

Conflict and co-management related to customary fishing in Aotearoa/New Zealand: A case study of the hap_ Ngati Oneone

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Abstract: M_ori rights over fishing resources in Aotearoa/New Zealand are being dramatically affected by ongoing changes in legislation and socio-economic factors. Although rights over natural resources were guaranteed to M_ori, the country's indigenous people, by Article 2 of the Treaty of Waitangi 1840, those rights have subsequently been eroded. Historically, fishing has been managed at the hap_ (subtribe) level and the rights and responsibilities of individuals were based on descent and kinship rules serving the common interest. The classification of fishing into "amateur," "commercial," and "non-commercial customary" use rights by the Crown has forced M_ori to re-structure their traditional social relationships related to fishing into the same categories. The Fisheries (Kaimoana Customary Fishing) Regulations 1998 have attempted to encode these communal customary rights into law. The hap_ of focus in this study, Ngati Oneone, of the iwi (tribe) Te Aitanga a Hauiti, now struggles to adapt their traditional communal property regime to fit within the new legal confines. The resulting social disruption has increased conflict both among iwi/hap_ and between iwi/hap_ and the Crown. Responsibility for sustainable management rests with the hap_, while the economic rights to those fishing grounds are held by other interests, thus compounding the difficulty of implementing the Kaimoana Regulations. This study examines the fisheries issues confronting Ngati Oneone and explores the concept of co-management as a means of managing the conflict that has emerged from the social disruption associated with rights redefinition under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. Several recommendations are offered for future management.

1. INTRODUCTION

The terms "customary use" and "harvesting" are incomplete descriptions of the complex relationship between M_ori and their fishing grounds. Traditional M_ori fishing encompasses socio-economic relationships surrounding the allocation of resources, maintenance of political boundaries, trade and exchange, production practices and methods, technology, intimate ecological knowledge, lifestyles and social organisation (research participants, Waitangi Tribunal, 1988). Ropiha comments, "The structure of controls that affected their [M_ori] fishing economy was inextricably linked into and determined by their social structure" (1992:50). Administrative classification of fishing into "amateur," "commercial," and "customary non-commercial" categories of use rights forced M_ori to re-structure their traditional social relationships relating to fishing into the same categories.

In this paper we discuss the findings of a case study involving Ngati Oneone (pronounced Naa-tee Orn-eh-orn-eh), a hap_ (subtribe - see appended glossary for definitions of M_ori terms used in this paper) belonging to the iwi (tribe) Te Aitanga a Hauiti from the Turanga/Gisborne area (Figure 1). During the course of Fisheries legislation reform Ngati Oneone's traditional rights have been substantially redefined under numerous new laws, amendments and regulations including: the M_ori Fisheries Act 1989, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, the Fisheries Act 1996, multiple amendments to Regulation 27 of the Fisheries (Amateur Fishing) Regulations 1986 and the Fisheries (Kaimoana Customary Fishing) Regulations 1998. Our objectives were to identify issues affecting the practice and management of customary fishing in the traditional fishing area of Ngati Oneone, and to evaluate the degree to which introduction of the Fisheries (Kaimoana Customary Fishing) Regulations 1998 might address those issues in a manner consistent with co-management objectives.

Our discussion focuses on the conflict that arises from the existing and new management arrangements between Ngati Oneone, the key stakeholder concerning traditional fishing grounds, and their Treaty partner, the Crown. This paper does not address interests that other groups may have in the resource. Co-management presents one

way to make operational the partnership principle that has evolved out of contemporary interpretation of the Treaty of Waitangi 1840. We adopt Horsley's definition of co-management as "a process that involves partnerships in which government agencies, local communities and resource users, non-governmental organisations and other interest groups negotiate the authority and responsibility for the shared management of a specific area or set of resources" (Horsley, 2000). Horsley describes co-management as an inclusionary, consensus-based approach through which resource users and decision-makers outline provisions for rights, obligations and rules, as well as agree upon a structure to co-ordinate decision-making.

