, has dwindled through various versions of the settlement from four representatives, to two, and currently to only one representative (Te Aho 2011:157). Needless to say, this is considered inadequate for the many thousands of Māori people living in the river district. Furthermore, the Crown claims the right of deciding with whom it will engage as river tribe, which has created new grievances especially among those tribes who do not belong to the Tainui federation, but whose territory is traversed by the Waikato River (Muru-Lanning 2010). However, some Tainui tribes who are part of the Tainui confederation and who have supported the Māori King Movement from the outset also feel marginalized. Under the *Resource Management Act* they have asserted a certain level of *mana* and guardianship in regional councils as well as territorial authorities, which implies that they should be consulted on environmental matters if they impact on their territory, yet the Crown precludes such tribal groups from representation on the Waikato River Authority, whereas they cannot engage directly with the government either.

In the year 2012, Māori grievances about the implementation of the settlement were even reinforced by the announcement of the government's plan to sell up to 49% of shares in the power-generating SOEs Genesis Energy, Meridian Power, Mighty River Power and Solid Energy. This new partial asset sales programme, also described as a mixed-ownership model, is a key part of the government's plan to control debt. It would make available for the government cash money that it could not possibly borrow as that would increase the country's debts and prompt reassessment by rating agencies. Needless to say, Māori people with an interest in rivers and other waterways were furious, as a significant amount of power is generated by those companies from those rivers and other water sources. Moreover, the State-Owned Enterprises Act (1986) contains a clause (9) that prohibits the Crown 'to act in a manner that is inconsistent with the principles of the Treaty of Waitangi'. The government's plan to sell 49% of those power-generating companies raised therefore the question of Māori customary interests in water at the time when the Treaty was signed. Soon this issue was phrased in terms of a debate about the ownership of water.

When the ownership of water became a subject of debate immediately after the government had announced its plan, the Prime Minister clarified the viewpoint of the Crown as follows:

> No one owns water, no one owns wind, no one owns sunlight, no one owns the sea. Bosselmann (2012)

In the so-called Red Book, the Government's guide to Treaty settlements, this was further elaborated:

> The Crown acknowledges that Māori have traditionally viewed a river or a lake as a single entity and have not separated it into bed, banks and water. As a result, Māori consider that the river or lake as a whole can be owned by iwi or hapu, in the sense of having tribal authority over it. However, while under New Zealand law the banks and bed of a river can be legally owned, the water cannot. (cited in Young 2012a)

This viewpoint, however, caused the New Zealand Māori Council to lodge a claim in the Waitangi Tribunal to stop the part-sale of SOEs until the water and geothermal ownership would be resolved unambiguously. The Council acted in accordance with its role to make representations in the interests of all Māori and argued that the sale of assets by the Crown would breach the Treaty of Waitangi by failing to recognize Māori *rangatiratanga* (chieftainship or paramount authority) over fresh water resources while the sale of shares in power stations would expropriate these resources without Māori consent or compensation. In the

claim, it was also argued that according to their own usages and concepts of title Māori owned all natural resources of New Zealand when the Treaty was signed in 1840. Evidence was presented that Māori had customary rights and authority over water bodies, as distinct from land, and that they relied on their rivers, lakes, and other water resources for much of their daily food, their clothing and housing, transport, trade, and other physical necessities, which, in sum, made water resources highly valued *taonga* or 'treasures'. As such, they are explicitly guaranteed by the Treaty (Waitangi Tribunal 2012).

