

Indigenous space in institutions: Frameworks around Māori legal academics at Waikato

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Abstract: Te Wāhanga Ture (the School of Law) at the University of Waikato was established in 1990 under the three principles of biculturalism, law in context and professionalism. While the history of the School is well documented (Milroy & Whiu, 2005; Wilson, 1990, 1993) the context of the School in University-wide support programmes for Māori and how these have impacted on increased participation in the decision-making processes at a faculty level and above have not been analysed. This paper uses ordinary forms of legal analysis to investigate how the higher level documents can be used to justify and support increased participation of Māori within the decision-making processes of the institution. The methodology incorporated two main stages. First, was the identification of an issue and its relevant framework which in this instance, has been applied to higher level strategic documents. Second, was the application to a factual situation, which in this case is participation of Māori legal academics in the institutional framework of the University of Waikato. It was concluded that increasing awareness of how the law impacts upon Māori (through incorporating Māori content in the law curricula) is dependent upon increasing the commitment of legal academics to biculturalism. Using Te Wāhanga Ture as a case study, the paper suggests three strategies of how increased participation of Māori in general could be achieved. For example, the first strategy is to increase the number of Māori (legal) academics. Such analysis may provide direction or strategies for other institutions that can promote or improve the participation of indigenous staff and students and ultimately result in improved educational outcomes for all peoples.

Keywords: academic institutions; indigenous; law curricula; Māori education

Introduction

The incorporation of indigenous issues in law curricula is often dependent upon the individuals responsible for the delivery of courses. However, the dominant paradigm, has in general, resulted in insufficient knowledge and respect of indigenous issues among law staff, and insufficient numbers of indigenous legal academic staff to have indigenous issues considered adequately and in an appropriate way within the law school. There is real value in leveraging strategic documents. That is, using the provisions of strategic documents as justification for increasing programmes aimed at raising the level of success for Māori in attaining degrees by holding institutions accountable under such provisions in relation to existing educational outcomes of Māori. Such leveraging not only increases the respect for Māori issues in general but would also assist in a paradigm shift that lessens institutional barriers to consideration of indigenous issues, not only in attaining a law degree, but also in the culture of the institution.

Te Wāhanga Ture (the School of Law at the University of Waikato) recognises the status of Māori under one of its three founding principles (School of Law, 1988). All participation and inclusion of Māori (participation in decision-making processes, place of Māori ceremonies, content in papers, and support for students) flows from this strategic recognition of biculturalism as a founding principle of the School. In addition, Māori staff and students at Te Wāhanga Ture link into programmes administered and supported by Te Tari Māori (the Office of the Pro-Vice Chancellor of Māori) as part of a wider context of incorporating indigenous issues in University processes in general. Such incorporation was leveraged from

the recognition of the Māori issues in higher level documents such as the University Charter under section 159N of the Education Act 1989 and the implementation of such legislation through policy drafted by the Tertiary Education Commission. Although recognition of the status of Māori as indigenous peoples of Aotearoa/New Zealand is premised on the Treaty of Waitangi, it is possible to argue in favour of the recognition of the status of indigenous peoples upon a social justice, equal opportunities, indigenous rights and human rights basis.

This paper analyses the existing institutional arrangements, initiatives and strategies that support the participation of Māori staff of the Te Wāhanga Ture (School of Law) in the decision-making processes at the University of Waikato that impact on the success of Māori staff and students. It then outlines the rationale for inclusion in various programmes and how the programmes are a result of strategic lobbying using provisions in higher level documents. Such lobbying has had the effect of holding the institution accountable for educational outcomes for Māori in law and in other areas of the University.