The stalled distribution of assets derived from the Treaty of Waitangi (Fisheries Claim) Settlement Act 1992 compounds the difficulties of adopting the Fisheries (Kaimoana Customary Fishing Regulations) 1998. These are intended to replace interim Regulation 27 of the Fisheries (Amateur Fishing) Regulations 1986 and devolve local control over customary fishing to tangata whenua (people of the land). Therefore, hap_ do not yet have the economic means envisioned by the Crown with which to support the sustainable management of their rohe moana (territorial coastal area). Furthermore, the assets distributed from the Treaty of Waitangi (Fisheries Claim) Settlement Act 1992 will be directed through Runanga and Tribal Councils (non-traditional umbrella organisations) toward iwi, while the hap_ is typically the social unit at which traditional M_ori fisheries management decisions are made (Ropiha, 1992). Therefore, the availability of resources for hap_ managers will be highly contingent on the clarity of the mandate structure within M_ori society. Our research indicates that mandate issues remain political and problematic, casting doubt on the ability of this hap_ to access the resources they will need to manage their k_pata kai (traditional seafood gathering area).

We identify and discuss problems arising from recent changes imposed through Crown regulation, and the impact on Ngati Oneone in exercising their traditional authority, described to us as mana moana (authority over the sea) and tino rangatiratanga (M_ori sovereignty), over their k_pata kai. Our findings suggest that the social disruption caused by such rights redefinition has increased conflict among iwi/hap_ and between iwi/hap_ and the Crown.

2. THEORETICAL FRAMEWORK

2.1 The Social Nature of Rights

The social-economic basis that underpins M_ori fishing supports the emphasis that some economists and philosophers place on the social nature of rights. According to Bromley, "*A right is the capacity to call upon the collective to stand behind one's claim to a benefit stream*" (1991:15). He explains that rights do not define relationships between a person and an object, but rather relationships between a person and others with respect to that object. "Rights can only exist," he says, "when there is a social mechanism that gives duties and binds individuals to those duties" (15). Bromley comments, "that entitlements are structures of rights and correlated duties, and that power is the ability to impose a new entitlement structure on others" (19). His analysis is drawn from the Kantian philosophy that all rights to property flow from the collective, and are legitimised by a social contract.

The traditional M_ori fisheries management framework is best characterised as a common property regime (Gaffney, 1997). Again, we take Bromley's definition of common property as representing "*private property for the group of co-owners*" (1991:25). The group is from the same social unit characterised by definite membership and boundaries, certain common interests, cultural norms, some interaction between members, and their own endogenous authority systems (26).

2.2 The Assignment of Individual Rights over Common Property Regimes

The assignment of individual rights over a pre-existing common property regime has precedent on M_ori land in New Zealand through confiscation, Crown land purchases, and M_ori Land Court decisions. Individualisation of M_ori land titles and abandonment of communal ownership has "seriously undermined" the cohesion of M_ori social relationships between wh_nau (extended families) and within tribes (Durie, 1998:116). "The individualization of title to created blocks of land cut across descent group relations and in the process created an exchangeable commodity in land. Thus M_ori land and labour became exchangeable commodities – bereft of the social and historical ties implicit in descent group productive relations" (Ropiha, 1992:49).

Private property rights for fisheries resources are similar to land titles in that they are individual and transferable. They were not defined in New Zealand until establishment of the new individual property rights regime, the Quota Management System (QMS), in 1986. M_ori claims to commercial fisheries were dealt with by integrating these interests into the QMS through the M_ori Fisheries Act 1989 and the Treaty of Waitangi (Fisheries Claim) Settlement Act 1992, collectively known as “the Settlement.” The Settlement legally separated commercial and customary non-commercial rights. It extinguished further Crown obligations to M_ori regarding commercial fishing by allocating individual transferable quota (ITQ) to M_ori and set the scene for development of the Kaimoana Regulations to manage the customary non-commercial component.

These Regulations attempt to recast the common property regime under which hap_ have traditionally managed the fishery, minus the once unified commercial component since that is now defined as an individual, rather than a common property right. This redefinition of rights poses a significant challenge to government, but the consequences may be most heavily borne by iwi/hap_. Bess (2000:9) comments:

The process of addressing all issues surrounding M_ori customary rights will require Pakeha [non-M_ori] and government institutions to see through different lenses and to reassess their assumptions about institutions and frameworks to a much greater extent than was required of them when addressing M_ori commercial fishing rights, which fit conveniently within the newly formed government-supported ITQ system.

The findings discussed in this paper are an indication of the extent to which government institutions have been able to “see through different lenses” and reassess their assumptions about frameworks. Government performance is evaluated against a Treaty of Waitangi framework, which positions the Crown in partnership with iwi/hap_ to sustainably manage New Zealand’s fisheries and other natural resources.

