

**‘Another tool in the kete’: Māori engaging with the
international human rights framework.**

Hannah Mackintosh

2011

**A thesis submitted to Victoria University of Wellington in partial fulfilment of
the requirements for the degree of Masters in Development Studies**

School of Geography, Environment and Earth Sciences

Table of Contents

<i>Acknowledgements</i>	<i>i</i>
<i>Abstract</i>	<i>ii</i>
<i>Glossary</i>	<i>iii</i>
<i>List of Acronyms</i>	<i>vi</i>
<i>Preface</i>	<i>vii</i>
Chapter One: Introduction	1
Thesis structure.....	3
Two considerations	4
Conclusion.....	6
Chapter Two: Human rights and development: An alignment of two discourses	7
Rights-based approaches to development: an explanation	7
Debates within human rights.....	11
Conclusion.....	21
Chapter Three: Indigenous rights in Aotearoa	23
The foundation of rights in Aotearoa	23
Māori claiming rights in Aotearoa	26
Where are we now?	29
Conclusion.....	33
Chapter Four: Methodological approaches	34
A theoretical discussion	35
The underlying values	39
The process	43
Conclusion.....	48
Chapter Five: The localisation of human rights in Aotearoa	50
Kaupapa Māori, Tikanga, Whakapapa and Human Rights.....	50
Collective Rights and Whānau	53
The Human Rights Documents: Declaration of Independence, Treaty of Waitangi, UDHR and UNDRIP.....	56
Conclusion.....	60
Chapter Six: Taku Manawa and rights-based approaches to development	62
Taku Manawa: Te Tairāwhiti Pilot Programme.....	62
Taku Manawa, human rights and empowerment	64
Positive outcomes.....	69
Opape Marae, Marae Tikanga Tangata.....	73
Conclusion.....	76
Chapter Seven: Conclusion	78
Conceptual inquiry	79
Methodological inquiry.....	81

Practical inquiry	82
Concluding comments	84
<i>Reference List</i>	85
<i>Appendix One: Map of ‘Te Tairāwhiti’</i>	94
<i>Appendix Two: Victoria University of Wellington Ethics Forms</i>	95
<i>Appendix Three: Taku Manawa Evaluation Code of Ethics</i>	98
<i>Appendix Four: Framework for Focus Group Interviews</i>	99

Acknowledgements

I would first like to give my sincerest thanks to all those individuals who shared their stories with me and whose voices are represented in this thesis. To Bill, for supporting me in my initial steps; To Tracy, for her generosity and honesty; To Paula and Hemi, for their gentle guidance and constant support; To Jill, for taking a chance with me; To John, for his enthusiasm for my work and for encouraging me to take holidays. Nga mihi nui kia koutou.

To all my family and friends for their love and support. To Mum, Michael, Dad and Hilary, for their endless faith in me; To Rupert and Verity, for challenging my positions and for the much welcomed distraction; To Lucy for always being an inspiration in my life and for editing in her limited spare time; To Simon for the grounding advice and the music; To Dave and Tania, for their valued opinions and for generously editing the final draft; To Marianne, Simon and Richie for their company, conversation and laughter in the office; To Laura, Laura, Renee, Morgan and AJ for sharing the journey, and the endless words of encouragement; To Bear, Brittany, Vanessa, Dave and Karly for the open doors, the dinners and the glasses of wine at the end of long days. Nga mihi aroha kia koutou.

Abstract

In this study, I consider how the universal concept of human rights is being engaged with and interpreted by Māori communities in Aotearoa/New Zealand. The rights of indigenous peoples have recently been formally defined within United Nations forums and cemented in the United Nations Declaration on the Rights of Indigenous Peoples. This research argues that the indigenous rights movement indicates a shift in many of the debates that have dominated the global rights rhetoric to a more evolutionary concept of human rights. It suggests that engaging with these debates has the potential to open up new dialogue within the human rights discourse for alternative ways of considering human rights at the global level. This will impact the way that rights-based approaches to development are implemented, engaged with and utilised at the local level. However, currently little is known about the ways in which indigenous communities are using human rights at the local level. This work focuses on a successful rights-based community development programme as a case study. Through this exploration, I consider the levels of empowerment and the positive impacts that resulted from increased knowledge of human rights in the region. I further present some of the principles inherent in the successful application of a rights-based development project.

From a methodological perspective, it provides an exploration into the way that research involving indigenous communities is conducted. As a Pākehā researcher working with Māori communities I had to take extra care to ensure that this research had an ethically sound methodological foundation. Taking a critical perspective, I consider some of the political and social implications of being a non-indigenous researcher working with indigenous communities. This work illustrates that highly ethical, critical methodological approaches are essential to any development work.

Overall, the research proposes that Māori concepts of human rights are placed within a distinct cultural framework. Human rights are understood and given meaning through Kaupapa Māori, tikanga and whakapapa. They are also framed within the experiences of a colonial history. This research provides an example of how this universal framework is localised to fit particular historical, local and cultural contexts increasing its potential to be a tool for positive social change. It provides a conceptual, methodological and practical inquiry into rights-based approaches as a way of delivering development.

Key words

Human rights, rights-based approaches to development, Māori, indigenous peoples, Aotearoa, New Zealand, United Nations.

Glossary

Aotearoa	New Zealand
Aroha	Love, empathy – ‘being truthful and being honest with yourself’
Atua	God
Hapū	Sub-tribe, family or district groups
Huarahi	Pathway
Hui	Gathering, meeting
Huia	A glossy black native bird from Aotearoa which is now extinct.
Iwi	Tribal group
Kaupapa	Topic, policy, matter for discussion
Kete	Basket
Korero	Speech, narrative, story, conversation, discourse
Kuia	Elder female
Mana	Prestige, authority, power, influence, status, spiritual power, charisma
Mana moana	The equivalent of mana whenua as it applies to the sea and its resources
Mana whenua	Territorial rights, power from the land
Māori	The indigenous people of Aotearoa
Marae	The open area in front of the wharehau (meeting house) where formal greetings and discussions take place; often used to include the complex of buildings around the marae.
Mihimihi	Speech of greeting, tribute
Moana	Sea, ocean, large lake
Nga mihi aroha kia koutou	Greetings and love to you all
Nga mihi nui kia koutou	Greetings to you all
Ngā Tamatoa	A Māori activist group that operated in the 1970s
Kai	Food
Kaitiakitanga	Guardianship
Karakia	Prayer
Kaumātua	Elder
Kaupapa	Topic, policy, matter for discussion
Kaupapa Māori	Māori ideology – a philosophical doctrine, incorporating the knowledge, skills, attitudes and values of Māori society
Kāwanatanga	Governance

Kīngitanga	The King Movement - A movement established in the Waikato in the 1850s to protect land against colonial forces, to maintain law and order and to promote traditional values and culture
Kiwi	A flightless, nocturnal native bird to Aotearoa
Kotahitanga	A movement for self-governance and national unity among Māori in the 19th Century
Kuaka	A brown and white migratory seabird
Mana	Prestige, authority, status
Pākehā	Of European descent; non-Māori
Papatūānuku	Earth mother
Pono	To be true, valid, honest – ‘that you believe in what you are doing’
Pūrākau	Myth, ancient legend, story
Rangatira	Chief
Raupatu	Conquest; confiscation
Rohe	Region, boundary, district
Tamariki	Children
Tāne	Husband, male, man
Tangata whenua	People of the land
Taonga	Highly prized possessions or holdings
Te ao Māori	The Māori world
Te Haahi Ringatū	Ringatū Church, Ringatū faith - a Māori Christian religious faith founded by Te Kooti in the 1860s with significant numbers of adherents amongst the Bay of Plenty and East Coast iwi.
Te Kōhanga Reo	‘Language nests’ – A total immersion Māori language programme for children
Te reo	The Māori language
Te Puni Kōkiri	The Ministry of Māori Development
Tika	Right, true, fair, just – ‘the right things’
Tikanga	Correct procedure, custom, meaning
Tino rangatiratanga	Translates as ‘chiefly authority’ or ‘chieftanship’ but the modern usage is ‘self-determination’
Tipuna	Ancestors
Tūrangawaewae	‘Place to stand’, place where one has rights of residence and belonging through whakapapa
Wāhine	Women, female, wives

Waka	Canoe, vehicle
Whakaaro	Understanding, intention, idea
Whakamā	Shy; embarrassed
Whakanoa	To remove tapu (sacred; under the protection of the gods)
Whakapapa	Genealogy
Whakatauāki	Proverbs
Whānau	Family group; a familiar term for a number of people – in the modern context this can include friends who may not have a kinship relation
Whenua	Land, placenta

*All definitions are sourced from the online Māori dictionary
<http://www.maoridictionary.co.nz>*

List of Acronyms

CEDAW	Convention of the Elimination of All Forms of Discrimination Against Women
CERD	United Nations Committee on the Elimination of Racial Discrimination
FSA	Foreshore and Seabed Act
ICCPR	United Nations International Convention on Civil and Political Rights
ICESCR	United Nations International Convention on Economic, Social and Cultural Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
NZQA	New Zealand Qualifications Authority
PRA	Participatory Rural Appraisal
RSE	Regional Seasonal Employees
UDHR	Universal Declaration on Human Rights
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples

Preface

Tēnā koutou, tēnā koutou, tēnā koutou katoa
He mihi nui tenei, ki a katoa
Ko Ruapehu te maunga
Ko Taupō te moana
No reira, me mihi atu ki te iwi o Tūwharetoa
Tēnā koutou
Ko Ngati Tiriti toku iwi

Ko Andrew Mackintosh o Whanganui toku Matua
Ko Heather Smallbone o Poneke toku Whaea
Ko Hannah Mackintosh ahau
No reira, tēnā koutou, tēnā koutou, tēnā koutou katoa

I am a Pākehā New Zealander who grew up in Auckland but feel most at home in Wellington, the tūrangawaewae (place of belonging) of my mother's family. However, I also hold strong family connections to Mount Ruapehu and Lake Taupō both places where my family have shared some of our most precious moments together. At Taupō, my extended family have gathered annually for generations. My parents had their honeymoon there and my grandmother lies at rest in the whenua (land). For this reason, with sincere recognition of Ngati Tūwharetoa as tangata whenua, I extend part of my belonging and identity to Taupō.

I have a background working with human rights at the community level. This experience has been mostly through both paid and voluntary positions with non-government organisations such as Amnesty International. I have also volunteered at schools and orphanages overseas where I learnt about their perceptions of development, human rights and dignity. Upon considering a thesis topic, I wanted to do something at home. I had been overseas for many years and I wanted to spend some time and energy learning and listening to the stories of people here, as well as sharing my stories with them. I chose to work with Māori because I could not ignore the high level of inequity that continues to exist in Aotearoa. This has been a huge journey of learning for me and I have been honoured to have had the opportunity to explore aspects of te ao Māori (the Māori world). This was not a position I took lightly. However, with the advice and guidance of those more experienced than me, both Māori and Pākehā, I completed this work. I anticipate that it may receive mixed responses but I hope that if nothing else it reflects the importance I have placed on ethically sound research practices, the reverent respect that I hold for te ao Māori and the honour I have felt learning from and listening to those whose voices are presented in this thesis.

Chapter One: Introduction

This research considers human rights as a lens through which to approach community development. While the modern understanding of human rights has existed as a global concept for over 60 years, it is only in the last 25 years that human rights have been considered a valuable way to approach development. What has emerged is a set of approaches that incorporate human rights principles into development theory and practice. If genuinely engaged with, these approaches provide a platform that demands community participation in the development process and empowerment at the local level as a key development outcome (Ife & Tesoriero, 2006). In theory, rights-based approaches to development have the potential to challenge unequal power structures promoting long-term sustainable change. However, the practical reality of these approaches at the local level still remains largely unknown (Gready & Ensor, 2005; Llewellyn-Fowler, 2007; Molyneux & Lazar, 2003). Accordingly, it is difficult to ascertain the effectiveness of these approaches. By building an understanding of the perspective of those most marginalised and the ways that they are using rights to hold others accountable we can begin to explore the true value of rights-based approaches to development (Gaventa, 2002). Therefore, more needs to be known about how the principles of participation and empowerment are experienced by those at the local level and what the long-term sustainable outcomes of rights-based approaches to development look like in reality.

Further, within human rights there are a number of debates which impact the way that rights-based approaches to development are engaged with. These debates have remained largely unchanged and reflect broader political complexities that exist at the global level. Attempts have begun to be made within the academic human rights discourse to move beyond these debates (see, Donnelly, 2007; Ife, 2010). I argue that the indigenous rights movement poses the most recent challenge to many of these debates and indicates the possibility for movement beyond the way that human rights are currently framed at the global level. The two United Nations (UN) decades dedicated to the human rights of indigenous peoples cemented the principles present within the indigenous rights movement into the global rhetoric of human rights. These culminated in the signing of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). This Declaration provides a contemporary example of the human rights discourse expanding to allow for diversity and growth within its definitions. This allows space for more disparate interpretations of human rights that are set within the solid foundation of the basic human rights principles as they exist in the global forum.

However, currently the challenge posed by the indigenous rights movement still remains within the realm of theoretical discussion. Through an exploration of the ways in which indigenous peoples are

interpreting and using human rights (as defined by the UN), there arises the potential to open up new dialogue within the global human rights discourse. These would in turn have the potential to influence the way that development is implemented through the human rights framework at the local level. Further, some claim that despite the increased inclusion of indigenous rights within international forums, little positive change has been seen suggesting a lack of efficacy of human rights as a tool for indigenous peoples (Corntassel, 2008). However, as indicated above, there is little insight into how human rights are being claimed from below. Accordingly, there is limited knowledge of the ways that indigenous peoples at the local level are engaging with the international framework of human rights to assist with local struggles. Again, more needs to be known about the outcomes of those human rights struggles on the ground.

This thesis explores some of the questions around the unknown local reality within rights-based approaches to development. To achieve this outcome, I focus on a case study in Aotearoa. Taku Manawa¹ is a rights-based community development programme that was initiated by the Human Rights Commission. It is part of their broader mandate to support education of and advocacy for human rights in Aotearoa/New Zealand (from now on referred to as Aotearoa). This thesis looks particularly at the Taku Manawa Pilot Programme which began in the Tairāwhiti (East Coast) and Bay of Plenty regions in 2003². This was an innovative initiative based on the principles of community participation and ownership. It aimed to facilitate the creation of a sustainable human rights base within the region as well as increase the Human Rights Commission's knowledge of what human rights initiatives already exist at the local level. Although Taku Manawa does not work solely with Māori communities, the majority of the participants within this particular Taku Manawa programme were Māori and all the contributors that I spoke to within this thesis identified as Māori. More detail on this programme is provided in chapter six.

Through the consideration of Taku Manawa, this thesis explores an indigenous interpretation of human rights as they are experienced at the local level. In order to begin this exploration, this research seeks to answer the following questions:

- 1) How are human rights (as defined by the UN) being interpreted and used by Māori?
- 2) How are Māori interpretations of this human rights discourse specific to place, culture and history?
- 3) Is the human rights discourse being used as a tool for empowerment, and if so, how?

¹ The term "Taku Manawa" is synonymously linked in the Tairāwhiti rohe (region) to the waiata of the same name which was composed by Kahu Waitoa (Rauna, 2008).

² The Taku Manawa Pilot Programme took place across multiple regions. See Appendix One for a map of the area. For ease of flow, and in consistency with the Human Rights Commission, I will now refer to these regions as Te Tairāwhiti.

4) What positive outcomes have resulted from this discourse?

Within these research questions there are four central objectives. These are:

- 1) To explore and present, with guidance from the research contributors, different cultural perspectives Māori use to interpret and apply human rights;
- 2) To consider the historical, political and cultural contexts in Aotearoa that have impacted the way Māori engage with human rights;
- 3) Using Taku Manawa as a case study, to identify the different ways that the introduction of the international human rights framework to Te Tairāwhiti had an empowering impact;
- 4) To celebrate a successful rights-based development project, consider the positive outcomes of that project and from that inform rights-based approaches to development.

Overall, this research aims to consider how the universal concept of human rights is being interpreted and used by Māori as a tool for empowerment opening spaces at the local level for positive development and alternative pathways for accessing rights. Through this consideration, I endeavour to challenge some of the long-standing, static debates within the global rhetoric of human rights and to contribute to a growing set of literature which grounds human rights in their practical application. By considering a successful rights-based development project from the local perspective, this thesis has the potential to shed some light on rights-based approaches as a development tool. This research supports a solid, globally recognised foundation of human rights that allows room for a flexible and evolving application of those rights reflecting the reality of distinct and diverse peoples.

Thesis structure

Chapter two provides a conceptual exploration of rights-based approaches to development from a global perspective. It initially discusses the alignment of the human rights and development discourses and the implications of this union. It then focuses on the central debates within the human rights discourse looking particularly at the impact that the indigenous rights movement has had on these debates.

Chapter three contextualises human rights within Aotearoa. This chapter reflects on some of the historical and contemporary events and movements that have shaped indigenous rights in Aotearoa.

In **chapter four** I contemplate my position as a Pākehā researcher engaging in research with Māori communities. This provides a critical examination of the ethical implications of a piece of research such as this. Here I position myself within the research and place the research within Kaupapa Māori and Participatory Rural Appraisal methodological frameworks. This chapter provides an explanation of how the research was approached, conducted and written up.

Chapter five focuses on the first two research questions within this work. It is primarily a conceptual inquiry into the ways that Māori communities in Te Tairāwhiti are interpreting the global concept of human rights. It considers how these interpretations are specific to culture, history and place.

Chapter six reflects upon research questions three and four. This chapter defines Taku Manawa as the case study. It considers the positive outcomes of Taku Manawa and uses this study to explore principles that are essential to successful rights-based approaches to development. It finishes with the story of Opape Marae, Aotearoa's first rights-based marae.

Finally, **chapter seven** reflects on the research as a whole. It considers the three levels of inquiry – conceptual, methodological and practical – that emerged from this thesis.

Two considerations

Before I begin, there are two important matters of detail to consider and clarify:

The first consideration surrounds how Māori are defined as a peoples within this work. Throughout this thesis I discuss ideas and concepts as they relate to 'Māori'. This implies that Māori represent a unified and homogenous people. However, Māori have always been a tribal society where identity is connected to individual whānau (family), hapū (sub-tribe) and iwi (tribe). There are implications in research when discussing ideas and concepts across a whole people who do not identify as one united people. James Ritchie (1995: 40) expresses some of these implications when making generalisations across all Māori people: "From a research point of view, one constant problem was that the label 'Māori' covered a wide range of cultural understandings and levels of immersion." Acknowledging this, however, I would also assert that there also exists a common identity in contemporary Māori society as tangata whenua (Webber, 2008). Here significance is placed on Māori as the indigenous peoples of Aotearoa which places them in a distinct category from others who live in Aotearoa. This does not replace tribal identity. Both can exist together. "The Māori world is both separate and integrated; it is both whole and divided.

It has structure and structures” (Ritchie, 1995: 11). Considering identity from this position extends the possibility of reaching common meanings which can lead to greater understanding around certain concepts that have the potential to impact all Māori.

Importantly, the people who contributed to this piece of work identified across different iwi. This is particularly noteworthy when discussing the concepts of Kaupapa Māori, tikanga, whakapapa and whānau in chapters five and six. I have described these concepts based on the ways that they were explained to me by contributors and supplemented my knowledge on the subjects with academic writing. My understanding is that these uniquely Māori concepts and ways of understanding are essential to Māori identity across all Māori, however the meaning attached to them and the way that they are expressed and experienced will differ according to particular whānau, hapū and iwi. What is important to take from this is that I am generalising across a diverse and tribal peoples. I acknowledge this from the outset. I encourage the reader to remember when reading this thesis that not all Māori will see the ideas, concepts and issues presented here in the same way.

The second consideration acknowledges the way that Taku Manawa is presented in this research. Here the reader will find the programme presented in a wholly positive light. This has been both purposeful and accidental.

I purposely chose Taku Manawa as a case study because it is a positive example of a rights-based development programme. It had been referred to me by people within the development community as a shining example of rights-based community development. An evaluation of the programme completed by an external evaluator also presented it from an overwhelmingly positive perspective (Rauna, 2008). My reasoning for choosing a positive example was a personal choice that reflects a belief that more can be learnt from a successful project than from a critical account of a failed project. This takes a different stance from more common forms of academic inquiry. Like Gibson-Graham (2005: 618), I question the room that solely critical inquiry leaves for more positive and innovative possibilities for change:

“At present we are trained to be discerning, detached and critical so that we can penetrate the veil of common understanding and expose the root causes and the bottom lines that govern the phenomenal world. This academic stance means that most theorizing is tinged with scepticism and negativity, not a particularly nurturing environment for hopeful, inchoate experiments.”

Here I take the position that if the reasons for the success can be clearly ascertained and articulated then this has a greater potential to inform rights-based approaches to development.

However, I do acknowledge that critical inquiry has an important place in academic thought (and in change processes). Looking at the programme from a positive perspective did not mean that I was prepared to neglect obvious issues with the programme or refrain from taking a critical position. However, I can only present the information based on what I have observed, what I have read and the stories I have been told, and these were all overwhelmingly positive. Any criticisms that did emerge were largely related to minor practical details within the formal programme implementation itself. Concentrating on matters of detail for the sake of critical inquiry I felt would detract from the central findings within this research. Therefore the positive presentation of Taku Manawa as it exists in this thesis was also accidental in the sense that I had been prepared to include a critical perspective if it had arisen.

In saying this, it is also important to recognise that this is not a thesis about Taku Manawa. Nor is it an attempt to evaluate the way that the Human Rights Commission are engaging in rights-based development community work. Rather, it uses Taku Manawa to reflect on rights-based approaches as they pertain to the local level more generally and the ways that Māori are engaging with human rights more specifically. In this research I use Taku Manawa as a vehicle through which to engage with the central questions that I have posed in this thesis. It provides an example of one possibility of what rights-based approaches to development can look like. As a positive example, it can inform rights-based approaches to development in both theory and practice.

Conclusion

There remains a level of uncertainty around the reality of rights-based approaches to development at the local level. This chapter has defined this research as an exploration of one example of the ways that Māori are using human rights. This provides both an indigenous perspective and a grassroots perspective of human rights as a tool for development – both areas that remain largely unknown. It has also clarified two distinct forms of expression for the reader which impact the way that ideas and opinions are presented within this work. The following chapter will set the scene of this research by expanding on the human rights debates and the challenges offered by the indigenous rights movement to these debates.

Chapter Two: Human rights and development: An alignment of two discourses

Rights-based approaches to development encompass two separate but related discourses. This chapter provides a conceptual discussion of these approaches to contextualise their evolution and theoretical foundation. The first section endeavours to provide a definition for a set of approaches that are unique in their flexibility and ambiguity. It further discusses the emergence of rights-based approaches to development and the impact that the unification of the human rights framework and development has had on the two different discourses. Finally, it covers the broader principles that underpin the approaches before considering the impact this has had in practice to the way that development is delivered. The second section discusses in more detail the debates surrounding human rights. These are necessary to understand in the development context because they not only affect the way that rights-based approaches to development are delivered but perhaps more importantly the way that they are perceived and therefore used by those at the local level. I argue that the indigenous rights movement challenges the key debates that have long engaged scholars in human rights. I further assert that the indigenous rights movement has the potential to open up new spaces within the human rights discourse for alternative ways of considering rights at a global level therefore influencing the way that development is implemented through the human rights framework at the local level.

Rights-based approaches to development: an explanation

“Human rights are not, as has sometimes been argued, a reward of development. Rather they are critical to achieving it” (UNDP, 2000: 59).

To provide a single overarching definition of rights-based approaches to development would risk oversimplifying a complex and often contested notion. At its most basic, a rights-based approach to development is essentially the act of viewing development through the lens of the human rights framework. However, this definition does not adequately describe what is meant by ‘the human rights framework’ or ‘development’.

The human rights framework was born out of the devastation of World War Two. Nations united in the wake of the war determined to protect the human against the possible tyranny of the state (Lauren, 2003). The Universal Declaration of Human Rights (UDHR) was drafted and adopted by the United Nations General Assembly on December 10, 1948 with a vote of 48-0 (with eight abstentions). This founding document is held up as the zenith of modern-day human rights. From there the rubric of

human rights developed as a global moral platform. These rights were further clarified in 1966 with the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These three documents, along with a growing list of other UN conventions and declarations, provide a normative framework with legal backing that entitles each human being to a basic set of rights. As a collective unit they aim to ensure the protection of a minimum standard of human dignity for all regardless of race, sex, religion or political beliefs (UNOHCHR, 2006). This framework currently informs how human rights are understood and implemented on a global scale.

Development is a term that encompasses a plethora of theoretical debates, international aid programmes, state policies and local community practices. It is a complex and often contradictory concept. Jim Ife (2010: 17) identifies that, “The idea of development ... is almost universally valued, even though the way in which development has been implemented is widely criticised.” It is beyond the scope of this thesis to discuss the debates that surround development.³ However, it is important to place development within the context of rights-based approaches. Here, it is strongly connected to the concepts of empowerment, participation and self-determination with less focus on growth in its purest economic sense (Ife, 2010). These approaches focus on a community-centred development identity that values and validates local knowledge and wisdom rather than ‘top-down’ development processes which impose assumed superior knowledge systems from above. It therefore has the capacity to incorporate diverse and localised meanings.

Rights-based approaches to development began to emerge after the signing of the United Nations Declaration on the Right to Development in 1986. This Declaration connected the discourses of development and human rights at both the theoretical and policy levels. Throughout the 1990s, in the midst of major global political and ideological transformation, the impact of the connection of the two discourses started to be reflected in practice. The development discourse, with its needs-based and project-focussed outlook, began to consider that the “dimension of rights and obligation was missing” (Pettit & Wheeler, 2005: 2). The marriage of the two discourses provides a basic moral structure through which development can be delivered (Ife & Tesoriero, 2006). It also re-politicises development challenging the underlying power structures that cause poverty (Blackburn, et al., 2005; Cornwall & Nyamu-Musembi, 2004; Pettit & Wheeler, 2005). The human rights discourse, with its legal focus and top-down approach, began to recognise the need for a greater understanding of and engagement with the community level (Pettit & Wheeler, 2005). The connection of the discourses engages human rights at the local level providing a practical aspect to rights that was previously missing. “When rights are translated into action they use an otherwise legalistic discourse of rights in a transformative manner

³ For definitions within development see: *The Development Dictionary: a Guide to Knowledge as Power* (Sachs, 2009).

that translates it into an effective challenge against power inequalities. They shift the parameters of the discourse and expand the possibilities for action" (Nyamu-Musembi, 2005: 41). The merging of these two discourses therefore has the potential to be a valuable and transformative form of delivering development.

There are two essential principles at the core of rights-based approaches to development. The first is that the development process is community orientated, led and driven. The practice of participation is entrenched within these approaches which ensures that community members have a genuine input into decisions that affect their development (Ife & Tesoriero, 2006; Uvin, 2004). The second principle is that it is an empowering process at the community level (Ife & Tesoriero, 2006; Nyamu-Musembi, 2005). Empowerment in the context of rights involves a consciousness-raising process where "participants change their explanations for their circumstances from ones centred on personal deficit to ones emphasising the denial of rights" (Cram, 1997: 55). It therefore raises "awareness that one is a subject of rights with a capacity to *act on the world* – for changes that benefit both individuals and collectives as well as being of benefit to society as a whole" (Molyneux & Lazar, 2003: 7 emphasis in original). It involves a shift in power relations created through increased knowledge, resources, opportunities and skills. This in turn has transformative results as communities learn the power of agency and gain access to the resources that allow them to demand and make political and social change (Molyneux & Lazar, 2003). These principles of participation and empowerment, if honoured in practice, should transform development relationships into ones that are based on reciprocity and respect, where knowledge and skills are equally shared between development practitioner and community members.