Te Wāhanga Ture: The School of Law

Te Wāhanga Ture began an experiment in biculturalism upon its establishment in 1994. The School was established following increased public awareness of Māori issues in the 1970s, leading to the Gold Report in 1987 recommending the inclusion of a Māori dimension in legal education (Wilson, 1990). As a result, Te Wāhanga Ture was established on the following three founding principles:

1. Professionalism
2. Biculturalism
3. Law in context

Biculturalism is informed by the Treaty of Waitangi under the principles of partnership, participation, and protection of indigenous issues. At the time of writing (July 2008), the School of Law has a total of 882 students enrolled with 219 students of Māori descent. Overall, there are a total of 12,441 students enrolled at the University of Waikato. Of these, 2176 students are of Māori descent. The percentage of Māori enrolled at Law School had traditionally been about 20%; however the figures for 2008 show an increase to 25% (School of Law, 2008). This figure is part of an increasing general trend of higher numbers of Māori enrolment at the University of Waikato. In comparison, the general trend of non-Māori indicates that enrolments at the University are decreasing (Pro Vice Chancellor Māori Office, 2008).

A major investigation into the Law School's experiment in biculturalism was undertaken by Makere Papanui-Ball in a masters paper documenting the experiences of the first Māori graduates of the School. In it, Papanui-Ball refers to the "tokenistic approach of small pockets of 'the Māori perspective' taught by non-Māori lecturers who had little or no knowledge of anything Māori" (Papanui-Ball, 1996, p.36). Māori law students at this time were asked to justify learning the Māori content of lectures to their non-Māori peers and were often asked to supplement the (non-Māori) lecturer's knowledge of Māori issues. The latter caused embarrassment for the student over the assumption that just because a person is Māori they have knowledge of all things Māori. Student expectations recorded by Papanui-Ball in 1993 included the perception of "bicultural" as a 50:50 ratio of Māori to Western law content with corresponding levels of staffing. The staffing ratio was raised as an issue of concern in Papanui-Ball's paper as in 1996, at a time when there were only two Māori legal academics. At the time of writing (July, 2008), there were seven Māori legal academics plus two Māori tutors and four mentors. Of these positions only one member was full-time and three positions were on short-term contracts. By 2002, Māori legal academics, known collectively as 'Te Piringa' had won a University award for excellence in education provision (University of Waikato Staff Merit Award, 2002). The School continues its experiment in biculturalism and the early history of this is well documented (see Milroy & Whiu, 2005).

Policies of the Tertiary Education Commission targeting the successful recruitment, retention and completion of degrees by Māori resulted in the Special Supplementary Grant under which institutions were to improve educational outcomes of Māori in the late 1990s. The grant was to develop programmes and therefore was not part of the usual budget for a school or faculty. Māori staff and students at the School of Law had lobbied successfully for the appointment of a Māori liaison officer (Kaitakawaenga Māori) using the founding principle of biculturalism as the basis for justifying the position. The SSG funding then became an additional portion of the budget for the Māori liaison officer used to fund student support programmes. At the time of writing, the Kaitakawaenga Māori is responsible for recruitment, retention and completion initiatives for Māori law students within the School. She is supported by and reports to Te Piringa and supports Te Whakahiapo, the Waikato Māori Law Students' Association.

Te Piringa then successfully applied to have the officer hours of the position increased and to have the position made permanent. In this way, the position of Māori liaison officer became institutionalised. Other schools within the University applied the SSG fund to the salary of a part-time casual position which resulted in the position being vacant over the summer period and left no discretionary budget for student support programmes.

Currently, biculturalism is provided within the institutional frameworks of the Law School through Te Piringa and Te Piringa's formal recognition as an administrative committee. Such recognition has resulted in a representative of Te Piringa on all Law School committees and on the panel for all staff appointments. In addition to the Māori legal academics and the Māori liaison officer, an elder, whaea Elizabeth Haggie, from the local indigenous tribe of Tainui of the Waikato region is appointed to consult on issues of local custom.

Biculturalism is also reflected in the content of core papers taught at undergraduate level where possible and in offering post-graduate papers in Māori issues. This is contingent on the availability of Māori lecturers to teach such papers.

