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RESEARCH ARTICLE



Challenges on the path to Treaty-based Local Government relationships

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ABSTRACT

In this article I examine some of the challenges for Māori and Local Government on the path to Treaty-based Local Government relationships. I suggest significant challenges exist in three core areas. The first relates to the attitudes towards the ideas of Treaty-based Local Government and evident in common terminology which has a narrow focus on the identity of Māori as ‘representatives’ rather than ‘Treaty partners’. The second area of challenge is in having Māori wards/constituencies established which, when they are established, are symbolically the beginnings of an acknowledgment of Treaty obligations and relationships. The third challenge is the lack of good data which limits understandings of Māori involvement in Local Government. In the second part of the article I ask whether any specific challenges can be seen that might impact on Treaty-based relationships in regard to Māori involvement as candidates and voters in Local Government elections.

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Since the signing of Te Tiriti o Waitangi in 1840 no complete consensus has been reached as to what constitute Treaty-based relationships in general. The principles of the Te Tiriti o Waitangi that have evolved from the Waitangi Tribunal, government policy and the Courts have guided some of the thinking about the need for Treaty-based relationships to include partnership, active protection and reciprocity (Wheen and Hayward 2012). Māori scholars have suggested that Treaty relationships should be co-authored by Treaty partners and include recognition of Māori legal traditions as a “first law” (Jones 2016, p. 153). Scholars from other jurisdictions have argued Treaty relationships are those where “the Indigenous nation is recognized as being self-determining and engages with the state in a nation-to nation relationship” (Jones 2016, pp. 58–59; Pictou 2015). Taking those elements as a basis it seems unlikely that any fully Treaty-based local government relationships operate yet in New Zealand.

In this article I examine some of the challenges for Māori and Local Government on the path to Treaty-based Local Government relationships. I suggest significant challenges exist in three core areas. The first relates to the attitudes towards the ideas of Treaty-based Local Government and evident in common terminology which has a narrow focus on the

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identity of Māori as ‘representatives’ rather than ‘Treaty partners’. The second area of challenge is in having Māori wards/constituencies established which, when they are established, are symbolically the beginnings of an acknowledgment of Treaty obligations and relationships. The third challenge is the lack of good data which limits understandings of Māori involvement in Local Government.

In the second part of the article I ask whether any specific challenges can be seen that might impact on Treaty-based relationships in regard to Māori involvement as candidates and voters in Local Government elections. I examine the 2019 election results, in particular in the Māori wards and constituencies and consider any significant insights which might be drawn comparing those results with previous elections.

Māori voter turnout tends to be lower than non-Māori, however that may not provide a complete picture of ‘Māori participation’. In the final part of the article I outline some ways Māori are participating and might be seen to be ‘enacting’ Treaty-based Local Government relationships by working parallel and with Local Government in Partnership Boards.

Attitudes towards Treaty-based Local Government relationships

Local Government New Zealand (LGNZ) and the New Zealand Society of Local Government Managers (SOLGM) created a joint ‘Vote 2019’ campaign in 2019 to promote the Local Government elections. ‘We want to get more Kiwis involved’ (LGNZ 2019) their website stated. When LGNZ and the SOLGM devised their Vote 2019 campaign, they no doubt presumed that using the term ‘Kiwis’ would be universally understood and relatively neutral for New Zealanders. Similarly, in the study of local government elections, many would assume that examining ‘Māori representation’ might be broadly understood and relatively neutral. But are these terms neutral? In their work on diverse economies, J.K. Gibson-Graham argue that scholars must always be attentive to whether ‘the effects of our representations are opening up spaces for change and transformation or not’ (Gibson-Graham and Dombroski 2020, p. 6). Like Gibson-Graham and Dombroski, I suggest terminology has a ‘performative effect’ and the study of Māori and local government has ‘real world’ effects (Gibson-Graham 2017).

In considering the cultural, historical baggage ‘Māori representation’ might arrive with it is useful to begin by asking what is assumed and implied by the concept of ‘Māori representation’? Firstly it is implicit in the very notion of Māori representation that Māori have representation as part of a broader political system. With most councils not having Māori representation, the second inference is that it is not the ‘norm’ within Local government. This leads to a third assumption that if it is not a ‘normal’ part of local government politics then perhaps it is not a priority for data to be collected about all aspects of Māori representation, such as Māori voters, Māori non-resident ratepayers, Māori donations and campaign expenses, Māori ward and constituency turnout, and turnout of people of Māori descent on the general roll. Finally the organised and concerted campaigns by anti-Māori and anti-diversity groups lead those without other information to question whether Māori representation is needed or if it is ‘democratic’. Such a negative and contested starting place for a discussion places academics and researchers who seek to explore deeper analyses of Tiriti based local government relationships in either a defensive or difficult situation.

