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**New Zealand Government Reparations
for Breaches of the Treaty of Waitangi**

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ABSTRACT

Maori are the indigenous New Zealanders. They comprise almost 16% of the country's population; a proportion projected to increase to 25% by 2035. As a result of the alienation of almost all their lands and other resources during the first sixty years of organised British settlement Maori became impoverished and eked out a subsistence living until well into the second half of the twentieth century when migration to urban areas provided the majority of Maori with wage labour but resulted in further alienations from their lands, language and cultural heritage. This was a pattern of colonisation very similar to indigenous peoples in Australia, Canada, The United States and much of Latin America.

Since 1985, after nearly 150 years of Maori protest and civil disobedience, successive New Zealand governments have sought to settle historic claims made by Maori against illegal and unconscionable alienation of their lands, fisheries and other property. Over 1000 claims have been filed for losses incurred, acknowledged to be valued at more than \$NZ80 billion. In 1994 parliament set a maximum of a \$NZ1 billion to settle all historic claims, \$600 million of which has already been paid to the dozen or so tribes that have accepted settlements.

Settlements invariably involve an apology from the Crown, the return to tribal ownership of miniscule amounts of government surplus land and a monetary payment. In return tribes are expected to pledge continued allegiance to the Crown and accept the settlement as full and final. Monetary reparations, averaging about one percent of property lost through Crown breaches, while restoring some dignity (*mana*) to the tribes, are mere acknowledgements of successive parliaments' discriminatory actions against them. Despite expectations to the contrary from both government and claimants, redress is inadequate for restoring wealth and improving the social and economic status of Maori in New Zealand society. Neither are settlements popular with the wider (mainly Anglo-Celtic) electorate who continually pressure politicians to curtail claims and settlements.

This paper will consider the expectations, outcomes, advantages and limitations of settlement for the Crown, Maori claimants and other New Zealand citizens; the consequences of claim settlement delays to those tribes whose claims have yet to be investigated or settled, alternative development assistance and the wider prospect of Maori (and other Pacific peoples) being trapped in poverty as an easily identified but rapidly growing ethnic sub-class.

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1. EUROPEAN SETTLEMENT, TREATY OF WAITANGI, & LAND ALIENATIONS

The social and economic position of the indigenous Maori reflects the debilitating impact of British settlement, land alienations motivated by greed and unconscionable law-making, especially in the nineteenth century. Nowadays, less than five percent of the nation's land remains in Maori ownership, the rest having been alienated by various means including confiscation for reputed rebellion, forced sales through a Native Land Court set up to individualize collective title and facilitate settler purchase and settlement, seizure for scenic reserves, drainage, roadways, schools and other public works including vast areas incorporated into the national conservation estate. Until the last decades of the twentieth century, Maori remained impoverished, eking out a near-subsistence living until rural to urban migration provided the majority of Maori with improved housing, closer association with the descendants of European settlers (known as Pakeha) and urban-based wage labour, all of which resulted in further alienations from their lands, language and cultural heritage. This was a pattern of settler colonisation very similar to that experienced by the indigenous peoples of Australia, Canada, The United States, Southern Africa and much of Latin America.

At the very heart of the turbulent times of the nineteenth century was a contestation between Maori and settlers over who would be "the naming people" in New Zealand; whose laws would prevail; who would control the land and other resources. This contestation lingers on, with most Pakeha New Zealanders viewing the country as "European" and until recently as an expression of Britain in the South Seas, while Maori see New Zealand as Aotearoa a country with Polynesian social and cultural links and geographical positioning there. Bourassa and Strong (2002) discuss land policies and land ownership in New Zealand from 1835 to 1975. I draw heavily from them in the first part of this paper.¹