Another issue concerns the relationship between the School of Māori and Pacific Development and Te Wāhanga Ture around *who* should teach *what* in relation to tikanga Māori. The Deans of the two schools have enjoyed an amicable relationship and there is some overlap in content of some subjects, however there is also tension over the possible conflict of interests. Such tension is exacerbated by the threat of Wānanga to Universities in general, due to Wānanga enrolments increasing and University enrolments decreasing and the impact Wānanga have had on enrolments in the School of Māori and Pacific Development.

Wānanga are Māori tertiary education providers were established privately outside the mainstream tertiary education system. A claim for equitable funding for Māori tertiary education was successfully put to the Waitangi Tribunal resulting in the Wānanga Capital Development Fund (for a copy of the report, see <http://www.waitangitribunal.govt.nz>). This fund allowed fully subsidised delivery of courses, such as learning the Māori language, to the wider public. The subsequent success of these programmes led to reform of the tertiary sector from a major focus on the number of enrolments, to the completion of higher degrees, that is, an approach that emphasises quality instead of quantity. There is a perception that as the Wānanga offer similar papers and course content to that offered by the School of Māori and Pacific Development, there may be a correlation with the decrease of enrolments in the School of Māori and Pacific Development (Pro Vice Chancellor Māori Office 2008).

The commitment to biculturalism is dependent on the staffing levels of indigenous lecturers. A low number of indigenous staff corresponding with a high commitment to biculturalism can contribute to higher expectations and workloads on the indigenous lecturers, both within the School and externally in the community. Māori law staff are subject to multiple roles. Within Māoridom for example, these roles relate to family, tribal, inter-tribal, trust board and post-Treaty settlement structures. Additional demands on time within the School, include for example, increased pastoral care of Māori students and educating colleagues on tikanga

Māori. Critical mass in terms of lecturers and student enrolments is an important factor in the consideration of incorporating indigenous issues as it allows the workload within the school to be spread across more than one person. In the end, the level of commitment to increasing the consideration of Māori issues within the School relies upon the individuals on staff to promote such issues.

Te Wānanga ō Waikato: University of Waikato

The recognition of Māori issues at a strategic University-wide level is noted in the University Charter which states:

We are committed to meaningful partnerships under the Treaty of Waitangi and to providing leadership in research, scholarship and education relevant to the needs and aspirations of iwi and Māori communities. We value our relationship with Tainui as mana whenua, and we are committed to the iwi forum of Te Rōpū Manukura as a partner of the University. We are dedicated to supporting our Māori student and staff communities with a focus on leadership and academic excellence. (Available from <http://www.waikato.ac.nz/charter>).

Partnership with indigenous iwi and Māori communities and in particular with Tainui and the local ancestral landowners, is manifested by the committee of iwi members, Te Rōpū Manukura, which sits as an advisory body to the University Council. Te Rōpū Manukura was established by Sir Robert Mahuta of Tainui in 1990 (Pro Vice Chancellor Māori Office, 2008). It should be mentioned that the grounds of the University were returned to Tainui as part of the Tainui Settlement negotiated with the Government in 1994. The membership of Te Rōpū Manukura consists of the representatives of 16 major iwi within the boundary of the University of Waikato region and its input to the University Council is advisory only. However recent initiatives proposed by Te Tari Māori have led to increased meaningful engagement with Te Rōpū Manukura.

The theme of partnership with indigenous peoples is continued in the University Vision Statement (approved by Council, May 2005) which has three over-arching themes:

1. Excellence
2. Distinctiveness
3. International connectedness

Consideration of indigenous issues is under the second theme, “distinctiveness.” The University envisages offering a unique “Waikato experience” that must reflect its partnership with Māori as intended by the Treaty of Waitangi. The Vision states:

The University’s partnerships with Māori are, and always have been, an essential and integral element of its identity. From the outset, it has been committed to providing leadership in research and education relevant to the needs and aspirations of iwi and Māori communities... The University will define the details that will help it to deliver on its distinctiveness, in terms of its curriculum, its campus facilities, its campus culture, its commitment to te reo, kaupapa and tikanga Māori within its campus environment, its alliances, its role as a key driver of social and economic growth in its region, and its partnerships with Māori. (Available from <http://www.waikato.ac.nz>).