Through the realisation of these principles, rights-based approaches alter the way in which development is perceived, the way that it is delivered and the purpose or final outcome of the development process. These approaches frame issues as a "matter of social justice; as the realisation of a right and the fulfilment of a duty" (Nyamu-Musembi, 2005: 42) rather than the traditional development approach of charitable assistance through needs-based assessment (Llewellyn-Fowler, 2007; Molyneux & Lazar, 2003; VeneKlasen, et al., 2004). As a result, recipients of development are transformed from passive victims in need of outsider assistance to active agents with the ability to define and therefore control their own development. Considering development through a human rights framework therefore lends a way toward what Amartya Sen (2001: 36) labelled "development as freedom" where the "expansion of freedom is viewed as both (1) the *primary end* and (2) the *principal means* of development." In this regard, the protection of human dignity is not solely the development goal but is also the method of implementation to reach those goals. As a whole, rights-based approaches provide a moral framework with legal and political authority from which to deliver

development. At the local level, they provide the language and resources of human rights which carry the potential to empower people to actively engage in social and political change.

However, there can be no assumption that these principles will automatically translate into practice when a rights-based framework is applied in the planning stages of a development programme. Critics accuse rights-based approaches of being rhetorical in nature with little real impact at the local level (Pettit & Wheeler, 2005; Uvin, 2007). The language of rights in development is meaningless with no concurrent action and programme implementation alongside those standards. Organisations that claim to use a rights-based approach have displayed little visible change in the way that development programmes are implemented (Mikkelsen, 2005; Pettit & Wheeler, 2005). Jethro Pettit and Joanna Wheeler (2005: 3) claim that there still exists the “perceived need for development, to which rights are framed as the solution.” Therefore, these organisations have a human rights *perspective* of development rather than actually applying a rights-based *approach* to development implementation (Mikkelsen, 2005: 203 emphasis in original). This focus often does not include participatory processes and does not have empowering outcomes. However, Britha Mikkelsen (2005) asserts that a human rights perspective may be the first organisational step necessary to achieve genuine rights-based approaches to development assistance. Further, little is actually known about what the reality of rights-based approaches looks like at the grassroots level (Gready & Ensor, 2005; Llewellyn-Fowler, 2007; Molyneux & Lazar, 2003). Debates tend to remain at the higher level of ideological deliberation and legal implementation. As a result, there are few examples that reflect on local level experiences, perceptions and uses of human rights as a form of empowerment and a tool for development.

Therefore, I would agree with scholars who assert that there is little use to the human rights discourse unless it has impact beyond the global level (Gready & Ensor, 2005; Jones & Gaventa, 2002; Molyneux & Lazar, 2003; Pettit & Wheeler, 2005; VeneKlasen, et al., 2004). It is at the local level where the impacts of human rights achievements are real and where empowerment becomes visible. Without a clear picture of how people are using human rights, the discourse remains nothing but rhetoric. However, I would argue against critics that claim rights-based approaches to development to be fraudulent due to the fact that change has yet to be seen in the way that development is implemented (Pettit & Wheeler, 2005; Uvin, 2007). These approaches are unique in that they simultaneously call for state accountability and citizen participation. Therefore the power of human rights lies in their accessibility to all. Only by engaging at the local level can we ascertain the real impact of human rights as a development tool.

Debates within human rights

There are a number of debates surrounding the human rights framework which impact the way that rights-based approaches to development are perceived. Here I will discuss these debates and assert that the indigenous rights movement and the recent signing of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) counter many of the age-old debates within human rights. UNDRIP provides a current example of human rights as an evolutionary concept that does not remain static but allows space for diversity, interpretation and growth. Through this view, rights-based approaches maintain the universal standards inherent within human rights without compromising their ability to be translated in a way that gives them meaning at the local level.

Initially, there is strong criticism about the ‘western’⁴ use of the human rights framework. This framework is accused of being a form of western hegemony imposed on other cultures stifling diversity within its limited definition of rights (Aziz, 1999; de Kadt, 1980; Muzaffar, 1999). However, the indigenous rights movement challenges this claim. Indigenous rights provide a contemporary example of how universal rights are evolving and do embrace and celebrate diversity. The current global collective identity of indigenous peoples was created through the concept of rights (Niezen, 2003). Clearly the concept of indigeneity is not new, nor is the call by indigenous peoples that they have inherent rights; what has changed is the unifying of indigenous voices through their collective struggles to have their rights recognised in international forums and on a global scale (Niezen, 2003). While these processes have largely been set in motion by an increasingly active and connected global indigenous network, the UN has been integral in providing effective spaces for indigenous peoples to network and to be represented in international forums (Falk, 2000). Indigenous peoples as a collective represent a diversity of peoples, cultures, religions and political organisation from all ends of the world with an equally diverse range of historical and present day struggles (Niezen, 2003). Due to the diverse nature of indigenous populations, what has emerged is a collective identity rather than a finite definition of what determines an ‘indigenous person’. “The prevailing view today is that no formal universal definition of the term is necessary, given that a single definition will inevitably be either over- or under- inclusive, making sense in some societies but not in others” (UN, 2009: 6). Instead the defining and unifying factor lies in the call for self-identification and the freedom to identify as indigenous to a country with inherent rights (UN, 2009). The UN and the human rights framework rather than stifling diversity have in fact

⁴ I have used inverted commas around the word western to indicate that it is a term that is used to signify the dominant global political, ideological and economic discourse. It is a contested notion that does not always reflect the diversity of thought or beliefs that exist within the ‘Western world’. In order to maintain the flow of the writing in this thesis I will not use inverted commas past this point.

provided a forum which supports indigenous peoples to explore a collective identity and provide a united voice in their calls to protect the diversity of their nations.

The signing of UNDRIP cemented indigenous rights within the global human rights identity. This Declaration was signed in 2007 with 143 countries voting in its favour and Australia, New Zealand⁵, Canada and the United States voting against it. This was the culmination of two UN Decades of the World's Indigenous People and nearly 25 years of debate and discussion. UNDRIP reaffirms basic human rights as laid out in the UDHR. However, it is distinctive from other UN Declarations in that it approaches rights from a collective perspective. It serves to purport basic protection measures to ensure that the integrity of distinct cultures and identities is not threatened further. It openly recognises the historical injustices and the impacts of colonisation that continue to affect indigenous peoples today. The language of the Declaration is one of autonomy and self-determination in the fullest sense of the terms: in all aspects of social, cultural, political, legal and economic organisation. It defines indigenous peoples within a rights-based framework shifting their position from marginalised minorities in need of assistance to peoples with distinct rights (Maaka & Fleras, 2009). From this perspective human rights are protecting diversity as opposed to imposing dominant western values. UNDRIP provides a tool which indigenous peoples can use in their struggles to claim control and autonomy over their own development and have the freedom to live and grow as distinct peoples.

In a similar vein, debates about the robustness of human rights have often focussed on their origins and therefore how representative they are. Human rights are considered to be of western origin and therefore only relevant for those living in western countries (Aziz, 1999; Muzaffar, 1999; Uvin, 2007). Peter Uvin (2007) denounces the international framework of human rights for claiming to be representative of all people when those people have not participated in the creation of those rights. He further asserts that no fundamental shift in power has been seen as a result of human rights. Instead, rights represent merely a "quest for the moral high ground: draping oneself in the mantle of human rights to cover the fat belly of the development community" (Uvin, 2007: 603). Similarly, Kirsten Sellars (2002: 197) accuses human rights of solely serving to "allow politicians to occupy the moral high ground by day and sleep the sleep of the just by night." They both criticise the West for its hypocritical use of the discourse claiming that western countries must view themselves through the lens of human rights before they impose it on others (Sellars, 2002; Uvin, 2007).

Jack Donnelly (2003) rebuts this criticism using a historical perspective. He claims that the North/South divide which currently splits the global political climate into 'developed' and 'developing' countries was

⁵ New Zealand is used here instead of Aotearoa because this is how it is referred to within all UN forums.

not a reality in 1945 when the UDHR was written or in 1966 when the ICCPR and the ICESCR were created. Thirty-three of the forty-eight votes that confirmed the human rights discourse in the UDHR were by countries that are not classified as western in the modern sense of the word. Ife (2010) however claims that the creation of the UDHR represented the western world's attempt to regain the moral high ground after the atrocities of the Holocaust committed by a fellow western nation. Arvind Sharma (2006) provides 36 different arguments to illustrate the western origins of human rights. Importantly, however, Sharma (2006) also asserts that the western origins of human rights do not detract from the fact that they can be useful elsewhere. The UDHR attempts to define the basic requirements necessary for any human being to live with dignity and therefore when considered objectively, it does not provide insight into any specific culture or society (Donnelly, 2003). Donnelly (2003) claims that in the instances that this framework does provide insight into a certain society it is because that society has been shaped by the values of human rights rather than the other way around. The power of human rights lies in the fact that they can be accessed by all and when claimed from below they provide a framework that is tangible and globally acknowledged which sits outside any state laws or cultural practices that may be discriminatory. While arguments surrounding the origins of human rights are valid, their negative focus on western hegemony detracts from the universal value of the human rights framework. Criticising human rights standards in western countries is essential however rejecting the whole human rights framework because of its western origin is a threat to human dignity.

These arguments also provide a static image of human rights as they were defined in 1945. The indigenous rights movement indicates that contemporary human rights do not solely represent western concepts of rights. UNDRIP was drafted primarily by indigenous peoples who represent the antithesis of western culture. Further, there are aspects of the Declaration that pose a challenge to western nations. This challenge was most obvious when Australia, New Zealand, Canada and the United States - the four western nations with large indigenous populations - initially refused to sign UNDRIP in 2007. One of the most confronting challenges within UNDRIP is the right to self-determination. There was much debate throughout the drafting of UNDRIP as to how this right should be defined (M. Durie, 1998). Within the human rights discourse this right is recognised as the cornerstone of all human rights (O'Sullivan, 2006, 2008; UN, 2009). "The right of self-determination has been acknowledged as essential to the exercise of all other human rights and referred to as the pre-condition for the exercise of all other rights" (UN, 2009: 192). This right is particularly pertinent for indigenous peoples because this is the right that they have been most denied in the colonial reality (O'Sullivan, 2006). Even today, states tend to prefer a more restricted definition of self-determination when discussing indigenous rights than indigenous peoples are prepared to accept (Maaka & Fleras, 2009). This was the case in Aotearoa where the

government preferred a form of 'self management' to absolute self-determination (M. Durie, 1998: 220). It therefore makes it a highly contentious subject that sits within an overtly politicised environment (Maaka & Fleras, 2000; O'Sullivan, 2006).

The reason for this contention is because indigenous calls for self-determination challenge the sovereignty of current government regimes. Governments are concerned that if indigenous peoples hold the right to self-determination then there will be a threat of succession (M. Durie, 1998; Falk, 2000; Quane, 2005; Solomon, 2008). This fear of succession however, is unfounded. The call for self-determination instead represents a requirement of genuine inclusion and representation rather than exclusion (Bishop, 2008; Falk, 2000; Niezen, 2003; O'Sullivan, 2006; UN, 2009) and a call for the re-organisation of current state-indigenous relations into a format "where innovative patterns of belonging can be explored" (Maaka & Fleras, 2000: 93). The "politics of indigeneity does not disregard the rights of others, nor imply political isolation. Rather, it rejects domination and subjugation as the foundation of political order. It rejects one culture positioning itself as the 'normal' basis for the conduct of public affairs" (O'Sullivan, 2006: 2). Indigenous rights therefore challenge western belief systems because of the call to be genuinely self-determining peoples. UNDRIP serves to acknowledge and value cultural diversity and secure genuine representation in political and social structures. This assertion of self-determination pushes the boundaries of human rights beyond what could be considered western concepts of rights.

A further debate surrounds the inherent call within human rights for universal standards. For human rights to achieve the ideals which they purport, they must be applicable and available to everyone. "The philosophical and moral strength of human rights lies in their universalist principles: all human beings have certain rights by virtue of being born" (Molyneux & Lazar, 2003: 7). The biggest challenge to the universality of human rights is the argument for cultural relativism. Cultural relativists claim culture to be the "supreme ethical value, more important than any other" (Afshari, 1994: 246). They argue that moral values are shaped by history, traditions, geographical placement and ideological beliefs and are therefore culturally defined (Parekh, 1999); and that no set of moral values can be classified as more valid or authentic than any other (E. Durie, 2002). As such, there can be no universal framework that stands outside religion, culture and state authority. Relativists criticise human rights, as expressed in the UDHR, as being ethnocentric, western and denying moral practices within diverse cultures (Renteln, 1989). One of the most controversial set of rights is those of women as defined in the Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW). Reservations with this Convention have emerged predominantly from countries of Islamic law where the rights of women as defined in CEDAW conflict directly with the religious and cultural values of Islamic nations and would require the

state to reform customs and practices to suit a more western ideal in order to genuinely engage with the Convention (Nyamu-Musembi, 2005).

Universalists counter these claims with three substantive justifications. The first is a normative moral claim that human rights are inherent in the simple fact of being human and therefore stand outside culture (Donnelly, 2003; UNOHCHR, 2006). The second is that the UDHR is almost globally accepted by states as an ideal standard for human dignity holding the strongest moral claim on the international political stage therefore providing an international normative universality (Donnelly, 2003). The final justification is that the human rights framework has been presented as a practical response to the almost universal modern state system and capitalist market economy and provides a necessary protection of human dignity in the contemporary global reality (Afshari, 1994; Donnelly, 2007). In response to calls for cultural relativity, Reza Afshari (1994: 255) warns against “mythologizing authenticity” and highlights the fact that “power, domination and inequality are the issues” at hand, not the protection of a certain culture or practices.

Clearly, there are different cultural interpretations of rights. This has been especially apparent in the debates about Asian values and how they differ from western human rights values (see Van Ness, 1999). Other studies have viewed African (see An-Na'im & Deng, 1990) and Islamic (see Bielefeldt, 1995) interpretations of human rights placing them in their historical and cultural context. In reality, however, each human rights struggle is embedded in a unique history, setting and political reality and as such, each is played out differently. “The struggle for rights is happening, with or without discourse and policy and it is not simply an agenda of the powerful. What emerges is a vibrant picture of often diverse meanings and strategies being pursued throughout the world, rooted in national histories and contexts as well as connected with international rights language and global movements” (Pettit & Wheeler, 2005: 7). Regional definitions of rights will also be problematic as regions too are made up of a wide variety of cultures, people and histories and their experience and understanding of human rights will vary. In reality, human rights are given meaning at the local level as this is where they are experienced and have relevance in the context of each struggle.

Currently debates have been moving forward to consider how human rights can be both universal and particular to a certain place. Donnelly (2007) asserts that it is possible for relativity to sit within the universality of human rights. The *concept* of human rights is universal, however this still allows space for differences in the *conception* and *implementation* of rights (Donnelly, 2007: 299 emphasis in original). Eddie Durie (2002) explains how this can be similar within cultural values. He uses the analogy of tikanga in Māori culture. Tikanga governs behaviour and protocol providing actions with meaning therefore

providing an overarching value system but it does not remain absolute: “Tikanga Māori has always been very flexible, but the values that the tikanga is based on are not altered” (E. Durie, 2002: 259). In this way there are “conceptual regulators within the bounds of which there is a flexibility to allow the cultural practices to adapt to changing circumstances” (E. Durie, 2002: 259). The same idea can be applied to the concept of human rights. From a slightly different perspective, Mahmood Mamdani (in Nyamu-Musembi, 2005) claims that rights are born from oppression and that oppression is universal. Therefore, “human rights are both universal and particular: universal because the experience of resistance of oppression is shared among subjugated groups the world over, but also particular because resistance is shaped in response to the peculiarities of the relevant social context” (Nyamu-Musembi, 2005: 43). This perspective reverses the traditional way that rights are interpreted. Here, human rights are derived from a particular struggle and understood in the context of this struggle, rather than the struggle being defined in the context of a universal idea of human rights.

Indigenous rights support this movement beyond these debates. At its simplest, UNDRIP provides universal standards for promoting cultural diversity. “The accommodation of cultural diversity was the ultimate objective of the UNDRIP. Such an approach is a necessary element to ensure the effectiveness of universally recognised rights” (UN, 2009: 195). The indigenous rights movement is distinctive from other global human rights movements. Where movements such as women’s rights or anti-apartheid rights represented a demand for equality within the current system, the indigenous rights movement instead calls for the freedom to be distinctive (Niezen, 2003). Reaching a level of equality will not be sufficient for indigenous peoples. Rather, theirs is a call for full participation as citizens but also the freedom to identify with and live according to distinct cultural frameworks (O’Sullivan, 2006). In this way, universal human rights provide overarching moral standards which lay the foundation for a basic level of human dignity. However, these standards do not need to threaten culture just as cultural differences do not invalidate the universal claim of human rights. “There is a workable compromise between these two extremes of universalism and cultural relativity that allow the development of a framework that recognises cultural diversity while encouraging a high level of human rights protection. It requires working within the underlying value system of each culture” (E. Durie, 2002: 253). Considering both sides of the argument without pitting one against the other can provide a more balanced view of human rights. The universalism of human rights serves to protect human dignity within cultural contexts; while cultural relativism challenges the universal concept of human rights to consider rights within a culturally sensitive framework (E. Durie, 2002).

These expressions allow for a more flexible definition of universality. They also allow space for change and evolution within the human rights framework in response to a changing global reality (Donnelly,

2003; Llewellyn-Fowler, 2007). While the over-arching principles of the human rights framework remain uncompromising, what is flexible is the way that rights can be interpreted, accessed and utilised at the local level. This is where their value lies. As Michael Goodhart (2008: 192) states, “To advocates, and peoples struggling for democracy, human dignity and social justice, it really does not matter very much whether human rights are universal, metaphysically well-grounded, or whatever. It just matters that they are useful and available to anyone, that they get the job done.” Studies have begun to show examples of how the universal concept can allow space for localised interpretations of human rights within a universal framework (see for example, Llewellyn-Fowler, 2007; Molyneux & Lazar, 2003; Nyamu-Musembi, 2005). These cases have shown that human rights are adapted at the local level and are “shaped through actual struggles informed by people’s own understandings of to what they are justly entitled” (Nyamu-Musembi, 2005: 41). Here, human rights are interpreted through the lens of a particular struggle set within particular historical, political and cultural contexts. Considered from this perspective it appears that the polarity of the universalist and cultural relativist claims within human rights debates is over-stated.

A fourth debate within the human rights framework surrounds the indivisibility of rights. Theoretically, all rights as laid out in both the ICCPR and the ICESCR are indivisible in nature. They are interdependent and the full realisation of one cannot be achieved without that of the other. This view has always been and continues to be espoused regularly within UN forums and the UN frequently calls on states to treat all rights equally (see in particular UN, 1948; UN, 1993). The UN Declaration on the Right to Development had the most profound effect of re-emphasising the importance of both Covenants. The indivisible and interdependent nature of civil, political, economic, social and cultural rights is a central part of the document and is explicitly stated twice (articles one and six) in the Declaration (UN, 1986). The resulting alliance of the development and human rights discourses reinforced the indivisible nature of rights. Theoretically, rights-based approaches to development provide an “integrated view of sustenance (economic and social rights) and freedom (civil and political rights)” (Nyamu-Musembi, 2005). They therefore support the claim within human rights that all rights are complementary and necessary for the achievement of freedom.

However, it is important to acknowledge that these Covenants were born out of a long-standing ideological and political debate between nations in the Cold War era. In fact, this political friction over the drafting of a single binding charter of rights is the reason why two separate Covenants exist (Gonzalez-Pelaez, 2004; Nyamu-Musembi, 2005). The debate centred on western nations’ determination to protect civil and political rights and the importance for the Soviet Union of economic, social and cultural rights (Gonzalez-Pelaez, 2004). Consistently, western nations have been criticised

for favouring civil and political rights and for using them to promote the western concept of individualism and imposing western political and economic ideology (Aziz, 1999; Nyamu-Musembi, 2005). Critics challenge western claims of indivisible rights as rhetoric stating that in international law and in practice more significance is given to civil and political rights than economic, social and cultural rights (de Kadt, 1980; Kirkup & Evans, 2009). Emanuel De Kadt (1980: 98) claims that the rights that each Covenant purport and the language used within them are fundamentally different with civil and political rights providing *safeguards* and economic, social and cultural rights only *aspirations*. On signing the ICCPR, states immediately carry an obligation to implement those rights and their human rights records are judged accordingly. The ICESCR, on the other hand, provides a goal to aspire to at a time that is economically viable for the nation to put resources towards achieving these goals (Campbell, 2006; de Kadt, 1980). Subtly, therefore, through the language of rights, civil and political rights are promoted over economic, social and cultural rights.

As a result, civil and political rights have been ideologically connected to western concepts of individualism, capitalist economies and democratic political ideology. Economic, social and cultural rights, on the other hand, have come to be connected with the concept of collective rights. Donnelly (2003) abhors discussing rights in such divisionist terms. "A dichotomous division of any complex reality is likely to be crude and easily (mis)read to suggest that the two categories are antiethical. This is especially true because the dichotomy between civil and political rights and economic, social and cultural rights was born out of political controversy" (Donnelly, 2003: 28). When considered outside of the politically fuelled human rights debates, civil and political rights are no more engrained in western society than economic, social and cultural rights. "In the post 9-11 US political climate, we have witnessed how advocating torture, denial of due process, restrictions on free speech, or invasions of privacy are not only sanctioned by the electorate but can gain one considerable political advantage" (Whelan & Donnelly, 2009: 241). As indicated earlier, western states have just as much of a responsibility to turn the human rights lens on themselves as any other nation state. Therefore, if debates can move beyond positioning the two covenants as two separate entities that are ideologically connected to political and economic functionalities, then they can begin to stand apart from debates regarding 'the West' and 'the Rest' and instead focus on the reality of those who hold rights and those who are obligated to ensure that those rights are protected.

Again the indigenous rights movement indicates a shifting in these debates. There can be no concept of rights for indigenous peoples without an acknowledgement of the responsibility to the collective (UN, 2009). Consequently, collective rights are an integral part of indigenous interpretations of human rights. Accordingly, indigenous interpretations of the UDHR are likely to take a collective perspective. This

would alter the way that the universal concept is considered. The right to self-determination, for example, can be applied to indigenous peoples as a collective just as readily as it can be applied to individuals. There are therefore collective and individual aspects to all rights (Ife, 2010). Considered objectively this can be applied to all concepts of rights. We have inherent rights which link us to inherent responsibilities to others (Ife & Tesoriero, 2006). These responsibilities lie beyond ourselves and through basic human rights norms we are held to account for our behaviour towards others (Lauren, 2003). Therefore human rights inextricably link us to each other creating a sense of community. This covers all human interaction and therefore functions at both the community level (how we relate to each other as individuals) and at the state level (where power and inequality is challenged). As Nin Tomas (2001: 130) points out, there does not need to be a conflicting relationship between these two concepts: "They complement rather than usurp each other. I stress this point because even within Indigenous governed societies the rights of the individual have to be protected. Indigeneity is no safeguard against tyranny." Here the rights of the individual and the identification of collective rights are considered of equal significance rather than pitted against each other linking all aspects of rights in a format that is legitimately indivisible.

Finally within human rights there are debates around accountability and participation. States are accountable to the human rights treaties which they sign and must fulfil their obligations accordingly in practice and in law (Llewellyn-Fowler, 2007). Critics accuse governments of signing human rights declarations in a symbolic gesture of respect for international human rights norms and then doing little, if anything, to implement these conventions or alter human rights abuses occurring in that country (Molyneux & Lazar, 2003). For example, Burma has signed UNDRIP when it is perhaps most famously known for its systematic denial of indigenous rights. Human rights lose their functionality if states do not recognise and respect their duty to fulfil these obligations. However, it is important to remember that human rights define a relationship between two different parties – the rights-holders (everyone) and the duty-bearers (the state) and therefore human rights obligations run both ways. The obligation of the state is activated when people engage with and exercise those rights (Donnelly, 2003; Gaventa, 2002). A representative of a local non-government organisation in Fiji indicated the importance of this relationship from a community level perspective: "One of the benefits of the rights-based approach is that the community members also recognise that they have rights, and the government realises that it has the duty to fulfil these rights" (Llewellyn-Fowler, 2007: 132). They provide a platform for contestation, resistance and defiance in the face of human rights struggles.

Accordingly, the two principles of accountability and participation go hand in hand combining the responsibility of the state and the citizen. Rights-based development discourses carry an expectation

that people will use these rights to actively engage with and challenge the state. They carry the principles of participation and self-determination at their core where every person has the opportunity to be involved in the decision making that affects their daily life (Gaventa, 2002; Llewellyn-Fowler, 2007; Nyamu-Musembi & Musyoki, 2004). These principles further interact with and alter the concepts of citizenship. A rights-based approach “strengthens the status of citizens from that of beneficiaries of development to its rightful and legitimate claimants” (Gaventa, 2002: 1). They not only call on states to be accountable to their people but also for citizens to participate and take responsibility for holding states accountable. “Rather than focussing simply on the role of the state in ensuring rights of citizenship, new models of accountability are emerging which focus on the role of citizens themselves in monitoring the enforcement of rights, and in demanding public scrutiny and transparency” (Gaventa, 2002: 10). It is apparent that an overwhelming emphasis has been placed on how the human rights framework holds states accountable, but little is known about how concepts of citizenship, accountability, participation and rights are understood and being claimed at the local level (Gaventa, 2002).

However, care must be taken when discussing these debates. While accountability and participation within human rights do provide a powerful tool for local citizens to demand their rights in theory, the actual process and reality on the ground can be more complex. Initially, in order to participate in discussions regarding rights and hold states accountable, citizens must be aware of what those fundamental rights are and the conventions that their governments have signed. Further, it requires a government that is listening and prepared to make changes according to local demands. In the case of indigenous populations living within the context of a colonial government, the state generally represents the central obstruction to achieving those rights. “As distinct communities of a political nature, indigenous peoples are seeking to establish a post-sovereign political order in societies that historically denied or excluded indigeneity” (Maaka & Fleras, 2000: 108). The strength of UNDRIP therefore is not only that it maintains that states must be accountable to indigenous populations but it also provides access to an independent international body that stands outside the highly politicised, generally conflicted nature of indigenous rights within countries. This mechanism can serve to set certain standards legitimising domestic claims and project them on a global scale (Evatt, 2001; Falk, 2000). UNDRIP therefore provides an accessible and tangible framework that stands outside the national reality through which indigenous peoples can participate within the human rights framework.

However, this Declaration is non-binding and the reality of positive change is yet to be seen. While it has encouraged active participation at the international level, there is little evidence of visible improvement of indigenous peoples rights at the local level (Corntassel, 2008; UN, 2009). Jeff Corntassel (2008: 155)

argues that the focus on securing political and legal recognition on an international scale through UN forums serves only to create an “illusion of inclusion” and will not provide a long-term sustainable movement toward self-determination. Placing the call for self-determination within the human rights framework will result in the struggle for this right being played out within a colonial political and legal framework ultimately reinforcing the status quo rather than challenging it. James Tully (2000: 55) argues that the “UN and its Committees are created by existing nation states that will do everything in their power to deny the application of the principle of self-determination whenever it threatens their exclusive jurisdiction.” Calls for self-determination, argues Cornthassel (2008), should be placed within a sustainable, community-based, spiritual framework that evolves from indigenous forums (as opposed to the UN) and which adequately reflects indigenous organisation with an emphasis on responsibilities rather than rights. However, I would argue that in many ways having an indigenous forum within the UN is just as important. In order for the genuine realisation of indigenous rights to evolve it will be either in conversation or contestation with the state system. The sustainable, community-based spiritual frameworks will be essential for interpreting and giving meaning to human rights at the local level. They will provide a framework for using those rights to approach local struggles in the face of state systems that may be opposed to genuinely engaging with indigenous rights. However, the UN provides another forum for participation in those conversations at the global level where leverage can be used to call governments to account when indigenous rights sit within highly politicised and controversial local environments.