What if the study began from a different starting place- would different questions, answers and politics emerge? What might be assumed by beginning with the concept of ‘Tiriti based local government relationship’? This starting point assumes that Aotearoa New Zealand’s democracy is unique to this place and that systems of government, law, and public policy are never neutral- they are imbued with history and culture (Bargh and Jones 2020). It also foregrounds and normalises Te Tiriti o Waitangi as having established a framework for political relationships and partnership between the Crown and Māori. This acts as a reminder that both parties of Te Tiriti have obligations: including partnership, active protection, reciprocity. It also acts as a reminder that while current constitutional arrangements do not reflect this unique political and legal form of democracy, they should. Ensuring the collection of data and information and equal attention is paid to both parties to Te Tiriti is important to demonstrate the partnership is being taken seriously and respected in good faith.

In their research on ‘Creating Treaty based local governance in New Zealand’ Webster and Cheyne surveyed Māori leaders and non-Māori elected council representatives regarding their ‘understanding, awareness and practice of local governance and sustainability’ (Webster and Cheyne 2017, p. 154) They found that, for 80% of non-Māori elected members ‘providing opportunities for Māori to contribute to local government was of least importance’ (p. 159) in the range of their tasks. Despite the low priority ranking the elected members gave ‘providing Māori opportunities’ the majority of respondents ‘believed their local authority was moderately or highly effective in this task, an assessment not supported by research undertaken with Māori over the same period’ (Webster and Cheyne 2017, p. 159). Webster and Cheyne argue that

the consistently low ranking given to opportunities for Māori emphasised, generally, the low priority of Te Tiriti o Waitangi among non-Māori elected members ... Only a new Treaty-based system of local government that incorporated distinctively Māori ways of governance would protect the rights of New Zealand Māori to fair and effective representation that stem from the Treaty of Waitangi. (Webster and Cheyne 2017, p. 159)

Creation of Māori wards and constituencies as steps towards Treaty-based Local Government relationships

One of the elements on the path towards both fair and effective representation and Treaty-based Local Government relationships is the creation of Māori wards/constituencies. While it would be difficult to argue that Māori wards/constituencies themselves constitute recognition of Māori legal and political traditions or the self-determination of Māori, they do acknowledge Māori have a specific and unique role to play in local government decision-making. Councils are required to review their representation arrangements at least once every six years under the Local Electoral Act. A key element for councils to consider is whether they have ‘fair and effective representation for individuals and communities’ (Part 1 A, 19). Webster and Cheyne argue that ‘fair and effective’ should include upholding Treaty of Waitangi obligations (Webster and Cheyne 2017).

In 2017 as part of their representation reviews, five councils voted in favour of establishing Māori wards in their areas. In 2018 all five of those council decisions were overturned by polls forced by 5% of electors (see Table 1). In the case of the Kaikoura District Council,

Table 1. Public polls on council decisions to create Māori wards.

	Public Poll Turnout 2018	% For Māori Ward	% Against Māori Ward	Notes
Kaikoura District Council (KDC)	45.38%, (1251 votes)	19.66%	80.10%	In 2017 KDC voted unanimously to create a Māori ward (KDC n.d.).
Western Bay of Plenty District Council (WBoPDC)	40.38% (14,849)	21.62%	78.09%	In 2017 WBoPDC voted by majority to establish a Māori ward (WBoPDC 2018a, 2018b)
Whakatane District Council (WDC)	44% (10,805 votes)	44.33%	55.43%	In 2017 WDC voted in favour of establishing a Māori ward (WDC 2017, 2018).
Palmerston North City Council (PNCC)	37.36% (21,263 votes)	30.99%	68.76%	In 2017 the PNCC voted to establish a Māori ward (PNCC 2018).
Manawatu District Council (MDC)	44.47% (9434 votes)	22.76%	77.04%	In 2017 the MDC voted to establish a Māori ward (MDC n.d.).

the poll was forced by approximately 100 people and cost the council \$15,000 (Kaikoura District Council 2017).

Anti-diversity group Hobson's Pledge, campaigned actively in each area seeking petition signatories to force the polls and then celebrated the opposition and racism demonstrated towards Māori that accompanied their activities (Rankin 2018). Those areas where Māori wards have been rejected by public poll must now wait until after the 2022 elections before the matter of creating Māori wards can be considered again.