The paradox of this debate between the New Zealand government and Māori people is that the country's indigenous population had never claimed 'ownership' over water as it is defined in New Zealand law, but the claim submitted to the Waitangi Tribunal was triggered by a new policy from which it could be inferred that the conversion of water into shares of power companies had simultaneously converted a common pool resource into a property object that could be alienated. Indeed, a clash of different conceptions of ownership is involved here. Māori had consistently asserted their *rangatiratanga* or paramount authority over their land and natural resources, including water, which in a Māori worldview is equivalent to comprehensive customary rights. Government policies, however, had introduced a different conception of ownership that is intrinsically linked with the ideologies of economic development and liberal democracy, and in which a distinction is made between rights of use and rights of alienation (Hann 1998; Humphrey and Verdery 2004). For that reason, too, it could be argued that government policy had changed the properties of water into an alienable object of ownership (*cf.* von Benda-Beckmann, von Benda-Beckmann, and Wiber 2006). As a corollary, Māori felt they had no option, but to claim ownership of water in a European sense in the courts of law in New Zealand.

In Māori society, however, claiming ownership of water was also somewhat contentious. Some people argued that water could not be owned, but that Māori were simply seeking ownership of their rights to water (Taonui 2012). Nevertheless, in the course of the year, the political positions of the Crown and Māori became diametrically opposed to each other as the government appeared adamant to continue with its plan to sell just under 50% of its shares in power-generating SOEs. In the final hearing of the Waitangi Tribunal in July, the Māori Council closed its case by urging the Tribunal to find that Māori have full ownership rights over water and to defy the Prime Minister's dismissiveness of Māori concerns about their water rights. In September 2012, a national *hui* (gathering) was convened at which Māori tribes and organizations attempted to design a collaborative approach to protect Māori rights and interests over water. In his closing speech at this meeting, the current Māori King Tuheitia challenged the government's dictum that no one owns the water by ending with the declaration 'We have always owned the water!' (Young 2012b).

King Tuheitia's strongly worded speech also made clear that the new policy had an impact on the settlement agreement reached about the Waikato River. The King said that his tribe would intend to take back full control of the Waikato River:

> We have never ceded our mana over the river to anyone. . . . In the eyes of our people, Pakeha law was set up to minimise our mana and maximise their own. (cited in Young 2012b)

In response to this position, the government insisted that the common law position that no one owns the water stands, but still it was somewhat frightened by Māori opposition and postponed the sale of shares. At the same time, discussion emerged about a scenario that had first been outlined in the Interim Report on the case published by the Waitangi Tribunal in August, which became known as the 'shares plus' resolution. The Tribunal suggested that offering Māori tribes shares in the power-generating SOEs, companies based on a mixed-

ownership model, in conjunction with shareholder agreements, could possibly go some way towards meeting the Crown's Treaty obligations (Waitangi Tribunal 2012). However, not all of the affected Māori groups were interested in shares, whereas those who were not opposed to this option wanted them only in combination with other commercial forms of rights recognition and redress. Indeed, Māoridom soon appeared divided about the various legal options that could be negotiated to resolve the issue of water ownership.

One issue about which there was consensus among Māori people concerned the speed with which the government aimed at reducing its debt ratio. As a consequence, the New Zealand Māori Council filed an injunction in the High Court to delay the partial privatization of the power companies until Māori water rights had been dealt with satisfactorily, and until the issue of ownership had been resolved. On legal grounds, however, the case was rejected, even though the judge acknowledged that the 'moral issue' still had to be addressed by the government in the public debate (Bennett 2012). This ruling inspired the New Zealand Māori Council to appeal the decision in the Supreme Court. Ultimately, however, the Supreme Court also dismissed Māori resistance against the partial sale of SOEs because the semi-privatization was not believed to 'impair to a material extent the Crown's ability to remedy any Treaty breach in respect of Māori interests' (cited in Bennett 2013).

Interestingly, the Supreme Court did rule in favour of Māori complaints that the sale of shares was not reviewable by the courts for consistency with the principles of the Treaty, but paradoxically, it did not support the claim that it would also affect the government's ability to make subsequent redress for any claims over water and geothermal resources. Thus, the Supreme Court did not diminish the underlying claims of Māori to water, but it concluded that those claims would not be damaged by a change in the ownership of assets that generate electricity. Indeed, the Crown was forced to accept that Māori have rights equivalent to ownership of water, but that partial privatization of power companies will not affect the government's ability to recognize those rights. As a corollary, it may be concluded that litigation about the implications of this ruling is unlikely to have come to an end.