The first Europeans and Americans to arrive in Aotearoa at the end of the eighteenth century were whalers and sealers who exploited these marine resources almost to extinction. They found the whole country occupied, most densely in the north, every geographical feature explored and named. Land and water resources were exploited for food and internal trade by the estimated 250,000 Maori living in more than 700 hapu (the primary social, political and economic grouping). Their ancestors had come from tropical Eastern Polynesia a thousand years before. Hapu cultivated small portions for crops, harvested forest birds and fruits and fished the waterways and sea. Maori and settlers soon realized the mutual benefit of contact and trade. Europeans brought new technologies, iron, muskets, tools, food trees and root crops, blankets and domestic stock including pigs, sheep, horses and pigs. Europeans exploited timber trees, flax for rope, fresh water and food. Although welcome, early contacts were not mutually beneficial as Europeans brought diseases for which Maori had no immunity. From an estimated pre-contact population of 250,000 Maori, only 60,000 remained by 1854 and there was talk of Maori as a dying race, unlikely to see the twentieth century.

¹ Bourassa and Strong's paper was accessed on line using HighBeam. Because the on line format does not correspond with the original, I have not paginated references. The same applies to the Hui Taumata papers and some others.

Each hapu comprising several extended families (whanau) headed by a chief (rangatira), held its land and its fishing sites communally. Hapu came together for war or fishing in loosely related but otherwise ephemeral groups called an iwi. Today, both Maori and Pakeha employ the term iwi to mean a tribe or a tribal federation. Nonetheless it is important to note that Maori society then and now is decentralized. The current emphasis on iwi in the reparations process is largely Crown initiated, as dealing with a limited number of iwi rather than hundreds of hapu is simpler, whether the matter is determining responsibility or disbursing payments. By 1830, land speculation and increasing lawlessness led to some chiefs petitioned the British king for protection. In 1835, some northern chiefs made a Declaration of Independence, which some fifty signed over the following four years. Although the declaration did not result in a national government being established, it was recognized by the British government and is reflected in the wording of the 1840 Treaty of Waitangi. As British laws did not apply before the Treaty, all pre-1840 land transactions - there were more than 1,000 (Ward, 1997) were made under Maori custom; to Maori these were agreements to share usufruct rights; European 'purchasers' believed that they had acquiring exclusive occupancy including the right to on-sell to others.

The British commenced formal colonies from January 1840 when Captain William Hobson, Lieutenant Governor of the Australian colony of New South Wales, proclaimed the extension of its boundaries to include New Zealand. Acknowledging Maori independence, Hobson further proclaimed (1) that land title would be valid only if derived from or confirmed by the British ; (2) that a land commission would be created to investigate land transactions prior to 1840, and (3) that, through acceptance of the proposed Treaty of Waitangi, Maori could sell land only to the Crown (Bourassa and Strong 2002). A week later, on 6 February 1840, 250 northern chiefs who had gathered at Waitangi, signed the Treaty of Waitangi, in which they were offered a settled form of government, royal protection of their lands settlements, customs and other treasures, and assured that they would be treated as British subjects. In the ensuing months, more than 500 chiefs signed the Treaty. The nascent colonial government investigated pre-Treaty land transactions, declaring most to be excessive; but instead of returning excess land to hapu, government considered them to be surplus to hapu needs and kept them for later on-sale and European settlement.

From the outset, the British intended to control all land sales, buying cheaply from Maori and selling at a large mark-up to settlers in order to subsidise immigration and land development (Bourassa and Strong, 2002). The Treaty granted the Crown the right of pre-emption, barred all land sales or leases except to itself, thereby keeping land prices artificially low. The nineteenth century saw rapid British settlement and a failure to uphold Treaty commitments to protect communal ownership or to allow land sales only if Maori agreed; The Crown failed to provide adequate reserves for Maori, and left many hapu with insufficient land for their needs. These breaches of the Treaty led to conflicts over land, amongst Maori and between Maori and settlers. During the 1840s and 1850s, the Crown bought almost all of the thinly populated South Island without providing adequate reserves, leaving the hapu virtually landless. Armed with the power of preemption, the agents of the Crown were able to drive hard bargains. These purchases, the misunderstandings underlying them, and the unmet promises of the government constituted one of the major historical claims brought to the Waitangi Tribunal, that of Ngai Tahu whose claim was eventually settled in 1997.