Even in places where Māori constituencies have already been established, organised anti-Māori campaigns continue to threaten their existence. The Waikato Regional Council voted in 2011 to establish two Māori constituencies for the 2013 election (Waikato Regional Council 2011). Waikato Regional Council had to reconfirm the Māori Constituencies in 2017 when three councillors moved a motion calling for a poll of electors to determine if the constituencies should be abolished (Waikato Regional Council 2017). In October 2017 a vote within the Waikato Regional Council was recorded as seven to three in favour of retaining the constituencies (Waikato Regional Council 2017).

Anti-Treaty comments made by Tauranga Councillor Andrew Hollis shortly after his election in 2019 have created further racial tension and division about Te Tiriti based local government relationships. Race Relations Conciliator Meng Foon suggested Hollis should resign as his comments were inappropriate, but this has not occurred (Shand 2019).

There have been attempts by politicians to amend legislation to better protect Māori rights. In 2017 Green Party MP Marama Davidson attempted to introduce an amendment to ensure that council decisions could no longer be overturned by a poll of 5% of electors. The Local Electoral (Equitable Process for Establishing Māori Wards and Māori Constituencies) Amendment Bill was however negated on its First Reading (New Zealand Parliament 2017).

In October 2019 Rino Tirikatene, MP for Te Tai Tonga introduced the Canterbury Regional Council (Ngāi Tahu Representation) Bill which was negated on its First reading (New Zealand Parliament 2019). It came after Ngai Tahu already had two representatives as central government appointed commissioners on Environment Canterbury from 2010 until 2019 (Human Rights Commission 2010; Ngāi Tahu 2016).

In December 2019 Minister of Local Government Nanaia Mahuta announced that she would not review the mechanism in the Local Electoral Act which enables the poll of 5% of

voters to overturn council decisions, despite previous commitments to a review (Fonseka 2019). This element of the Local Electoral Act has been invoked numerous times over the past decade and enabled the reversing of Council decisions. Former mayor of New Plymouth, Andrew Judd, has been one of several commentators to argue that this mechanism is racially discriminatory as it only applies to Council decisions related to one ethnic group (Māori) and is not applicable to other Council decisions on for example the establishment of rural wards (McCulloch 2018; Radio New Zealand 2018).

What do the campaigns of active opposition to Māori representation indicate to Māori? Perhaps that many people in the community and in parliament, do not understand the Treaty of Waitangi and Crown obligations and do not support Tiriti based Local government relationships and indeed will spend resources on actively undermining Māori rights.

Challenges for Māori candidates and voters that might impact Treaty-based relationships

In regard to Māori involvement as candidates and voters in Local Government elections are there any specific challenges that might impact on Treaty-based relationships? The 2019 election results, in particular, the Māori wards and constituencies will now be considered.

There are a number of challenges in analysing the election results in Māori wards and constituencies. There is data available, unlike for Māori enrolled in general wards/constituencies but is incomplete and contains some inconsistencies. Results of various kinds are available from the Department of Internal Affairs Statistics and Reports, Local Government New Zealand, Council pre-election reports, post-election candidate surveys, election service companies and in the media. However, if proof was ever needed that statistics are not a 'straightforward, objective snapshot of an underlying reality' (Walters and Andersen 2013, p. 8) then this is it. In some places election results are missing, in some places, they are presented as 'total votes cast' and in other places 'total valid votes' with, blank and informal votes separated. In some places, turnout data is a percentage of total votes issued while in other places a percentage of the total number of eligible electors. In some data sets, the elected candidates are identified but not the votes received by each winning candidate or contenders.

A further limitation on gathering data on Māori wards/constituencies is there are only three councils with wards and constituencies created in different years and one with a multi-member ward.

Three of the eight Māori wards reappointed candidates without elections as they stood unopposed. The Ngā Hau e Wha and Tai ki Uta (Waikato Regional Council) and Ōkurei (Bay of Plenty Regional Council) constituencies were all uncontested. In Ngā Hau e Wha and Tai Ki Uta the incumbent councillors were re-appointed while in Ōkurei the sole candidate was elected unopposed. Ngā Hau e Wha councillor, Tipa Mahuta has held the seat since its establishment in 2013.