CONCLUSION

The drive towards a more intensified interaction with natural resources, including water, brings about new conceptions of land and water that are increasingly characterized by commodification and propertization. And these changes, in turn, prompt indigenous peoples to re-articulate their relations to land and waterways in order to safeguard their cultural, historical, and proprietary interests. In the past, Māori people expressed their 'proprietary interests' in different terms. Tribal territories were marked by geographical features, such as mountains and rivers, which also influenced a tribal sense of belonging while they also implied the existence of fuzzy boundaries between different tribal groups. In Māori customary law, natural resources were not thought of as alienable property objects. In the course of the history of colonization, however, Māori have had no option but to re-articulate their proprietary interests in terms of the legal discourses and regimes that have been introduced in New Zealand over time, and which distinguish the right of alienation from the rights of use. Even in recent years, a shift in Māori views was prompted by changing government policies. Thus, it seems highly significant that legal ownership of the Waikato River was not determined in the Settlement Act of 2010, while in 2012, the Māori King Tuheitia, paramount chief of the Waikato tribe, claimed ownership of water when the government moved to sell shares of the power-generating SOEs, which new policy has immense implications for Māori proprietary interests in the rivers.

This recent and sudden shift in the way in which the Waikato Māori articulate their claim of the Waikato River indicates that underlying different conceptions of ownership is a contest

about *rangatiratanga*, prestige, and power. As a consequence, the Waikato River may be seen as a complex property construct, which, on the one hand, is imbued with indigenous beliefs, *taniwha*, myths, and customary practices of transport and fishing. On the other hand, however, it has been appropriated in colonial property regimes and ownership practices, which is paradoxically overlaid with an ideology that water is public property and belongs to nobody. Obviously, this inherently inconsistent conceptualization of water has also changed the properties of the Waikato River for the Māori tribes living in its valley. Indeed, to retain their *rangatiratanga* or authority over the river and to secure their proprietary interests in whatever shape or form, they can only claim full ownership in current circumstances.

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REFERENCES

BELICH, J. 1986. *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*. Auckland: Auckland University Press.

BENNETT, A. 2012. Māori council loses high court water case. *New Zealand Herald* 11-12-2012.

2013. Māori council water appeal dismissed. *New Zealand Herald* 27-02-2013.

BERG, L.D. and R.A. KEARNS. 1996. Naming as norming: 'race', gender, and the identity politics of naming places in aotearoa/New Zealand. *Environment and Planning. D, Society and Space* 14: 99–122.

BOSSELMANN, KLAUS. 2012. Maori. We should not treat water as a commodity. *New Zealand Herald*, 26 September 2012.

Deed of Settlement, Parties: Her Majesty the Queen in right of New Zeeland and Waikato-Tainui, 22 May 1995.

Deed of Settlement between Waikato-Tainui and the Crown in Relation to the Waikato River. 2008. 22 August 2008.

FRANCO, J., L. MEHTA, and G.J. VELDWISCH. 2013. The global politics of water grabbing. *Third World Quarterly* 34(9): 1651–1675.

GREY, S.G. 1971. *Nga Mahi A Nga Tupuna*. Wellington: Reed. 1854.

HANN, C.M. 1998. The embeddedness of property. In C.M. Hann (ed) *Property Relations: Renewing the Anthropological Tradition*. Cambridge: Cambridge University Press, pp. 1–47.

HARRIS, P. 1984. *Waikato River Claim*. Hamilton: Centre for Maāori Studies and Research. Appendix to Occasional Paper No. 25, Submissions to Treaty of Waitangi Tribunal, Makaurau Marae, Ihumatao, 19 July 1984.

