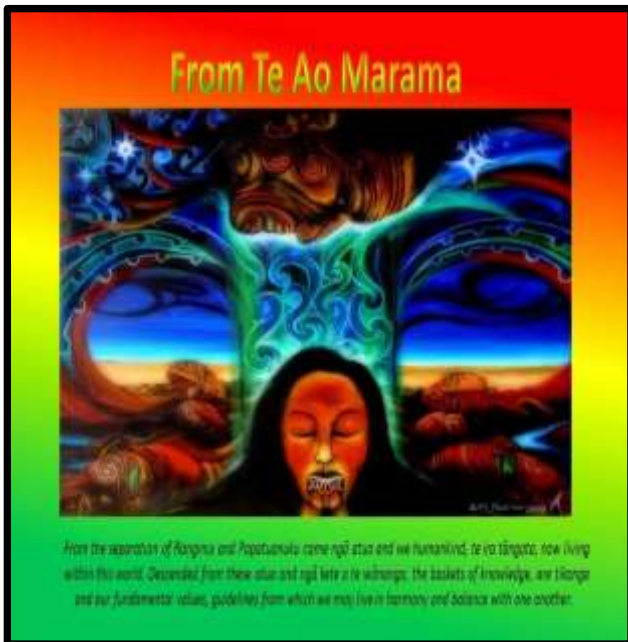


## TIKANGA AS LAW<sup>1</sup> - by Anahera Herbert-Graves

Under Māori constitutionalism, mana and tikanga are like the [maihi](#) and [amo](#) of a [whare tūpuna](#) – they hold the “house” of the people together.

Historically, tikanga was both the law and a discrete set of values by which mana was given constitutional structure and expression. It still is.



“... tikanga Māori controls interpersonal relationships, provides ways for groups to meet and interact, and even determines how individuals identify themselves. It is difficult to imagine any social situation where tikanga Māori has no place.” [Professor Sir Hirini Moko Mead – in his work “[Tikanga Māori – Living by Māori Values](#)”]

“Tikanga may be seen as Māori principles for determining justice ... The principles of tikanga provide the base for the Māori jural order.” [Sir Edward Taihakurei Durie – former [Chair of the Waitangi Tribunal](#)]

As a practical law, tikanga still influences every aspect of Māori constitutionalism, from the political organisation of our Hapu and Iwi to the social interactions of individuals. As a set of values it ... is the “ought to be” of Māori existence. Together, both aspects of tikanga mutually reinforce mana.

“Mana was always about political power or personal status, but it was always about protecting the whakapapa and the whenua too ... that was its tikanga, the whole idea of relationships and making sure they were in sync.”

“... we’ve got trapped in the last few years to only see rangatiratanga as a right or some sort of power ... and sometimes we think it’s just about making money. But it was always a legal authority more than anything else ... just like sovereignty is, except it rests on tikanga ...”

“If we look at what or how mana was exercised ... nothing could be done unless it was done in the name of the law ... tikanga was like a precondition for mana ... and there is no doubt that mana or rangatiratanga was always meant to be exercised in a tika way.”

While some Tauwiwi fear a strong Māori constitutionalism, many more do not.

“... for a long time [some] Pakeha said we didn’t have real law, and now they just say their law should prevail ... their law should be the one law for all ...”

“Saying you can have a Māori constitution without tikanga is like Pakeha saying they can have their constitution without the Magna Carta ... It doesn’t make sense.”

Although we come from different constitutional and cultural traditions and have a way to go yet, we and our Tauwiwi allies are already modelling the kind of tikanga relationships upon which practical constitutional transformation is already happening.

“... Tikanga was created because our old people knew humans were prone to make mistakes or act in a non-tikanga way ... it’s where we need to start.”

Ka haere tonu tātou. We will continue.

<sup>1</sup> Edited extract from pp. 41 – 43 of [He Whakaaro Here Whakaumu Mō Aotearoa – The Report of Matike Mai Aotearoa – The Independent Working Group on Constitutional Transformation](#).