3. METHODOLOGY

Our research approach was to engage in a cross-cultural process that respected tikanga M_ori (M_ori customs and practices) and that recognised the resource management philosophies and tools of Te Ao M_ori (A M_ori worldview). We considered that an exploratory case study would be the best approach for our research, given the dearth of information about how introduction of the Kaimoana Regulations are affecting M_ori at a local level. We were interested in the experiences of people who have dealt directly with the regulations and wanted to learn about their practical application. Six research participants were selected from Ngati Oneone and the Ministry of Fisheries based on their knowledge of and involvement with customary fishing. We sought the views of participants through informal interviews, using open-ended questions to draw a wide range of information. Interviews with hap_ members were conducted in Turanga/Gisborne over the course of a week at Te Poho o Rawiri Marae, an important tribal meeting place for the hap_. Locally guided tours of Ngati Oneone’s traditional fishing grounds and Te Tapuwae o Rongokako Marine Reserve highlighted the effects of development and spatial conservation tools on customary fishing. The research objectives evolved as we identified Ngati Oneone’s issues of concern surrounding the recently introduced model of co-management for customary fishing.

4. HISTORICAL, SOCIAL AND ECOLOGICAL CONTEXT

4.1 The K_pata kai of Ngati Oneone

Ngati Oneone’s occupation of the Turanga/Gisborne area predates European arrival by several hundred years. The southern boundary of Ngati Oneone’s traditional fishing grounds, a rock known as Te Toka a Taiau, located at the mouth of the Turanganui River, is well known as the first meeting place between M_ori and Captain Cook in 1769. A research participant related that the k_pata kai extends north from Te Toka a Taiau up to the Pouawa River (Figure 1). The boundaries overlap and are shared with the rohe moana of neighbouring iwi/hap_ who gather kaimoana (seafood) from these waters and also feel a connection with this area. Access to resources is a reciprocal tradition that has been negotiated and mutually agreed on between hap_ for specific purposes over centuries.

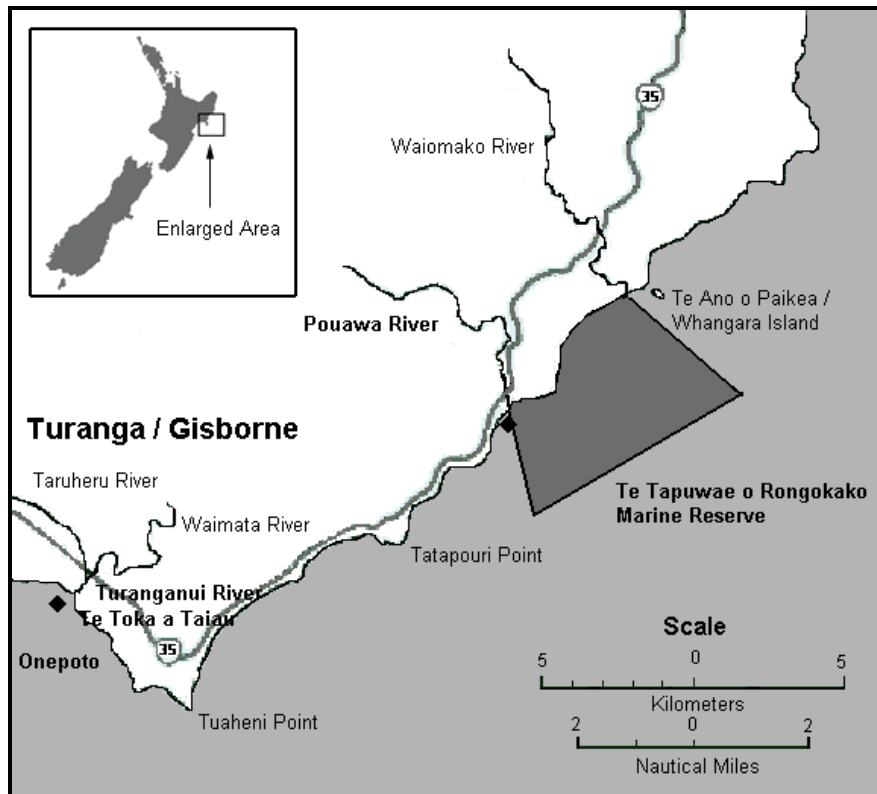


Figure 1. Map of New Zealand and the Turanga/Gisborne area with traditional fishing area of Ngati Oneone from Te Toka a Taiiau to the Pouawa River (Adapted from the Department of Conservation)

Local M_ori have harvested kaimoana within hap_ boundaries for hundreds of years and hold m_auranga M_ori (traditional knowledge) about the resources. Ngati Oneone has designated gatherers to collect kaimoana for the marae. The Turanga/Gisborne area is particularly well known as a productive crayfish area where juvenile crayfish aggregate under docks or rocky overhangs. Today those species that represent the greatest significance to local people are the marine invertebrates that are easily collected close to shore. Contemporary M_ori tend to favour species like kina (urchin), paua (abalone), pupu (snails), and koura (crayfish) (research participant). Fish, octopus, and other species comprise part of their diet as well.