The University’s willingness to enter into partnerships with Māori stems from the inclusion of a Treaty of Waitangi clause in tertiary education legislation and policy.

Section 181 of the Education Act 1989 provides that a Council has the duty to acknowledge the principles of the Treaty of Waitangi in the exercise of its functions and powers. University

Charters are governed by Section 159N of the Education Act 1989 and must be approved by the Tertiary Education Minister. While the University has experienced a disconnection between the formative provisions and the implementation of such provisions, the current level of inclusion of Māori in decision-making processes of the University has been achieved through the lobbying of the Pro Vice-Chancellor Māori Office (Te Tari Māori) and the submissions of Māori staff within the different faculties. Such lobbying involved using the incorporation of the Treaty clause in tertiary education legislation and policy to leverage incremental recognition of the importance of Māori issues. Submissions by Māori included solutions or mechanisms to achieve greater recognition. The result is a number of programmes and initiatives coordinated by and linking into Te Tari Māori.

Te Tari Māori: Office of the Pro Vice-Chancellor Māori

As seen in a recent report provided by Te Tari Māori (Pro Vice Chancellor Māori Office, 2008) there are a number of University-wide strategies and initiatives that support and foster the recognition of Māori issues across the University of Waikato. The office has grown from a staff of three in 2004 to currently 11 people. The Pro Vice Chancellor Office programmes are organised under the areas of staff, students and community and are outlined as follows:

Staff

Staff programmes organised through Te Tari Māori are linked to the University Charter and Vision under *Building Staff Capacity and Leadership*. Te Tari Māori groups its programmes for staff under three categories: Māori academic staff, Māori general staff and, non-Māori staff. The following section summarises their main support activities.

Māori Academic Staff

- Staff meetings
- Manu Ao Programme
- Weekly conferences of Māori academic video presentations (National)
- Rangahau Māori: Future directions for research
- Contestable fund
- Tainui Advisory Committee
- Encouraged to participate in the weekly social cultural events programme.

Māori General Staff

- Workshops on professional development
- Encouraged to participate in the weekly social cultural events programme.

Non-Māori Staff

- Encouraged to participate in the weekly social cultural events programme, incorporating Kingitanga celebrations, Māori language week and Matariki (the Māori New Year).

Students

Student-centred initiatives are linked to University Charter and Vision through *Building an excellent Māori student profile and contributing to a distinctive Waikato experience*. These include:

- Schools/Faculty based Māori Mentoring Project
- Graduate Excellence Programme (Te Toi o Matariki)
- PhD Student Support Network (Mai ki Waikato)
- Student Support Network (Te Puna Tautoko)
- Social/Cultural Event Management
- Website Management

Community

Community initiatives are linked with University Charter and Vision through *Connecting with Communities*. These include:

- Student recruitment
- Engagement with Secondary Schools
- Te Kohinga Mārama Marae
- Waikato and the Kingitanga
- Te Rōpū Manukura
- Student Internships
- Scoping the establishment of a Research Institute
- Institutional collaborations

Other duties of the Pro Vice-Chancellor Māori

In addition to the strategies and initiatives outlined above, the Pro Vice Chancellor Māori is responsible for other duties, including:

- Implementation of the University-wide Māori Strategy.
- Coordinating major research contracts.
- National and international ambassadorial responsibilities.
- Keynote presentations.
- Supervision of some 15 Māori cross-disciplinary PhD students.

Rationale for inclusion

The current initiatives and strategies for increasing the consideration of Māori issues within the University have been the culmination of strategic lobbying using provisions included in institutional documents that have corresponded with the Tertiary Education Commission's focus on improving educational outcomes for Māori. The rationale for these initiatives has been linked to the legislative framework which is the legal context for the provision of tertiary education in general and tertiary education pertaining to Māori in particular. Key factors of success included the recognition of indigenous people's concerns through the incorporation of the principles of the Treaty of Waitangi in tertiary education legislation and policy, and structural inclusion of Te Tari Māori and the advisory body to the University Council, Te Rōpū Manukura.

