CONSTITUTIONAL FOUNDATIONS

[1]**Whether their kōrero was with kaumātua or rangatahi, or with those living in cities or rural areas, there was always acceptance from those that Matike Mai o Aotearoa spoke to that Te Tiriti was the only possible starting point for any discussion about a new constitution.**

If a constitution without tikanga was seen as not being tika, then a constitution that did not derive from Te Tiriti was similarly seen as contrary to both tikanga and any broader sense of justice. It was in a very real sense seen as another breach of Te Tiriti.

It was equally clear in their kōrero that basing a constitution on Te Tiriti was indeed quite different from incorporating it into the existing constitutional system. Te Tiriti's reaffirmation of tino rangatiratanga and its non-cession of mana was constantly referred to as simple statements of fact which precluded its incorporation into any other system.

Equally importantly, Te Tiriti's entrenchment of a place for Pākehā was also seen as a statement of cultural reality in 1840 – that as tangata whenua, Māori were obligated to allow manuhiri certain entitlements as well as the authority to govern themselves, just as that authority was acknowledged amongst Iwi and Hapū.

Reaffirming the place of Pākehā and determining the tikanga which justified it was also seen as a necessary basis for any treaty-based constitutional relationship.

Throughout all of this process our people were passionate and committed to Te Tiriti. They had a broad historical sensibility about the circumstances of its signing and its meaning for Māori as well as an awareness of a differing Crown perspective.

There was also a consensus that it involved a special set of rights and obligations which had not yet been completely honoured.

While everyone was appreciative of the treaty-based changes that had been made in recent years, they were also agreed that the treaty relationship involved more than the kind of "partnership" that has been the dominant view in the recent Crown Treaty policies and jurisprudence.

In fact it was noticeable how often people used the term "treaty relationship" rather than "treaty partnership". It was also noticeable how often it was remarked that the "partnership" was never equal in the way that it was implemented by the Crown.

The inevitable awareness of and debate about the Crown's Treaty settlement policies was shaped by those experiences.

Even when we spoke with people who were proud of their involvement in settlement negotiations, there was an often forcefully expressed sense that until the power imbalance in the treaty "partnership" is addressed, there cannot be completely full and final settlement.

In recent months this column has laid out the importance of basing any new constitution on *He Whakaputanga* and *Te Tiriti*. Next week we will begin laying out the international precedents that are also important to our constitutional foundations.

[1] Seventeenth edited extract from pp. 50 and 57 of He Whakaaro Here Whakaumu Mō Aotearoa – The Report of Matike Mai o Aotearoa