Conclusion

The concept of human rights is easily contested because they attempt to define an overarching moral code in a global reality where the most common factor is diversity. While inextricably linked to the law, they also attempt to stand outside the law appealing to the greater morality of humanity to care and respect one another’s freedom. They are idealistic in nature; yet they are powerful and essential. The power that human rights hold is that they are available to everyone and therefore hold the ability to transfer power to those who do not possess it (Goodhart, 2008; Niezen, 2003). Consequently, rights-based approaches to development have the potential to have empowering and fundamental outcomes for those most marginalised and disempowered. The weakness of human rights lies in the fact that they only exist as long as they are being used and respected. As has been discussed in this chapter they have been severely criticised for purporting western ideals and promoting western power and domination. In this way they are criticised for denying diversity and not allowing space for alternative interpretations of human rights. Critics therefore accuse rights-based approaches to development of promoting the ideals

of participatory action and empowering outcomes but actually serving to impose dominant power structures through the dominant human rights discourse.

However, these debates discuss human rights as a static entity and do not take into consideration the evolving nature of rights or their flexibility at the local level. I have asserted that indigenous rights and in particular UNDRIP challenge many of the traditional debates within human rights around their universality and indivisibility and around the accountability and participatory nature of rights. UNDRIP suggests an evolution of the human rights framework, developing as human struggles and experiences change. The debates surrounding indigenous rights have subsequently impacted the universal concept of human rights (Charters, 2007; Falk, 2000; UN, 2009). The indigenous rights movement therefore provides an example of how local resistance and struggles have translated into the broader human rights movement. These debates open up spaces within human rights for universal concepts to be localised and given meaning through local realities. This consequently impacts the way that human rights are engaged with at the local level. Currently little is known about whether these universal standards do in fact become relevant in a meaningful way when interpreted through specific cultural value systems. It is only through considering the ways that human rights are being interpreted through distinct struggles and local understandings that a true measure of the value of rights-based development can be reached.

Chapter Three: Indigenous rights in Aotearoa

This chapter will provide a background to human rights within the context of Aotearoa. Here I consider some of the historical and contemporary concepts that have influenced the way that human rights are perceived and experienced in Aotearoa today. This discussion begins with the Declaration of Independence and the Treaty of Waitangi. There are essential concepts of human rights which emerged from these two founding documents of Aotearoa. The second section explores aspects of Māori protest and action throughout history and the different ways that Māori have attempted to assert their rights. In the final section I discuss the contemporary concept of indigenous rights in Aotearoa by considering the relationship between Māori and the Government.

The foundation of rights in Aotearoa

There were two pivotal documents that defined the rights of Māori and the waves of settlers that began arriving in Aotearoa in the early 19th Century. The first of these was the Declaration of Independence which was drafted by the British and signed by 52 chiefs at Waitangi in 1835. This document declared Aotearoa an independent state under the sovereign authority of a 'Confederation of United Tribes of New Zealand' (King, 2003). This document marks the first formal recognition by the British Crown of Māori as the rightful sovereign authority to the land. The Declaration states that "the (sovereign) power of the land of the confederation of New Zealand is declared to reside exclusively with the hereditary chiefs of our assembly" (R. Walker, 1999: 112). It therefore provides the first written statement of indigenous rights in Aotearoa.

However, the Declaration of Independence was problematic in many regards. In the first instance, it did not represent a united Māoridom. In reality Māori have always been a tribal rather than a unified people and therefore no such document could ever have represented all Māori. Secondly, it provided no constitutional status. It was drafted primarily due to British fears that the French were planning to establish an independent state at Akaroa (King, 2003). Finally, it marks the first imposition of another distinct cultural framework upon Māori. However, despite these shortcomings, the Declaration still holds significance for indigenous rights in contemporary Aotearoa.

The Declaration of Independence was followed closely by the Treaty of Waitangi. This is more commonly acknowledged as the founding document of the nation. The Treaty of Waitangi was signed in 1840 between the British Crown and 540 chiefs throughout Aotearoa. This agreement formalised the

relationship between Māori and the British Crown. Within three articles, it set out the status and the rights of both Māori and settlers living in Aotearoa. A number of chiefs refused to sign (including Te Wherowhero of Waikato, Taraia Ngakuti Te Tumuhua of Thames and Hori Kingi Tupaea of Tauranga) and others were not extended the offer of signing (for example, most of the chiefs in the Hawke's Bay and Wairarapa regions) (Orange, 2004). Those chiefs who signed the Treaty did so with the expectation that it represented the formation of a relationship between two peoples based on a spirit of mutual respect which would lay the foundation for future relations (E. Durie, 2002). However, there were key differences between the English and Māori versions of the Treaty and this mistranslation has in many ways carved out the reality of contemporary New Zealand politics relating to indigenous rights.⁶ A challenge exists in present social and political discourse due to the difference between *tino rangatiratanga*⁷ or self-determination as guaranteed in the first clause of the Māori version and the Pākehā claim of sovereignty as guaranteed in the first clause of the English version (R. Walker, 1999). Today, the Treaty of Waitangi sits firmly as a reminder of the dichotic and misleading nature of the two translations and the resulting lived history of the nation. For some, it is considered the cornerstone that marks the dawn of the loss of Māori sovereignty in Aotearoa (R. Walker, 1999). It therefore symbolises the mistrust, loss and disappointment that Māori have experienced. However, it is also a symbol of strength and of hope. It encapsulates the spirit of those who signed the Treaty and the relationship that was expected by Māori upon signing. It also provides a tangible asset through which Māori can assert their rights as the indigenous peoples of Aotearoa.

Despite the complications inherent in these two historical documents, they are both pivotal to the contemporary discourse of human rights in Aotearoa. There are three central human rights themes that are contained within them. The first of these is the recognition of Māori collective rights as the indigenous peoples of Aotearoa. This distinguishes Māori from other peoples that live here. They hold a right to identify as a distinct peoples with their own cultural identity and language (Fleras & Spoonley, 1999). As a collective, therefore, they are not a minority group in a multicultural nation but the *tangata whenua* of Aotearoa.

The second human rights theme contained within the documents is the sovereign rights of Māori to be self-determining peoples. This entails the freedom to control their own social, cultural and political

⁶ The Māori and English versions of the Treaty of Waitangi were not exact translation of each other. Most *rangatira* (chiefs) signed the Māori version. The English version secures British sovereignty (Article 1) while protecting traditional property rights (Article 2) in exchange for the "Rights and Privileges of British Subjects" (Article 3). The Māori version permitted *kāwanatanga* (translated as governance) (Article 1) but with the preservation of *tino rangatiratanga* (chiefly authority) over "lands, villages and all things precious" (Article 2) (Barrett & Connolly-Stone, 1998; Orange, 2004).

⁷ *Tino rangatiratanga* translates literally as "absolute chieftanship or full chiefly authority". However in contemporary Aotearoa society it is more broadly defined as "the power to be self-determining" (Fleras & Spoonley, 1999: 27).

systems (Fleras & Spoonley, 1999). This call for self-determination does not stem from the recently defined concept in UNDRIP; this is a call for tino rangatiratanga as guaranteed in the Treaty of Waitangi. These calls for tino rangatiratanga represent a contentious issue in the contemporary social and political climate of Aotearoa. Often viewed as a Māori secessionist claim, most Māori view it as neither antagonistic nor threatening but rather it is a call for autonomy and control over all decision-making relating to or impacting Māori (Dixon, 2006; M. Durie, 1998; O'Sullivan, 2008). It represents the freedom to be able to engage meaningfully in all aspects of society as Māori and to be respected as a partner in the Treaty of Waitangi. This includes social inclusion in its fullest sense. "Social inclusion for Māori ... means the right to develop as Māori people, to speak the Māori language, to learn from the Māori knowledge system and to live within Māori cultural values" (L. T. Smith, 2006: 247). Therefore claims of tino rangatiratanga are not a threat to the current society in Aotearoa but an opportunity to embrace and enrich the cultural reality of the nation.

The final human rights theme is the right to the use of, access to, and the kaitiakitanga (guardianship) of taonga (highly-prized possessions), including ancestral lands. For all indigenous peoples, land is essential to their survival as distinct peoples (Quane, 2005; UN, 2009). It represents not only the base of their economies but holds a spiritual sustenance that connects them to past, present and future generations. For Māori, the connection to the whenua stems beyond human history to mythology. Whenua represents Papatūānuku, the earth mother and the mother of all creation "therefore the earth was loved as a mother is loved" (R. Walker, 2004: 70). Alongside these creation stories, the land holds the histories of ancestors and the traditions and tikanga (customs) of the Māori culture. This relationship to the land was reinforced at birth when a child's umbilical cord was buried with the afterbirth (also called whenua) connecting that person to the land and marking their tūrangawaewae (place of belonging) (R. Walker, 2004). Land and tino rangatiratanga are synonymous, one cannot be achieved without the other (R. Walker, 1999). Linked to both these concepts is the recognition of a collective identity as indigenous to Aotearoa. All three therefore are essential to the makeup of human rights for Māori. Holding on to the Treaty, and to a lesser extent, the Declaration of Independence, Māori "pursue a politics of indigeneity which means that they seek recognition of collective rights in the nation-state not on the basis of need or disadvantage, nor even on the grounds of compensation, but on the basis of 'ancestral occupation'" (O'Sullivan, 2006: 2). Human rights as defined by the UN, therefore, provide a secondary reinforcement of these rights as already established in the Declaration of Independence and the Treaty of Waitangi.

Māori claiming rights in Aotearoa

Since the signing of the Treaty of Waitangi, there have been many attempts by Māori leaders to defend their collective rights to land and their rights to be self-determining people. Successive self-determining movements have attempted in various ways to achieve what was enshrined in the Treaty against an ever-encroaching and invasive colonial government. Early movements were met with a heavy hand and ultimately the loss of large amounts of Māori land. One example was the Kīngitanga movement in Waikato which was initiated in the 1850s. This movement promoted unity amongst Waikato Māori in order to prevent further loss of Māori land. It aimed to protect the mana and authority of the Māori people against encroaching colonial forces (King, 2003; R. Walker, 1999). Waikato chief Pōtatau Te Wherowhero was pronounced the first Māori King in 1858 and led the movement for unity in self-governance. It was anticipated that the Māori King could exist alongside the British Queen where “the mana of the two monarchs would be complementary” (King, 2003: 212). However, the colonial government viewed the Kīngitanga as a movement in direct opposition to British sovereignty and moved to suppress it, initially with war and subsequently with the confiscation of 1.3 million hectares of ancestral land (King, 2003). Another confederation of tribes, which ran alongside the Kīngitanga movement although not united with it, was the Kotahitanga Mo Te Tiriti o Waitangi (Unity Under the Treaty of Waitangi) movement which set up a Māori Parliament at Waipatu (R. Walker, 1999). Both of these movements represented early attempts to secure rights for Māori in the areas of land, self-determination as collective peoples and self-governance. Although they were unsuccessful in devolving power from the state, they illustrate the determination to achieve the rights to tino rangatiratanga that still exists to this day.

These early attempts to have rights under the Treaty of Waitangi recognised were not restricted to the domestic stage. Māori have a history of engaging at the international level to secure their rights. In 1884 Matutaera Tāwhiao, the second Māori King, travelled to England with the intent to petition Queen Victoria. He sought international recognition for breaches of the Treaty of Waitangi by the government of Aotearoa. Tāwhiao called for an independent inquiry into land confiscation and requested the establishment of an independent Māori parliament (Brooking, 2004). His request to meet with the Queen was rejected. In a similar vein in the 1920s, Tahupotiki Wiremu Ratana, an influential political and spiritual leader in Taranaki, also travelled to England to address King George V regarding breaches of the Treaty of Waitangi. His request to meet the King was also rejected. Determined to have his message heard, Ratana approached the League of Nations. A member of his group Tupu Taingakawa presented a copy of the Treaty of Waitangi and a petition signed by 34,000 Māori calling for the Māori version of the Treaty to be honoured and its provisions to be brought under statute in New Zealand law.

He also presented a huia feather and a kiwi cloak to the indigenous representative of the League of Nations (Newman, 2009). While nothing more came of this, it illustrates both an ongoing awareness amongst Māori of their rights as tangata whenua and also a determination to assert those rights at the international level if necessary.

As was common among many indigenous peoples, the loss of land and the loss of the ability to be self-determining peoples resulted in a loss of identity for many Māori (R. Walker, 2004). In the 1970s, in reaction to this loss of identity, there was a Māori cultural revolution under the banner of tino rangatiratanga seeking the restoration of confiscated lands. Ranganui Walker (2004: 209) attributes this revival of resistance to the increased integration of Māori and Pākehā cultures due to rapid urbanisation where “knowledge of the alienating culture leads to transforming action resulting in a culture that is being freed from alienation.” Initially, this cultural revolution took the form of political activism. Ngā Tamatoa, a Māori activist group, ensured that Māori protest regarding past and present grievances became a visible part of the fabric of society in Aotearoa. They sought to reveal the underlying racism and continued colonial tendencies that were omnipresent but ignored (Consedine & Consedine, 2005). A newsletter called Māori Organisation on Human Rights sought recognition of Māori rights through the Treaty of Waitangi and the UDHR. This newsletter “aimed to defend human rights and raise consciousness over the erosion of Māori rights by legislation, and opposition to discrimination in housing, employment, sport and politics” (R. Walker, 2004: 210). There was a resistance against policies of assimilation which were ultimately aimed at Māori becoming more like Pākehā (King, 2003; Ward & Hayward, 1999). Again, it was in defence of their right to self-identify as Māori. When, in 1973, the New Zealand Day Act declared Waitangi Day a national holiday, Ngā Tamatoa reacted to make this day a site of protest rather than celebration. They wore black arm-bands and marked it a day of mourning for the loss of Māori land (R. Walker, 2004). To this day, Waitangi Day remains a site of protest used to remind the state of the failed promises locked within the Treaty of Waitangi.

Being an integral part of Māori identity, land remained a central point of protest. In 1975, Dame Whina Cooper, a Te Rarawa leader from northern Hokianga, led a movement of people across the North Island unifying Māori in their quest for the protection of their lands. This was followed by the occupation of Bastion Point in 1977 in response to the Auckland City Council’s plan to subdivide the land which had been unlawfully taken from Ngāti Whatua. These were highly public sites of protest which vocalised the Māori call for land rights that had been present in the earlier Kīngitanga and Kotahitanga movements.

The 1980s represented a movement away from active political protest, however it did not mark the end of Māori advocacy (Belich, 2001). Graham Hingangaroa Smith (2003: 2) reflects on this period as the

time of “real revolutionary” action by Māori. He claims that the 1980’s represented a “shift in mindset of large numbers of Māori people - a shift away from waiting for things to be done to them, to doing things for themselves; a shift away from an emphasis on reactive politics to an emphasis on being more proactive; a shift from negative motivation to positive motivation” (G. H. Smith, 2003: 2). The cultural revolution shifted its focus to the loss of language, culture and traditional knowledge. A key result of the disjuncture from integral self-identifying factors such as land and self-determination had been the loss of te reo (Māori language) as a spoken language. As Tove Skutnabb-Kangas (quoted in Gallegos, et al., 2010: 91) argues “if you want to destroy a people, you get their language first; get rid of the language and bring in another language, and that brings in another world view.” English was established in schools as early as 1847 and te reo was officially banned in schools in the early 1900s (Gallegos, et al., 2010). The loss of language that resulted had a devastating effect on Māori culturally and spiritually. Speaking from a Pacific perspective, Melenaite Taumoefolau (2004: 64) summed up the importance of language:

“Our language is like a container – inside that container is the set of values and beliefs that makes us what we are as a people. Our behaviour, customs, traditions, our ways of thinking ... are all packed into this container called language. We lose the container, we lose also the contents. We lose the language, we lose also our distinctive ways that define us to ourselves and to the world.”

Therefore, in the 1980s as a united front, influential Māori leaders began to restructure the educational system as it related to Māori. They established learning institutions with a Māori identity and alternative ideas that sat outside the mainstream education system (G. H. Smith, 2003). This was known as the Te Kōhanga Reo movement which literally translates as ‘language nest’. These represented safe spaces where te reo could be re-invigorated in Māori culture and where traditional ways of learning could be valued and respected (Gallegos, et al., 2010). Augie Fleras and Paul Spoonley (1999: 32) refer to this movement as a true example of tino rangatiratanga in action where it provides a “system of education that falls outside of the government-controlled system and is rooted in Māori philosophies and practices”. The right to language and the freedom to have a distinct cultural identity still have strong influences in Māori identification of human rights in Aotearoa.

These decades of protest resulted in two positive policy changes within central government processes. Initially, the Waitangi Tribunal was established in 1975. The Tribunal is an independent Commission of Inquiry which was set up to investigate and make recommendations on breaches of the Treaty by the Crown against Māori; evaluate Crown actions that did not honour the Treaty principles; and deliberate the contemporary meaning of the Treaty considering the difference in translations (Maaka & Fleras, 2009). The establishment of the Tribunal and the work it has done since has secured the recognition of

the Treaty of Waitangi within social and political forums as the binding document that defines the relationship between Māori and the Crown (Fleras & Spoonley, 1999). It also represented a political recognition that breaches of the Treaty had occurred; both issues that King Tāwhiao and Ratana had sought to have recognised when they approached the monarch of England.

The second change was the establishment of Te Puni Kōkiri (the Ministry for Māori Development) in 1992. Te Puni Kōkiri plays an advocacy role for Māori ensuring that mainstream government institutions are responsive to Māori and are held accountable for delivering services to Māori. The Ministry also monitors Crown policy and legislation acting as the principal advisor on Crown-Māori relations (Maaka & Fleras, 2009; R. Walker, 2004). Both Te Puni Kōkiri and the Waitangi Tribunal secured greater Māori influence and presence within government processes. Alongside the Te Kōhanga Reo movement they indicated a shift in Crown-Māori relations toward a greater recognition of rights inherent in the Treaty of Waitangi. They were also indicative of the relentless struggle of various Māori groups and leaders across generations that have demanded their rights as tangata whenua within Aotearoa.

Where are we now?

As a rule, Governments are more comfortable considering indigenous issues from a “needs-based” (as opposed to rights-based) perspective (Maaka & Fleras, 2000; O'Sullivan, 2008). This is due in part to the highly politicised space in which indigenous rights exist. This has been the case in Aotearoa where a needs-based perspective is often expressed through the idea of ‘fairness for all’: “Preferential treatment or special rights for one person or group is seen as unfair; to the extent that individuals or groups receive special assistance, this treatment should reflect needs or disadvantage rather than entitlement by ethnicity, culture, gender or collective rights” (Fleras & Spoonley, 1999: 127). From this perspective, Māori are considered a minority group and therefore the priority is that they receive equality as citizens before the state. The rationale behind this is characterised by Dominic O'Sullivan (2008: 975):

“By categorising Māori as poor people with “needs”, not indigenous peoples with “rights”, the government could thus be urged to assert itself as the protector of a “nationhood” which Māori ought to join on the basis of common individual citizenship with no regard to collective human claims other than those arising from historic breaches of the Treaty.”

For Māori, this is not a satisfactory outcome. The claim for indigenous rights extends beyond a call for equality but “emphasises the right to be different in some senses, and the same in others” (O'Sullivan, 2008: 976). While it is not a call for complete separation from current systems of government, it does represent the rejection of dominant political structures that exclude other forms of organisation (O'Sullivan, 2008). A needs-based approach denies Māori rights of indigeneity and it denies the rights enshrined within the Treaty of Waitangi.

Furthermore, from a needs-based perspective, any socio-economic disparity is identified as a social ‘problem’ where deficiencies are defined as Māori in origin and solutions framed to address the apparent ‘needs’ of this particular group of society (Fleras & Spoonley, 1999; Humpage, 2005). This view provides no insight into the greater socio-economic and cultural realities that have inversely impacted Māori throughout history and into the present. It also holds the assumption that the solution to the ‘problem’ is to move Māori towards integration into the mainstream socio-economic reality (Humpage, 2005). However, mainstream society in Aotearoa does not adequately reflect Māori society and therefore these actions only represent a movement toward the assimilation policies that Māori were resisting in the 1970s. For these reasons, Fleras and Spoonley (1999: 131) argue that “a ‘needs-driven’ policy can only deal with symptoms (‘triggers’) rather than the root causes of Māori problems, and can only go so far as averting a downward spiral to the bottom of the socio-economic heap. How, then, does a commitment to grievance resolution and historical restitution stack up in addressing the ‘Māori problem’?” Clearly a more sophisticated and holistic approach is needed before any change will be seen. Framing Māori as a self-determining peoples with inherent rights “assumes that Māori already hold power (as ‘first peoples’ and through Article 2 of the Māori-language treaty), although their ability to exercise it has been diminished” (Humpage, 2005: 171). Integral within that would be a greater degree of self-determination around social and economic policy (Barrett & Connolly-Stone, 1998; Humpage, 2005). Such a position allows Māori the space to take responsibility for both the successes and the failures rather than be the recipients of blanket policies into which they have had no input (O'Sullivan, 2008).

There are aspects of government policy that reflect a movement toward a rights-based perspective. The establishment of the Waitangi Tribunal was the first example of a promising movement towards a rights-based relationship between Māori and the Crown. The processes around claims provided a mechanism through which reconciliation could start to be achieved (Goodall, 2005; R. Walker, 2004). Māori gained access to property rights such as commercial fishing quotas cementing their presence and need for consultation in state decision-making processes (Goodall, 2005). These opening of spaces created what O'Sullivan (2008: 983) refers to as “incremental developments towards Māori self-

determination.” Te Puni Kōkiri is another space that allows for a pathway towards affecting a rights-based framework. This provides a Māori voice across all government policies advocating specifically for Māori rights. However, it is important to note that Te Puni Kōkiri also refrains from using the terms ‘political development’ or ‘tino rangatiratanga’ in order to avoid a negative public response (Humpage, 2005). This is a result of the highly politicised climate and the controversial nature of tino rangatiratanga but it also represents a resistance on the part of the government to fully acknowledge and embrace Māori rights.

These positive steps were overshadowed in 2004, however, when the Foreshore and Seabed Act (FSA) was passed. The FSA was passed in reaction to the New Zealand Court of Appeal *Ngati Apa* decision in 2003 that ruled that Māori were able to seek customary title over parts of the foreshore and seabed in the Māori Land Court in accordance with the Treaty of Waitangi (Erueti & Charters, 2007). The Act was a response to these claims of customary title and legislated Crown ownership of the foreshore and seabed and control over the resources. This effectively denies Māori the freedom to claim customary property rights over the foreshore and seabed. Further, the Act denied Māori access to the Courts to seek clarification of their rights (Jackson, 2010).

This Act has been heavily criticised for being racially discriminatory. The FSA sits in opposition to article 3 of the Treaty of Waitangi which states that Māori have “all the rights and privileges of British Subjects” which amounts to equal status as citizens. The FSA allows for differential treatment of Māori and non-Māori citizens as it is only the property rights of Māori that are affected (Inns, 2005). A Waitangi Tribunal report released in 2004 stated: “The rule of law is a fundamental tenet of the citizenship guaranteed by article 3 [of the Treaty of Waitangi]. Removing its protection from Māori only, cutting off their access to the courts and effectively expropriating their property rights, puts them in a class different from and inferior to all other citizens” (Waitangi Tribunal, 2004: xiv).

The FSA also sits in contention with a number of national and international human rights obligations to which the Government in Aotearoa is bound. It contradicts the New Zealand Bill of Rights Act 1990 and the New Zealand Human Rights Act 1993 both of which express freedom from racial and other discrimination. On a global scale, it violates the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the UDHR and the ICCPR. In reaction to the FSA, Te Rūnanga o Ngai Tahu, the Treaty Tribes Coalition and the Taranaki Māori Trust Board approached the UN Committee on the Elimination of Racial Discrimination (CERD). The report released by CERD in 2005 supported Māori claims stating that the Act contains “discriminatory aspects against the Māori, in particular in its extinguishment of the possibility of establishing Māori customary titles over the foreshore and seabed

and its failure to provide a guaranteed right of redress” (CERD, 2005). The FSA and the manner in which it was approached by the Labour government provides a pertinent example of what Tully (2000: 57) calls the inherent problems of “internal colonisation” where indigenous rights are respected as long as they do not impinge on government popularity or threaten the legitimacy of the state. The ensuing debate and the way the issue was handled by the government indicated a step backwards for state-Māori relations and indigenous rights in Aotearoa (Consedine & Consedine, 2005).

What emerged from this digression in Māori-Crown relations was the creation of the Māori Party, formed in 2004. This was another successful assertion of tino rangatiratanga however this time working within (as opposed to against) the current democratic political system. This is a Māori run party with the sole intent of representing Māori interests. The goal of the Māori Party is “... to achieve self-determination for whānau, hapū, and iwi within their own land, to bolster a strong, united, and independent voice, and live according to kaupapa and tikanga handed down by ancestors” (Maaka & Fleras, 2009). The Māori Party places the Treaty of Waitangi as the founding document of Aotearoa. The constitution of the Party aligns with the three human rights themes contained within the Treaty of Waitangi (The Maori Party, 2010). They provide a different platform in which struggles can be played out and rights asserted in Aotearoa which ensures increased Māori input into government policies.

This is especially apparent under the current government coalition between the National Party and the Māori Party. Under this partnership, Aotearoa signed UNDRIP in April 2010. In 2007, the previous Labour government had refused to sign this Declaration. Interestingly, the issues that Labour cited as their reasons for not signing the Declaration surrounded rights to land (Articles 26 and 28) and issues around rights to self-determination and consultation (Articles 19 and 32). These are some of the debates that have dominated the discourse of rights throughout the history of Aotearoa. They also expressed concern that signing it would class Māori as different citizens to the rest of New Zealanders (Banks, 2007). This again reflects the rights to be distinct and self-determining people. The current National government still acknowledges these issues but emphasises the fact that it is a non-binding, aspirational document. They reaffirm the current systems for dealing with indigenous rights issues in Aotearoa but consider the signing of UNDRIP an important symbolic gesture that “represents an opportunity to acknowledge and restate the special cultural and historical position of Māori as the original inhabitants – the tangata whenua – of New Zealand” (Sharples, 2010). For Māori, it is now part of the “tikanga” and it represents a “small but significant step towards building better relationships between Māori and the Crown” (Sharples, 2010).

Conclusion

This is an interesting time for indigenous rights in Aotearoa. UNDRIP serves to reinforce and perhaps legitimise in the eyes of sceptics what Māori have been voicing and demanding as tangata whenua in Aotearoa since the signing of the Declaration of Independence and the Treaty of Waitangi. It restates the collective rights of Māori as the indigenous people of Aotearoa which mirror Māori calls to be given the space to be protectors and guardians of the land as tangata whenua. The UN acknowledgement and fortification of the rights to self-determination supports on both the domestic and international stages Māori calls for tino rangatiratanga as guaranteed in the Treaty of Waitangi. It also reinforces the right to land and resources, therefore legitimising Māori claims of redress for breaches of the Treaty of Waitangi through the Waitangi Tribunal. Finally, it is a tool that can calm fears of separation from the state. For example, the Kura Kaupapa schools that emerged from Māori dissatisfaction with the current school system may have been viewed by some as Māori trying to separate from mainstream schooling. However, when viewed through a human rights lens these schools represent Māori exercising their right to “control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning” as set out in Article 14 of UNDRIP (UN, 2008).