Having candidates elected unopposed raises three key issues for further analysis. Firstly there is research from the United States which suggests that state legislators there who were elected unopposed were less active in lawmaking than their counterparts who endured competitive elections (Konisky and Ueda 2011). Secondly, some have argued that not having the opportunity to vote effectively removes a voter's democratic right

(Electoral Reform Society 2019). In England where uncontested elections are common, scholars suggest that a change in electoral system from First-Past the Post to Single Transferable Vote (STV) would encourage greater competition. In New Zealand, for the 11 councils that use STV there were no unopposed mayoral or Council appointments (Department of Internal Affairs n.d.). This may be different for District Health Boards or Local Board elections. Thirdly, for academics, unopposed elections mean that there is no data at all about Māori voter turnout in those places. As Councils and the Local Government Commission fail to collect ethnicity data, turnout in the Māori wards and constituencies is the only rudimentary indicator available for Māori voter turnout at a local level.

Insights from 2019 election results

Possibly the only significant observation to be made about results in Māori wards and constituencies is that voter turnout does not appear to be declining as it is in general wards and constituencies. Voter turnout in local government elections has been declining for the last 25 years (Department of Internal Affairs 2013). Turnout is lower in Māori wards and constituencies than general ones – and it continues to fluctuate but not visibly trending downwards. If Local Government could collect ethnicity data on voters in general wards and constituencies it would be much easier to analyse the situation and provide a clearer picture. At present, the turnout reported in surveys commissioned by Local Government New Zealand appears to be far too optimistic considering the turnout results in Māori wards and constituencies and can lead to inconsistent and unreliable analysis about Māori turnout. For example, the 2016 post-election survey reported Māori turnout as 60% (Local Government NZ 2016). The turnout in Māori constituencies for 2016 averaged 26%. The report does acknowledge, in regard to the general turnout, that the survey result of 63% differed from the actual voter turnout of 43% in 2016, and it is noted that there is a sampling error for ethnicity turnout data because of the small sample size, however, the claims about turnout are still made in the report.

The gap between voter turnout in the Māori wards/constituencies and turnout in general wards and constituencies is comparable to the gap between the Māori and general electorates in General Elections where Māori turnout tends to lower (New Zealand Parliament 2014 Election Report). Turnout in Local Government general wards and constituencies in 2016 was 43% and in 2013 42% (Department of Internal Affairs 2016). Turnout in the Māori wards and constituencies in 2016 was an average of 26.7% producing a 16% difference from general wards and constituencies. In the 2017 General Election general roll voter turnout (as a percentage of those enrolled) was 79.8% (Electoral Commission 2017, 2018). The average turnout of those on the Māori electoral roll was 66.7% in 2017, a 13.1% difference from the general roll.

Average overall voter turnout across contested Māori wards and constituencies in 2019 was 39.48%.¹ The average turnout for (5 contested Māori wards and constituencies) in 2016 was 26.78%. The average turnout must be taken with caution however as the number of contested wards and constituencies has varied between 2004–2019 (Figures 1 and 2).

Wairoa District Council Māori Ward had a higher turnout in 2019 than other councils however this could be due to the fact that three councillors were being elected or that

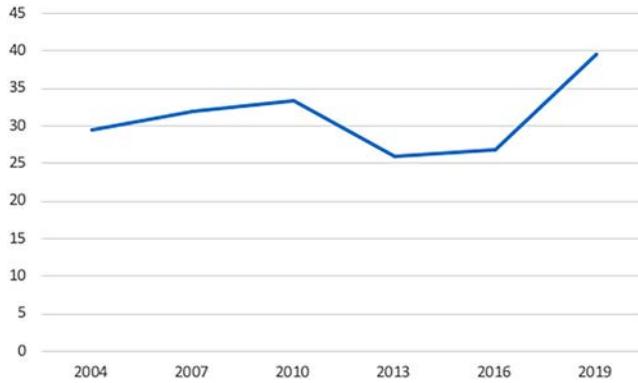


Figure 1. Average percentage turnout in contested Māori wards and constituencies.

District Councils also tend to have higher turnout than Regional Councils (Department of Internal Affairs 2016).

Bay of Plenty Regional Council Māori constituencies

The first Māori constituencies were created by the Bay of Plenty Regional Council (Māori Constituency) Empowering Act 2001, with the first election for the three constituencies held in 2004. Voter turnout in these constituencies has fluctuated since 2004 but has not shown the overall decline seen in other places (See Figure 2). Mauao voter turnout for 2019 was 29.2% and for the Kohi constituency was 41.68%.