Onepoto/Kaiti Beach was once an especially rich and accessible source of kaimoana for Ngati Oneone. However, the availability of seafood in this area has seriously declined as the population has grown and urban and industrial development has expanded (research participants). Forestry, agriculture and commercial fishing have also intensified in the region during the past century, impacting on the coastal marine area and affecting the growth of seafood. One kaumatua (senior male elder) recalls that the last significant harvest from the Onepoto/Kaiti Beach area was collected for the visit of Charles and Diana, the Prince and Princess of Wales, in 1980.

4.2 The Basis of Ngati Oneone Claims

Ngati Oneone's authority over their rohe moana stems from their status as being among the tangata whenua (people of the land) of Turanga/Gisborne. Ngati Oneone have retained ahi k_ (occupation rights literally; kept the home fires burning) over their traditional fishing grounds and rights over the food resources they have customarily harvested from the sea through continual occupation of the land. Although alienation through sale and taking of land under the Public Works Act has fundamentally changed their ownership status, whakapapa (ancestral links) with the area remains strong. They have mana whenua, meaning "iwi and hap_ ownership and control over tribal resources, including land, forests, rivers, and the sea" (Durie, 1998:229). One research participant stated, "There might be a huge port development right over the top of it [land, sea], but it's still there. Our tipuna [ancestors] and the affiliations that we have spiritually with the location will always be there."

4.3 Fishing Rights as Guaranteed by the Treaty of Waitangi 1840

The Treaty of Waitangi, signed by iwi and the Crown in 1840 reaffirms Ngati Oneone's tangata whenua status. Te Eke Tu o Te Rangi was the Ngati Oneone ancestor who signed on behalf of Te Aitanga a Hauiti. The English version of Article 2 of the Treaty of Waitangi states that the Crown:

guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties, which they may collectively or individually possess, so long as it is their wish and desire to retain the same in their possession [...]

The M_ori version of the Treaty was originally translated from an English draft (now lost) by Rev. Henry Williams who used the words "tino Rangatiratanga," or M_ori sovereignty, to indicate "full exclusive and undisturbed possession" in Article 2. This statement conveyed that M_ori would retain continual authority over their fisheries, a right that was promised by the Crown and is an aspiration that M_ori continue to fight for today.

4.4 A New Regime for Customary Non-commercial Fishing Rights

Management of customary fishing rights did not sit comfortably under the interim provisions contained in Regulation 27 of the Fisheries (Amateur Fishing) Regulations 1986, which allowed amateur catch limits to be exceeded to provide kaimoana for hui (M_ori social gatherings) and tangi (funerals). The decision-making power and main responsibilities under Regulation 27 rest with the Chief Executive of the Ministry of Fisheries, although s/he may delegate this power to M_ori Committees, Marae Committees or kaitiaki of the tangata whenua. Two participants in this research are kaitiaki appointed by Te Poho o Rawiri Marae Committee under Regulation 27. Most hap_ of the North Island, including Ngati Oneone, continue to operate under this interim measure because they have not adopted the new Fisheries (Kaimoana Customary Fishing) Regulations 1998. A separate set of regulations developed for the South Island, the Fisheries (South Island Customary Fishing) Regulations 1999 are not addressed by this study.

The customary fishing regulations were developed as the non-commercial component of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. The Settlement was negotiated in response to the failure of New Zealand's property-rights based QMS to recognise or provide for indigenous rights in the initial allocation of commercial quota (Hooper and Lynch, 1999). Through allocation of quota to M_ori, the Settlement extinguished any further Crown obligations to M_ori regarding commercial fishing. A central Commission, Te Ohu Kai Moana, now holds the quota allocated to M_ori as a result of the Settlement. The Commission is responsible for managing M_ori fisheries assets and developing an allocation model to distribute them to iwi.