UNDRIP repositions indigenous claims within a human rights framework (Maaka & Fleras, 2009). It therefore has the potential to challenge the persistence of successive governments to relate to Māori from a needs-based perspective. When the domestic political scene is unsympathetic to the call for indigenous rights, the global human rights framework (as defined in the UN) can provide an alternative forum outside of Aotearoa’s legislative and governance structures for resistance (Charters, 2007). The UN can provide “global significance to lend additional legitimacy to a domestic platform of resistance to the New Zealand government’s assertion of sovereignty over Māori” (Charters, 2007: 152). Sitting alongside the Declaration of Independence and the Treaty of Waitangi, the international human rights framework (and in particular, UNDRIP) therefore provides a highly beneficial tool accessible to Māori in the pursuit of indigenous rights in Aotearoa.

Chapter Four: Methodological approaches

This master's thesis evolved from an idea that I could gain insight into ways that Māori are interpreting and using human rights by considering a rights-based community development initiative as a case study. I anticipated that by considering a successful project I would be able to ascertain the ways that rights are localised and therefore globally applicable as well as celebrate a positive development story. What I learned was as much about the research process itself as about human rights as a framework for development. A piece of research incorporates multiple layers of expression, representation and interpretation. The methodology and the methods behind qualitative research are the lived experience of those involved in the research project. If the researcher is not explicit about the research process, these experiences and layers can remain hidden behind the final product. In this section I explain how this master's thesis is viewed holistically, where an integral part of the final outcome is the process itself and the relationships formed through the research practice. The very process of *how* this research was carried out is as important as the outcomes of the research itself and therefore the methodology encompasses a significant portion of the thesis.

I sat in a particularly interesting position in this research for two reasons. The first reason is that I am a Pākehā researcher carrying out research with Māori communities. As will be discussed below, this position requires a critical methodology that challenges and contests the assumptions that exist within mainstream research frameworks. The second reason is that I was contracted to work for the Human Rights Commission to carry out an evaluation of the Taku Manawa project at the same time as writing the thesis. This put me in a position where I was effectively wearing two hats when carrying out the interviews – that of an evaluator for the Human Rights Commission and that of an individual doing research for a master's project. This had the potential to run the risk of being misleading for those involved. However, I remained open and honest about the two outcomes of the interviews (the evaluation and the thesis) and the methodological approach ensured that those represented in this work contributed at multiple stages throughout the research process.

This chapter is divided into three sections. Initially, some theoretical explanation is necessary to place the research within both Kaupapa Māori and Participatory Rural Appraisal approaches and to connect the two sets of methodologies. The second section considers the principles and values that form the ethical basis for how I approached this research and places myself and the research contributors⁸ in the research. I hope that it will also be a useful tool for future non-indigenous researchers wanting to

⁸ The term 'contributors' is used at the request of those whose voices are represented in this work.

embark on research with indigenous peoples. Finally, I outline the process undertaken and the methods used to complete this research.

A theoretical discussion

“The word itself, ‘research’, is probably one of the dirtiest words in the indigenous world’s vocabulary ... it stirs up silence, it conjures bad memories, it raises a smile that is knowing and distrustful ... The ways in which scientific research is implicated in the worst excesses of colonialism remains a powerful remembered history ... It is a history that still offends the deepest sense of our humanity” (L. T. Smith, 1999: 2).

“We’ve had enough of your ‘conspicuous innocence’. We have been pathologised by Western research methods that have found us deficient either as genetically inferior or culturally deviant for generations. We have been dismembered, objectified and problematised via Western scientific rationality and reason. We have been politically, socially, and economically dominated by colonial forces and marginalised through armed struggle, biased legislation, and educational initiatives and policies that promote Western knowledge systems at the expense of our own. We know better now” (Louis, 2007: 131).

These two quotes express common sentiments amongst indigenous peoples toward traditional research methodologies and methods. Research has been a destructive process for indigenous populations and a powerful tool in the colonising process (Bishop, 1996; Crazy Bull, 1997; Louis, 2007; L. T. Smith, 1999, 2005). As a result, research and the search for knowledge has become a site of struggle, protest and resistance. Indigenous scholars have used research to voice and validate their epistemologies, developing research methodologies placed within their worldview (Gegeo & Watson-Gegeo, 2001; Otsuka, 2005; Pihama, 2001; G.H. Smith, 2000; L. T. Smith, 2005). What has emerged is an evolving and growing set of ‘indigenous methodologies’. Again, as was the case for ‘development’ and ‘indigeneity’ in chapter two, there can be no single definition that encompasses all indigenous methodologies. However, broadly speaking they are a way of incorporating indigenous knowledge systems into research methodologies which have previously excluded indigenous voices, epistemologies and ideologies (Louis, 2007). All indigenous methodologies are therefore different and unique. They are localised theories of methodological approaches to research that cannot be universalised into one set of practices. However, common themes can be identified within the umbrella term. These represent research methods and

frameworks that are holistic, include spiritual aspects, are based on respectful, reciprocal relationships and are localised within a specific time and place (Huber, 2009; Louis, 2007).

In Aotearoa, this is Kaupapa Māori. Kaupapa Māori is an approach to research that is “for, by and with Māori” (L. T. Smith, 1999: 183). It opens new spaces for dialogue within research and re-positions it in order to counter traditional hegemonic research practices (Pihama, 2001; L. T. Smith, 2005). Kaupapa Māori itself is not a new concept but is a “body of knowledge” embedded in the “beliefs, experiences, understandings and interpretations” of Māori people throughout time (Pihama, 2001: 77). As a methodology it places cultural protocols, values and behaviour as central to how research is approached providing a guiding set of principles to ensure that research is reciprocal, respectful, and has positive outcomes for Māori (L. T. Smith, 1999). It acknowledges Māori distinct epistemology, respects Māori ways of disseminating information, recognises past historical injustices and focuses on giving research back in an understandable format (Bishop, 1996, 2005; L. T. Smith, 1999; S. Walker, et al., 2006). It is therefore contextualised within the larger struggles for Māori that were discussed in chapter three.

As a result, Kaupapa Māori as a research methodology is overtly political and seeks to challenge inequity within Aotearoa (Bishop, 2008; Pihama, 2001; G.H. Smith, 1997). “Transforming the mode and the institution is not sufficient. It is the political context of unequal power relations that must be challenged and changed” (G.H. Smith, 1997: 273). Kaupapa Māori methodologies directly challenge the way that research is conceived, the way that it is conducted and the way that knowledge is validated in current western institutions. Again like the broader calls for indigenous rights discussed in chapter two, these claims move beyond a call for inclusion and equity but instead call for a space which allows for diversity within research practices, methodologies and ways of understanding:

“The issue is not just about equality, if equality means allowing others into a circle already circumscribed according to the standards of a racist and sexist past ... This issue is about erasing the circle, and redefining scholarly endeavours, as a means not only of interpreting, but also of effecting, social change” (Kobayashi, 1994: 73).

It therefore sits as more than a set of methods for conducting research; it is a movement with consciousness-raising and empowering outcomes.

Due to the highly politicised space in which Kaupapa Māori exists and the anti-colonial framework within which it is placed, there is a valid argument that this framework cannot be used by Pākehā and further that Pākehā researchers should not engage in research with Māori communities (Cram, 2001; Jahnke & Taiapa, 1999; S. Walker, et al., 2006). However, there are also calls within the indigenous

movement for the formation of reciprocal and genuine relationships between indigenous and non-indigenous researchers as long as the research methods and outcomes are positioned within the framework of indigenous methodologies (Benner, 2002; Bishop, 1996; Johnson, et al., 2007; Louis, 2007). In the context of Aotearoa, Bishop (1996: 17) calls to Māori to be open to Pākehā researchers who are “willing to work within Māori-controlled contexts” because to exclude them only serves to alienate a supportive and skilled group of professionally trained researchers. Due to the highly politicised and sensitive space in which research with Māori justifiably exists, there runs a risk of abandoning the research altogether which can be just as damaging. Martin Tolich (2002: 168) refers to “Pākehā paralysis” where researchers “are paralysed: unwilling or unable to think through this political minefield.” However, Pākehā researchers have an obligation and a responsibility under the Treaty of Waitangi to carry out research with Māori that is culturally appropriate, provides space for self-determination and that has empowering outcomes (Benner, 2002; Bishop, 1996; Tolich, 2002). Those Pākehā researchers that recognise this responsibility and are willing to genuinely engage with indigenous methodologies can potentially contribute to good research with Māori communities; those that do not recognise these principles however, should not engage in research with indigenous peoples.

Therefore, I had to consider the complexity of my position as a Pākehā researcher. Instead of abandoning the research, I chose to live up to my obligations under the Treaty of Waitangi and continue but to be explicit about the political implications of research (Kincheloe & McLaren, 2006; Kobayashi, 1994) and specifically the implications of my position as a Pākehā researcher. By placing this research, at least in part, within a Kaupapa Māori framework, it is therefore situated within a broader social and political journey. This was highly visible in all the conversations and interviews I took part in and, while this is not the space to reflect on the intricacies of what was said, this aspect cannot be ignored from the research done. The politicising of the process of doing research using Kaupapa Māori principles also connects the methodological approach of this research to its theoretical underpinnings where the human rights framework also seeks empowering outcomes and works to re-politicise the development process. The research process, therefore, becomes a political act in the way that it is theorised, implemented, interpreted and written up.

Considering the debates above, I chose not to position this research solely within a Kaupapa Māori framework. I do not speak te reo nor do I have enough experience in te ao Māori to genuinely engage in a Kaupapa Māori approach. Instead, I have considered and integrated as far as possible the principles that underlie the Kaupapa Māori approach and indigenous approaches more generally. In response, I sought other research approaches that could work alongside these principles. I discovered interesting parallels between Kaupapa Māori and Participatory Rural Appraisal (PRA). Like indigenous

methodologies, PRA approaches provide a set of methodologies rather than a prescribed technique. They emphasise the value of local knowledge, skills and resources where the researcher takes on an observer's role (Chambers, 1993, 1994). These approaches maintain a central focus on empowerment and actively seek to challenge the power imbalance between the researcher and those involved in the research. They give prominence to the voices of the researched peoples allowing them to determine the content, direction and purpose of the research providing space for change and flexibility within the research process (Brockington & Sullivan, 2003). In this regard, they can be seen to align with Kaupapa Māori approaches.

However, these approaches have been heavily criticised for being idealistic in nature, failing to realise the empowering principles that are espoused in the theory when put into practice (Desai, 2002; Mosse, 2001; Vincent, 2004; White, 2000). While in theory these approaches open space for real participation and call into question the power dynamics inherent within research relationships, they are not sufficiently explicit about the political environment in which research exists and therefore remain at risk of being co-opted and losing their critical edge. Participatory approaches are dangerous if they are “presented as a set of *techniques* rather than as a political commitment” (Cahill, 2007: 299 emphasis in original). I therefore remain explicit about the political implications of this research and, like Cahill (2007: 299), consider “participation as an approach (as opposed to a method)”.

Combining the two different sets of methodologies serves to mitigate some of the issues that arise in this research within each individually. Using PRA allows me the space to engage in research with Māori as a Pākehā researcher. This approach sits outside Kaupapa Māori approaches but maintains similar principles. In this way I do not risk compromising Kaupapa Māori methodologies which are distinctly Māori but I can utilise them as a Treaty partner to ensure that the research is culturally safe and mutually beneficial. Engaging with Kaupapa Māori approaches ensures that PRA approaches remain local, politicised and that the methods have empowering outcomes. In this way, the two methodologies sit alongside each other in this research. The combination provides a methodological approach that has a distinct framework with a range of methods. Overall, it allows space for collaboration in research and room for me as the researcher to step back and take the position of a learner rather than the holder of knowledge.

The underlying values

Aroha ki te tangata: A respect for people

Kanohi kitea: The seen face

Titiro, whakarongo...Korero: look, listen...speak

Manaaki ki te tangata: Sharing, hosting, being generous

Kia tupato: Be cautious

Kaua e takahia te mana o te tangata: Do not trample on the "mana" or dignity of a person

Kaua e mahaki: Do not flaunt your knowledge

(L. T. Smith, 2005: 98).

The values quoted above sit at the heart of Kaupapa Māori research. It is vital that non-indigenous people embarking on research with indigenous peoples are aware of and respect these principles. There exists an increasing amount of resources and advice for non-indigenous researchers working with indigenous communities (Crazy Bull, 1997; Nakamura, 2010) and others specific to Pākehā researchers working with Māori communities (Benner, 2002; Cram, 1997). Being a non-indigenous person doing research with indigenous communities is not a comfortable position to sit and it takes time and patience. "To digest these approaches takes a long time. Non-indigenous researchers who are starting to learn indigenous methodologies may get lost; they will have no idea of where to start" (Nakamura, 2010: 98). This discomfort and feeling of being out of our depth is important because it ensures that we are constantly aware and cautious in our approach to the research. There can be no handbook for how to engage with Kaupapa Māori as a methodology. "One of the idiosyncrasies of Kaupapa Māori research is that writers do not tell you *how to do* Kaupapa Māori research; instead they tend to focus on what it does and the effects that it has" (S. Walker, et al., 2006: 335 emphasis in original). What Kaupapa Māori provides is a set of values and beliefs that should underlie all research processes.

Initially, it is important to position oneself within the research. There exists a legacy of poor and insensitive research completed by people in my position. I have grown up in the western tradition and this will always affect the way that I see and interpret the world. I have been educated through western institutions and continue to be restricted by the demands of the university system for carrying out this research. There is an inherent contradiction doing research from within an academic institution with indigenous communities because the researcher is always working from inside an institutional setting that favours western cultural frameworks (Settee, 2007). This makes engaging with culturally appropriate research a challenge. These challenges were pointed out to me very early on when seeking advice. On return from one particular meeting I commented in my reflective journal: "So it's more than

just trying to squeeze those [values] into an academic framework. As Fred⁹ pointed out – with the road I’ve chosen, I’m always going to come up against barriers because these methodologies and methods stand outside the traditional format of research” (Mackintosh, 2010).

This was most obvious to me when seeking human ethics approval through the University¹⁰. This process demanded that the research fit within a rigid and pre-defined structure that was largely relevant to traditional scientific research practices. Human ethics approval is often concerned more about legal protection for the institution or organisation than the ‘human subjects’ involved in the research (Casey, 2001; Louis, 2007; L. T. Smith, 2005). I felt uncomfortable trying to fit, mould and squeeze my thesis proposal into an ethics application that was not open to indigenous methodologies. These processes can alienate researchers wanting to work with indigenous peoples and can restrict the ability of institutions and universities to genuinely engage with indigenous methodologies (Hodge & Lester, 2006). The key to ethics within indigenous knowledge systems is “establishing, maintaining and nurturing reciprocal and respectful relationships, not just among people as individuals but also with people as individuals, as collectives, and as members of communities, and with humans who live in and with other entities in the environment” (L. T. Smith, 2005: 97). La Donna Harris and Jacqueline Wasiliwski (2004) discuss the four R’s which they consider to be values held universally across indigenous populations and should form the basis of an ethical approach to research. The first R – Relationship – defines how we relate to each other and the natural world within a research context. It gives particular attention to kinship and inclusivity. The other three R’s – Responsibility, Reciprocity and Redistribution – define the principles on which research should be based. These focus on the research process itself where the knowledge, expertise and worldview of the people contributing to the research is valued and the final outcomes gives back. Indigenous methodologies require that ethics fit comfortably with the research contributors rather than conform to the systems of the institution.

It was therefore essential from the outset to establish an ethical foundation from which to approach this work. This needed to align the ethical underpinnings of the research project with Māori ethical standards and my own personal ethical stance (Rangahau). In order to establish this foundation I followed a set of six principles that formed the basis of my research ethics. They relate back to the values outlined by Linda Tuhiwai Smith at the beginning of this section. The first is to position oneself as a learner with sensitivity and an open mind “ready to deal with unexpected issues, while striving to avoid misrepresentation, misinterpretation and exploitation of indigenous knowledge” (Nakamura, 2010: 100). Positioning the researcher as such challenges the traditional research ideology where the

⁹ Fred is a pseudonym used to protect the confidentiality of this person.

¹⁰ See Appendix two for a copy of the Victoria University of Wellington Ethics Forms.

researcher held the position of “tuakana (the older, leader, wiser knower)” (Bishop, 1996: 213). Related to this principle is the importance of allowing room for change and flexibility at every stage of the research. Indigenous methodologies acknowledge the organic and changing nature of everything and assert that methods must represent this reality (Louis, 2007; Pihama, 2001). The third principle focussed on developing relationships. Relationships form the base of any social research and therefore it is essential that the researcher is present in the communities and allows the time to develop understandings (L. T. Smith, 1999). It is important to take the time to lay the foundation of mutual trust and respect which will allow those relationships to grow through the research experience interwoven with shared knowledge and a shared desire for change.

The fourth principle centres on respect. The only way to approach research with indigenous peoples (or I would assert, any community) is through respect for cultural practices, protocols and ways of understanding. This will be different in every context. It entails allowing people to meet in their own spaces and on their own terms and being respectful of protocols around meeting and gathering and sharing knowledge (Louis, 2007; L. T. Smith, 1999). When doing research we are entering another person or people’s place and receiving a gift of knowledge placing us in a privileged and honoured position which deserves the utmost respect. The fifth principle is recognition of the importance of sharing knowledge. Research should be a two way process where knowledge is shared in both directions and the benefits are reciprocal (Louis, 2007; L. T. Smith, 1999).

Finally, the researcher must be explicit about the role they have played in the research process. “Researchers need to be politically astute, culturally safe, and reflective of their position” (L. T. Smith, 2005: 98). The relationship between researcher and participants must be honest and visible within the research along with their interaction with the information that is presented. Traditional positivist discourse and methodologies hold the position of the researcher as neutral and claim the results to be unaffected by their position (Huber, 2009; Kitchin & Tate, 2000). This has been a damaging process for those groups that have been excluded (Kincheloe & McLaren, 2006) and these traditions stand in opposition to indigenous methodologies (G.H. Smith, 2000). Indigenous methodologies are more aligned with critical theorists where the political nature of research is explicit:

“Critical research can be understood best in the context of the empowerment of individuals. Inquiry that aspires to the name “critical” must be connected to an attempt to confront the injustice of a particular society or public sphere within the society. Research thus becomes a transformative endeavour unembarrassed by the label “political” and unafraid to consummate a relationship with emancipator consciousness” (Kincheloe & McLaren, 2006: 305).

Ideally research with indigenous people would have a Freirean perspective where all parts of the research process are shared by everyone involved in a collaborative investigation that raises self-awareness through critical inquiry for all participants (Kincheloe & McLaren, 2006). In this way there is a subtle yet powerful change in the way research is presented and instead of asking “Who speaks *for* whom?”, it asks “Who speaks *with* whom?” (Kobayashi, 1994: 75 emphasis in original). The result being that both the researcher and those involved in the research are present in the final presentation.

With these principles in mind, I positioned myself as a learner – not as someone with the knowledge (a sentiment I had never felt) but rather as someone open to listening to and learning from the stories of those people at the community level who were more experienced than me. The community members whose voices are represented in this thesis I consider to be contributors rather than participants or informants (Cahill, 2007; Louis, 2007). I hold them in a position of reverent respect and more than equal partners. All the people that I interviewed were older than I and had significantly more life and community work experience. They were the holders of the knowledge and the wisdom, and while I must acknowledge my position as a member of the academic community and my contributions are clearly valid and large, those who contributed to this research were the true carriers of the knowledge. Taking this position eases the conflict that exists around the power that comes with being ‘the researcher’:

“Researchers are in receipt of privileged information ... They have the power to distort, to make invisible, to overlook, to exaggerate and to draw conclusions, based not on factual data, but on assumptions, hidden value judgements, and often down-right misunderstandings. They have to potential to extend knowledge or to perpetuate ignorance” (L. T. Smith, 1999: 176).

While I cannot change the position I come from what is within my power is to act as ethically as possible at every step of the way. Here I make it explicitly clear that while I am presenting the voices of those from the community level, all aspects of this thesis from the collecting of information to the transcribing and the analysing inevitably reflect my voice. This has been eased as much as possible through genuinely engaging with Kaupapa Māori and PRA. By acknowledging the position from which I approach this research I do not dissipate the conflicts and tensions that arise but I do mitigate the power dynamics by making them visible within the research.

Finally, it is also important to be open and realistic about how much (or how little) the research can achieve (Bourke, et al., 2009). I am aware that this research cannot change the situation that people are in or impact the power dynamics in greater society, but it may serve to magnify voices that are not often heard, create new relationships that will have positive long term results, open new lines of

communication that did not previously exist and provide an example for Pākehā researchers who genuinely want to engage with Māori.

The process

“The researcher must be involved somatically – that is, physically, ethically, morally and spiritually, not just on one’s capacity as a “researcher” concerned with methodology”
(Bishop, 2005: 130).

Before embarking on the research I approached a number of people for advice on my topic. This was to ensure that it had the potential to be a useful piece of work and that I was approaching it in an appropriate manner. I sought advice from a number of different staff members at the Human Rights Commission at various stages of writing my research proposal. These included meetings in Wellington and Auckland and discussions over the phone to staff members in other areas. I also approached members of the academic community for advice: one female Pākehā working with Māori communities and therefore in a similar position to me; a Māori academic working in the Māori Studies Department at a New Zealand University; and another Māori academic who teaches in education about the Kaupapa Māori framework. I spoke to two staff members from Te Puni Kōkiri; again with the desire to be sure that the research topic was valid and useful and my approach was appropriate. The question that I was asked most frequently was: ‘Why do you want to carry out this research with Māori?’ In one conversation after I had spent an hour discussing my ideas and explaining my ethical stance and rationale I was faced with the honest opinion that this particular person was concerned about me doing this research as a Pākehā. This made me question myself: was I the right person to be engaging in this kind of research? I was forced to question my legitimacy and whether or not I had the right to be conducting this research. “Coming to terms with our own privileged identities, be it class, race, gender, nationality or educational background ... has demanded a degree of introspection from each of us” (Bourke, et al., 2009: 95).

This research was therefore a very reflexive and reflective process from the beginning. I treaded carefully and asked myself the following questions:

- What do I want the research to achieve?
- What knowledge will the community gain from this study?
- What knowledge will the researcher gain from this study?
- What are some of the likely positive outcomes from this study?

- What are some of the negative outcomes to be eliminated?
 - To whom is the researcher accountable?
 - What processes are in place to support the research, the researched and the researcher?
- (L. T. Smith, 1999).

The process of answering these questions cemented the six principles underlying this research. I realised, as is indicated in Bishop's quote at the beginning of this section, that it was something I believed in rather than had a purely academic interest in. Answering these questions forced me to consider all aspects of the research before I started, limiting the room for risk of misrepresentation and poor research etiquette. Further, I took te reo classes to improve my knowledge and understanding of the Māori language. I also completed a Mauri Ora course through Te Wānanga o Aotearoa, a one-year correspondence course providing in-depth education into Māori cultural values and perspectives, where they originated from and how they have changed over time. These were attempts at 'personal development' as a researcher (L. T. Smith, 1999: 176).

These experiences were not altogether new for me. Confronting my privileged position in Aotearoa was a process that had started many years before through completing a New Zealand history degree and travelling in Aotearoa and globally. It was in many ways one of the main drivers for pursuing this research. Where I found I was most challenged was coming to terms with the experience I was lacking which meant that I could not fully understand the research in which I was embarking. These included cultural protocol such as tikanga which I had a shallow, academic appreciation of but lacked the experience to truly understand the subtleties. There were also distinct cultural differences such as the spiritual connection to the land and the connection to whānau across generations and time. Aware of these 'lackings' I approached the research with caution but was buoyed by the encouragement I received from the majority of the people I spoke to. A staff member at the Human Rights Commission read my proposal and referred to it as 'fascinating ... and quite humbling' (Pers. Comm. 19 Apr, 2010). This same person later approached me to do some contract work evaluating the national Taku Manawa project. This was reassuring that not only was my research something useful and relevant but that my nature and attitude was supportive to working within an indigenous framework.

The contract position for the Human Rights Commission involved working with one other person with the task of evaluating Taku Manawa as a framework for delivering rights-based community development. Once I was established in this role, the research for this thesis spiralled as I met representatives from each of the three regions where Taku Manawa has been implemented. At a Working Group Meeting in Wellington I was introduced from the position of being a master's student writing a thesis on Taku Manawa and indigenous rights more generally who was able and willing to

assist with the evaluation. I then spent some time introducing myself and my research in more detail to ensure that my position was explicit from the beginning. This opportunity instantly provided a platform from which I could build relationships. At this meeting we collaboratively drew up an ethics agreement (see appendix three). This formed the ethical foundation for the way that the interviews were approached which was clearly understood and respected by all. To mitigate possible misrepresentation as a result of this dual role, I remained open and honest about my thesis work and would introduce myself and my thesis topic before each interview. All contributors were aware that I was completing a thesis and that their voices would be included in it. The two projects were so interlinked that I did not feel that either of my positions was compromised in the process.

The methods for collecting information were not prescribed and remained flexible to change. Here, I will only refer to the methods used for the Te Tairāwhiti Taku Manawa as this is the focus of this piece of research. We visited both Opotiki and Te Araroa. Who we spoke to, where we spoke to them and how the interviews were conducted was directed entirely by the local community members who had been involved with Taku Manawa. These took the form of observation, focus group interviews and some one-on-one semi-structured interviews covering more specific details. Like Cahill (2007: 300) found with her participatory research project with young people, the “research evolved in a slightly messy, organic way”. Everyone who partook had engaged with Taku Manawa in different ways. Some had been part of the original Taku Manawa education programme in 2003; some had taken part in further training that had emerged out of Taku Manawa; some were members of the Te Tairāwhiti Human Rights Network; others had attended human rights hui, events or activities that had been organised by members of the Network. This provided a diverse group of people which meant that we achieved insight into the different ways that human rights had impacted the community at individual, whānau and community levels.

In Opotiki we initially sat in on part of the morning session at Shining Stars Preschool, a preschool based on human rights values and principles. Observing the pre-school was a valuable way of seeing human rights outcomes in action and meant that we could “understand more fully the meanings of place and the contexts of everyday life” (Kearns, 2005: 195). The combination of both observation and interviews was useful as it allowed us to observe the lived reality of the pre-school which can often be different from the way that someone describes it or how the listener may interpret what is being said (Kitchin & Tate, 2000). This initial observation added more value to the discussion that followed about Shining Start Preschool in the focus group interviews.

The focus group interviews were structured around a loose framework that we had sent out a week earlier (see appendix four). Everyone had been given the opportunity to comment or make changes to this document. This provided a basic structure to ensure that everyone had an understanding of our common purpose. However, it was broad enough so that people could provide that information through whatever mode suited them best. There were five to six people present at the focus groups in both Opotiki and Te Araroa. Generally people told stories which sparked off other conversations and stories in a collaborative process. Focus groups as a method allow space for researchers to engage with Kaupapa Māori principles (Saba, 2007). They provide a format where knowledge can be shared in an environment that is defined by the research contributors. They also allow enough flexibility of process and content for cultural protocols to be respected.