HILL, N. and L. DIXON. 2008. *Whaanui, Hapuu, Marae Perspective Report for the Huntly Power Station*. Principle Based Review Report. Unpublished draft, 22 september 2008.

HUMPHREY, C. and K. VERDERY. 2004. Introduction: Raising questions about property. In K. Verdery and C. Humphrey (eds) *Property in Question: Value Transformation in the Global Economy*. Oxford/New York: Berg, pp. 1–25.

JONES, P.T.H. 1968. Māori kings. In E. Schwimmer (ed) *The Māori People in the Nineteen-Sixties*. Auckland: Blackwood & Janet Paul, pp. 132–173.

2010. *King Pōtatau: An Account of the Life of Pōtatau Te Wherowhero the first Māori King*. Auckland: The Polynesian Society. 1959.

KAWHARU, I.H. (ed). 1989. *Waitangi; Maāori & Paakehaa Perspectives of the Treaty of Waitangi*. Auckland: Oxford University Press.

KELLY, L.G. 1949. *Tainui; The Story of Hoturoa and his Descendants*. Wellington: Polynesian Society. Te Putu.

KING, M. 1977. *Te Puea: A Biography*. Auckland: Hodder and Stoughton.

KIRKWOOD, C. 2000. *Tawhiao: King or Prophet*. Huntly: MAI systems.

MATIU, M. and M. MUTU. 2003. *Te Whaanau Moana: Ngaa Kaupapa me ngaa Tikanga/Customs and Protocols*. Auckland: Reed.