Both constituencies had quite unusual features to their turnout. The number of special votes disallowed in the Kohi electorate was high, at 33.3% (69 of 207 special residential votes were disallowed) which means only 66.6% were allowed. The 2016 average

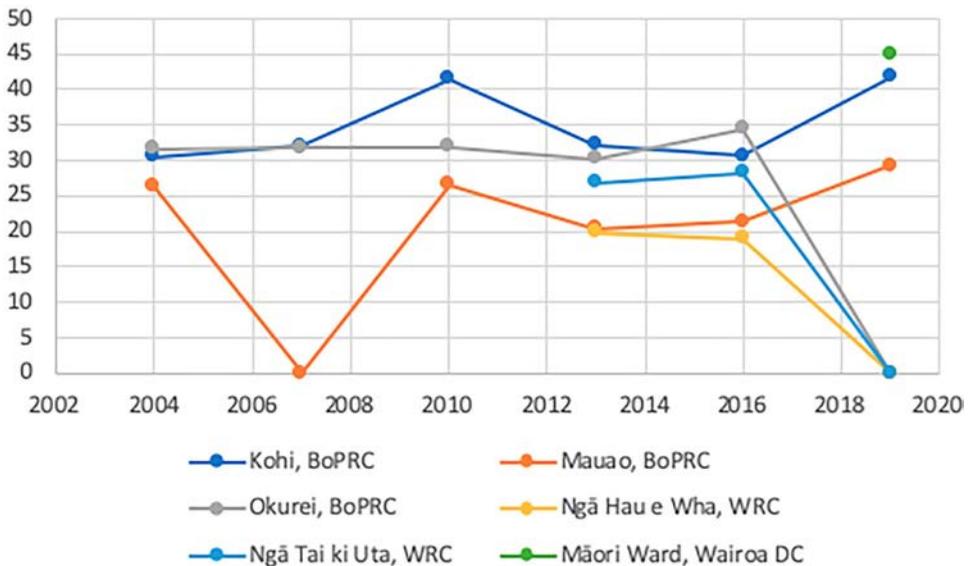


Figure 2. Percentage voter turnout in Māori wards/constituencies 2004–2019.

percentage for allowed special votes in the Bay of Plenty Regional Council area was 90% (Department of Internal Affairs 2016).

Another challenging feature of the Mauao voter turnout data was that it was collected by different election services providers (Electionz and Election Services), meaning different voter turnout statistics were calculated by each company. One provider sent voting packs to 3163 electors and another to 6861 electors. Each company has slightly different methods for presenting data making merging and analysis a time-consuming activity. In addition, council staff in the region's different councils had different levels of knowledge about how the Māori constituencies operated, making data collection challenging.

Waikato Regional Council Māori constituencies

Waikato Regional Council undertook a review of its representation arrangements in 2012 and voted to create two Māori constituencies as part of a 16-member council. These were reconfirmed in 2017. Voter turnout did not substantially decline in 2013 and 2016 but it is not possible to tell for 2019 since both incumbents were re-elected uncontested (see Figure 2).

Wairoa District Council Māori ward

The Wairoa District Council held two public polls on the establishment of a Māori ward, first unsuccessfully in 2012 and again (successfully) in 2016 alongside the council election (Wairoa District Council n.d.). The first election for the multi-member ward occurred in 2019. Three members were elected to Council alongside three members in the general ward. Voter turnout for the Wairoa Māori ward was 45%.

Expenses

Election expenses and donations are often highlighted in general or state elections as influencing and potentially excluding certain kinds of candidates (Alexander 2005). In terms of the Māori constituencies there is no correlation between candidate expenses and donations and candidates winning election. In 2016 the average reported expenditure of elected candidates for Māori constituencies was \$698 quite significantly lower than the last reported average from 2010 for regional council general constituencies which was \$2945 (Department of Internal Affairs 2011). Councils tend to only retain expenses information for seven years so no results for the Māori wards/constituencies are available before 2010.

Number of candidates

The average number of candidates in Māori wards and constituencies is similar to the average for Councils. In 2016 the average number of candidates per position in the Bay of Plenty Regional Council was 1.87, whilst for the Waikato Regional Council it was 2.28 (Department of Internal Affairs 2016) (Figures 3 and 4). In the two Waikato Regional Council constituencies the number of candidates has declined markedly however (Figure 5). It is not clear what has caused this decline. There is some anecdotal evidence to suggest that hapū and iwi entities within particular areas generate a collective consensus about particular incumbents and candidates and this may be a contributing factor. More qualitative research would be required to validate this anecdotal evidence.