In the context of these interviews the concept of whānau provided the basis of our interactions. The whānau is a central organising platform within Māori society and is therefore integral to the Kaupapa Māori approach (Bishop, 1996; Cleave, 1997; L. T. Smith, 1999). Within a research context it informs both the values that underlie the whole dialogue and the social intricacies of how the research is conducted. Initially it is a way of connecting with people through a format that is inherently Māori. This may be in the formalised processes of a mihimihi (speech of greeting) at a hui (meeting) or on a marae. Or in a less formal setting it is about taking the time to create the basis of a relationship through introduction, linking people together as individuals and as a collective and establishing the commitment that this relationship represents (Bishop, 1996). The term whānau:

[i]dentifies a series of rights and responsibilities, commitments and obligations and supports that are fundamental to collectivity. These are the tikanga of the whānau; warm interpersonal interactions, group solidarity, shared responsibility for one another ... These attributes can be summed up in the words aroha (love in the broadest sense), awhi (helpfulness), manaaki (hospitality), tiaki (guidance) (Bishop, 1996: 216).

In both focus group interviews carried out in Opotiki and Te Araroa these formal processes were carried out where a mihimihi was extended to all of us present and a karakia (prayer) was made uniting us in that moment and into the future through the shared research experience. Both interviews had no set time limit but rather arrived at their natural end when people had to go or the conversation had finished. A karakia closed both the focus group sessions and were followed by kai (food) in order to whakanoa, or signal the end of the formal proceedings.

I also conducted semi-structured interviews that related more specifically to the topic of my thesis. Again, these evolved in an organic fashion and were not structured around a set of specific questions. In Te Araroa I conducted a semi-structured interview immediately after the focus group with one

contributor where we discussed and clarified points that had arisen during the focus group session but which had not been fully addressed. The second semi-structured interview was with two of the contributors from the focus group in Opotiki. This interview took place three months after the initial focus group sessions. The time between interviews allowed me the space to be reflexive. The purpose of this interview was two-pronged. The first was to ask some more specific questions around the topic and the second was to 'check back' to ensure that my interpretations fitted with the beliefs of the research contributors. This interview was more structured in the sense that I had prepared and sent through documents outlining areas for discussion. This included a brief draft document on the central discussion ideas that I had collated from the focus group. Revising the discussion ideas together meant that I could ensure that my interpretations of the discussions were adequately representing the voices of the contributors. One contributor commented:

"Yeah, reading through it I like the way you've written up the conversations that you've had. As one of the speakers in this I felt really safe with the way that you'd used things that I had said so yeah, personally, I'm really happy with this" (Pers. comms. 26 August 2010).

Although this interview was more tailored to the information I needed, again we did not follow stringently a set of questions or have a set time limit but rather had discussions until all the areas had been covered. The method reflected more 'interview as chat' where the conversation was informal and could take its own direction but still had a common purpose (Bishop, 1996; Otsuka, 2005). This method was open to flexibility and change allowing space to share knowledge and reach a common understanding of the concepts.

As a whole, these approaches moved away from the simple linear format which is common in western academia (Benner, 2002). Instead, the creation of knowledge took the form of a spiral (Bishop, 2005; Harris & Wasilewski, 2004). Here, meaning is arrived at through a collaborative process where ideas are built on over time to find meaning. Harris and Wasilewski (2004: 495) refer to this process as like the flight of the kuaka (sea bird) where there is a 'reiterative moving forward into the future together'. This was clear in the focus group interviews where the conversation would wax and wane, often head off topic, include anecdotes and personal experiences but the overall effect was to arrive at a common understanding and conclusion about Taku Manawa and the role of human rights within the communities. "The discourse spirals, in that the flow of talk may seem circuitous and opinions may vary and waver but the seeking of a collaboratively constructed story is central" (Bishop, 2005: 122). To maintain the flow of this spiral of knowledge, for all interviews I sent the full transcripts back within the week for comments and corrections. However, these 20 page documents did not provide an accessible format for 'checking back'. The brief draft document which summarised my central discussion ideas

provided a more meaningful way of re-engaging with the material and I received helpful advice from this process.

Finally, I sent a draft copy of chapters five and six to those contributors who had expressed an interest in looking over them. This provided me with another opportunity to ensure that I was accurately representing the voices and opinions of those involved. Re-engaging with contributors during the analysis and writing up stages of the research was an essential part of the methodology. It acknowledges that these are vital parts of the research process where meaning is being created and is changing and evolving (Cahill, 2007). On the whole, those who read the draft chapters were happy with the presentation. However, there were instances in the story of Opape Marae in chapter six where I had misrepresented the meaning and the story. I re-wrote this and sent it back to the contributors until they were happy with the representation. Therefore, the ideas presented in the next two chapters have been built on by the research contributors at multiple stages throughout the research process. This provided space for the development of a common understanding to be explored until the final draft stages of the research. The voices of the contributors are presented in a way that is consistent with this methodological approach. Direct quotes are in italics but are not attributed to specific research contributors (with the exception of the Opape Marae story section). This is to indicate that the individual quotes are part of a larger construction of knowledge over a period of time. I feel that the complete anonymity complements the methodological approach that underlies this research and the philosophy that the creation of knowledge is a process of collectively building towards a common meaning.

Throughout this process I maintained to the best of my ability the six ethical principles underlying my actions. The process remained flexible within the boundaries of what needed to be achieved. I have developed relationships based on mutual respect which I anticipate will continue into the future. I positioned myself as a learner but also shared my knowledge and ideas in the interview settings. Perhaps presenting these concepts in a format that is accessible to other audiences is the largest contribution of my knowledge at this time. My hope is that this is just one stage in a much larger journey.

Conclusion

“Research is a humble and humbling activity”

(L. T. Smith, 1999: 5).

The overall research experience has been a journey that has included many different people whose stories, opinions and histories are woven into the fabric of what is presented here. This chapter has discussed the complexities inherent within a piece of research such as this. I have attempted to engage with and discuss some of the political, social and cultural implications that exist within it. The critical methodologies which frame the research process profoundly impacted on the way that I approached the research, the relationships I formed with my fellow contributors and the final presentation of the research. The challenges presented by Kaupapa Māori approaches ensured that I remained highly retrospective in my approach pushing me to consider each stage of the research process. I, as the researcher, had to remain aware of my position and my voice within the research throughout the process. The methods used evolved naturally and were 'messy' or 'disorganised'. However, in reality the outcome was a methodological approach that ensured that the research process remained ethically sound and culturally safe.

Kaupapa Māori and PRA approaches to research are consistent with the ambitions of rights-based approaches to development. Engaging with critical methodologies ensures that development remains explicitly political and continues to challenge the underlying power structures that exist within every aspect of development practice and research. To truly engage with "development as freedom" (Sen, 2001: 36) the methodologies used must complement these ambitions. Kaupapa Māori approaches keep in check the power structures that exist within research and re-politicise the research process. Further, the values of respect, humility and reciprocity are inherent within human rights. I would assert that the challenges that indigenous methodologies bring to research should not just challenge research with indigenous peoples but the way that research is considered in development as a whole. If engaging with the challenges that these methodological approaches bring to research can ensure that the research process is based on respect, empowering outcomes and genuine participation then they should be an integral part of any research done in the development context.

Chapter Five: The localisation of human rights in Aotearoa

As was asserted in chapter two, there is a lot of high level debate within rights but little is known about how human rights are being interpreted and understood at the local level. Knowledge around this is essential for rights-based approaches to be a useful framework within development. To begin an exploration of these ideas, this chapter will consider the first two questions outlined at the beginning of this thesis: *How are human rights (as defined by the United Nations) being interpreted and used by Māori? And, how are Māori interpretations of this human rights discourse specific to place, culture and history?* Answering these questions provides a largely conceptual discussion about human rights as they relate to Māori in the context of Aotearoa. Clarity around these conceptual ideas is essential as it grounds the discussion before considering what rights-based approaches to development should look like in practice. Initially I will discuss three dimensions of the cultural lens through which Māori interpret human rights: Kaupapa Māori, tikanga and whakapapa. This will be followed by a discussion around collective rights and the concept of whānau. Finally, the discussion will consider how the international human rights instruments fit within the existing structure of human rights in Aotearoa.

What is presented in the following two chapters are the stories and voices of Māori people from Te Tairāwhiti. Direct quotes are in italics to clearly show the voices of the contributors. In presenting these stories and voices, I have taken the advice I was given very early on in the year by a Māori academic and openly present my findings from the perspective of: ‘this is where we are based on what I have seen, what I have been told and my knowledge of the situation’ (Mackintosh, 2010). I encourage the reader to view these discussions as an introductory consideration of complex and intricate concepts where the weaving together of the Māori worldview and the human rights kaupapa begin.

Kaupapa Māori, Tikanga, Whakapapa and Human Rights

There are three dimensions within the Māori cultural framework which the research contributors used to engage with human rights. The first of these is Kaupapa Māori, or “*the Māori worldview*”. Kaupapa Māori in this context is different from how it was presented as a research methodology. Where Kaupapa Māori as a research methodology represented a larger political challenge to inequity within Aotearoa (Bishop, 2008; Pihama, 2001; G.H. Smith, 1997), Kaupapa Māori in the broader sense encapsulates the culturally specific ways that Māori view, interpret and understand the world. The values that underpin Kaupapa Māori methodological approaches to research come directly from this

broader Māori worldview. Many of these values are also shared by the human rights framework. These include respect for all peoples, being inclusive and building relationships based on reciprocity and shared knowledge, and empowering people. As a result, the two kaupapa were viewed as complementary. This observation was expressed clearly by one contributor:

“We quickly realised that the kaupapa of human rights actually aligned quite nicely with Kaupapa Māori in terms of being respectful, of being supportive, in terms of building people up.”

Kaupapa Māori provides an overarching framework in which the internationally defined concept of human rights is placed. Positioned within this framework the human rights kaupapa become relevant to Māori and can be meaningfully connected to their lives and work.

Another dimension within the Māori cultural lens is tikanga. Tikanga broken down and translated into English makes up the words ‘tika’ meaning right and ‘nga’ making it plural. It therefore translates as ‘the rights’. These are the organising principles that govern Māori ways of living and represent the “values, standards, principles and norms developed by Māori to govern themselves” (Te Aho, 2007a: 45). As a whole, tikanga provides “tools of thought and understanding ... They help us differentiate between right and wrong in everything we do and in all the activities that we engage in. There is a right and proper way to conduct oneself” (Mead, 2003: 12). Tikanga is active and alive. It is passed down through tīpuna (ancestors) and varies from marae to marae while the intricacies of tikanga change over time (Te Aho, 2007b). However, there are commonalities across Māori in terms of values that govern behaviour and protocol that are widely acknowledged (Te Aho, 2007b). Throughout discussions with contributors, these concepts were explained to me in the following way:

“... so if Kaupapa Māori is the view that’s held within a community then ... the processes you use to achieve that worldview are tikanga, or the right things. Within that tikanga process are inherent the values of tika, pono and aroha. Tika once again is the right things; pono is that you believe in what you’re doing and aroha is empathy. So these high level values are inherent within the processes that we use to achieve Kaupapa Māori or the Māori worldview.”

To borrow an analogy used by Jacinta Huatahi Paranihi (2008: 15), tikanga is a “waka or vessel” through which ideas and concepts are experienced and understood. Tikanga defines the pathway through which human rights enter the community, the way that they are lived and the relationships that are formed. One contributor commented that this pathway will look different for each community. They describe tikanga as “a process that can give recognition to all people because each people have their own tikanga which we should recognise and be able to utilise.” Tikanga therefore is the waka which carries human

rights into communities providing the values, standards, principles and norms through which they are understood and interpreted within the Kaupapa Māori framework.

The third dimension is whakapapa. Whakapapa is an essential part of Māori identity. It links individuals to each other, to those gone before, to the land and the environment. Joseph Selwyn Te Rito (2007: 4) describes the broader concept of whakapapa in the following way:

“It is to do with that sense of being essentially at one with nature and our environment, rather than at odds with it. As tangata whenua we are people of the land – who have grown out of the land, Papatūānuku, our Earth Mother. Having knowledge of whakapapa helps ground us to the earth. We have a sense of belonging here, a sense of purpose, a *raison d’être* which extends beyond the sense of merely existing on this planet.”

Similar to tikanga, whakapapa “acts as a vehicle for all Māori knowledge and all things” (Paranihi, 2008: 17). It extends beyond human connection and provides a framework for establishing the birth of any idea or concept. For Māori, human rights gain meaning when they are connected through the framework of whakapapa. Through whakapapa the broader ideas of human rights can be connected back to their roots providing a rich understanding of where rights came from and how they are relevant:

“I think it’s all about connectivity. Particularly for Māori audiences ... It’s drawing down from what can sometimes be quite wordy and quite ambiguous documents, drawing that down to a framework that the participant understands and Māori audiences understand whakapapa, they understand genealogy of things, of people in general.”

When whakapapa is used as a way of understanding a concept such as human rights it moves beyond genealogy and connection to the land and relates instead to the connection of those people to a particular concept or idea. Two contributors shared with me two different whakapapa for human rights. The first was a document-based whakapapa. This started with the Magna Carta and traced human rights documents through to the Declaration of Independence, the Treaty of Waitangi and the Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples¹¹. It moved on to the UDHR and the various UN Declarations and Conventions. Creating this whakapapa provides a framework for understanding the birth and evolution of human rights as they exist through formal documentation in the context of Aotearoa and as defined by the United Nations. The second whakapapa traced the Māori journey of education throughout time starting where knowledge about

¹¹ The Mataatua Declaration on the Cultural and Intellectual Property Rights of Indigenous Peoples was passed at a Conference held by the nine iwi of Mataatua in Whakatane in 1993. Delegates from fourteen countries attended to discuss issues relating to indigenous populations and the protection of their cultural and intellectual property rights. On the final day the Declaration was passed by the Plenary (Commission on Human Rights, et al., 1993).

human rights had been passed down from nga atua (the gods) through Tane Mahuta¹² to humankind. This is a distinctly Māori view of human rights and it connects them to the journey of knowledge across time. Considering human rights through whakapapa places it within Māori history so that people engaging with human rights can relate to where the idea originated and the subsequent meaning that it has for Māori.

These three concepts are inextricably connected. Kaupapa Māori is a distinct cultural worldview. This forms the foundation for how human rights are engaged with and the values inherent within human rights are viewed as consistent with those in Kaupapa Māori. Tikanga is the waka. It defines the pathway through which human rights are carried and experienced based on the governing principles that define that community. Finally, whakapapa provides a vehicle for interpreting and understanding human rights. Through whakapapa, connections can be made between the Māori worldview and the international framework of human rights. Kaupapa Māori, tikanga and whakapapa therefore are all essential elements used by Māori as a way to relate to the international framework of human rights.

These assertions challenge a number of the central criticisms of human rights as a framework for development found within the literature. Initially, it challenges the binary nature of universalism and cultural relativism and sits more comfortably amongst those claims that a universal concept of rights can also be particular to a certain place (Donnelly, 2007; E. Durie, 2002; Nyamu-Musembi, 2005). For Māori, the universal concept of human rights was localised through a particular worldview. It therefore challenges the assertion that human rights are a static western concept that stifles diversity due to the limited definition of rights (Aziz, 1999; de Kadt, 1980; Muzaffar, 1999). The previous discussion instead supports the argument for an evolving definition of rights that changes according to the struggles faced at the local level. The complementary nature of human rights alongside Kaupapa Māori challenges the debate that the international framework is only relevant to Western cultures (Aziz, 1999; Muzaffar, 1999; Uvin, 2007). At least for Māori, the two exist together.

Collective Rights and Whānau

Collectivity is an essential part of indigenous cultures. It is therefore a fundamental part of how indigenous peoples engage with human rights. This is evident in the fact that every article except two in

¹² Tane Mahuta was the God of the forests and birds. He reached the highest level of heaven to attain the three baskets of knowledge – Te Kete Aronui which held all the knowledge that could help humankind; Te Kete Tuauri which held knowledge of ritual, memory and prayer; Te Kete Tuatea which held knowledge of evil (The Knowledge Basket: New Zealand Research Archive).

UNDRIP refers to the collective rights of indigenous peoples. For Māori, the collective perspective of rights is understood through the concept of whānau. Whānau most commonly translates as ‘family’; however this does not capture the depth of meaning behind the word. As was discussed in chapter four, whānau is an essential part of the organisational structure of Māori society and it indicates “rights and responsibilities, commitments and obligations and supports that are fundamental to collectivity” (Bishop, 1996: 216). Further, the whānau is described as “the location for communication, for sharing outcomes and for constructing shared common understandings and meanings” (Saba, 2007: 45). It is therefore strongly connected to the concepts of Kaupapa Māori, tikanga and whakapapa. Whānau forms part of a greater organisational structure and support system within Māori society which links the individual to the community and the community back to the individual: “Individuals expect to be supported by their relatives near and distant, but the collective group also expects the support and help of its individuals. This is a fundamental principle” (Mead, 2003: 28).

Whānau was a consistent theme within conversations around human rights. One contributor explained that human rights are passed down through whakapapa and are activated through participation with whānau and hapū. All human rights activities I observed were multi-generational in their approach. For example, Shining Stars Preschool is a pre-school that is based on the principles of human rights. On the day that we were fortunate enough to observe this pre-school, there were five or six adults of varying ages who all participated in the collective education of nga tamariki (the children). The importance of having multi-generational representation there and a high ratio of adults to tamariki, it was explained, is to ensure that people of all generations are passing on the language of rights to the tamariki. These rights included the “*right to hear Te Reo rangatira* [the Māori language], *to engage in te Haahi Ringatū* [freedom of religious belief], *to be taught by whānau*, *to have access to their own history, stories, knowledge, tikanga and learn to value, respect and share this taonga which is theirs.*” Through these principles, the preschool celebrated whānau and hapū and what it means to be a part of the iwi Whakatōhea. This was a positive example of the human rights framework working within a collective understanding. Different generations come together and create an open and respectful learning environment that taught principles of human rights and honoured, enjoyed and celebrated the Māori worldview and language. Sharing human rights through social inclusion at all ages ensures that tamariki learnt through shared experiences within the greater whānau.

Just as rights are linked to the collective through whānau, so are the responsibilities that come with those rights. Ife (2010: 90) explains the connection between rights, responsibilities and the collective in the following way:

“Human rights work is mostly, in reality, human responsibilities work ... Rights and responsibilities link us with each other in a network of rights and responsibilities: my rights require responsibilities of others; the rights of others impose responsibilities on me.”

In a similar vein, it was explained to me that if one received rights through whakapapa, then they also had a responsibility back to the collective. Participation within the whānau activates the connection between the rights of the individual as they are passed down through whakapapa to the responsibility as a member of the collective. These responsibilities included looking after one other, hearing each other and working towards creating safe communities.

This is not to say that Māori only view human rights from a collective perspective. This binary of individual versus collective rights that is often found in the literature of human rights is dissipated when considered from the perspective of the contributors. Discussions we had around domestic violence clearly illustrated how individual and collective views of rights are both part of the Māori understanding of rights. Here, there was discussion around the individual rights of the child, mother and father:

“This baba has the right to have the best of life; it has a right to feel safe. And also a wahine, a mother, the nurturer – she has the rights; she has every right to be the mother, to be treated with respect and so on. Our men as well; they have the rights to be man, to stand up, to be strong, to protect their family and they deserve the support as well.”

In this instance, the rights of the individuals are being considered. However, the broader issue of domestic violence is viewed from a collective perspective. The research contributors recognised that it is not just the individuals involved who are negatively affected by the violence but the whole whānau. Therefore a collective response was required:

“It is Māori, it is our whānau and that includes also our tāne and our sons and our fathers and our brothers and so on. So again, going back to that central point at the end of the day working to try and empower and strengthen whānau ... because collectively you work together ... It is [about] working with the grassroot level people that we’re supposed to be working for or came to be working for so that collectively you can work and heal together. And it is about healing together ... if you can heal collectively the world is your oyster. Everybody comes together united, that whakaaro is there.”

Here it is clear that a collective approach to the protection of the rights of individual community members is essential. Not only was there a sense of collective responsibility to protect the individual members of the community but there was also a sense that they had a right to be part of the solution. Therefore it was both the right and the responsibility of the greater whānau to provide a unifying force that collectively could help heal the wounds and overcome these larger issues faced within the community.

The Human Rights Documents: Declaration of Independence, Treaty of Waitangi, UDHR and UNDRIP

It is generally acknowledged by Māori that the Declaration of Independence and the Treaty of Waitangi are the founding written documents of rights in Aotearoa (HRC, 2003). As was discussed in chapter three, there are three central human rights themes that sit within the Treaty. These are the collective rights of Māori as tangata whenua to identify as distinct peoples; the sovereign rights of Māori to be self-determining peoples; and the right to the use of, access to, and the kaitiakitanga of taonga, including ancestral lands. From all interviews it was clear that the Treaty of Waitangi is held up as a bastion of rights in Aotearoa. Speaking from the perspective of Ngai Tamahaua, one contributor stated:

“Our kaumātua, our tīpuna were signatories to the Treaty of Waitangi, they see it as a covenant and they have not stepped away from that Declaration which hasn’t been fully realised from their perspective.”

The rights expressed in the Treaty reflect the broader political struggles faced by Māori within the context of Aotearoa’s colonial history. They are an essential expression of the larger movement for tino rangatiratanga.

While these rights are clearly defined within the Treaty, the historical reality since its signing and the current way that it is interpreted and used creates limitations around claiming rights. The Treaty of Waitangi is laden with symbolic and often conflicting meanings. It is considered by some to mark the loss of Māori sovereignty in Aotearoa due to the fact that it has not been honoured since its signing (R. Walker, 1999); it has been used in protest as a tool to assert Māori rights and tino rangatiratanga (R. Walker, 2004); and it is currently used in legislation to redress Māori losses throughout Aotearoa’s colonial history (Maaka & Fleras, 2009). It is therefore politically charged and carries the significance of the history of struggle since 1840. The tension that arises around the Treaty as a result was acknowledged during our conversations:

“I think we’ve had success of drawing a human rights framework out of the Treaty of Waitangi but you know there’s this tension – as soon as you mention the Treaty of Waitangi, there’s this tension that rises automatically without people even knowing what your context or approach is going to be.”

Therefore, when the Treaty is held up as the bastion of human rights in Aotearoa, the friction that exists has the potential to overshadow the issue at hand. For this reason, the UDHR and UNDRIP along with other international human rights covenants are useful tools that stand outside the political realities of a specific context. This was considered to be the case for Aotearoa:

“Māori realise that the Treaty isn’t given the right that it should be given so it’s not always a good cloak for us to be wearing when we’re going to address issues because all these other misunderstandings around the Treaty can cloud what that issue is whereas what we’ve found with these international documents like disabled rights, like children’s rights, they’re specific to a certain area so the issue doesn’t get clouded.”

As a result it was considered that the UN human rights documents can often be more effective at addressing issues faced at the local level:

“Because traditionally Māori would go back and look at the Treaty and with all the issues around the Treaty, it doesn’t help the issues that we’re going through at the local level, so it’s been really rewarding to be able to give them international documents that have got some mana behind them to help them address some of these issues.”

As this contributor alludes to here, some strength that lies behind the international framework is the *mana* (status) that it holds. As discussed in chapter two, the UDHR is almost globally accepted by states providing it with a substantive moral claim and normative universality (Donnelly, 2003). An example of the utility of the international human rights instruments was given where a school had approached the Ministry of Education with a request for funding for a toilet for children with disabilities who attended the school. This request had been met with several barriers over a period of years. However, when they approached the Ministry with the Convention on the Rights of Peoples with Disabilities, the school found the Ministry more willing to listen to their request. In this instance, the recognition of human rights within mainstream society gave the community more power to hold the government to a level of accountability. These human rights instruments provide a useful tool with a moral force that can have more impact when approaching the government about issues faced at the local level.

The international human rights framework also provides a clear explanation of what rights are. The experience of the contributors in this research found that people at the local level often did not realise that what they valued as right and true was linked to an explicit set of international human rights. One contributor explained the value of the UDHR in assisting people to learn about rights:

“What these documents have done is helped us to clarify or put our finger on exactly what something looks like. So, one of the major challenges that we’ve had ... is the whānau that comes to us, they’re saying ‘we don’t know anything about human rights’. So, the first encounter is supporting them to realise that actually you know a lot. Once they’ve got that concept of ‘ok, maybe I do know something’ then they want to see it in black and white, ‘how do I know’. You know, you open up your UDHR and basically article one says everyone has the same rights. For Māori, we’ve always believed that anyway so it’s being able to use those documents to put a picture in our participants’ heads as to what the similarity is between what we understand as human rights and what the rest of the world understands as human rights. So, it’s giving us the opportunity to get those links and to show the whānau what it looks like internationally.”

Linking the local level to the international is an empowering process in itself. It recognises that people have rights beyond the confines of how they are defined at the national level (Ife, 2010). This is particularly important in the case of indigenous peoples where the colonial government structure often represents the central obstruction to the achievement of rights (Maaka & Fleras, 2000). Local voices can be projected further when linked to the larger global struggle for indigenous rights.

The connection of rights across all three levels (local, national and international) also provides a way to place issues faced at the local level within a broader framework that supports positive change. This, again, was especially relevant for indigenous peoples:

“Q: So, those three levels are quite important do you think? The local, national and international?”

A: Absolutely. You know like I think we can work locally but have an eye on the international and national context so that we know that we’re not working in isolation from other trends that are happening in human rights ... The international context is valuable in terms of identifying trends, good practice, particularly with engaging with indigenous audiences.”

Being able to empathise with and relate to the struggles that are being faced by other indigenous peoples was considered to be an important outcome of the introduction of human rights in Te Tairāwhiti. The story of the indigenous American tribe, the Winnemen Wintu, and their attempts to reintroduce the salmon in their river was shared at a hui discussing human rights held at Awatere Marae. Listening to this story had a profound effect on many of the people at that hui. They could connect issues faced by their communities with issues faced by indigenous peoples more broadly. One contributor talked about these connections:

“I think the thing that struck a lot of us was the comparisons. We could connect with the spirituality – the connection of those people to their fish and we have the same connections to our own fish stocks and our own environment. The government will quite callously step over us with total disregard for what we consider is our mana whenua, mana moana and sell fish stocks, give out prospecting licences and all those sorts of things so and just hearing about where our rights lie in terms of international law.”

Article 25 of UNDRIP states that “Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship” with the land and the environment (UN, 2008). However, it was noted that the experience of people at the local level was that spirituality is “an unspoken area and one that a lot of the powers that be find really threatening to go into and yet it is actually one of the basic foundational things within indigenous people that they build their whole lives around.” There is a certain power in hearing the stories of other indigenous peoples facing similar battles and learning about different forms of activism and resistance.

UNDRIP in particular provides a valuable resource for Māori in Aotearoa. This document serves to further clarify rights as they pertain to indigenous peoples. It provides an accessible set of rights that had previously been spread across a number of different Declarations and Covenants: *“those documents were too huge for a Māori eye to go in and pick out the ones that pertains specifically for us so it was a blessing that the UNDRIP was put together in the way it has been.”* The signing of UNDRIP by the National Government in 2010 made UNDRIP a part of the broader human rights framework in Aotearoa. At a global level it provides another forum for accessing rights that is neutral and sits outside the national forums. At the national level it formally acknowledges Māori as tangata whenua with inherent rights. Signing the Declaration is a promising symbolic gesture by the current Government of better relations between the State and Māori. In discussions around the signing of UNDRIP, it was described as a *“huge step forward”* in terms of Māori rights in Aotearoa and a signal that *“we might find things as far as Māori issues [that] a lot of those barriers are beginning to come down.”* At the local level it provides clarity around Māori rights as indigenous people in Aotearoa. It reinforces the validity of the Māori worldview and the rights to live by and define their future based on that worldview. It also provides a tool that has the potential to be utilised for accessing those rights.