Customary fishing rights are still to be accorded protection under the Treaty and to be managed by the new Regulations. The Treaty obligations are clearly stated in the long title of these: "The Crown recognises that traditional fisheries are of importance to M_ori and that the Crown's Treaty duty is to help recognise use and management practices and provide protection for and scope for exercise of rangatiratanga in respect of traditional fisheries" (Section C).

Under Section 2 of the 1998 Kaimoana Regulations, Customary food gathering is interpreted to mean "the traditional rights confirmed by the Treaty of Waitangi and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, being the taking of fish, aquatic life, or seaweed or managing of fisheries resources, for a purpose authorised by Tangata Kaitiaki/Tiaki, including koha [gifts], to the extent that such purpose is consistent with Tikanga M_ori and is neither commercial in any way nor for pecuniary gain or trade."

Responsibilities for operation of the Fisheries (Kaimoana Customary Fishing) Regulations 1998 are divided between the Treaty partners. Kaitiaki, who are individuals volunteered by their hap_ under the regulations, use their discretion to issue fishing authorisations to people exercising their customary rights. They are expected to keep accurate records of the number of authorisations granted and harvest statistics. They may also be involved in the establishment of m_taitai reserves exclusive to customary fishing. The Ministry of Fisheries is charged

with gazettement and notifying the appointment of kaitiaki and designation of m_taitai reserves, making information available, and enforcing the boundaries agreed upon by hap_ through the gazettement process.

5. FINDINGS AND ANALYSIS

There is not a consistent distinction between commercial and customary non-commercial rights in the minds of many people who this legislation is intended to regulate. The prominence of the black market seafood industry in the Turanga/Gisborne area (research participants) suggests that the individualisation of a previously common property regime lacks social legitimacy. “*The capacity to call upon the collective to stand behind one’s claim to a benefit stream*” is not secure. The behaviour of those involved in “illegal” fishing suggests that they do not feel bound by a *duty* to recognise the benefit stream as being privately appropriable.

Our interviews revealed several factors that undermine the new Regulations and inhibit Ngati Oneone’s effective management of their k_pata kai. The implementation of the regulations has 1.) followed poor process, 2.) lacked sufficient dedication of resources, and 3.) failed to integrate with other management concerns.

5.1 Poor Implementation Process

The poor process of implementation was a common criticism raised by research participants. In Ngati Oneone’s case, the gazettement of a neighbouring hap_’s fishing area has created tension over a boundary that Ngati Oneone believes they share. While the Fisheries (Kaimoana Customary Fishing) Regulations 1998 allow for boundary definitions and kaitiaki appointments to be contested through submissions, the notification process used was minimal and failed to elicit a response from objectors. The notification took the form of an advertisement in the *Gisborne Herald* in late December 1999, just as the city prepared itself for the first millennium celebration in the world. Instead of using a map to show the proposed boundaries, they were expressed as latitude and longitude readings, figures that invoked little meaning for most readers.

The Crown’s intention was to empower iwi/hap_ through the Kaimoana Regulations. By formalising customary use in statute, the Crown intended to better define the rights of iwi/hap_ regarding their traditional fishing grounds and create accountability for the state of the resource. It also intended that data from the catch records kept would generate a flow of useful scientific information about seafood health and abundance that could be returned to the hap_ leading to better management in the long run (Hooper and Lynch, 1999).

While the government’s environmental sustainability objective may be consistent with that of Ngati Oneone, the means of achieving it seem to differ substantially from those of the hap_. As such, the Regulations do not appear to offer a suitable co-management arrangement between Treaty partners. Some Ngati Oneone members have described the regulations as a “restrictive,” “bureaucratic” framework that has driven a wedge between hap_. They feel the law has been imposed upon them and that they have little control over it. The incremental implementation of the Fisheries (Kaimoana Customary Regulations) 1998 seems to be forestalling their own acceptance. Meanwhile, sub-optimal management under Regulation 27 persists, a situation not favoured by either Treaty partner because it has served as a vehicle for illegal fishing (research participants). The reluctance of Ngati Oneone and other North Island M_ori to take up the Kaimoana Regulations may reveal their skepticism about the perceived benefits of the Regulations compared to the potential costs. Co-management must involve shared decision-making, but this opportunity has not been delivered to Ngati Oneone. One participant expressed that the consultation with iwi/hap_ regarding the Kaimoana Regulations had been lacking since the development stage. He recommends that government and iwi/hap_ “toss out the Regulations and start with a blank piece of paper.” He says, “We need a better partnership, one that is face to face, and sits down with us on an ongoing basis.”