The 1850s brought a large measure of settler self-government to New Zealand. In 1852, the British parliament enacted the New Zealand Constitution Act, providing for a legislature. Suffrage was granted to males owning land or holding a leasehold in single title; but although Maori comprised almost half of the population and occupied half the land, they were excluded from the franchise since their customary titles were communal and not issued by the Crown. The settler-controlled legislature agitated for control of Native Affairs which was granted in 1860 the year that a long and brutal war was ignited by government and settler incursions onto Maori lands (Bourassa and Strong 2002). The colonists raised a militia in excess of 12,000 by promises of free land to soldiers. As the war dragged on, parliament passed legislation to allow confiscation of land in any region where a 'significant number of natives were believed to be in rebellion' and to provide for arrest and punishment of rebels. A total of 3.5 million acres was taken under this law, even though many Maori who lost their land were later found not to have fought against the Crown. Customary title of confiscated land was extinguished, Crown titles issued and confiscated lands

were given to soldiers, sold to settlers, or granted to 'loyal' Maori. In the next decade a small amount of land was returned under orders of the Confiscation Court, but when land was returned it was to individuals and in the form of Crown title. Long after, in 1996, the Waitangi Tribunal would find that the government of the day was the aggressor, unlawfully attacking Maori subjects who were not in rebellion. (Waitangi Tribunal WAI 143, 1996)

Native Lands Acts of 1862 and 1865 established a Native Land Court to replace customary title with individualized Crown title which would provide for easier alienation for settler occupation. The Native Land Court undermined chiefly authority and exacerbating family disputes. Later legislation gave the Crown the right to take without compensation up to 5 percent of land held under customary title for roads. From then on through to the latter part of the twentieth century, a succession of laws authorized central and local government to compulsorily acquire Maori lands, for public works including roads, railroads, swamp drainage, stream modification and scenic preservation - frequently without compensating the Maori owners (Bourassa and Strong 2002). The cost of expanding the country's road system led to a series of laws that enabled local governments to impose taxes on Maori lands and to place liens on property where owners could not afford to pay.

When the twentieth century began, Maori had become a distinct minority. The 1901 census reported 42,900 Maori, 2,200 half-castes living as Europeans, and 772,700 Pakeha. Maori owned only 15% of the colony's land; very little land on the South Island and only 11 million acres, in the North Island (Douglas 2002). Very little was done to halt further alienations or correct past injustices. The right of government to expropriate Maori land for public purposes without compensation was not rescinded until 1972. Two Royal Commissions to investigate Maori land alienations were frustrated by parliament. The first, in the late 1880s was starved of money because its draft report was considered too critical of the government. The second appointed in 1926 to investigate Maori allegations that confiscations during the land war of the 1860s had been excessive was equally critical of government (AJHR 1928) but reluctantly accepted by parliament. By 1930, Maori land holdings had shrunk to a mere 3.6 million acres.

The Treaty of Waitangi (the document) was lost for 21 years and only found damaged by water and vermin, in a back corner of the Government Archives. To most New Zealanders this would have been symptomatic of its value - honoured in the breach, not included in any domestic statutes, a non-entity well past its use-buy date, something that could safely be ignored. To Maori though, it bore the names and moko (tattoo designs) of revered ancestors who had signed in good faith, a covenant between two partners which should be honoured. Overwhelmed by unsympathetic assimilationist governments, Maori saw the Treaty as one of the few weapons in their arsenal to restore their rights and dignity.

2. THE WAITANGI TRIBUNAL

During the late 1960s and early 1970s, young activists (overwhelmingly Maori and urban, but with significant Pakeha support) took the 'honour of the Treaty' to the streets, to politicize it. The opposition Labour Party incorporated recognition of it in its 1972 election manifesto. When they were elected, they introduced and passed the Treaty of Waitangi Act, establishing the Waitangi Tribunal as a permanent court of enquiry to investigate breaches by the Crown of the principles of the Treaty, but only from 1975 onwards. Of course almost all the damage had been done in the nineteenth and early twentieth centuries and the Tribunal was seen by most as a toothless tiger. A subsequent Labour administration amended the act in 1984 to allow it to investigate breaches dating back to 1840 when the Treaty was signed. It had power to investigate but its recommendations do not bind the Crown.