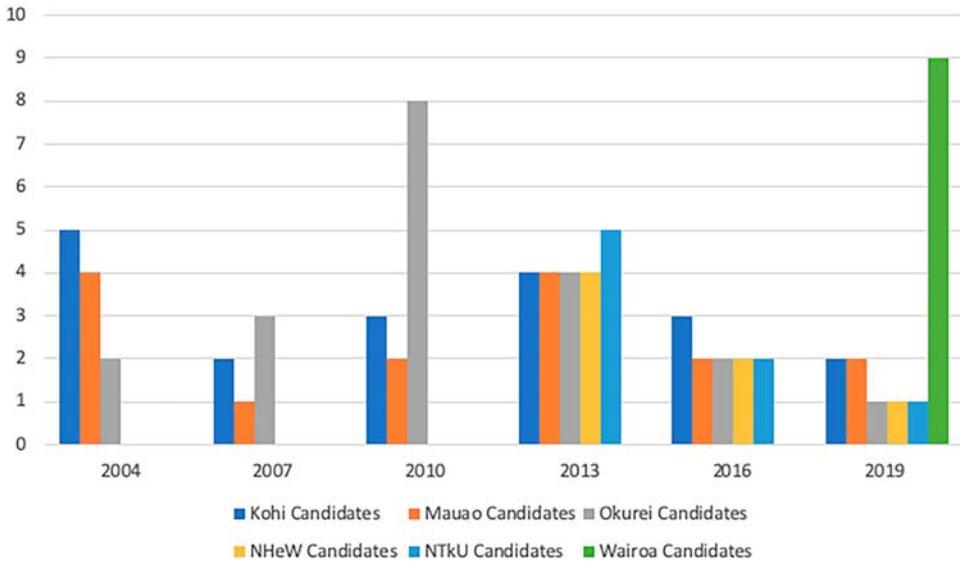


Figure 3. Number of candidates in Māori wards/constituencies.

Glimmers of hope on the path to Treaty-based Local Government relationships?

Despite the threats and challenges directed towards Māori, for the 2019 Local government elections many areas reported having the most Māori candidates standing for Local Government (Waatea News 2019; Waikato Tainui 2019). The high visibility of Māori candidates in the 2019 election highlighted their presence, interest and mobilisation. Active campaigns were conducted using social media to rally Māori communities in particular to support Māori candidates in general or Māori wards and constituencies. There were several notable successes for Māori candidates, outlined in Table 2. Ultimately however despite the significant numbers of Māori candidates in general seats, their electoral successes continued to be limited.

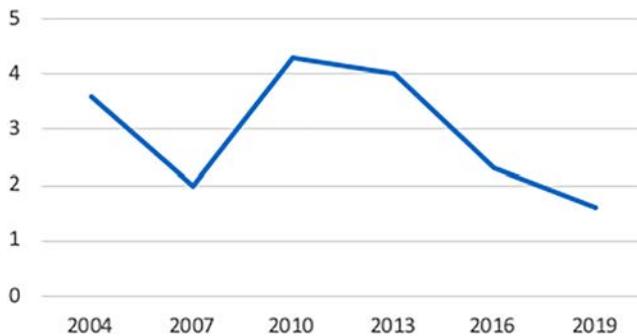


Figure 4. Average number of candidates in Bay of Plenty Regional Council Māori constituencies.

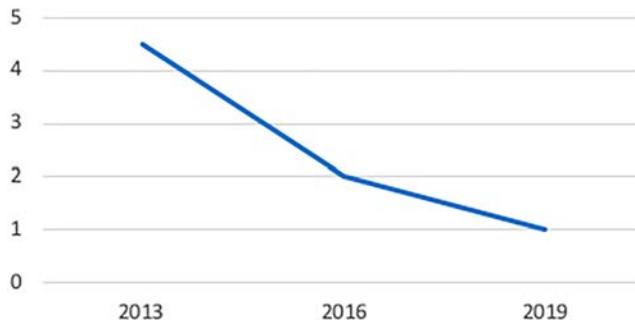


Figure 5. Average number of candidates in Waikato Regional Council Māori constituencies.

Wider possible examples of enacting Treaty-based Local Government relationships

Māori voter turnout in local elections tends to be lower than non-Māori (Bargh and Rata 2019). Some have argued this indicates a lack of interest or disconnection of Māori from Local Government (Lee 2016). However, voter turnout is the result of multiple and changing factors (Foster and Taylor 2019). In addition, simply relying on Māori voter turnout statistics to assess ‘participation’ or ‘interest’ is a blunt tool that cannot provide a complete picture. In the final part of this article, two examples of Māori participation are outlined that might be seen to be beginning to ‘enact’ Treaty-based Local Government relationships by working parallel, and with, Local Government.

