missing page from another article — locate

Q: What's the impact on your iwi, Te Arawa, of a region-by-region overview?

Some claims within Te Arawa are very advanced and have a strong historical base - for example, our geothermal claim and our lakes claim.

But grievances are always arising with the Crown in the way they interpret policy and the way policy impacts on Te Arawatanga. For instance, the coastal management policy within the regional council district has caused concern. And Te Arawa has asked the regional council to look at more imaginative ways of ensuring that people's kaitiakitanga, on the coast especially, is maintained in the regional management plans.

The difficulty I have with the approach at the moment is that it fails to accept that the treaty is a living document. It's a document that responds to the circumstances of the day and there are going to be grievances that arise because of the tension between Article Two notions of tino rangatiratanga and Crown notions of imposed sovereignty.

That tension hasn't been resolved yet and it won't be resolved in the future because it's the basis for an ongoing negotiation process to ensure that the mana of both parties is respected.

Q: What do you think it has done for the tribunal's role? Is it no longer a real option for grievances?

I think it has marginalised the potential that the tribunal had in what Ripeka Evans described as the 'sexy' claims, the resource management claims. I still believe the tribunal has a fundamental role in looking at some of the social ramifications of current Crown policy. And that may be where they have the greatest influence in the constitutional adjustments that are needed, by pointing to the need to change the way they do things to accord tangata whenua appropriate priority.

Jane Kelsey, in the last issue of MANA, made some cogent observations on the diminishing role of the tribunal as a consequence of the present policy and I think you have to agree with her. Just look at the funding of the Waitangi Tribunal itself. I understand the Treaty of Waitangi Policy Unit received something in the order of $4.2 million and the tribunal received only $2.5 million. Te Puni Kokiri apparently has its own $2 million budget to assist with treaty settlements.

Those funding putea are inordinately in excess of the resources that are available to the tribunal, given the enormous task it has to undertake. So there seems to be a Crown agenda to diminish or certainly undermine the effectiveness of the tribunal, looking at it strictly from the funding point of view.

Q: There has to be some way to deal with the claims when there's a backlog of 350, doesn't there? What would you suggest?

There are several ways. One of them is to be imaginative and resource the tribes themselves to do a significant amount of research - which is then relied upon by the Crown and the people themselves.

That is one of the positive benefits I saw in the Labour policy of devolution, because it at least attempted to allow the tribe to take some control over those matters of significance to them, in accordance with their rangatiratanga. Also, it's about time we gave the tribunal greater powers in settling these matters.

One of the areas that hasn't been explored is inter-tribal negotiations and the role that the Waitangi Tribunal may play as a mediator. In the determination of claims, increasingly there are cross-claims within tribal boundaries over the ownership and management of those assets.

That in itself is a timely process, it's one that requires an inter-tribal settlement, not a tribal versus the Crown settlement. But until some process is initiated for those discussions there will be a delay to any longterm and durable settlements on assets within tribal rohe.

Q: Do you see the fiscal envelopes as creating more tribal rows as problems?

The difficulty I have with fiscal envelopes is that you may well agree to something prematurely because you think you're going to miss the opportunity of ever settling the grievance or of having a share of the cake. And inter-tribal bitterness will arise if, for instance, there's an aggrieved hapu who believes that a settlement has sold out the rights.

The Sealords case was classic in that regard where you had Ngati Porou, the Chatham Islands and Ngati Wai taking the rest of the tribes to court because they felt their specific kaupapa had been diminished or marginalised in a treaty settlement process which did not give due accord to their rangatiratanga.

It's precisely that type of inter-tribal process that must be undertaken if these settlements are going to be durable. ■