However, it is important to remain realistic about these tools and place them within the broader political context of rights in Aotearoa. The following dialogue demonstrates the fragility of the power behind human rights:

“Q: I guess that human rights is a tool that you can use in order to access different ways of being able to demand those rights. Would I be correct in saying that?”

A: Well, I don’t know if we can demand our rights cos that’s a process.”

This response to my (rather naive) question implies the complexity that lies in claiming rights. Mary Llewellyn-Fowler (2007: 152) found in her research with Non-Government Organisations in Fiji that *“while everyone may in theory have human rights, successfully claiming these rights is dependent on access to adequate legal systems and the ability of the state to provide them.”* This observation is specific to the Fijian context but it clearly highlights how successfully claiming rights is a complex process. The ability for Māori to claim rights within Aotearoa is reliant on a number of broader political and socio-economic factors that come into play. One contributor preferred to consider these processes as a *“huarahi or a pathway”* where human rights are part of a larger journey towards positive change. The signing of UNDRIP therefore represents a stage in the journey of human rights for Māori in Aotearoa. This journey was explained in the following way:

“... we were very hurt or upset when New Zealand didn’t sign the UNDRIP but you know when seeing that it’s actually a pathway, a huarahi, that it’s taken 30 years for UNDRIP to

actually get to that stage and that it's ok that there wasn't a signing and then a couple of years later we've signed up and that it will probably take another 20 years to see the full outcome of that document for what the future can be. We can't even define that this time and once you have this opportunity to see it at that level I think it is a pathway to forming positive relationships for all our people that are coming to Aotearoa."

Essentially, UNDRIP was viewed as having the potential to have a positive influence on human rights in Aotearoa. However, it was clear that it had its place within a broader framework of rights. Discussing the Declaration, this contributor noted that while it will be useful for Māori, it does not override what already exists:

"I don't know that Māori agree with all the particulars of it but they definitely will take out and utilise where they need to the parts that are relative. They might totally ignore some of the other stuff and it might be more relative in a different scenario or a different ethnic group ... When we're talking about the Declaration as a tool - as a tool to use to further advance those issues rather than being a be-all and end-all of dealing with those issues. I think that ... they realise that it's another tool in their kete I suppose."

As Mary Llewelyn-Fowler (2007) found in Fiji, the lived reality of human rights is selective in its approach and used as a tool to complement what already exists. When viewed as a tool that can sit within existing structures and belief systems, UNDRIP allows enough space to be used within the context of particular struggles and specific historical, political and cultural realities. With the communities on the East Coast it was generally considered that UNDRIP, the UDHR and other international human rights instruments added value to the existing framework of rights in Aotearoa.

Conclusion

Returning to the two research questions outlined at the beginning of this chapter, this section has discussed how Māori are interpreting and using the international framework for human rights and how these interpretations are specific to place, culture and history. Kaupapa Māori, tikanga, whakapapa and whānau are all integral concepts that give meaning to the universal concept of human rights. Through these Māori ways of understanding, the global concept of human rights is localised and given meaning within a specific context. Further, human rights are defined within the Declaration of Independence and the Treaty of Waitangi and the historical implications surrounding these documents. They are therefore specific to the context of Aotearoa.

The international human rights framework provides a clear and distinguishable set of basic rights that sits outside the national political context. The human rights instruments within that framework provide

an accessible set of resources and tools. They also serve to connect the lived reality of the local level to greater human rights struggles at the national and global levels. The effect, as will be discussed in more detail in the next chapter, has an empowering impact where the international framework of human rights has the potential to open up spaces at the local level for positive development and alternative pathways for accessing rights.

Chapter Six: Taku Manawa and rights-based approaches to development

It is clear from discussions in the last chapter that Māori interpret and understand the universal framework of human rights through a distinct cultural framework and that this is deeply affected by history and place. Human rights are placed alongside and interwoven with traditional concepts of rights which, at least for the contributors to this research, have complementary values and principles. This chapter will discuss what the interlinking of the Māori worldview with the international human rights framework looks like when put into practice at the local level. It aims to answer the second two research questions: *Is the human rights discourse being used as a tool for empowerment, and if so, how? And, what positive outcomes have resulted from this discourse?* Discussion around these two questions will focus on Taku Manawa, a case study of a successful rights-based development programme initiated by the Human Rights Commission in Aotearoa.

Taku Manawa: Te Tairāwhiti Pilot Programme

Taku Manawa is a Human Rights Commission initiative that aims to build a platform of rights at the community level. The Human Rights Commission uses the principles of human rights community development and participatory action research to achieve this aim. By focussing on bottom-up processes that have an empowering agenda, Taku Manawa affirms local knowledge, skills and lived realities. The intended final outcome is for communities to have established a solid sustainable foundation of processes and support mechanisms around rights at the local level. “When communities are given knowledge, training and support, they can be empowered to identify, advocate for, and resolve their own human rights issues. They can also foster human rights approaches in local planning and decision-making” (HRC, 2009b).

The Taku Manawa Pilot Programme was carried out in Te Tairāwhiti in 2003. This area was chosen by the Commission because: “There was a high level of particularly economic, social and cultural rights abuses in the region, there was a low level of understanding about human rights, and the remoteness of significant parts of the region created an access barrier to Commission services and information” (HRC, 2009a: 10). The formal implementation of Taku Manawa was a three and a half year process divided into two stages. The initial stage involved significant contribution by the Commission in a participatory process where human rights issues in the region were identified. A seven day education programme was completed after which participants received a New Zealand Qualifications Authority (NZQA) accredited certificate in facilitation. Although Taku Manawa does not work exclusively with Māori, 18 of

the 20 participants in Te Tairāwhiti identified as Māori. All the contributors who took part in thesis identify as Māori. Participants were then supported by the Commission to complete human rights activities in the region for the first year. The second stage entailed less involvement by the Commission. Over this time, community members established structures, networks and processes aimed at supporting sustainable rights-based work in the area.

The outcomes from Taku Manawa in Te Tairāwhiti have been significant. An evaluation of the programme identified Taku Manawa as a useful tool to support the growth of a sustainable human rights base in the region:

“Taku Manawa had significantly supported communities to understand their social, cultural and economic human rights. Organisations articulated their desire to integrate a human rights framework into their core work. Taku Manawa was identified as a catalyst in this development. At a practical level it was evident that the project has made a significant contribution to the way that Taku Manawa facilitators are working and operating in their communities. It was also evident that Taku Manawa facilitators had integrated human rights into their work with a high degree of depth and understanding and an appreciation for community development” (HRC, 2009a: 17).

The contributors within this research found that the programme created a space for communities to enter a collaborative relationship with the Human Rights Commission. It also promoted shared learning and networking between individual community workers. In the year following the initial seven day education programme 85 human rights activities took place including hui at local marae, weekly media slots, creative expressions of rights through music and art, seminars and workshops. In 2005, the Tairāwhiti Human Rights Network was established in the region which provides a point of communication and support for rights-based activities in the region. Members of the Network have actively encouraged organisations and individuals to become involved. The Network with support from the Commission facilitated a second Taku Manawa education session for members in the Network. A hui was held at Opape Marae in 2008 to celebrate the success of the five year project.

Taku Manawa is a positive example of rights-based development in practice which genuinely engages with and uses the principles purported in theory. The process itself was based on the principles of participation and ensuring empowering outcomes. The fostering of solid, reciprocal relationships was a central focus. The flexibility within the programme implementation allowed it to be catered to suit the community context. There was also a focus placed on building on community strengths and celebrating the human rights successes. Through using Taku Manawa as a case study, this research considers what successful rights-based development practices look like on the ground.

Taku Manawa, human rights and empowerment

Empowerment is an essential outcome of a rights-based approach to development. As defined in chapter two, in the context of this thesis empowerment refers to a conscious-raising process where individuals begin to consider issues from the position of rights being denied rather than personal deficiency (Cram, 1997). Further, there is a shift in the mindset of individuals where they become aware of their power to make positive change both individually and within the greater community (Molyneux & Lazar, 2003). Empowerment, therefore, is multi-dimensional. This was the experience in Te Tairāwhiti. Human rights introduced through the framework of Taku Manawa caused a 'ripple effect' in the region where empowerment was felt at multiple levels. The first ripple refers to the impact at the individual level. This effect was immediate for those who participated in the seven day education programme. They commented on being impassioned by the discussions that they had been involved in and the information that they had learnt. They also reported that this was the case for other members of the community who engaged with human rights through activities organised by Taku Manawa participants. One contributor commented:

"That's been noticeable with the whole kaupapa and Taku Manawa with the forums we have run and people sort of subtly been able to pick themselves up and from some depths some of them too and actually they are empowered into getting up there and challenging. And particularly with women they tend to fit into that category too quite a bit in this area."

The two stages of personal empowerment are visible in these comments. This initial part of the ripple is an integral part of the larger change process in the journey toward social and political change.

Following on from personal empowerment, the second stage of the ripple is the impact at the whānau level. Here, human rights are shared within the home. One contributor commented on the importance of *"making my family aware of their human rights."* This same person shared a story of how she requested that her son-in-law had a translator within the court system because he was not fluent in English. It was through engagement with human rights that she realised that this was a fundamental right that he was entitled to.

The third stage of the ripple is at the workplace. One contributor commented on the immediate impact it had on the work that his wife was involved in:

"It was immediately obvious when she returned from her [Taku Manawa] training that something had happened for her. She was really excited. She came home with a new passion for the work that we were doing and for me it was about [her] finding out that there were human rights and that there were rights that could underpin the work that we were doing."

Here, human rights are referred to as something that adds an extra level of support to the community work that is already happening.

This relates closely to the final stage of the ripple which impacts the wider community. As all people involved with the formal Taku Manawa education programme were already involved in some form of community work this translated into a greater community awareness of rights. One contributor remarked on the importance of promoting human rights to the community:

“I guess when I reflect back on that training for my own understanding it was about promoting it out there to the community to really have a look at – this is what our role is, this is what Taku Manawa is about. This is how we need to come together as a group.”

An essential part of empowerment at the community level is being allowed the space to identify the issues faced by local communities and define how these should be addressed (Ife & Tesoriero, 2006). Taku Manawa provided the impetus to start considering within the community what *“would be a good face for what human rights could be.”* So, from the outset, Taku Manawa had a profound effect at multiple levels throughout the communities in Te Tairāwhiti.

The wide-reaching impact of the human rights kaupapa in Te Tairāwhiti was aided by the way that Taku Manawa was implemented. The most formal component of Taku Manawa was the seven day education programme. In order to meet the requirements for the NZQA accreditation there was a certain level of assessment that had to be achieved. However, the format of the programme remained flexible and open. The participants played a crucial role in both the way that the information was taught and played teaching roles themselves. This fits in with what Ife (2010: 203) refers to as an empowering approach to human rights education where the learner plays “a more active and critical role” and “is seen not as an empty vessel but rather as someone with experience, wisdom and knowledge.” This initial education programme provided the knowledge, resources and expertise necessary for an empowering outcome to be achieved (Ife & Tesoriero, 2006). In addition, Taku Manawa took an assets-based approach. Focussing on community strengths and building on pre-existing community structures and belief systems rather than focussing on (and reinforcing) community need, builds stronger communities and opens space for greater possibilities (Gibson-Graham, 2005; Hipwell, 2009). This approach sits both within rights-based approaches to development and Kaupapa Māori marrying together the different philosophies to build and deliver a framework which has empowering outcomes and strengthens the community base.

Another essential element of Taku Manawa was that it was based on a respect for the te ao Māori. The foundation principles of the Taku Manawa framework corresponded with the essential principles of

Kaupapa Māori. This meant that all interactions focussed on a respect for Māori ways of learning, understanding and building knowledge, as well as observing the practices and protocol of tikanga. As a result, the global human rights framework was more accessible and could be linked to the concepts of Kaupapa Māori, tikanga and whakapapa. It was not presented as a foreign (or even western) concept that was being imposed but rather presented as a valuable framework available to support community development. Approaching human rights from this perspective reduces the capacity for the framework to stifle the diversity of cultures engaging with it. Further, allowing communities to express rights through their own cultural lenses adds to the diversity and evolving nature of the human rights framework.

Finally, central to the approach was the creation of strong, respectful and reciprocal relationships between the Human Rights Commission and the local communities. The fact that the Human Rights Commissioners and other staff members had taken the time on several occasions to attend hui, be present at the community level and be approachable was well noted and appreciated in the community:

“Having a forum to have those issues discussed and forming a relationship with the Commission and we’ve had the honour, absolute honour, to have [various staff and Commissioners] when they’ve been here at Opape and it was an absolute honour to have these people here and forming a relationship with them and being able to go to their places.”

This quote indicates the importance of reciprocity and the sharing of worlds where opportunities arose to experience each other’s realities therefore forming the foundation for sustainable, on-going relationships. Another contributor discussed the approachability of the representatives from the Human Rights Commission within local forums:

“... on the day we did our tikanga and we introduced our guests but then they [staff and Commissioners] were so accessible afterwards ... to everybody that might not have stepped up in the main forum and asked questions.”

The culmination of a primarily community-led and -driven approach within a framework that respects Māori culture and focussed on building solid relationships led to the formation of a firm base from which a culture of human rights could grow. From these foundations, Taku Manawa supported community members to facilitate discussions around a community definition of human rights that sat within a distinct cultural framework and was relevant to the lived realities of those communities.

It was apparent that local knowledge of and interest in human rights increased substantially when Taku Manawa was introduced to the region. One contributor commented: *“The awareness is quite good now about our human rights.”* There was an appreciation for human rights being accessible at the local level:

“... and that’s the first time that we’ve had the opportunity for human rights to come back to our level to say “here, we’re here, how can we support you?”

And for the opportunity to engage with the national level in conversation about human rights:

“But at the same time Taku Manawa has an arm of the government or is an arm of the government. Am I right? It is some part so you know, probably a different level from local level but saying to local people: “we hear your voices and we want to be able to support that – how can we do that together?” Because it has to be together. It can’t be isolated.”

This quote indicates the importance of having local level voices included in conversations around rights and development. As was discussed in chapter two, participation and accountability in human rights together combine the responsibility of the state and the citizen (Donnelly, 2003; Gaventa, 2002). Engaging the local level in conversations about human rights increases the opportunities for participation in human rights conversations at the national level and therefore the ability to hold the state accountable to the human rights charters to which they are signatories.

Human rights language provides a certain power behind local voices. In the case of Te Tairāwhiti, the language of rights and state accountability was strong around indigenous rights issues. Viewing social issues at the local level through a human rights lens identified that the current services being provided by the government are not providing for Māori:

“They’ve had 170 years of their systems for their outcomes and they still aren’t able to be maintained and I think this is where we can, as part of the network Taku Manawa (and I know it’s a huge kaupapa) is bringing that that’s not actually right. That we as whānau, ... we’ve been waiting, we want to step up and take responsibility for those issues ... but there’s all the barriers that are actually set up in society in this nation to actually stop us doing that. So don’t blame us when it comes out the way it comes out – for the amount of suicides, for the amount of drug and alcohol or whatever - when you are ... those outcomes are actually your outcomes of your systems.”

This very poignant and overtly political piece of dialogue holds the state accountable for not taking responsibility for its systems that do not adequately represent Māori. Entwined within that is an assertion of Māori broader claims for tino rangatiratanga as discussed in chapter 3. Rights-based development discourses encourage individuals and communities to actively engage with and challenge the state. They push for the realisation of the full self-determination of communities to effect social change (Gaventa, 2002; Nyamu-Musembi & Musyoki, 2004).

When articulated in this way, these social issues can no longer be framed as a ‘Māori problem’. In Aotearoa where policies around Māori issues have largely relied on needs-based assessment (Fleras &

Spoonley, 1999; O'Sullivan, 2008), the human rights framework offers the tools and the language to reframe issues faced by Māori. In discussions around domestic violence, one contributor talked about challenging the way that these issues are viewed in Aotearoa:

"We have the worst statistics in women dying of domestic violence at the hands of the whānau. That's the reality. Now how is this nation going to be held accountable within the human rights where women and children have a right to a safe community? And that's what part of this Taku Manawa is, that we move from needs-based so that I can ignore the need but I can't ignore the rights - the right to a safe community."

From a rights-based perspective, rights rather than perceived need or 'problems to be solved' are the central focus (Molyneux & Lazar, 2003). Using rights, communities have an opportunity to redefine issues such as domestic violence and explore the power of agency: the government has signed up to particular human rights charters which they have a global obligation to honour. In Aotearoa, the government is a signatory to both the CEDAW and the United Nations Convention on the Rights of the Child. Therefore it is the responsibility of the government to honour the rights of women and children. Increasing the knowledge, resources and skills within the communities at the local level increases the opportunities for challenging the way that issues are defined and therefore managed within society.

Within this challenge, human rights provide an opportunity for redefining identity. If they are introduced in a way that supports community strengths and diversity then they have the power to alter the way that communities view themselves and the way that they present themselves as a community:

"For us it's about human rights, it's about acknowledging and celebrating our worldview about what it means to be Ngai Tamahaua or Whakatohea from a positive perspective. Yes we have those issues but that actually isn't what Ngai Tamahaua is about. We're about positive thinking, about whānau, we're about support, we're about aroha, we're about being honest and being focussed ..."

A human rights perspective acknowledges that issues exist within every community but that they are not what define that community. Through a human rights lens these communities could stop being defined by the 'problems' such as domestic violence that exist in their communities but could define themselves from a positive position and use human rights to move forward to deal with the issues presenting.

Positive outcomes

Five over-arching outcomes can be identified that have had long-lasting positive impacts within the communities as a result of Taku Manawa. Initially, Taku Manawa opened lines of communication around human rights between the national (through the Human Rights Commission) and local levels. Contributors noted mutual advantages of information flowing between the two levels:

“... so one of the outcomes from the actual forming of the relationship is actually giving the Commission access to grassroots korero and hearing a wider network of what the issues facing this whole nation of Aotearoa. And for us it was giving the opportunity to have our voices be heard at multiple levels. Yeah, we can nag and cry and moan about what our issues were but having that access to having them heard at a national level was actually really important to us and having that opportunity to articulate some of the issues from a community base.”

Taku Manawa connected the local level to the human rights instruments that exist at both the national and international levels. Having access to voices at the local level provided the Human Rights Commission with insight into how people are actually experiencing rights on the ground. It is through the experience of rights that the formal human rights processes are given meaning (Pettit & Wheeler, 2005). Taku Manawa therefore was a vehicle for projecting community voices.

Being heard was considered essential to effectively dealing with human rights issues present in communities. Many of the issues faced at the local level were linked back to the colonial reality and having voices heard was an important part of the change process. One contributor commented:

“... I think that’s one of the steps to healing and making a change is actually being heard.”

This relates back to the idea of human rights and the process of change as being a *huarahi*. Part of this change process is building positive relationships with a fundamental respect for the mana of all peoples. For progress and change to be made along that *huarahi* open lines of communication are essential:

“... it’s a process that over time if we keep bringing it in or talking about it or working it through then the change will come about ...”

The enthusiasm and appreciation for having their voices not only heard but listened to at the national level was highly visible:

“... RSE [Regional Seasonal Employee] actually came up through Taku Manawa in one of my presentations that I did there and soon after it came up in Te Whitiwhiti Korero [Human

Rights Commission newsletter] so I was like: “Wow, they do listen!” You know, from that scale, from a training base and then not long later, maybe two or three months later it came up in Te Whitiwhiti Korero and RSE was actually getting looked at. So I was like: “Wow, somebody must listen!”

When utilised properly, these lines of communication are very powerful for all involved. They allow for participation around decision-making and create space for local communities to hold states accountable. This increasingly active participation gives the local level more opportunity to monitor and enforce rights (Gaventa, 2002). As a result of this relationship the Tairāwhiti Human Rights Network has had input into the New Zealand Action Plan for Human Rights and the Human Rights Commission’s Te Mana i Waitangi project. Local communities have been empowered to act upon human rights issues in their area because they know that their voices will be heard and there is potential for change. On the other side, the national level have had the opportunity to learn about the human rights issues impacting the local communities and act accordingly (such as the RSE workers mentioned above).

The second valuable outcome from Taku Manawa was the support networks that emerged. The initial seven day education programme connected people already working in the community under the rubric of human rights. The establishment of the Tairāwhiti Human Rights Network formalised these connections. It now provides an essential support for individuals working in rights-based community development roles across Te Tairāwhiti. One contributor commented on the value of the Network to her work:

“And when you’re operating in these communities I suppose, you’re isolated often professionally so it is really good to be part of a network like this because you’ve always got a good big picture awareness so you know what’s happening, what the other issues are for other people in the country in an urban situation, in a rural situation so yeah I find it really good.”

Support mechanisms such as this at the local level provide a sustainable human rights base. It also provides a forum for discussing and addressing human rights struggles facing the local community as a whole. These can then be connected to broader human rights issues outside of the local community reality.

Further, creating these links between the multiple levels, contributors discussed altered the way that struggles at the local level are viewed and framed. The third outcome was a result of increased knowledge about human rights at the national and international levels which enabled community members to view issues from different perspectives. One contributor commented on this:

“And I think that’s been a positive outcome of Taku Manawa was those kind of skills to see it from a multiple perspective because like I said when you’ve been doing 30 years occupations, protests what not you do actually get caught in the conflict and not seeing it from any other perspective like you keep getting victimised and so with the Commission to be able to take it to a higher level and from different perspective and I think that has been a valuable opportunity in developing our skills, aye?”

The struggles and conflict that this contributor is talking about can often be framed in conflict terms of cultural tension. Similar to the case of the Treaty of Waitangi as discussed in the previous chapter, approaching issues from within the broader global human rights framework allows issues to be viewed outside of these highly politicised and charged terms. One contributor noted that her view of human rights before engaging with Taku Manawa was limited to racial discrimination:

“My understanding of human rights was probably purely racial confrontations or encounters where as it actually does cover quite a broad range of things and just I guess learning about however many human rights and people’s responsibilities and rights around that was very good and very relevant to me and my work.”

This contributor further commented that an increased knowledge of human rights opened up the way that she viewed these issues providing different perspectives:

“[I’ve] found it valuable to look at human rights and the broad spectrum of issues I suppose, not just about racism and ... it’s about the breaches of someone’s rights to access employment, social services, accommodation.”

Viewing and approaching issues from the perspective of rights rather than in highly politicised notions of race and victimisation can open more readily available ways of addressing the issues facing communities. This provides an interesting consideration around rights where the international framework can be used to both de-politicise certain issues and re-politicise others. Human rights instruments provide tools that can remove issues from the political complexity that exists within Aotearoa. However, due to the human rights framework being inherently political, they still maintain their critical edge.

A fourth outcome was the space that Taku Manawa provided to celebrate diversity within communities. It is commonly acknowledged within indigenous literature that indigenous peoples are calling for the freedom to be distinctive, and to identify within a distinct cultural framework (Niezen, 2003; O’Sullivan, 2006). Human rights were acknowledged as a tool that can be used to promote diversity, to let Māori live as Māori. However, within interviews it also became apparent that this recognition of diversity extended beyond being able to freely identify as ‘indigenous’, as ‘tangata whenua’ or as ‘Māori’, it

represented a call for recognition of diversity *within* Māoridom as well. One contributor explained this concept in the following way:

“Whānau, hapū, iwi are not all the same. They have different ways of doing things and that’s fine. It’s celebrating the diversity of people and hapū and whānau who are all different and we want to be acknowledged for that. We’re not one little simple knob in the ground and that we’re all the same and that we’re little clones of each other. Absolutely not, we are people – diverse and everything and you just can’t force us to be the same as everybody else ...”

When human rights are used as a tool to open pathways of communication the diversity present in communities can be expressed and explored. A true rights-based approach allows communities to define for themselves how they want to be identified. Ife (2010: 16) asserts that “communities built on difference can be far more resilient and viable than communities built on commonality. Ultimately, the one thing we have in common is our difference.” Simply put, diversity strengthens communities. The same contributor quoted above referred to the journey of human rights as *“like the weaving of a kete and how you weave everything together. It is all the different strands that are coming together.”* Taku Manawa marked the beginning of that expression beyond the local reality and the process of accepting and celebrating the diversity and complexity of communities.

The final outcome of Taku Manawa was that it provided a safe framework for dialogue. This was largely due to the respectful, positive and accepting way that human rights were introduced to the region. One contributor described Taku Manawa as a *“vehicle for people to express their concerns about breaches of human rights.”* Forum discussing human rights such as hui held on the marae created a space that encouraged people to talk about issues they were experiencing that they would not usually discuss. When talking about one particular hui, one contributor mentioned:

“We had a planned programme, we started on introductions and people started sharing their stories and some of the people are really whakamā [shy] you would never get them to get up and speak in any of our normal forums ...”

Human rights provide a distinct framework that allows people to easily identify and therefore articulate what they are experiencing. The fact that this framework was introduced and discussed on the marae and therefore the protocol of tikanga was observed meant that people could connect the framework to Kaupapa Māori, tikanga and whakapapa. Within this environment, community members were willing to share stories and able to identify and discuss the issues that they were experiencing at the local level.

Considering these five outcomes it is clear that the international framework for human rights has the capacity to have a positive impact at the local level. When human rights are claimed from below they

shift the global human rights discourses from rhetoric to lived reality. It is at this level that human rights provide the potential for local communities to achieve social change.

Opape Marae, Marae Tikanga Tangata

Opape Marae is celebrated as Aotearoa's first rights-based marae. At Opape, Ngai Tamahaua has incorporated human rights principles and practices into the constitution of the marae. They encourage participation in decision-making and invite active involvement of whānau in marae life. Ngai Tamahaua has a long history of involvement with human rights both on a local and international scale. However this section focuses on one particular part of their human rights story. Here, I will explore the formation of the relationship between Ngai Tamahaua and the Human Rights Commission which led to Opape Marae's recognition as the first human rights marae. This story encapsulates the discussions in the last two chapters.

The story begins with Paula¹³ who participated in the initial seven day Taku Manawa education programme. She was inspired by the human rights kaupapa and wanted to share it with the whānau at Opape Marae. With support from Tracy who worked for Te Ha o Te Whānau Trust, she organised a human rights presentation at the marae. The response she received was different from what she had expected:

"And so at that time I did a presentation to Opape Marae and very quickly the kuia of the marae she challenged me about what I was sharing and so I'd gone to them thinking that I was giving them something new and her challenge to me was: 'well, actually this isn't new for us. This is what we do every day.' So, she put me in my place in a really nice way because she appreciated that I had all this passion and that I was very excited but that maybe I needed, and it was me, to step back and re-look at what I was doing. And so a whole new pathway started for me."

This marks the first stage of the journey where Paula had to stop and reconsider the assumptions that she had made around human rights. These initial challenges indicate the importance of allowing communities to define their own concepts of human rights before engaging with the global human rights framework. Ngai Tamahaua were signatories to both the Declaration of Independence and the Treaty of Waitangi. They are also signatories to the Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples. They therefore already had a clear idea of their rights as they are defined within the national context. Further the kuia's challenge to Paula of *"This is what we do every*

¹³ Paula and Tracy gave me permission to use their names in this story section.

day” indicates that the values expressed through the human rights framework already existed at Opape. The principles of inclusivity, respect for all peoples and empowerment are key values in Kaupapa Māori. At Opape they are experienced through tikanga on a daily basis having been passed down through whakapapa across generations. Human rights were already an integral part of the marae.

In response to this challenge, Paula had to reconsider her role in the learning process:

“... what I very quickly realised was that the model that we were looking at setting up wasn’t new and it wasn’t mine. It was all theirs. And it was for me to get the similarities and build on those and share that story back with the Commission so it was an exciting time.”