Another rationale would be to lobby for inclusion using economic arguments which present indigenous students as a potential new market that with investment would lead to an increase in enrolments for increasing student numbers for quantity-type funding. This approach uses language the dominant paradigm understands in order to leverage space for indigenous considerations as an effective mechanism for increasing successful educational outcomes.

Strategies for inclusion

It is suggested that the following three strategies may assist in lobbying for increased inclusion and consideration of indigenous issues by tertiary education institutions.

The Devil is in the detail

Lobby for and use consultative processes in drafting strategic documents in order to increase consideration of indigenous issues. This strategy requires an understanding of the nexus if any, between legislation and policy concerning equality, indigenous peoples and human rights and the University Charter, the regulations governing law curricula and the legal provisions relating to issues of indigenous education.

Grow your own academics

Establish a student-to-academic development plan that increases recruitment, retention and completion of degrees that may also lead on to post-graduate study and possible academic appointments. Law, like management, is an area with a strong focus on attaining professional qualifications and as such, there is not the same emphasis on the attainment of higher degrees. In addition, Māori legal academics from Waikato Law School have been appointed to the bench as judges creating a somewhat interesting problem of staff retention. The focus on the profession and the appointment to the bench of existing legal academics results in the need for a strategy to encourage higher level learning that would result in more sophisticated consideration of issues from a Māori legal perspective as well as an increase in higher levels of qualifications of individual Māori. An increase in the number of Māori academics allows for the increase of consideration of Māori culture within the institution.

Find some friends

Develop networks and relationships with similar organisations with similar interests. The collective lobbying of Te Piringa, the Māori and Indigenous Doctoral Student Network and the inaugural conference on the future of indigenous legal studies in Australasian Law Schools are all examples of the effectiveness of this strategy (“The Future of Indigenous Legal Studies in Australasian Law Schools: Incorporating Indigenous Issues in Law Curricula” held at Faculty of Law, University of Sydney, on 10-11 July 2008).

Conclusion

The strategies and initiatives in place at the School of Law and at the University of Waikato have developed incrementally over a number of years. This process somewhat mirrored the increasing awareness of Māori and Treaty of Waitangi issues in Aotearoa/New Zealand society. The respect for indigenous rights in society had a flow-on effect for institutions and legislation and the current initiatives and strategies reflect the intergenerational nature of incremental change.

In general, the rationale for inclusion of indigenous issues under the Treaty has been justified upon the grounds of social contract and social justice. Social justice focuses on the equality of outcomes and can be applied to the tertiary education sector in relation to the equality of education outcomes between Māori and non-Māori or between any minority groups in relation to the dominant majority. In the international indigenous context, equality of outcomes has been expressed as the State and its institutions having a fiduciary relationship in favour of indigenous peoples similar to the arguments proposed in recognition of indigenous peoples of Canada and in moving beyond formal equality to substantive equality. By applying the arguments for social justice and equity supported in the literature (see Jackson, 2005; Von Doussa, 2005), the absence of a comparative treaty, such as in the Australian circumstances, does not preclude the successful lobbying of increased recognition of indigenous issues in either the curricula of a particular school or in the University overall.

While the circumstances and contexts of the recognition of the tangata whenua of Aotearoa/New Zealand may be different to those of other indigenous circumstances, many key issues are the same. Such issues are dependent upon the relationship between the colonial settlers and the subsequent dominant paradigm in engaging with indigenous peoples.

The incorporation of indigenous issues in the law curricula is a matter of careful consideration. The experiences of early Māori law graduates are useful in highlighting some issues that indigenous lecturers of other tertiary institutions may already be familiar with. In essence, making space for indigenous issues in law curricula, and in the wider University generally is dependent on the perception of the importance of indigenous issues by the individuals responsible for lecture content and decision-making processes within the institution. Generating discussion about indigenous issues is the first step to wisdom and well-being.

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