5.2 Inadequate Resources for Implementation

When asked what resources were made available to kaitiaki, one research participant replied, “pamphlets, pamphlets, and pamphlets.” These pamphlets, provided by the Ministry of Fisheries, and distributed by kaitiaki, represent the bare minimum for a legislative scheme that is supposed to be “front-loaded with education” (research participant). A government official interviewed about resources available for managing customary

fishing commented that they were “insufficient.” In addition to providing pamphlets, the Ministry has a capacity-building role, which is expressed by supporting research and education. For example, the Ministry provides grants for customary research projects, although given the recent emergence of this programme, few hap_ have developed proposals for such research grants.

Whether operating under Regulation 27 of the Fisheries (Amateur Fishing) Regulations 1986 or under the Fisheries (Kaimoana Customary Fishing) Regulations 1998, the kaitiaki appointed by their hap_ do not receive government funding for the issuing of authorisations. This job is an administrative burden for some kaitiaki, many of who have taken on the duty as individuals. Some kaitiaki may also feel social pressure if they do not grant authorisations for a permit (research participants). During development of the 1992 Settlement some M_ori submitted that Crown contributions to support customary regulations would be contrary to their desire to maintain autonomy over customary practices (research participant). The underlying assumption, however, was that iwi/hap_ would have the resources to manage customary fishing through the prompt distribution of assets from the Settlement. Ten years later iwi/hap_ are still litigating over the distribution of those assets. Furthermore, conflict is likely to persist following allocation of the Settlement assets because the commercial rights are proposed to be allocated to iwi corporate entities whereas the hap_ interests are limited to non-commercial rights, even though the hap_ is responsible for sustainable management of the resource.

5.3 Management of Customary Fishing in Isolation from Other Management Concerns

Failure to integrate the management of the environment is not unique to the East Coast or to New Zealand. It is a challenge that environmental managers struggle with around the world. Yet the interdependent nature of ecosystems requires that communities, decision-makers, and lawmakers take a more holistic approach to management. Harvesting pressure and habitat degradation in Ngati Oneone’s k_pata kai are symptoms of many more intense uses of the marine environment than customary harvest (research participants). Far greater harvesting pressure comes from commercial fishers who have highly specified rights under the QMS, from the growing recreational sector, and from illegal fishing. Habitat degradation in the harbour can be attributed to sediment, and nutrient and chemical contamination in run-off water from farms and plantation forests, and to similar effects arising from urban development including port activities and dredging.

Another local feature that may impact on the k_pata kai of Ngati Oneone is Te Tapuwae o Rongokako Marine Reserve, established 16 kilometers north of Gisborne in 1999, in the fishing area of a neighbouring hap_. In addition to providing for the non-extractive values of marine resources, the reserve will probably serve as an important source of seafood for the surrounding area because marine organisms reproducing within its protected no-take boundaries will eventually disperse outside of the reserve. The adverse impact for Ngati Oneone may be that the reserve deflects commercial and recreational fishing pressure to adjoining areas, including their k_pata kai. If Ngati Oneone is interested in a spatial protection mechanism for their k_pata kai, they are likely to opt for a m_taitai reserve or impose a rahui (prohibition on use) on their area.

6. DISCUSSION

6.1 Local Control of Local Environments

The exploration of issues affecting the customary fishing in our case study revealed many layers. A cultural approach is needed by which iwi/hap_ are trusted to define the problem and find and implement solutions according to tikanga M_ori. Iwi/hap_ will define their own vision and wish to negotiate the outcome in their own time. The goal for both Treaty partners should be one of cultural sustainability as a part of environmental sustainability.

One participant identified a paradox in the definition of “Customary food gathering” in the Kaimoana Regulations. He explains that “managing of fisheries resources” by iwi in a way that “is consistent with Tikanga M_ori” cannot be fully realised because consistency with Tikanga M_ori “means an economy based on iwi sustainability.” His scrutiny reflects a more comprehensive vision in which “the Crown returns all aspects of mana moana to iwi.” His statement suggests that for proper exercise of tino rangatiratanga commercial and non-commercial rights need to be managed together.

Henrik Moller et al. describe local involvement in managing local environments as “the principle of subsidiarity.” The benefit, they say, is that local people take ownership of the situation.

Consequently, they are much more likely to sustain the required management and face the tough decisions (e.g. resource-use prohibitions, compliance) to benefit the environment. The local tribal social structures and detailed knowledge of the local environment held by indigenous peoples make them natural ‘grassroots’ organizations to become effective co-managers (2000: 157).