What developed was a collaborative journey in the formation of a common understanding around human rights as they relate to Ngai Tamahaua. This was an evolutionary process that involved shared learning from both sides.

On the one side, Paula and Tracy (with support from the Human Rights Commission) carried the knowledge of the international framework of human rights and the potential benefits of this kaupapa for the whānau. However the way that this knowledge was shared and imparted was an essential learning on Paula’s behalf. She had to step back and reconsider the way she was engaging with the human rights framework:

“When I got challenged at Opape, the stepping back was looking at the tools I was using and the language I was using and I realised that, and it was with [support from Opape and others], I realised that the message I was giving I was actually doing rote, you know, it was what I had learnt with [Taku Manawa] and stuff that had been put together by the Commission and I was just going out and basically verbatim just saying what I had been told to say. When challenged at Opape I thought and when the kuia made the penny drop for me I felt that I wanted to be able to use my own words, my own experiences to share this positive message and that was the major change that I made. So, after that it wasn’t as important as it was for me at the beginning that I have a powerpoint presentation; it wasn’t as important that I did an international timeline as to what had happened for human rights; those things weren’t as important. What I did start to do was just tell stories.”

Through the sharing of stories, Paula found that people could form an emotional connection to rights and therefore engage with them fully. They were able to identify human rights themes in the histories, pūrākau (legends) and whakatauāki (proverbs) that are essential to their identity. This connected human rights through the whakapapa of Ngai Tamahaua. It therefore acknowledged the presence of human rights within Māori culture back to the beginning of time. This recognition confirms the possibility for global concepts of human rights to be interpreted and used through the existing cultural framework. Tracy explained this in the following way:

“If rights come from whakapapa then the interpretation and application of those rights can only come from that whakapapa or tikanga of the Hapū.”

Paula and Tracy’s role was to link the existing concepts of human rights back to the global human rights framework and express that connection in a format that was understandable. Once this connection was made, it was easier for Ngai Tamahaua to visualise the relevance of the international human rights documents.

Initially, Ngai Tamahaua had been uncertain of the relevance of the global human rights instruments to their reality and to their struggles. They preferred to give status to the human rights documents in which the Hapū were partners such as the Declaration of Independence, the Treaty of Waitangi and the Mataatua Declaration. Further they were *“sceptical whether a document saying that we as people have rights relying on the benevolence and acceptance of the government would bring any outcome for the Hapū.”* In response to these concerns, Tracy facilitated the creation of a list of what the whānau at Opape considered to be their rights. She then linked the UDHR to that list. From this perspective, the possible benefits of the global human rights framework became more visible. It was clear that the human rights kaupapa aligned well with Kaupapa Māori and that there were tools within it that could benefit the whānau. They could see that through the formation of a relationship with the Human Rights Commission that they may get some assistance with getting their rights as whānau and as hapū recognised.

On the other side, the Human Rights Commission learned about the reality of human rights at the local level. Ngai Tamahaua carried the histories and the knowledge of their experience of human rights:

“We also became aware the Commission was not aware of our perspective so sharing our stories became important about Raupatu¹⁴, about Mokomoko¹⁵, about our people as signatories to the Treaty which has not been honoured and the exclusion of Whakatohea from mainstream structures.”

The sharing of stories created a way for Ngai Tamahaua and the Human Rights Commission to foster a strong, reciprocal relationship built on mutual respect and trust. This relationship was formed over a period of years and as mentioned earlier in this chapter included Human Rights Commissioners and staff taking the time to come to Opape and also sharing their places with members of the Opape whānau.

¹⁴ The conquest and confiscation of land.

¹⁵ Mokomoko was a local Whakatohea chief who was found guilty in 1865 and punished to death for a crime that he did not commit. 173,000 acres of land was confiscated from Whakatohea. “With confiscation, a tribe’s mana and economic base were destroyed and the impact of that continues to be felt today” (For the full story see, Ratima, 1997: 22).

The open lines of communication between the Human Rights Commission and Ngai Tamahaua meant that a human rights journey could be forged where each side learnt from the other. As Tracy explains:

“Human rights is a pathway built on positive relationships and learning and sharing, and respect for the mana of all peoples.”

The formation of this relationship also allowed space for Ngai Tamahaua to have their voices heard at multiple levels and to have their stories told which was acknowledged earlier as an important step in the healing process.

A hui was held at Opape Marae in 2008 to celebrate the outcomes of Taku Manawa. One of those celebrations was Opape Marae itself. Many of the contributors in this research expressed hope that other marae in Aotearoa would have the same opportunity to take the journey where Kaupapa Māori, tikanga and human rights become intertwined. It was considered a positive and unifying process. Tracy explains:

“And so Ngai Tamahaua has been committed for a long time to the recognition of human rights based on tikanga and we see that tikanga is a process that recognises human rights because it’s inclusive, it’s based on whakapapa and within that it’s about being tika and pono and some kind of aroha. Aroha being truthful and being honest within yourself and respecting the mana of each individual so I believe that tikanga, even though it’s Māori, is a process that can give recognition to all people because each people have their own tikanga which we should recognise and be able to utilise. So that’s what Ngai Tamahaua’s perspective is and they were really receptive to forming a relationship with the Human Rights Commission and so they in a process became recognised as the first human rights marae and we believe that in time there will be a whole network and hopefully every marae will have the opportunity to join the network.”

Conclusion

The story of Opape reflects many of the themes that have come out of this research. It represents human rights as being a pathway that is built on relationships where learning is shared on both sides. The increased knowledge of human rights at the local level and the relationships formed out of Taku Manawa throughout Te Tairāwhiti has had an empowering impact and substantial positive outcomes. Opape Marae is only one example of this. The story further acknowledges that the concept of human rights for Māori was not born out of the UDHR signed in 1945; they have been passed down by tīpuna and exist within the histories, pūrākau and whakatauāki of the people. They are interwoven into the cultural and social values within Māori belief systems. Opape Marae is a celebration of tikanga as a valid process for recognising human rights based on tika, pono and aroha. This has allowed for the formation

of a relationship between Ngai Tamahaua and the Human Rights Commission that is based on a foundation of human rights that respects the mana of Māori as a distinct peoples.

The way that Paula and Tracy approached human rights at Opape marks a subtle yet powerful shift in the way that human rights are engaged with. They used the values and belief systems of Ngai Tamahaua as a base from which to start discussions about rights. This does not devalue the universal framework of human rights; it makes the framework more relevant to the local reality. Ife (2010: 140) advocates for this approach: “Rather than trying to adapt contexts to fit a universal ideal, as happens in traditional human rights work, this perspective requires that ideas of universality must be able to be grounded in day-to-day lived experience and defined in those terms.” For Ngai Tamahaua the human rights kaupapa could be seen as complementary to Kaupapa Māori rather than act as an imposition of a vague global concept. It could be understood and engaged with through the local reality. As a result, at Opape Marae the two kaupapa now stand side-by-side.

Chapter Seven: Conclusion

This thesis sought to consider how the universal concept of human rights (as defined by the UN) is being interpreted and used by Māori. Exploring this concept, I anticipated, would provide insight into how global ideas of human rights are translated into local realities which are set within particular struggles and particular historical, political and cultural contexts. Creating a picture of how human rights are lived at the local level is essential to understanding the value of human rights as a framework for development (VeneKlasen, et al., 2004). Therefore this research also considered what the localisation of the global concept of human rights looks like when put into practice. This was achieved by using Taku Manawa, a successful rights-based development project in Aotearoa, as a case study. Through Taku Manawa, Māori in Te Tairāwhiti are using human rights as a tool for empowerment and positive development outcomes. Through this exploration it became clear that allowing space for the localisation of human rights through a distinct cultural framework and way of understanding is essential for rights-based approaches to development to have empowering outcomes.

There are three distinct but connected levels of inquiry which emerged in this thesis. The first is a conceptual inquiry around human rights. These discussions are covered in chapters two, three and five. Chapter two discussed the concept of human rights at the global level. It initially considered the role human rights have in development. Human rights discourses have been dominated by a fairly static and binary set of debates. I challenge many of these debates arguing that the indigenous rights movement represents a movement beyond these concepts of human rights. Chapter three grounded the research within the context of Aotearoa and considers some of the events, stories and struggles that have impacted the way human rights are framed, understood and engaged with in this country. This provides a conceptual and factual discussion of human rights from the national perspective. Finally, chapter five provides insight into concepts of human rights as they are understood and experienced at the local level. This chapter pulls together the ideas put forward in chapters two and three. It provides an example of how the universal concept of human rights is understood and interpreted through a particular lens and localised in a way that holds specific cultural meaning and ways of understanding.

The second is a methodological inquiry into the ways that research is conducted. Through a process of self-reflection and critical inquiry, chapter four considers ways of conducting culturally appropriate research as a Pākehā working with Māori communities. These discussions are specific to the context of Aotearoa however there are common aspects that are applicable across all social research. Further, this critical methodological inquiry is completed within the framework of an academic learning experience.

However, I would assert that many of the principles could also be transferred to any research, projects and initiatives that are embarked upon within the development community as a whole.

The final level of inquiry is a practical consideration of how to take these conceptual and methodological musings and implement them in a positive and empowering way at the local level. Chapter six explores Taku Manawa as a successful rights-based community development project and considers the elements essential to its success. It discusses the different ways that community members were empowered through Taku Manawa and the positive outcomes that are visible within the community as a result. It finishes with the story of Opape Marae which highlights one of the human rights journeys that emerged within Taku Manawa. By accentuating the success factors as they were experienced at the local level, this can then inform other development projects of a similar nature.

These three levels of inquiry are all essential within rights-based development work. They must be viewed holistically and cannot stand alone without the other. Theoretical discussions need a practical application within a development context for them to have real value. Similarly, the practice of development requires support from a strong and critical inquiry at the conceptual level. The practical application of development projects must be complemented by a rigorous and safe research methodology. I will now elaborate on each of these three levels of inquiry in more depth.

Conceptual inquiry

Rights-based approaches to development have emerged from and are set within broader theoretical debates surrounding both development and human rights. Chapter two covered a range of long-standing debates within human rights. I have argued in this thesis that indigenous rights counter many of the arguments that challenge human rights as a framework for implementing development programmes. In chapter five, it became clear that Māori experiences support these claims.

Scholars have accused human rights of being a tool of western hegemony and a concept which stifles diversity (Aziz, 1999; de Kadt, 1980; Muzaffar, 1999). I have argued that indigenous rights provide a contemporary example of an evolving concept of rights that celebrates and advocates for cultural diversity. In Te Tairāwhiti, research collaborators found the principles and values within human rights to be complementary to the Māori worldview. Using a culturally distinct framework for interpretation, the international human rights framework was localised through Kaupapa Māori, tikanga and whakapapa. Human rights at the community level were not considered a finite set of rights defined within and

limited to a set of international covenants and declarations. Instead, the international framework of human rights was viewed as a set of useful tools for clarifying rights and providing possible alternatives for accessing rights at the local level. The Māori worldview and the international human rights framework were not presented as one or the other but were viewed as complementary to each other.

A further debate focuses on whether human rights can be universal in a world that is characterised by its diversity of cultural values, morals and belief systems. Critics have polarised this debate setting universal claims of human rights as they are currently defined as a threat to other cultural moral values (Aziz, 1999). Attempts have been made to move beyond this binary position (Donnelly, 2007; Ife, 2010). In this work, I assert that UNDRIP represents the most contemporary challenge to these debates. This Declaration represents a movement beyond equality to a call for genuine participation in state processes while maintaining self-determination and freedom to identify within a culturally distinctive framework. In Te Tairāwhiti, basic human rights standards were considered universal but it was clear that the local reality of human rights differed according to place, culture and history. Initially, the Declaration of Independence and the Treaty of Waitangi were considered the founding human rights documents of Aotearoa which immediately localises the concept of rights to the national context. However, more explicitly to Māori culture, human rights were lived through Kaupapa Māori, tikanga and whakapapa. Therefore, it was believed that each human being deserves the same level of respect and dignity as laid out in the UDHR, however, the way that those rights are interpreted, understood and experienced will differ according to culture.

This thesis further challenges the debate regarding the indivisibility of rights. Again, this debate is often polarised. Civil and political rights are represented as reflecting the western concept of individualism and economic, social and cultural rights are aligned with collective rights (Nyamu-Musembi, 2005). In Te Tairāwhiti, this binary was not visible. The research collaborators moved fluidly between human rights as they pertain to individuals and human rights as they pertain to the collective. Here there were discussions around the rights of men, women and children to be safe and supported alongside the responsibilities of the greater community to collectively support whānau and build safer communities. An emphasis was placed on the fact that with rights come responsibilities. This automatically connects both individual and collective rights. Rights and responsibilities stand side by side and there can be no sense of individual rights without a sense of collective rights (Ife, 2010). It was clear within this work that at the local level, at least, there was no favouring of one Covenant over the other. This suggests that the division between the two exists at the ideological levels of human rights but not at the local level where the reality of human rights is experienced.

Finally, essential to human rights are the concepts of accountability and participation. As was discussed in chapter two, these concepts are simple in theory but more complex in practice. This research has reinforced the importance of accountability and participation being inextricably linked. Accountability and participation can only be achieved if human rights are recognised at both the state level and the local level. A pattern that emerged of interest in this research was that human rights instruments serve to de-politicise some of the more volatile issues around indigenous rights in Aotearoa. Framing local issues within the discourse of global human rights removes the political complexity that is evident within the Declaration of Independence, the Treaty of Waitangi and broader race relations issues evident in contemporary society. They shift the view away from an issue of racial tension to one that is about human rights which hold all people as equal. Human rights therefore provide a tool that maintains a political and critical edge but that stands outside the political complexity of the local context. However, before participation and accountability can be achieved there must be open lines of communication between the local and national level as well as an awareness at the local level around what those rights are. The case of Taku Manawa suggests that when these lines of communication are open and community voices are genuinely being listened to at the national level then communities are more likely to actively engage in conversations around human rights and hold states accountable.

Methodological inquiry

The second inquiry within this research focuses on conducting culturally appropriate research as a Pākehā working with Māori communities. In doing this research I sat in a position that often left me feeling uncertain, nervous, and out of place, but most overwhelmingly honoured and fortunate to be sharing these experiences and stories with the peoples whose voices are presented in this thesis. From the outset, I was determined that the methods behind the work maintained a strong ethical and critical stance.

There have been strong critiques about how research is carried out in the academic arena, especially from the perspective of indigenous peoples (Crazy Bull, 1997; Louis, 2007; L. T. Smith, 1999). These generally refer to the way that research projects are carried out within dominant and dominating institutions and discourses. Critical methodological approaches maintain that if non-indigenous researchers are to continue working with indigenous communities they must conduct themselves in a way that respects cultural protocols, practices and ways of understanding and equally represent those people's voices in an honest and respectful way. A large part of this research therefore was a journey into the process of conducting ethical research in these circumstances.

I would argue, however, that this journey is an essential part of any development initiative. Although the conclusions within this research relate to Pākehā working with Māori communities specifically and non-indigenous people working with indigenous peoples more broadly, they still maintain a relevance to all researchers working with communities to whom they are an outsider. This critical inquiry into the methodology behind research can therefore inform development practice outside of a purely academic research setting. There are also strong theoretical movements that critique the way development projects are implemented and the similar disempowering and dominating effects that this can have on those communities that are 'being developed'¹⁶. Just as the layers of interpretation and expression can be disguised within a piece of qualitative research, so they can also be in a development project that is implemented and then evaluated. Through this methodological approach I hope that the reader has engaged with the multi-faceted approach of doing human rights work. If we are to purport the ideals of respect, participation and empowerment through a human rights framework then the research projects and development programmes need to reflect this kaupapa. Critical and ethically-focussed methodologies should not be restricted to work with indigenous peoples, nor solely to academic research. Highly ethical methodological approaches are required throughout the whole process of any development related research or practice.

Practical inquiry

The final inquiry surrounds the practical application of rights-based approaches to development. This research sits within a small but growing set of literature which considers what the global rhetoric of human rights looks like when put into practice at the local level (Gready & Ensor, 2005; Llewellyn-Fowler, 2007; Molyneux & Lazar, 2003). Theoretical discussion within a development context is futile unless they have some kind of practical application. Like Leonie Pihama (2001: 298), I am of the view that "theory is useful only in its application to bringing change." Therefore the third level of inquiry considers the factors which are necessary within rights-based approaches to development in order for them to be genuinely participatory and empowering in their outcomes. Rights-based approaches cannot be formulaic. The fact that they are a set of approaches rather than a prescribed technique is essential. However there are some key elements that are identifiable within these approaches which can be applied across all rights-based development work.

¹⁶ The most critical set of debates can be found in the Post Development literature. See 'The post-development reader' for more detail on this (Rahnema & Bawtree, 1996).

The first principle is 'taking time'. This seems like a simple concept but is one of the most challenging within a development framework that is limited to project cycles, outcomes and evaluations. Taking time involves spending the time forming relationships before the implementation of a project. The time that the Human Rights Commission spent forming relationships based on trust was essential to the positive way that Taku Manawa was received at the community level. Alongside this is the awareness that the localisation of global concepts of human rights is a process that takes time, dialogue and negotiation. This negotiation can only be led by the community to be truly representative. They will therefore set the pace of this process. This was evident in the story of Opape Marae where time and negotiation were both essential parts of the creation of a human rights identity.

A true rights-based approach to development focuses on sparking a movement of social change at the community level. This entails providing the support so that the community can achieve the change that they want to see. Therefore community participation at every stage of the development initiative from the initial formation of an idea right through the planning, implementation and the evaluation stages is essential. Top-down development approaches will only undermine the aims of the development project. In Taku Manawa, participation and community ownership were visible at every stage of project planning, implementation and evaluation. In this way, the Human Rights Commission provided the resources, skills and expertise necessary for the communities to engage fully with human rights. This was implemented in a way that built on (rather than undermined) the existing skills, knowledge and resources at the local level. When implemented in this way, rights-based development approaches allow space for communities to form their own definition of human rights that they can identify with and therefore maintain a meaningful connection to.

Rights-based approaches also have the ability to open lines of communication between the local, national and global levels of human rights. The relationship formed between the Human Rights Commission and the local community provided access to resources, tools and stories at the national and international levels that had previously been unknown or inaccessible. Opening these lines of communication provides the space necessary for interacting with and participating in human rights in a meaningful way.

Finally, rights-based approaches to development must acknowledge that a concept of what is right and what is wrong already exists within many community structures. The story of Opape illustrates how within Māori culture a concept of human rights exists that is unique and specific to this culture. Human rights therefore were not something new. Acknowledging this within the human rights rhetoric values and respects different cultural ways of being. This does not devalue the international framework nor

does it undermine the universality of rights. However, it does break down the binary of culture versus universality. This story reflects the way that rights-based approaches to development can be collaborative where a common understanding of human rights is reached through shared learning and discussion. This is not to say that culture should be used to protect discriminatory or dominating practices; but it does say that culture can inform an evolutionary concept of rights that can be interpreted and understood based on different settings and struggles. In this way, culture informs the way human rights are engaged with and human rights inform cultural practices and protocols.

Concluding comments

Human rights cannot be reduced to a set of simple definitions. The discourse of human rights too often attempts to simplify highly complex ideas of universality and culture; of individual rights and collective rights; and of participation and accountability. I challenge these simple binaries and assert that human rights are not static but are an evolutionary process that continues to respond to the different challenges facing humanity. In reality complexity and diversity are present in all forms of human existence. Hiding this complexity and this diversity behind simplicity in order to create a discourse that is static and perpetual is destined to fail. Rather, it must acknowledge and celebrate the complexity and diversity within peoples' experiences and understanding of human rights. It must allow space for those rights to be lived in the reality of human existence where the moral foundation of human rights remains strong but where those rights maintain a flexibility that reflects the culture, community or situation in which they are being experienced.

Human rights have the potential to be transformative. They can transform the way that communities view themselves and the issues that they face at the local level. As a result they provide an opportunity for communities to re-define their relationships with the government so that participation and accountability remain central. Human rights can change the way that issues are framed at a national level so that a needs-based assessment is transformed into a rights-based approach providing a more powerful way of demanding change. They can also de-politicise national complexities that stand in the way of change but at the same time re-politicise the way issues are framed at the local level, again demanding national accountability. Finally, they have the potential to increase local level participation in issues that affect their daily lives. These are all potentialities within the human rights framework. Sparking these and making them come alive is the role of the human rights advocate. This can be achieved through a holistic view of human rights where theory, methodology and praxis meet providing a force for ethically grounded transformative change.

Reference List

- Afshari, R. (1994). An Essay on Islamic Cultural Relativism in the Discourse of Human Rights. *Human Rights Quarterly*, 16(1), 235-276.
- An-Na'im, A. A., & Deng, F. M. (Eds.). (1990). *Human Rights in Africa: Cross-Cultural Perspectives*. Washington D.C.: The Brookings Institute.
- Aziz, N. (1999). The Human Rights Debate in an Era of Globalisation: Hegemony of Discourse. In P. V. Ness (Ed.), *Debating Human Rights* (pp. 32-55). London: Routledge.
- Banks, R. (2007). Declaration of the Rights of Indigenous Peoples: Explanation of Vote by the New Zealand Permanent Representative to the United Nations. Retrieved 13 September, 2010, from <http://www.mfat.govt.nz/Media-and-publications/Media/MFAT-speeches/2007>
- Barrett, M., & Connolly-Stone, K. (1998). The Treaty of Waitangi and Social Policy. *Social Policy Journal of New Zealand: Te Puna Whakaaro* (11).
- Belich, J. (2001). *Paradise Reforged: A History of the New Zealanders From the 1880s to the Year 2000*. Auckland: Penguin Books (NZ) Ltd.
- Benner, K. (2002). *Pākehā research with Māori: exploring the experiences of Pākehā researchers in social science research projects with Māori*. Victoria University of Wellington, Wellington.
- Bielefeldt, H. (1995). Muslim Voices in the Human Rights Debate. *Human Rights Quarterly*, 17, 587-617.
- Bishop, R. (1996). *Collaborative Research Stories*. Palmerston North: The Dunmore Press Ltd.
- Bishop, R. (2005). Freeing Ourselves from Neocolonial Domination in Research: A Kaupapa Māori Approach to Creating Knowledge. In N. K. Denzin & Y. S. Lincoln (Eds.), *The Sage Handbook of Qualitative Research*. 3rd Ed. (pp. 109-138). California: Sage Publications Inc.
- Bishop, R. (2008). Te Kotahitanga: Kaupapa Māori in Mainstream Classrooms. In N. K. Denzin, Y. S. Lincoln & L. T. Smith (Eds.), *Handbook of Critical and Indigenous Methodologies* (pp. 439-458). Los Angeles: Sage.
- Blackburn, J., Brocklesby, M. A., Crawford, S., & Holland, J. (2005). Operationalising the Rights Agenda: Participatory Rights Assessment in Peru and Malawi. *IDS Bulletin*, 36(1), 91-99.
- Bourke, L., Butcher, S., Chisonga, N., Clarke, J., Davies, F., & Thorn, J. (2009). Fieldwork Stories: Negotiating Positionality, Power and Purpose. *Feminist Africa*, 13, 95-105.
- Brockington, D., & Sullivan, S. (2003). Qualitative Research. In R. Scheyvens & D. Storey (Eds.), *Development Fieldwork: A Practical Guide* (pp. 57-74). London: Sage Publications Ltd.
- Brooking, T. (2004). *The History of New Zealand*. Westport: Greenwood Press.
- Cahill, C. (2007). Doing Research with Young People: Participatory Research and the Rituals of Collective Work. *Children's Geographies*, 5(3), 297-312.
- Campbell, T. (2006). *Rights: A Critical Introduction*. New York: Routledge.

- Casey, C. (2001). Ethics committees, institutions and organisations: subjectivity, consent and risk. In M. Tolich (Ed.), *Research Ethics in Aotearoa New Zealand* (pp. 127-140). Auckland: Pearson Education New Zealand Ltd.
- CERD (2005, 11 March 2005). Decision 1(66): New Zealand Foreshore and Seabed Act 2004. *CERD/C/66/NZL/Dec.1* Retrieved 15 May, 2010, from <http://www.converge.org.nz/pma/fs110305.htm>
- Chambers, R. (1993). *Rural development: Putting the last first*. England: Longman Group (FE) Ltd.
- Chambers, R. (1994). The Origins and Practice of Participatory Rural Appraisal. *World Development*, 22(7), 953-969.
- Charters, C. (2007). Māori and the United Nations. In M. Bargh (Ed.), *Resistance: An Indigenous Response to Neoliberalism* (pp. 147-165). Wellington: Huia Publishers.
- Cleave, P. (1997). *Rangahau pae iti kahurangi: Research in a small world of light and shade*. Palmerston North: Campus Press.
- Commission on Human Rights, Sub-Commission of Prevention of Discrimination and Protection of Minorities, & Working Group on Indigenous Populations (1993). *The Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples*, Whakatane.
- Consedine, R., & Consedine, J. (2005). *Healing our History: The Challenge of the Treaty of Waitangi*. Auckland: Penguin Group.
- Corntassel, J. (2008). Toward Sustainable Self-Determination: Rethinking the Contemporary Indigenous-Right Discourse. *Alternatives*, 33, 105-132.
- Cornwall, A., & Nyamu-Musembi, C. (2004). Putting the 'rights-based approach' to development into perspective. *Third World Quarterly*, 25(8), 1415-1437.
- Cram, F. (1997). Developing Partnerships in Research: Pākehā Researchers and Māori Research. *Sites*, 35, 44-63.
- Cram, F. (2001). Rangahau Māori: Tona tika, tona pono - The validity and integrity of Māori research. In M. Tolich (Ed.), *Research Ethics in Aotearoa New Zealand* (pp. 35-52). Auckland: Pearson Education New Zealand Limited.
- Crazy Bull, C. (1997). Advice for the non-Native researcher. *Tribal College: Journal of American Indian Higher Education*, 9, 24.
- de Kadt, E. (1980). Some Basic Questions on Human Rights and Development. *World Development*, 8, 97-105.
- Desai, V. (2002). Community participation in development. In V. Desai & R. Potter (Eds.), *The Companion to Development Studies* (pp. 117-121). London: Arnold.
- Dixon, M. (2006). Crime and Justice. In Mulholland, M. and contributors. *State of the Maori Nation: twenty-first-century issues in Aotearoa* (pp. 189-203). Auckland: Reed Publishing (NZ) Ltd.