When the Waitangi Tribunal was established in 1975 there was no public consultation between the Crown and Maori leadership concerning the jurisdiction of the Tribunal. By and large this lack of public consultation continues to date. Policies are *ad hoc* and pragmatic and consistent in one thing above all other - they have been devised by the Crown alone. Maori input has usually been by way of *ex post facto* "consultation" or reactive litigation when already announced government policies have failed to take proper account of Maori interests (D. Williams 2002). Usually Treaty policy has been prompted by litigation induced crises. The Tribunal's jurisdiction to investigate historic claims had come into force in January

1986. Yet before the year was out, and long before most Maori had been given a reasonable opportunity to research and prepare claims, the Government proposed to transfer huge areas of Crown land, subject to actual or potential claims, to State Owned Enterprises (SOE) corporatised entities with land and resources outside the jurisdiction of the Waitangi Tribunal. An interim report from the Tribunal criticized the lack of provision for Maori claimants in the Government's scheme for corporatisation of Crown assets (D. Williams 2002).

The Treaty of Waitangi (State Enterprises) Act 1988, with a number of statutory mechanisms to protect the interests of Maori claimants, was developed in negotiation with Maori litigants only after the full bench of the Court of Appeal found for the New Zealand Maori Council that there should be specific safeguards for Maori claimant interests before any Crown assets are transferred to a SOE. Likewise the Crown Forestry Rental Trust, which is now the major source of funding for research to assist Maori in pursuing their claims against the Crown, was created in 1989 only because of another decision by the Court of Appeal which found the Government to be in breach of its obligations to Maori. Throughout the 1980s and the structural adjustment policies of the government which lead to corporatisation and later privatization of Crown assets, no attempt was made to evolve a coherent Treaty policy until 1989 (Palmer 1989) when a unilateral policy *The Treaty of Waitangi- Principle for Crown Action* was produced by the Crown (again without any attempt to engage Maori leaders in its formulation).

Today the Treaty is central to the work of the Waitangi Tribunal as it seeks to investigate Maori claims. The Tribunal has argued that the Treaty must be interpreted in the social context in which it was signed and as the party that did not draft the Treaty, Maori should benefit through interpretation of the version that better benefits them (*contra preferendum* - a convention in both colonial and international Treaty interpretation). However, to maintain control of Tribunal processes the government declared that both language versions of the Treaty (Maori and English) would have equal status, in interpretations. After 1985 the Waitangi Tribunal was able to investigate claims of breaches by the Crown dating back to 1840. A flood of historical claims inundated the Tribunal. By 1990, more than 700 had been lodged and at the present time more than 1000, of which about 100 have been investigated and reported on. Some of the Tribunal's early findings were masterful examples of jurisprudence, and its findings led to changes in policy and practices that affected both Maori and Pakeha. As Tribunal decisions began to be noticed, Maori placed greater faith in the claims process because it gave them an opportunity for their stories to be told and hopefully for Crown breaches of the Treaty to be rectified. Most Pakeha however, saw the Tribunal as biased towards Maori, and the more successful it was, the more it was seen as disturbing old ghosts better left alone. The extent of ignorance about the country's colonial history and its debilitating impact on Maori was deep-rooted in the Pakeha community, an ignorance shared by many Maori who were products of an education system that had almost ignored New Zealand's history. Nonetheless once begun, the process has gathered momentum not easily halted, although succeeding parliaments have placed limitations on the Tribunal to restrict its activities. Sharp (2004:196) pointed out that politicians in New Zealand have maintained the Tribunal as an agency that distances the politics of legislation and parliamentary debate, from the passion and danger of Maori-Pakeha confrontation on matters of racial difference, and to get Maori protest and disaffection (and extreme Pakeha reaction to it) off the streets. It also reduces parliamentary and associated media exposure to it. Until recently it was considered inappropriate for politicians to "play the race card" and that Maori disaffection and claims to redress are best dealt with calmly and out of the inflaming public eye. This has helped to direct grievances against the Crown and not against Pakeha. Yet in the long run - up to the 2005 parliamentary election, the "race card" was played by the opposition National Party leader which had what appeared to be overwhelming public resonance. More than 80% of responses to public opinion polls, participants in talk-back radio and newspaper letters writers (virtually all self identifying as Pakeha) expressed their support for that politician and spoke out against what they had seen as "unfettered Maori privilege." The vast majority of Maori who responded said that smouldering Pakeha racism had once again broken the surface to show its true colours.