Te Tatau o Te Arawa

The Te Arawa Partnership Board/Te Tatau o Te Arawa, is one of these examples which has representatives elected by members of Te Arawa iwi. Te Tatau o Te Arawa is an independent board which provides for mana whenua representation in the Rotorua District and which has representatives who sit on Rotorua District Council committees (Strategy, Policy and Finance Committee and the Operations and Monitoring Committee). Representatives are elected to the Board by electors who were registered with the Te Arawa Lakes Trust in 2015 when the inaugural elections occurred.

Te Tatau o Te Arawa is comprised of the following representatives: 1 koeke (elder), 2 rangatahi (young person), 2 land trusts/incorporations, 1 pan-Te Arawa entity, 2 Ngāti

Table 2. 2019 successes on the path to Treaty-based local government relationships.

Council	Achievement
Rotorua Lakes Council	Tania Tapsell received more votes than any other candidate for Rotorua Lakes Council (Rotorua Lakes Council 2019).
Wairoa District Council	In the Wairoa general ward, two of the three candidates elected are Māori, as are all three of those elected to the Wairoa Māori ward- making it the only Council in the country with a majority of Māori councillors (Wairoa District Council 2019).
Bay of Plenty Regional Council	In the Kōhī ward, Toi Iiti received 2450 votes – the most votes ever recorded for a single candidate in a Local Māori ward/constituency (Bay of Plenty Regional Council 2019)
Ōpōtiki District Council and Chatham Islands Council	Lyn Riesterer, and Monique Croon became the country’s two Māori mayors (Ōpōtiki District Council 2019; Chatham Islands Council 2019).
Whakatane District Council	Hinerangi Goodman tied for the Murupara/Galatea Ward seat, was declared winner, then overturned by a recount overturned (Black 2019).

Whakaue, 6 Te Arawa iwi/hapū. The Board does not provide for representation of mataawaka, those Māori who live in the Rotorua District and who are not members of mana whenua hapū and iwi.

Voter turnout for the 2019 elections was 17.24%, of which 71% were cast by post and 28.6% online. The pan-Te Arawa entity representative was re-elected unopposed. In the inaugural 2015% elections turnout was 25.46%, of which 76.79% were cast by post and 23.21% online (Figure 6). This indicates a decline in turnout and a marginal increase in online voting. The roll decreased in 2019 from 11,153–11,118 ‘votes issued’.

One of the elements of Te Tatau o Te Arawa turnout is that it derives from Te Arawa voters who live anywhere. In some senses this acknowledges Māori legal principles and practices for governance (Jones 2016). This membership disrupts the existing Local government idea that only people who live within a district are able to vote for representatives. The concept is aligned with the Māori political idea that Māori will continue to maintain a link and interest in the social, cultural, environmental and economic wellbeing of their traditional tribal areas regardless of where they live (Bargh 2016). It demonstrates an acknowledgement of the ‘lived’ realities for Māori people where most regionally based iwi have a high proportion of members who live outside their traditional tribal areas (Bargh and Rata 2020). This acknowledgement is significant as it aligns with the models Webster and Cheyne argued best suited a Treaty compliance in local governance – those that allowed for ‘more Māori forms of governance’ (Webster and Cheyne 2017, p. 160).

In Auckland, the Independent Māori Statutory Board also has an acknowledgment of Māori political organisational structures through provisions for distinct mana whenua and mataawaka Board members and is the second example of potential enactment of early forms on the path towards Treaty-based local government relationships.

Independent Māori Statutory Board, Auckland

The Independent Māori Statutory Board, is a body established by the Local Government (Auckland Council) Act 2009. One of the Board’s primary purposes is to assist the Auckland Council by promoting issues of cultural, economic, environmental and social significance for mana whenua and mataawaka. Mana whenua are members of Auckland based

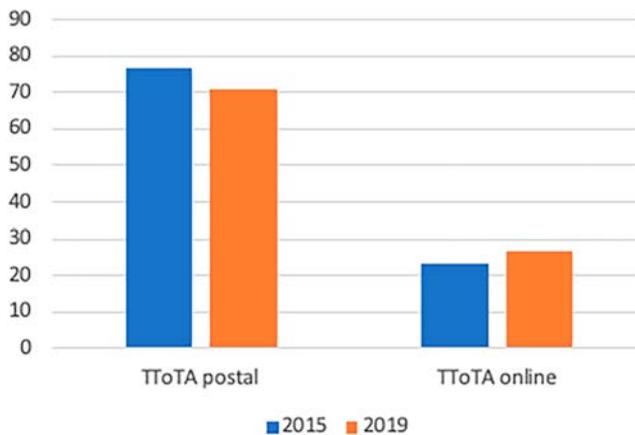


Figure 6. Te Tatau o Te Arawa voting method.

hapū or iwi, while mataawaka are Māori people who live in Auckland but who are not part of a mana whenua group. The Board consists of seven mana whenua representatives and two mataawaka representatives appointed for a three-year term.