MCCAN, C. and D. MCCAN. 1990. *Water: Towards a Bicultural Perspective*. Canterbury: University of Canterbury, Centre for Resource Management. Information Paper No. 23.
MURU-LANNING, M. 2009. River ownership: Inalienable taonga and impartible tupuna awa. *Sites: A Journal of Social Anthropology and Cultural Studies* 6(2): 32–56.
2010. *Tupuna Awa and Te Awa Tupuna: An Anthropological Study of Competing Discourses and Claims of Ownership to the Waikato River*. Unpublished PhD dissertation. University of Auckland, Auckland.
ORANGE, C. 1987. *The Treaty of Waitangi*. Wellington: Allen & Unwin/Port Nicholson.
OWENS, J.M.R. 1981. New Zealand before annexation. In W.H. Oliver and B.R. Williams (eds) *The Oxford History of New Zealand*. Wellington: Oxford University Press, pp. 28–53.
PARSONSON, A. 1981. The pursuit of mana. In W.H. Oliver and B.R. Williams (eds) *The Oxford History of New Zealand*. Wellington: Oxford University Press, pp. 140–167.
PETRIE, H. 2006. *Chiefs of Industry: Maāori Tribal Enterprise in Early Colonial New Zealand*. Auckland: Auckland University Press.
SINCLAIR, K. 1961. *The Origins of the Māori Wars*. Auckland: Auckland University Press/Oxford University Press. 1957.
SORRENSON, M.P.K. 1989. Towards a radical reinterpretation of New Zealand history: The role of the Waitangi Tribunal. In I.D. Kawharu (ed) *Waitangi: Māori and Pakeha Perspectives of the Treaty of Waitangi*. Auckland: Oxford University Press, pp. 158–178.
State-Owned Enterprises Act of 1986. 1986. Amendment 1987.
STOKES, E. 1977. *Te Iwi o Waahi; The People of Waahi-Huntly*, *Occasional Paper No. 1*. Hamilton: Centre for Maāori Studies and Research.
1978. *Local Perceptions of the Impact of the Huntly Power Project, 1971–1973*. Hamilton: Centre for Maāori Studies and Research. Occasional Paper No. 4.
STRANG, V. 2008. Blue, green and red: Combining energies in defence of water. In S. Shaw and A. Francis (eds) *Deep Blue: Critical Reflections on Nature, Religion and Water*. London/Oakville: Equinox, pp. 253–274.
2011. Fluid forms: Owning water in Australia. In V. Strang and M. Busse (eds) *Ownership and Appropriation*. Oxford/New York: Berg, pp. 171–195.
2012. Water, land and territory. In R. Fardon, O. Harris, T.H.J. Marchand, M. Nuttall, C. Shore, V. Strang, and R.A. Wilson (eds) *The Sage Handbook of Social Anthropology*, Vol. 2. Los Angeles/London: Sage, pp. 312–328.
TAINUI MAĀORI TRUST BOARD AND NGAA MARAE TOOPU O TAINUI. 1984. *He Whakatakotoranga Kaupapa*. Hamilton: Centre for Maāori Studies and Research. Occasional Paper No. 25, Submissions to Treaty of Waitangi Tribunal, Makaurau Marae, Ihumatao, 19 July 1984.
TAONUI, R. 2012. Crown's authority crux of water claim. *New Zealand Herald* 17-7-2012.
TE AHO, L. 2011. Waikato: River of life. In J. Ruru, J. Stephenson, and M. Abbott (eds) *Making Our Place: Exploring Land-Use Tensions in Aotearoa New Zealand*. Dunedin: Otago University Press, pp. 145–157.
TIPA, G. and K. NELSON. 2012. Environmental flow assessments: A participatory process enabling Māori cultural values to inform flow regime setting. In B.R. Johnston (ed) *Water, Cultural Diversity, and Global Environmental Change*. Dordrecht/Paris: Springer/UNESCO, pp. 467–491.
VAN MEIJL, T. 1993. The Māori King Movement: Unity and diversity in past and present. *Bijdragen tot de Taal-, Land- en Volkenkunde* 149(4): 673–689.
1994. 'Shifting the goal posts'; the politics of the Treaty of Waitangi in New Zealand. *Cahiers des Sciences Humaines* 30(3): 411–434.
1999. Settling Māori land claims: Legal and economic implications of political and ideological contests. In T. van Meijl and F. von Benda-Beckmann (eds) *Property Rights and Economic Development: Land and Natural Resources in Southeast Asia and Oceania*. London: Kegan Paul International, pp. 259–291.
VON BENDA-BECKMANN, F., K. von BENDA-BECKMANN, and M. WIBER (eds). 2006. *Changing Properties of Property*. New York/Oxford: Berghahn.
VON HOCHSTETTER, F. 1867. *New Zealand: Its Physical Geography, Geology, and Natural History*. Stuttgart: J.G. Cotta.
WAGNER, J.R. (ed). 2013. *The Social Life of Water*. New York/London: Berghahn.
Waikato Raupatu Claims Settlement Act 1995.
Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act of 2010. 2010.
WAITANGI TRIBUNAL. 1985. *Finding of the Waitangi Tribunal on the Manukau Claim (Wai-8)*. Wellington: Government Printer.
1993. *The Pouakani Report (Wai-33)*. Wellington: Brooker and Field.
1999. *The Whanganui River Report (Wai-167)*. Wellington: Waitangi Tribunal.
2012. *The Interim Report on the National Freshwater and Geothermal Resources Claim (Wai-2358)*. Wellington: Waitangi Tribunal.
WARD, M. 2011. *The Comfort of Water: A River Pilgrimage*. Yarraville: Transit Lounge.
WILLIAMS, D.V. 2011. *A Simple Nullity? The Wi Parata Case in New Zealand Law and History*. Auckland: Auckland University Press.
WILLIAMS, J.A. 1969. *Politics of the New Zealand Māori; Protest and Cooperation, 1891–1909*. Auckland: Auckland University Press/Oxford University Press.
WINIATA, M. 1967. *The Changing Role of the Leader in Māori Society; A Study in Social Change and Race Relations*. Auckland: Blackwood & Janet Paul.
YOUNG, A. 2012a. Troubled water debate flows on. New Zealand Herald, 11 February 2012.
2012b. We own the water – Māori king. New Zealand Herald, 14 September 2012.