The passion and commitment to exercise tino rangatiratanga in their k_pata kai was clear from our dialogue with members of Ngati Oneone. “We can take responsibility and manage it ourselves at a hap_ level,” remarks one participant.

6.2 The Crown’s Contribution to the Treaty Partnership

Iwi/hap_ recognise that the Crown represents more than a funding body. With rights come obligations and duties, one of which is to contribute financially to management. Unfortunately, the postponed Settlement distribution is stalling the ability of iwi/hap_ to fund management of customary fishing. Therefore, the Crown’s expectations for iwi contributions should correspond with the progression of the asset distribution process. Despite the problems discussed, one could argue that the Regulations are a stepping-stone toward co-management. Increasingly, the Crown is recognising its Treaty obligations in legislation. The Ministry of Fisheries (MFish) is currently devising a Treaty Strategy to help it deliver on its obligations under the Fisheries Settlement and the Treaty (Ministry of Fisheries, 2001b). Among the goals of the Treaty Strategy are: “MFish and tangata whenua working together to provide for the utilisation of fisheries resources while ensuring sustainability; Tangata whenua managing customary fishing within their rohe moana; Tangata whenua actively involved in wider fisheries management; MFish recognising and providing for M_ori use and management practices in the management of fisheries [and]; Active protection of the fisheries taonga [treasures]” (2001b).

The Ministry also acknowledges that “strong functional relationships” with tangata whenua will be critical (2001b). Although we observed personal respect between the Ministry and tangata whenua in Turanga/Gisborne, the relationship could not be described as “strong” or “functional.” Enforcement is the Ministry’s primary activity in the area. Apparently, the five enforcement officers based there represent a high level of coverage compared to the rest of the country (research participant). Unlike other parts of New Zealand, however, their work is not supported by volunteer Honourary Fisheries Officers because of the risks involved with illegal fishing in the area (research participant). As a result, the Ministry has an unbalanced representation in the area and is seen as primarily acting in an enforcement role.

In recognition of the need to balance its interaction with iwi/hap_, the Ministry CEO has “agreed in principle” to establish “Treaty Relationship Facilitator” positions in regional offices (Tuck, 2001). These positions could better recognise and support the true needs and aspirations of local iwi/hap_, especially through provision of the following services: “Prenotification and education of iwi and hap_ on the Kaitiaki appointment process under the customary fishing regulations;” and “supporting the training of Kaitiaki, the provision of information and the provision of required reports and records for the administration of customary regulations” (Tuck, 2001).

The Ministry is presently funding research projects through the Customary Research Programme for new or experienced researchers to investigate the traditional use and preservation of knowledge (Ministry of Fisheries, 2001a). Their task will include development of practical fisheries management resources such as guidelines and handbooks on how to incorporate traditional management practices (i.e. outlining easy assessment methods to conduct monitoring of rock lobster, fin fish, paua, and kina within local fisheries areas). We consider this to be a promising example of capacity building that may empower local people to find out more about their resource and about themselves.

6.3 For the Future

We have shared a snapshot of Ngati Oneone's mission to protect their culture and resources in the face of competing uses of their rohe moana, habitat degradation, unresolved mandate issues, inadequate resource provision, and the restrictions of legislation. If we were to continue our research, we might solicit the advice of other iwi/hap_ who are operating under the Kaimoana Regulations and compare their experiences with that of Ngati Oneone. We also recognise that a full study of collaborative management includes assessing participation by local government, commercial and recreational users, environmental organisations, and other community members. One participant pointed out that "relationships need to be built with all stakeholders if we are to move on in a positive way." If time had allowed we would have sought their views as well.

7. CONCLUSION AND RECOMMENDATIONS

In spite of poor implementation of legislation, the failure to back up expectations with resources, and permissive degradation of the resource, the attitude toward collaborative management remains stubbornly positive. The most heartening aspect of this research was the persistence of a cooperative spirit despite undelivered promises. Our participants retained faith that, if they remain unrelenting in their commitment to the Treaty, the Crown will deliver on its obligations and assist them to assert their traditional authority to ensure cultural and environmental sustainability. We see positive relationships as the foundations of any shared arrangements, and shared arrangements as the foundation of any sustained solution. The survival of optimism amongst people in the margins helped us to believe one participant's vision that in one hundred years Ngati Oneone will be able to gather kaimoana from anywhere in their k_pata kai.