The Treaty claims processes are long and detailed. Typically, a claim is lodged with the Tribunal, registered and given a claim number. A preliminary investigation by Tribunal staff follows to ensure that there is some validity to it. From there, both claimants and the Tribunal research the claim. When a sufficient body of evidential material is available, the claimants are heard. Crown counsel are given the opportunity to respond and defend the Crown's actions. The work of the Tribunal is investigative rather

than adversarial. After often protracted hearings, a report is produced and published. Acutely aware of constraints imposed by what is available for reparations and what will be acceptable to the Crown, the Tribunal has been cautious, gearing its decisions to attain a favourable response from government (Sharp 2004:199). Further there is a need to balance the passionate, the practical and the political in reparation (just how much should be restored or compensated for and precisely to whom and by whom). Reports contain recommendations to relevant cabinet ministers, but these do not bind the Crown. If the Crown accepts all or some of the Tribunal's recommendations, the government's 'Office of Treaty Settlements' enters into negotiations with claimants. In recent years, the Tribunal has grouped claims geographically and by iwi to hear them together. Reports of consolidated claims now cover all the claims of an iwi.

By the mid 1990s, with over nearly 1000 claims lodged with the Tribunal and less than a score settled, parliament sought to limit both claims and settlements by setting financial limits. Cabinet decided on a new comprehensive Treaty settlements policy for historic land claims on 21 September 1992, but it went unannounced until late 1994 when the take-it-or-leave-it 'fiscal envelope' proposals for the settlement of Treaty of Waitangi claims were announced. The sum of \$NZ1 billion would be allocated over a 10 year period to cover redress in cash or in the value of resources to be returned to successful claimants as "full and final" settlement for all historical grievances. Maori soundly rejected the proposals at 14 regional consultative meetings called by Government, but the later was unmoved. With a very few minor amendments, this was the only policy that Government was prepared to implement. This policy was detailed in a public monograph written by the then Minister in Charge of Treaty Negotiations, Douglas Graham. (Graham 1997)

The \$NZ1 billion (\$US450 million) fiscal cap was based on the premise that each claim would be considered in relation to a finite amount and not considered on its own merits. The principle of relativity was the Crown's articulation of its commitment to equity and consistency. Equity governed three large settlements of \$170 million each for fisheries, Waikato-Tainui and Ngai Tahu. Each of these claims was 17 percent of the total amount available for reparations. The government's rationale was explained as follows:

Finality in the settlement of past grievances was essential. How could this best be achieved? The answer in part was to make it difficult if not impossible for future governments to reopen settlements. How could that be done? By ensuring that if one settlement was to be renegotiated then they would all have to be renegotiated. How could this be ensured? By settling claims within a total parameter where the effect would be to divide the total into percentages. (Graham 1997)

Claims of losses to date have been acknowledged at more than \$NZ80 billion. In 1994 parliament endorsed the government's fiscal envelope of \$NZ1 billion. Although the present labour-led centrist government lifted the \$NZ1 billion maximum, they have maintained relativities set by their centre-right National Party predecessors. Already almost \$NZ720 million has been paid out but there are 800 more claims to go. From a Maori perspective, inadequate settlements will not be durable, especially if there is no appreciable improvement in Maori living standards in the next twenty years. Further they run the risk of rekindling distrust in government and deterioration in community relations. From a government perspective, settlements that are perceived by the Pakeha public to be too large will lose already fragile Pakeha electoral support.

