

¹ Those jurisdictional parameters which were commonplace in 1840 are those which a [tikanga](#) and [Tiriti](#)-based constitution will replicate to govern the “rituals of encounter” between [Māori](#) and [the Crown](#) while recognising and respecting the integrity of both [rangatiratanga](#) and [kāwanatanga](#). Without diminishing or detracting from the authority of the Crown in its own sphere of influence, such a constitution will mark a return to tikanga as the first law and values-base of this land in regard to the implementation of the Tiriti relationship.



That jurisdiction will also be the base for any resolution when Māori and the Crown are unable to agree on a matter of common interest, because in a constitution which involves two distinct concepts and sites of power there will inevitably be tensions and disagreements when the two come together in the relational sphere.

If treaties are “[mahi tūhono](#)” as [Ngāti Kahungunu](#) have long described them, a Tiriti-based constitution will need to ensure that even in times of difference the different polities can be brought together.

“It’s just human nature to disagree and even when all the arguing is done about whether the change we’re talking about is going to happen there will be other arguments about what to do if there’s conflict with the Crown...and if the Crown ever gets serious it will acknowledge tikanga because it’s the right thing to do”.

Perhaps the consensus is best summed up by a [rangatira](#) and a [rangatahi](#) –

“It is very clear to me that if you entered Ngāti Porou then you were under the mantle and the mana of [Ngāti Porou](#). There would have been no ifs and buts in that equation...and I see no reason why that would not be the case if we proceed down this constitutional path...the mantle would be Māori”. [[Apirana Mahuika](#), 1934 – 2105]

“[In 1840] Kāwanatanga was the right for the presence of a British governance system to be administered over the few Britons present (i.e. several laws had already been passed in Britain where Britons abroad were meant to be following British law wherever they went, so we have simply just allowed them to enforce that law on our lands) but that doesn’t mean Britons weren’t also meant to follow Māori law – of course they were, and of course the promise of rangatiratanga suggests exactly that”.

Conciliation is necessary in a Tiriti-based constitution for a balanced relationship between rangatiratanga and kāwanatanga, and re-conciliation is necessary to uphold a conciliatory and consensual democracy rather than an adversarial or majoritarian one.

The actual processes for both will be developed as part of the ongoing constitutional kōrero that lies ahead, and with consensus they will draw upon the other whakapapa values and even respect the wisdom and experience that both treating Parties will bring to the kōrero.

¹ Forty-second edited extract from pp. 91 – 92 of [He Whakaaro Here Whakaumu Mō Aotearoa – The Report of Matike Mai o Aotearoa](#)