Given our present understanding we make the following recommendations:

For Ngati Oneone:

- A structure could be set up within the hap_ to facilitate management of their fisheries resource.
- An application could be made to the Ministry of Fisheries Customary Research Program to record and extend their existing knowledge about their k_pata kai.

For the Crown:

- A true co-management approach would involve consultation that is conducted to fit the hap_ style of decision-making.
- The gazetting and notification process should be reviewed in light of its apparent faults. Hui with neighbouring hap_ /iwi would be appropriate.
- The baseline health of the area could be established through an Environmental Impact Assessment and the results presented through hui.

For Both Treaty Partners:

- Iwi/hap_ should be actively involved in creating the Ministry of Fisheries Treaty Strategy.
- Progress should be measured against a local vision rather than against Crown objectives.

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9. REFERENCES

Bess, R., New Zealand M_ori Claims to Fisheries Resources, International Institute of Fisheries Economics and Trade (IIFET). Online at: www.orst.edu/dept/IIFET/2000/papers/bess/pdf, 2000.

- Bromley, D.W., *Environment and Economy: Property Rights and Public Policy*, Oxford U.K. and Cambridge USA: Blackwell, 1991.
- Durie, M., *Te Mana, Te Kawanatanga: the Politics of M_ori Self-Determination*, Melbourne: Oxford University Press, 2001.
- Ministry of Fisheries, Customary research projects funded in 2000, *Hi Ika: Current News and Views on Customary Fishing*, Issue 9, March 2001a.
- Ministry of Fisheries, Treaty Strategy update, *The Bite*, Summer 2001/2002b.
- Gaffney, K.R., *Property Rights Based Fisheries Management: Lessons from New Zealand's Quota Management System*, Masters thesis, Commerce and Administration, Victoria University of Wellington, 1997.
- Horsley, P., Collaborative Management – Pre-conditions and Prospects, in *He Minenga Whakatū Hua o Te Ao: Murihiku Marae 25 – 27 August 2000*, M.L. Howard and H. Moller, eds. Online at: <http://www.otago.ac.nz/Zoology/hui>
- Hooper, M., and Lynch, T., Recognition of and provision for indigenous and coastal community fishing rights using property rights instruments, paper presented at the FishRights '99 Conference, Freemantle, Australia, 1999.
- Moller, H., Horsley, P., Lyver, P., Taiepa, T., Davis, J., and Bragg, M., Co-management by M_ori and Pakeha for improved conservation in the 21st century, in *Environmental Planning and Management in New Zealand*, P.A. Memon and H. Perkins, eds. Palmerston North: Dunmore Press, 156-167, 2000.
- Ropiha, J.P.K., *Alienation of M_ori Fishing in Mahia Peninsula: 1920 to 1990*, Masters thesis, M_ori Studies, University of Auckland, 1992.
- Waitangi Tribunal, *Muriwhenua Fishing Report (Wai 22)*, Waitangi Tribunal, Wellington, 1988.
- Tuck, W., Letter to Chairman of Ngati Oneone from CEO Ministry of Fisheries, 2002.

10. GLOSSARY - Key M_ori terms used in this paper

Hap_:	Subtribe
Hui:	M_ori social gathering
Iwi:	Tribe
Kaimoana:	Seafood
Kaitiaki:	Under the Kaimoana Regulations they are people appointed by tangata whenua and recognised by MFish to authorise customary fishing within their rohe moana. The people of Ngati Oneone see kaitiaki as people who look after the environment in a sustainable way. Kaitiaki are also known as spiritual guardians of all things.
K_pata Kai:	Places of significance from where kaimoana was traditionally and currently gathered by the people of Ngati Oneone. Transliteration of “food cupboard.”
Mana Moana:	This has been described as a contemporary term used in regard to the mana moana/ mana whenua allocation model of fisheries assets. Means customary authority exercised by an iwi or hap_ in an identified coastal area
Mana Whenua:	Traditional ancestral link with the land; authority based on land tenure.
M_taitai reserves:	Under Kaimoana Regulations, areas where tangata whenua manage all non-commercial fishing by making bylaws. Generally commercial fishing is prohibited.
Rahui:	No trespass, reserve, or ban on use/exploitation of a particular defined area.
Rohe Moana:	Territorial coastal area
Tangata Whenua:	Literally first people of the land. The iwi/ hap_ that hold mana whenua over an area.
Tikanga M_ori:	Customary practices. Culturally correct customs and practices.
Tino rangatiratanga:	The exercise or expression of chiefly authority; power; sovereignty.