- Donnelly, J. (2003). *Universal Human Rights in Theory and Practice*. New York: Cornell University Press.
- Donnelly, J. (2007). The Relative Universality of Human Rights. *Human Rights Quarterly*, 29(2), 281-306.
- Durie, E. (2002). Constitutionalising Māori. In G. Huscroft & P. Rishworth (Eds.), *Litigating Rights: Perspectives from Domestic and International Law* (pp. 241-266). Oxford: Hart Publishing.
- Durie, M. (1998). *Te Mana, Te Kawanatanga: The Politics of Māori Self-Determination*. Oxford: Oxford University Press.
- Erueti, A., & Charters, C. (2007). *Māori Property Rights and the Foreshore and Seabed: The Last Frontier*. Wellington: Victoria University Press.
- Evatt, E. (2001). Realising Human Rights: Utilising UN Mechanisms. In S. Garkawe, L. Kelly & W. Fisher (Eds.), *Indigenous Human Rights* (pp. 181-210). Sydney: Sydney Institute of Criminology.
- Falk, R. A. (2000). *Human Rights Horizons: The Pursuit of Justice in a Globalising World*. New York: Routledge.
- Fleras, A., & Spoonley, P. (1999). *Recalling Aotearoa: Indigenous Politics and Ethnic Relations in New Zealand*. Auckland: Oxford University Press.
- Gallegos, C., Murray, W. E., & Evans, M. (2010). Research Note: Comparing indigenous language revitalisation: Te reo Māori in Aotearoa New Zealand and Mapudungun in Chile. *Asia Pacific Viewpoint*, 51(1), 91-104.
- Gaventa, J. (2002). Exploring Citizenship, Participation and Accountability. *IDS Bulletin*, 33(2), 1-14.
- Gegeo, D. W., & Watson-Gegeo, K. A. (2001). 'How we know': Kwara'ae rural villagers doing indigenous epistemology. *The Contemporary Pacific*, 13(1), 55-88.
- Gibson-Graham, J. K. (2005). Surplus Possibilities: Postdevelopment and Community Economies. *Singapore Journal of Tropical Geography*, 26(1), 4-26.
- Gonzalez-Pelaez, A. (2004). Retrospective: R.J. Vincent's Contribution to the Basic Rights Discourse. *International Journal of Human Rights*, 8(1), 111-121.
- Goodall, A. (2005). Tai timu, tai pari ... the ever-changing tide of Indigenous rights in Aotearoa New Zealand. In G. Cant, A. Goodall & J. Inns (Eds.), *Discourses and Silences: Indigenous Peoples, Risks and Resistance* (pp. 145-167). Christchurch: Department of Geography, University of Canterbury.
- Goodhart, M. (2008). Neither Relative nor Universal: A Response to Donnelly. *Human Rights Quarterly*, 30(1), 183-193.
- Gready, P., & Ensor, J. (2005). *Reinventing Development? Translating Rights-Based Approaches from Theory into Practice*. London: Zed Books Ltd.
- Harris, L. D., & Wasilewski, J. (2004). Indigeneity, an Alternative Worldview: Four R's (Relationship, Responsibility, Reciprocity, Redistribution) vs. Two P's (Power and Profit). Sharing the Journey Towards Conscious Evolution. *Systems Research and Behavioural Science*, 21, 489-503.

- Hipwell, W. T. (2009). An asset-based approach to indigenous development in Taiwan. *Asia Pacific Viewpoint*, 50 (3), 289-306.
- Hodge, P., & Lester, J. (2006). Indigenous Research: Whose Priority? Journeys and Possibilities of Cross-Cultural Research in Geography. *Geographical Research*, 44(1), 41-51.
- HRC (2003). *Draft Discussion Document of the Human Rights Commission: Human Rights and The Treaty of Waitangi: Te Mana I Waitangi*. Wellington: Human Rights Commission.
- HRC (2009a). Taku Manawa: Human Rights Community Development. Wellington: Human Rights Commission.
- HRC (2009b). Taku Manawa: The Human Rights in the Regions Pilot Project. Wellington: Human Rights Commission.
- Huber, B. (2009). *Negotiating the Political Ecology of Aboriginal Resource Management: How Mi'kmaq Manage their Moose and Lobster Harvest in Unama'ki, Nova Scotia, Canada*. Victoria University of Wellington, Wellington.
- Humpage, L. (2005). Tackling indigenous disadvantage in the twenty-first century: 'social inclusion' and Māori in New Zealand. In R. Eversole, J.-A. McNeish & A. D. Cimadamore (Eds.), *Indigenous Peoples and Poverty: An International Perspective* (pp. 158-184). London: Zed Book Ltd.
- Ife, J. (2010). *Human Rights from Below: Achieving rights through community development*. Melbourne: Cambridge University Press.
- Ife, J., & Tesoriero, F. (2006). *Community Development: Community-based alternatives in an age of globalisation* (3rd Edition ed.). Sydney: Pearson Education Australia.
- Inns, J. (2005). Thinking globally, acting locally? The New Zealand government, foreshore and seabed, international human rights and double standards. In G. Cant, A. Goodall & J. Inns (Eds.), *Discourses and Silences: Indigenous Peoples, Risks and Resistance* (pp. 219-230). Christchurch: School of Geography, University of Canterbury.
- Jackson, M. (2010). A Further Primer on the Foreshore and Seabed. Retrieved from <http://www.converge.org.nz/pma/moana.htm>
- Jahnke, H., & Taiapa, J. (1999). Māori Research. In C. Davidson & M. Tolich (Eds.), *Social Science Research in New Zealand: Many Pathways to Understanding* (pp. 39-50). Auckland: Pearson Education New Zealand Ltd.
- Johnson, J. T., Cant, G., Howitt, R., & Peters, E. (2007). Creating Anti-colonial Geographies: Embracing Indigenous Peoples' Knowledges and Rights. *Geographical Research*, 45(2), 117-120.
- Jones, E., & Gaventa, J. (2002). Concepts of citizenship: a review. *IDS Development Bibliography*.
- Kearns, R. A. (2005). Knowing Seeing? Undertaking Observational Research. In I. Hay (Ed.), *Qualitative Research Methods in Human Geography* (2nd ed.). Melbourne: Oxford University Press.

- Kincheloe, J. L., & McLaren, P. (2006). Rethinking Critical Theory and Qualitative Research. In N. K. Denzin & Y. S. Lincoln (Eds.), *The SAGE Handbook of Qualitative Research (3rd ed.)* (pp. 303-342). Thousand Oaks: Sage Publications, Inc.
- King, M. (2003). *The Penguin History of New Zealand*. Auckland: Penguin Books (NZ).
- Kirkup, A., & Evans, T. (2009). The Myth of Western Opposition to Economic, Social and Cultural Rights? A Reply to Whelan and Donnelly. *Human Rights Quarterly*, 31(1), 221-238.
- Kitchin, R., & Tate, N. J. (2000). *Conducting Research into Human Geography: theory, methodology and practice*. Harlow: Pearson Education Limited.
- Kobayashi, A. (1994). Coloring the Field: Gender, "Race," and the Politics of Fieldwork. *Professional Geographer*, 46(1), 73-80.
- Lauren, P. G. (2003). *The Evolution of International Human Rights: Visions Seen (2nd ed.)*. Philadelphia: University of Pennsylvania Press.
- Llewellyn-Fowler, M. (2007). *Using Human Rights for Development: A Fiji Case Study: A thesis submitted in partial fulfilment of the Master of Development Studies Degree*. Victoria University of Wellington, Wellington.
- Louis, R. P. (2007). Can You Hear us Now? Voices from the Margin: Using Indigenous Methodologies in Geographic Research. *Geographical Research*, 45(2), 130-139.
- Maaka, R., & Fleras, A. (2000). Engaging with Indigeneity: Tino Rangatiratanga in Aotearoa. In D. Ivison, P. Patton & W. Sanders (Eds.), *Political Theory and the Rights of Indigenous Peoples* (pp. 89-109). Oakleigh: Cambridge University Press.
- Maaka, R., & Fleras, A. (2009). Mainstreaming Indigeneity by Indigenizing Policymaking: Towards an Indigenous grounded analysis framework as policy paradigm. *Indigenous Policy Journal*, 20(3), 60-140.
- Mackintosh, H. (2010, 21 April). Reflective diary.
- Mead, H. M. (2003). *Tikanga Maori: Living by Maori Values*. Wellington: Huia Publishers.
- Mikkelsen, B. (2005). *Methods for Development Work and Research: A New Guide for Practitioners* (2nd ed.). London: Sage Publications.
- Molyneux, M., & Lazar, S. (2003). *Doing the Rights Thing: Rights-based Development and Latin American NGOs*. London: ITDG Publishing.
- Mosse, D. (2001). 'People's Knowledge', Participation and Patronage: Operations and Representations in Rural Development' In B. Cooke & U. Kothari (Eds.), *Participation: The New Tyranny?* (pp. 16-35). London: Zed Books.
- Muzaffar, C. (1999). From Human Rights to Human Dignity. In P. V. Ness (Ed.), *Debating Human Rights* (pp. 25-31). London: Routledge.

- Nakamura, N. (2010). Indigenous Methodologies: Suggestions for Junior Researchers. *Geographical Research*, 48(1), 97-103.
- Newman, K. (2009). *Ratana the prophet*. Auckland: Penguin Group (NZ).
- Niezen, R. (2003). *The Origins of Indigenism*. California: University of California Press, Ltd.
- Nyamu-Musembi, C. (2005). An Actor-oriented Approach to Rights in Development. *IDS Bulletin*, 36(1), 41-51.
- Nyamu-Musembi, C., & Musyoki, S. (2004). *Kenyan civil society perspective on rights, rights-based approaches to development, and participation*. Brighton: Institute of Development Studies.
- O'Sullivan, D. (2006). Needs, rights, nationhood, and the politics of indigeneity. *MAI Review*, Target Article 1, 1.
- O'Sullivan, D. (2008). Needs, Rights and "One Law for All": Contemporary Debates in New Zealand Maori Politics. *Canadian Journal of Political Science*, 41(4), 973-986.
- Orange, C. (2004). *An Illustrated History of the Treaty of Waitangi*. Wellington: Bridget Williams Books Ltd.
- Otsuka, S. (2005). *Talanoa Research: Culturally Appropriate Research Design in Fiji*. Paper presented at the Proceedings of the Australian Association for Research in Education (AARE) 2005 International Education Research Conference: Creative Dissent-Constructive Solutions.
- Paranihi, J. H. (2008). *He Take Hei Pupuri Tonu i te Whenua: A Perspective on Hapū Formation in Māori Society*. University of Otago, Dunedin.
- Parekh, B. (1999). Non-Ethnocentric Universalism. In T. Dunne (Ed.), *Human Rights in Global Politics* (pp. 128-156). Cambridge: Cambridge University Press.
- Pettit, J., & Wheeler, J. (2005). Developing Rights? Relating Discourse to Context and Practice. *IDS Bulletin*, 36(1), 1-8.
- Pihama, L. E. (2001). *Mana Wahine as a Kaupapa Maori Theoretical Framework: A thesis submitted in fulfilment of the requirements of the degree of Doctor of Philosophy in Education*. University of Auckland, Auckland.
- Quane, H. (2005). The Rights of Indigenous Peoples and the Development Process. *Human Rights Quarterly*, 27(2), 652-682.
- Rahnema, M., & Bawtree, V. (Eds.). (1996). *The post-development reader*. New Jersey: Zed Books.
- Rangahau. Qualitative Methods Retrieved 18 April, 2010, from <http://www.rangahau.co.nz/method/61/> (accessed 11 September 2009)
- Ratima, T. W. (1997). Mokomoko - the untold story. *Tirohia: Quarterly Newsletter of the New Zealand Human Rights Commission, Komihana Tikanga Tangata*, November, 22-24.
- Rauna, R. (2008). *An Evaluation of the Taku Manawa ki Tairāwhiti Regional Engagement Pilot Project*. Wellington: Human Rights Commission.

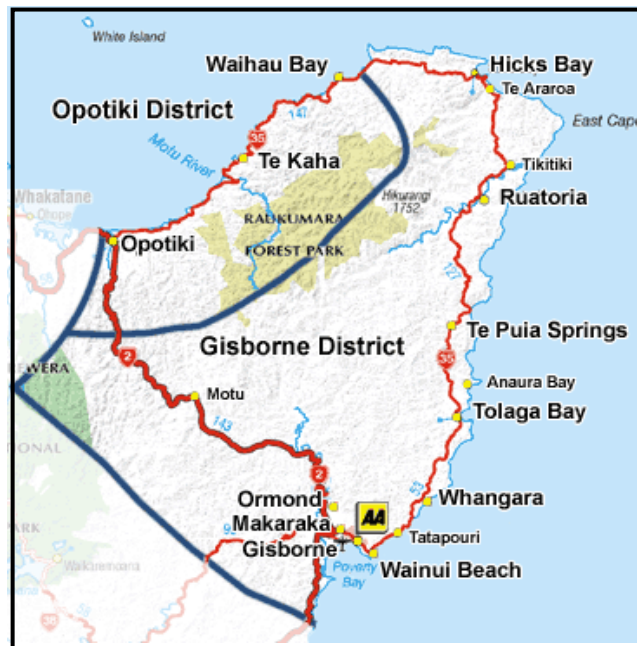
- Renteln, A. D. (1989). *International Human Rights: Universalism Versus Relativism*. Newbury Park, Calif.: Sage Publications.
- Ritchie, J. (1995). *Becoming Bicultural*. Wellington: Huia Publishers.
- Saba, W. (2007). *Walking in Two Worlds: A Kaupapa Maori Research Project Examining the Experiences of Maori Nurses Working in District Health Boards, Maori Mental Health Services*. Victoria University of Wellington, Wellington.
- Sachs, W. (Ed.). (2009). *The Development Dictionary: a Guide to Knowledge as Power*. London: Zed Books Ltd.
- Sellars, K. (2002). *The Rise and Rise of Human Rights*. United Kingdom: Sutton Publishing Limited.
- Sen, A. (2001). *Development as Freedom*. Oxford: Oxford University Press.
- Settee, P. (2007). *Pimatisiwin: Indigenous Knowledge Systems, Our Time Has Come*. University of Saskatchewan, Saskatoon.
- Sharma, A. (2006). *Are Human Rights Western? A Contribution to the Dialogue of Civilizations*. Oxford: Oxford University Press.
- Sharples, P. (2010). Supporting UN Declaration restores NZ's mana. Retrieved 30 April 2010, from <http://www.beehive.govt.nz/release/supporting+un+declaration+restores+nz039s+mana>
- Smith, G. H. (1997). *The Development of Kaupapa Maori: Theory and Praxis: A thesis submitted in fulfilment of the requirements of the degree of Doctor of Philosophy in Education*. University of Auckland, Auckland.
- Smith, G. H. (2000). Protecting and Respecting Indigenous Knowledge. In M. Battiste (Ed.), *Reclaiming Indigenous Voice and Vision*. Vancouver: UBC Press.
- Smith, G. H. (2003). *Kaupapa Māori Theory: Theorizing Indigenous Transformation of Education and Schooling*. Paper presented at the 'Kaupapa Māori Symposium' NZARE/AARE Joint Conference.
- Smith, L. T. (1999). *Decolonising Methodologies: Research and Indigenous Peoples*. Dunedin: University of Otago Press.
- Smith, L. T. (2005). On Tricky Ground: Researching the Native in the Age of Uncertainty. In N. K. Denzin & Y. S. Lincoln (Eds.), *The Sage Handbook of Qualitative Research*. 3rd ed. (pp. 85-107). California: Sage Publications, Inc.
- Smith, L. T. (2006). Fourteen lessons of resistance to exclusion: learning from the Māori experience in New Zealand over the last two decades of neo-liberal reform. In Mulholland, M. and contributors. *State of the Māori Nation: twenty-first-century issues in Aotearoa* (pp. 247-260). Auckland: Reen Publishing (NZ) Ltd.
- Solomon, N. (2008). Was the New Zealand Government justified in voting against the Declaration on the Rights of Indigenous Peoples? *Te Kahui Kura Māori*, 0(1).

- Taumoefolau, M. (2004). A Place to Stand. In T. Baba, O. Mahina, N. Williams & U. Nabobo-Baba (Eds.), *Researching the Pacific and Indigenous Peoples: Issues and Perspectives* (pp. 63-67). Auckland: Centre for Pacific Studies, The University of Auckland.
- Te Aho, L. (2007a). Creating Our Own Prosperity - Human Rights from a Tainui Perspective. *Yearbook of New Zealand Jurisprudence*, 10, 44-52.
- Te Aho, L. (2007b). Tikanga Māori, Historical Context and the Interface with Pākehā Law in Aotearoa/New Zealand. *Yearbook of New Zealand Jurisprudence*, 10, 10-14.
- Te Rito, J. S. (2007). Whakapapa: A framework for understanding identity. *MAI Review*, Article 2, Available from: [http://www.review.mai.ac.nz\(2\)](http://www.review.mai.ac.nz(2)).
- The Knowledge Basket: New Zealand Research Archive. The Three Baskets of Knowledge in Maori Legend. Retrieved 17 January, 2011, from <http://legislation.knowledge-basket.co.nz/kete/about/baskets.html>
- The Maori Party (2010). The Rules of the Maori Party. Retrieved 18 January 2011, from <http://www.maoriparty.org/index.php?pag=cms&id=133&p=constitution.html>
- Tolich, M. (2002). Pākehā "Paralysis": Cultural Safety for those Researching the General Population of Aotearoa. *Social Policy Journal of new Zealand*(19), 164-178.
- Tomas, N. (2001). Locating Human Rights in the South Pacific: A Korero about Human Rights. In S. Garkawe, L. Kelly & W. Fisher (Eds.), *Indigenous Human Rights* (pp. 118-141). Sydney: Sydney Institute of Criminology.
- Tully, J. (2000). The Struggles of Indigenous Peoples for and of Freedom. In D. Ivison, P. Patton & W. Sanders (Eds.), *Political Theory and the Rights of Indigenous Peoples*. Oakleigh: Cambridge University Press.
- UN (1948). Universal Declaration of Human Rights. Retrieved 21 September, 2010, from <http://www.un.org/en/documents/udhr/index.shtml>
- UN (1986). Declaration on the Right to Development. Retrieved 10 August, 2009, from <http://www.un.org/documents/ga/res/41/a41r128.htm>
- UN (1993). *Vienna Declaration and Programme of Action*. Paper presented at the World Conference on Human Rights. Retrieved 27 May 2010, from <http://www.unhchr.ch/huridocda/huridoca.nsf/%28Symbol%29/A.CONF.157.23.En?OpenDocument>
- UN (2008). United Nations Declaration on the Rights of Indigenous Peoples. Retrieved 14 January, 2010, from <http://www.un.org/esa/socdev/unpfii/en/drip.html>
- UN (2009). *State of the World's Indigenous Peoples*. New York: United Nations.
- UNDP (2000). *Human Development Report 2000: Human Rights and Human Development*. New York: Oxford University Press.

- UNOHCHR (2006). *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*. Geneva: United Nations Office for the High Commissioner for Human Rights.
- Uvin, P. (2004). *Human Rights and Development*. Bloomfield, CT: Kumarian Press.
- Uvin, P. (2007). From the right to development to the rights-based approach: how 'human rights' entered development. *Development in Practice*, 17(4-5), 597-606.
- Van Ness, P. (Ed.). (1999). *Debating Human Rights*. London: Routledge.
- VeneKlasen, L., Miller, V., Clark, C., & Reilly, M. (2004). Rights-Based Approaches and Beyond: Challenges of Linking Rights to Participation. *IDS Working Paper 235*.
- Vincent, S. (2004). Participation, resistance and problems with the 'local' in Peru: towards a new political contract? In S. Hickey & G. Mohan (Eds.), *Participation: From Tyranny to Transformation?* (pp. 142-156). London: Zed Books.
- Waitangi Tribunal (2004). *Report on the Crown's Foreshore and Seabed Policy*. Wellington: The Waitangi Tribunal.
- Walker, R. (1999). Māori Sovereignty, Colonial and Post-Colonial Discourses. In P. Havemann (Ed.), *Indigenous Peoples' Rights in Australia, Canada, and New Zealand*. Auckland: Oxford University Press.
- Walker, R. (2004). *Ka Whawhai Tonu Matou: Struggle Without End* (2nd ed.). Auckland: Penguin Books.
- Walker, S., Eketone, A., & Gibbs, A. (2006). An exploration of kaupapa Māori research, its principles, processes and applications. *International Journal of Social Research Methodology*, 9(4), 331-344.
- Ward, A., & Hayward, J. (1999). Tino Rangatiratanga: Māori in the Political and Administrative System. In P. Havemann (Ed.), *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (pp. 378-400). Auckland: Oxford University Press.
- Webber, M. (2008). *Walking the Space Between: Identity and Māori/Pākehā*. Wellington: NZCER Press.
- Whelan, D. J., & Donnelly, J. (2009). Yes, A Myth: A Reply to Kirkup and Evans. *Human Rights Quarterly*, 31(1), 239-255.
- White, S. (2000). Depoliticising development: the uses and abuses of participation. In D. Eade (Ed.), *Development, NGOs and Civil Society: selected essays from Development in Practice* (pp. 142-156). Oxford: Oxfam GB.

Appendix One: Map of 'Te Tairāwhiti'

For the purposes of the Taku Manawa Pilot Programme the 'Tairāwhiti Region' included the Opotiki and Gisborne Districts as depicted in this map:



The more common Tairāwhiti region is marked with Potikirua in the North (the northern boundary marker of Ngati Porou) down to the Mohaka River in the South which includes the Gisborne and Wairoa districts. These boundaries are recognized in the Tairāwhiti Maori Land Court registry and the Tairāwhiti Partnership, a leadership forum consisting of the Gisborne District Council, Wairoa District Council, Te Runanga o Ngati Porou, Te Runanga o Turanganui A Kiwa and Kahungunu ki Te Wairoa. (Ruana 2008)

Appendix Two: Victoria University of Wellington Ethics Forms

Appendix 2a: Interview Information Sheet



INFORMATION SHEET FOR INTERVIEWS

Title of Project: Opening Spaces: Māori working with the international human rights framework

Researcher: Hannah Mackintosh: School of Geography, Environment and Earth Sciences, Victoria University of Wellington, New Zealand.

I am a Masters student in Development Studies at Victoria University of Wellington. As part of this degree I am undertaking a research project leading to a thesis. The aim of this project is to consider how the universal concept of human rights (as defined by the United Nations) is being interpreted and used by indigenous peoples at the local level as a tool that opens up spaces for positive development and alternative pathways for accessing rights. I hope that by working with Māori in the Tairāwhiti/East Coast region we can identify and illustrate ways that rights-based development is being used as a tool for empowerment and positive change. The focal point of this research will be on the *Taku Manawa: My Human Rights* project that was facilitated by the Human Rights Commission in the region between 2003 and 2008.

Responses collected will form the basis of my research project. All material collected will be kept confidential. Written and electronically recorded material made during the interview will remain confidential and will only be seen by myself and my supervisor. The transcript will be provided to you to check. An open line of communication will ensure that your opinions are represented correctly in the final product and that only information that you are comfortable with is included. You may withdraw yourself and any information you provide at any time. It will remain your decision as to whether you will be identified or will remain anonymous if the published thesis.

The thesis will be submitted for marking to the School of Geography, Environment and Earth Sciences and deposited in the University Library. It is intended that one or more articles will be submitted for publication in scholarly journals. A summary of the thesis will also be made available to any member of the whānau, hapū or iwi who have taken part in the research or alternatively the findings of the research will be presented in another format if requested. A copy of the thesis will be made available to the Human Rights Commission.

Victoria University of Wellington requires that ethics approval be obtained for this research and this has been obtained.

What is involved?

- The interviews are relaxed and conversational and will happen at a time and place that suits you. The format of the interview can also be altered to suit your preference. I will carry out all the interviews and it is expected that they will last a duration of approximately 45 minutes.

- I will have questions that guide the interview however these provide only a rough guideline for the conversation. We do not have to discuss every question.
- Your participation is entirely voluntary. If you agree to take part in the interviews you are free to withdraw at any time without having to give a reason. You are free to withdraw any information you have provided before data collection and analysis of the project is complete.
- The interviews will be tape-recorded to ensure that I can provide you with my full attention and that your information and opinions are not misconstrued in any way. You will be provided with a copy of the transcript and can change or remove any information at any time after the interview. Only material that is correctly representative and that you want to be included will be included.
- All information collected will be accessed by the principal investigator and research supervisor only. These will be stored in a locked filing cabinet or as password protected electronic documents and destroyed after 5 years.

Please feel free to contact me or my research supervisor if you have any questions or would like to receive further information about this study:

Principal Investigator:

Hannah Mackintosh

Masters of Development Studies student – Victoria University of Wellington

Email: hmackintosh@gmail.com

Phone: (04) 4639463 or 021 145 1929

Research Supervisor:

Professor John Overton

Director, Graduate Programme in Development Studies, Victoria University of Wellington

john.overton@vuw.ac.nz



**VICTORIA UNIVERSITY OF WELLINGTON
CONSENT FORM FOR INTERVIEWS**

Title of Project: Opening Spaces: Māori working with the international human rights framework

Researcher: Hannah Mackintosh: School of Geography, Environment and Earth Sciences, Victoria University of Wellington, New Zealand.

- I have read and understood the attached 'Information sheet for interviews'. I have had an opportunity to ask any questions I may have about the study and about participating in the interview and have had them answered to my satisfaction.
- I agree to participate in these semi-structured interviews and understand that I may withdraw myself (or any information I have provided) from this project (before data collection and analysis is complete) without having to give reasons.
- I understand that the interviews will be tape recorded and transcribed, and that only the researcher and her supervisor will have access to this material. Any information I provide will be kept confidential to the researcher and her Supervisor.
- I understand that all written material and taped interviews will be stored in a locked filing cabinet or as password protected electronic documents and then destroyed after 5 years.
- I understand that any opinions attributed to me in written reports will be checked for my approval prior to final inclusion.
- I understand that the data I provide will not be used for any other purpose or released to others without my written consent.

I _____ (full name) hereby consent to take part in this study by being interviewed.

Signature: _____ Date: _____

Email: _____

Address: _____

Contact number: _____

Interview conducted by: _____

Signature: _____ Date: _____

Appendix Three: Taku Manawa Evaluation Code of Ethics

Evaluation kaupapa

Taku Manawa brings together three elements of programme design: a human rights approach; a community development philosophy and a community education framework for delivering the education. Separately all three elements have been extensively evaluated. As a combination: not so much.

The Taku Manawa evaluation is conceived of as a process evaluation aimed at discovering what, if any, factors or programme elements are central to the success of programmes of this nature given that different communities are likely to have diverse priorities for action, skills, resources, approaches and social and cultural capital. The evaluation is designed to be carried out with the three programmes as full partners in the design and implementation of the evaluation. The vehicle for this partnership has primarily been the Taku Manawa Reference Group which has as its members the three Human Rights Commission project manager, the overall project manager, two members from each of the regional project and the Human Rights Commission adviser, monitoring and evaluation.

The overall objective of the evaluation is:

To develop a grounded good practice model for human rights community development/tuhonohono programmes in the Commission using Taku Manawa as a case study.

The information from this evaluation will be primarily used by the Human Rights Commission in an evaluation document and to inform future practice within the Commission. Secondly, with your permission, it will be used by Gavin Rennie in an academic publication considering Taku Manawa as a rights-based community development programme. Finally, it will be used, with your permission, by Hannah Mackintosh in a Master's thesis in Development Study considering Taku Manawa as a case study example of a positive rights-based community development working with indigenous peoples.

Considering these uses, the following principles will be followed:

- Due to the nature of case studies, your project will be identifiable in the final evaluation and any publications made. You will have the opportunity to review all publications before they are submitted for public viewing and no information will be included without your prior permission.
- The interviews will be tape-recorded to ensure that we can provide you with our full attention and that your information and opinions are not misconstrued in any way. You can change or remove any information at any time after the interview. Only material that is correctly representative and that you want to be included will be included.
- Only the Taku Manawa Reference Group, Gavin Rennie and Hannah Mackintosh will have access to the information collected.
- You will be given the opportunity to alter opinions or remove comments that you feel do not adequately represent your views prior to publication.
- In line with human rights values and as partners in te Tiriti o Waitangi, this evaluation is viewed from the position of equal partners with the principles and values of reciprocity, respect and trust underlying all actions.

Appendix Four: Framework for Focus Group Interviews

Relationship with the Human Rights Commission

- Communication
- Resources
- Support

Taku Manawa Education Programme

- Flexibility of content and assessment (NZQA framework)
- Appropriateness of style
- Empowering process

Project Development

- Process – formation of idea and development of design
- Support from Human Rights Commission
- Reason for success and level of enjoyment
- Resources and local publicity that resulted from the project
- Ways for the Taku Manawa process to be sustainable at the community level