The Independent Māori Statutory Board (IMSB) is not elected by individual mana whenua and mataawaka people participating in a system of voting but rather uses a specific process outlined in the Local Government (Auckland Council) Act 2009. The process involves the creation of a Selection Body specifically for the purpose of appointing members of the IMSB. The Selection Body is comprised of 18–20 members who represent particular mana whenua groups and they select candidates. As a result, even though mataawaka individuals have representatives, they do not elect or select those representatives directly themselves, they are instead selected by mana whenua representatives. Mana whenua individuals of Auckland, however, theoretically have the opportunity to lobby or influence the decisions made on their behalf through their representative on the Selection Body.

The Selection Body conducts its internal selection by using a system of an open vote, which members may choose to abstain from and Minutes are kept of these details (IMSB 2019). Candidates are divided into Mana Whenua groupings: Marutūāhu (2), Ngāti Whatua (2), Waiohua-Tāmaki (2), Ngāti Wai (1) and each grouping is discussed and voted on separately. Mataawaka (2) candidates are considered as a separate grouping and discussed and voted on separately.

In 2016, two of the 20 members of the Selection Body were appointed as IMSB members and in 2019 four of the 18 members of the Selection Body were appointed as IMSB members (Te Puni Kōkiri 2019a, 2019b). Concern was expressed by one member of the Selection Body in 2019 about this overlap however it is allowed for under the Schedule 2 of the Local Government (Auckland Council) Act 2009 (IMSB 2019).

Both Te Tatau o Te Arawa and the IMSB provide examples where attempts are being made, in different ways, to acknowledge Treaty-based Local Government relationships. For Te Tatau o Te Arawa while the voter turnout for the first two elections is still quite low, further research is needed before any conclusions are drawn about whether this reflects local Māori interest or approval of this political model. For the IMSB, further research and data about the Selection Body and its processes of engagement would assist in assessing the level of approval for this model.

Conclusion

This article has highlighted some of the challenges on the path to building Treaty-based local government relationships. The core challenges begin with the terminology used to describe and study this topic and connect to the attitudes commonly held by non-Māori councillors and include resistance to establishing Māori wards/constituencies. Despite those challenges, when voter turnout is examined for Māori wards/constituencies themselves there do not appear to be any specific additional electoral challenges separate from those aforementioned.

There are increasing numbers of councils attempting to introduce political processes to allow for iwi contributions to decision-making. This includes attempts to enable Māori to follow their own voting process and elect their own independent representatives to parallel political entities which they can partner with. Te Tatau o Te Arawa and the Independent

Māori Statutory Board provide examples of the variety of ways this is evolving in different regions. These systems align in small ways with some, but certainly not all, of the principles contained in ideas about Treaty relationships such as recognition of Māori being self-determining and being engaged with as a nation, mentioned at the beginning of this article.

The scarcity of data will continue to limit research in this area, including the assessment of the effectiveness of different models. Central government, in particular the Department of Internal Affairs, Te Puni Kōkiri and the Minister of Local Government should investigate directing local government to collect ethnicity data for elections. This would make it easier for policy makers and academics to give equal attention to the involvement of both sides of the Treaty-based local government relationship.

In this article I have outlined the data that is available and conclude by encouraging greater attention be paid to building on this data and the emerging Treaty-based local government relationship. Those non-Māori agitating against the intent of Te Tiriti would do well to recall the words of Chief Justice Eddie Durie,

We [Māori] must not forget that the Treaty is not just a Bill of Rights for Māori. It is a Bill of Rights for Pakeha too. It is the Treaty that gives Pakeha the right to be here. Without the Treaty there would be no lawful authority for the Pakeha presence in this part of the South Pacific ... We must remember that if we are the Tangata Whenua, the original people, then the Pakeha are the Tangata Tiriti, those who belong to the land by right of that Treaty. (Durie, quoted in Borrows 2019, p. 45).

Note

1. Data are derived from the Department of Internal Affairs *Local Authority Election Statistics, Local Authority Election Data 2007,2010, 2013, 2016*, (https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Services-Local-Elections-Local-Authority-Election-Statistics-2013?OpenDocument) as well as received directly from Councils, Independent Election Services and Electionz. Turnout includes blank and informal votes.

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