Before any settlement can be finalised, the Crown requires evidence that the iwi group with which they are dealing has a mandate from claimants. This involves creating a roll of beneficiaries and robust processes for the mandated group to consult with them (OTS 2002). Only then will a settlement offer be made. Except in minor details the Crown's offer is non-negotiable. If the Crown's offer is accepted, claimants and the cabinet minister sign a memorandum of understanding. An act of parliament authorises the settlement and then the deed of settlement is signed. Settlements almost invariably involve an apology from the Crown for breaches of the Treaty. They also require claimants to accept this as a full and final settlement of all their historic claims against the Crown, and imply the tribes' continued allegiance to the Crown. Quantum has always been a problem. The first settlement after the fiscal envelope was introduced was with the Waikato-Tainui tribe, whose ancestors suffered gross and unconscionable confiscations of

more than one million acres of prime agricultural land, not because they were in rebellion, but because greedy settlers coveted their high quality land.

In settlement of their claim, Waikato-Tainui received an apology from Queen Elizabeth and compensation in land and money valued at \$NZ170 million even though both parties to the deed of settlement recognised that the land taken was valued at more than \$NZ12 billion. There was no recognition of income foregone through the loss of confiscated land. Whatever way this settlement is viewed it is a token of what was lost. It amounted to about 1.4% of the accepted value of the confiscated land, a one-off payment of less than \$4000 per capita to each of the 44,000 beneficiaries on their tribal roll, equivalent to an additional \$2 per week for their working life of 40 years, or a mere eleven weeks of the then minimum wage. Viewed in another way, \$NZ170 million represents a year's earnings before tax of only 8000 minimum wage workers.

Monetary reparations to the tribes who have settled to date, average about one percent of property lost through Treaty breaches. While restoring some dignity [mana] to the tribes and the return of small amounts of surplus government land to communal ownership, settlements are merely token acknowledgements of successive parliaments' discriminatory actions against Maori. Despite expectations to the contrary from both government and claimants, redress is grossly inadequate for restoring wealth and improving the social and economic status of Maori in New Zealand society.

Neither the government nor the Waitangi Tribunal expect that all historical claims will be settled before 2014, that is thirty years after historical claims were made judiciable by the Tribunal and twenty years after the \$NZ1billion fiscal cap was placed on historical claims. In the meantime, the real value of the \$NZ1billion dollars is devalued by inflation.

3. MAORI EXPECTATIONS AND PERCEIVED ADVANTAGES FROM CLAIM SETTLEMENTS

A strong theme running through the settlement process has been the desire to protect Maori assets and to prevent further alienation of resources and taonga (prized possessions) by communalising them. Although some economists have written about the curse of natural resources which has diverted attention away from the role of individual energy and enterprise, these economists and Maori land-rights activists differ on how land is valued. To the Maori, land is their mother, it is the very essence of their spiritual well-being, besides having an economic value. Some New Zealand economists disagree with the assumption that Maori were prosperous until their land was alienated and they will return to prosperity when land is returned to them (Kerr 2005). Yet the government acts as if through the return of assets and building the capacity of tribes to manage them will Maori join the new commercial and bureaucratic world as serious players. Maori argue (and the Tribunal agrees) to the contrary: only through the restoration to the tribes of self government and mana (authority) can they develop a culture that will ensure that they thrive. (Sharp 2004:200). For spiritual and cultural as well as for economic reasons, Maori claimants have sought the return of land. Some early expectations, that all their alienated lands would be returned through the claims process, were grossly unrealistic, but as time passes and more settlements are made, most Maori have come to expect much less, even though they argue that inadequate settlements which do not make a substantial difference to the economic and social standing of their beneficiaries will not be durable and future generations will revisit their grievances against the Crown.

Tainui-Waikato the first tribe to settle once the \$NZ 1 billion fiscal envelope was in place went into negotiations by stating: "*I riro whenua atu, me hoki whenua mai.*" (As land was taken so land should be returned.) The Crown's offer to Waikato-Tainui was mixed – about one third was land valued at around \$65million, the balance was just over \$100 million cash. Waikato-Tainui were amongst the poorest of the country's tribes but there is a small elite within the tribe who control a disproportionately large section of their wealth by appealing to loyalty and tradition. Members of the tribes elite comprised the claim negotiators. They had difficulty convincing beneficiaries to accept the Crown's offer, because the wider tribal membership had higher expectations than what was on the table. Eventually a settlement was agreed and Crown assets passed to the tribal council to manage for the 44,000 beneficiaries. The Crown insisted

that any settlement would be full and final; they believed that it would be sufficient to ensure take-off into sustained economic growth.

Once the Crown announced and implemented a financial cap to settlements, each tribe has sought to ensure that it would receive what they consider to be a fair share of the diminishing settlement pie. Under the guise of 'Iwi Self-Management,' government has left each iwi authority to determine how best to manage these assets, whether to maintain centralised control of them or to distribute them to hapu claimants within each tribe. To date all tribes have chosen to keep and manage assets together, providing a tribal "patrimony" to finance activities which are tribal-wide, and to make allocations from rents and other investments to constituent hapu for marae-centred projects, to individual beneficiaries for educational purposes and to aristocratic elites on the basis of their descent. Settlements also provide an apology from the Crown that recognises the tribes' grievances were justified but are now settled. The accompanying compensation of land and money re-establishes, in a small if not token way, resources to be used for the continuation of tribal group identity and to develop these resources for the wider benefit of the tribal entity. For tribal leadership with a desire for group continuity communal resources are a bulwark against cultural assimilation and individualisation.

One of the continuing debates in every tribe centres on relationships between those tribal members who have moved to towns and cities in search of work together with their city-born descendants (loosely referred to as urban Maori) and those who remained behind (*tangata kainga* or home people) who live within the traditional boundaries of the tribe's territory (*takiwa*). It is the *tangata kainga* who care for the tribes assets –especially their communal meeting places (marae), their sacred places (*āhi tapu*), their burial grounds (*urupa*). They fulfil the roles of tribal elders and guard their group identity. If settlement assets are to benefit all tribal members, how can urban Maori living outside the tribal *takiwa* remain connected to the core group of their *tangata kainga* relatives and their heritage in way that will sustain their identity and contribute to the tribe's overall well-being? The home people are generally perceived to be traditionalists, and the urbanites as progressive and more assimilated to western ways and beliefs. Tension between the two groups remains; as in almost every case less than half and often less than a quarter of the tribe's members still live within the traditional *takiwa*.

For Maori the advantages of treaty settlements are important, if not particularly rewarding in an asset-rich sense. The restoration of tribal *mana* (dignity) through the Crown's apology is psychologically and socially important. Settlement assets have given tribes the opportunity to develop and grow the tribe's patrimony, even though pressures come from all sides to redistribute some or all of the settlements. As an identifiable part of 'the Maori economy' they provide a vehicle for the attainment of collective goals which go far beyond the economic well-being of individuals. (Turia , quoted in Edlin 2005) Turia goes on to say;

life is more than consumption of goods and services and there are times when *tangata whenua* (people of the land/ Maori) would give up aspects of economic growth in order to protect aspects of our culture or to maintain social cohesion. ... *tangata whenua* don't want development that costs us our identity ... *tangata whenua* have always viewed development holistically, looking at economic, social, cultural and environmental impacts. This is the essence of sustainable development . (Turia , quoted by Edlin 2005)

Strategic real estate purchases and investments have generally increased the collective asset base and modest education grants have encouraged growth in their human and cultural capital base. This has or will lead to improved governance of tribal organisations, and higher expectations from rank and file members. Maori also expect that settlements are a first step towards reconciliation with the *Pakeha* majority, although recent political activity citing Maori privilege may have delayed such reconciliation. . Treaty settlements in themselves are not synonymous with reconciliation just as self-government is insufficient unless it exists on a sufficient economic base. Reconciliation will have to deal with the place of Maori in the constitutional order of the country, and the contribution that Maori can and should make to its economic and political life. (J. Williams 2002)

Notwithstanding these expected advantages, there are some significant limitations. The most obvious is the small size of settlements and relative proportion of settlements to original losses. In addition,

