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RIGHTS AND RESURGENCE IN AOTEAROA NEW ZEALAND

A qualitative study of Māori perspectives on the United Nations Declaration on the Rights of Indigenous Peoples' role in self-determination

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Abstract

The 2007 United Nations Declaration on the Rights of Indigenous Peoples (the Declaration) has gained increasing attention as a tool for promoting Indigenous rights. The study reported in this article contributes to the discussion about the Declaration's effectiveness by analysing its role in advancing Indigenous peoples' self-determination. A qualitative case study was conducted between January and February 2018 with 18 Māori activists in Aotearoa New Zealand, using a rights-based and Indigenous-based approach to form the analytical framework. Principal findings indicate that the power imbalance in Aotearoa and weak responsiveness by government to Māori rights undermine their self-determination. The Declaration can help bridge this imbalance by providing norms and standards to hold government accountable. This article also provides new scholarship on how and why Indigenous activists utilise rights-based and Indigenous-based approaches, finding that no single approach or advocacy method is used alone and that Māori deftly combine the Declaration with Indigenous methods of activism to enhance their self-determination.

Keywords

Indigenous peoples, rights, resurgence, United Nations Declaration on the Rights of Indigenous Peoples, Māori

Introduction

Rights-based approaches, rooted in international human rights, protect citizens from injustices and promote development, introducing internationally accepted standards and principles which obligate states to uphold rights and hold them accountable for failures. However, rights-based approaches face critique and lingering questions about successful goal achievement (Grugel & Peruzzotti, 2007, 2012) and their ability to influence sovereign states (Engle, 2011; Hewitt, 2017; Lemaitre, 2011; Morales, 2017). Indigenous scholars also raise criticisms of rights: Some scholars argue that Indigenous-based approaches, grounded in relationships, responsibilities and resurgence, are more appropriate for Indigenous peoples (Corntassel, 2012; Engle, 2011). The 2007 United Nations (UN) Declaration on the Rights of Indigenous Peoples (the Declaration), as an Indigenous and state-drafted rights instrument for justice,

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is being increasingly discussed to determine its utility in advancing Indigenous peoples' goal of self-determination.

The Declaration conceptualises Indigenous peoples' self-determination as "the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions" (United Nations Declaration on the Rights of Indigenous Peoples [UNDRIP], 2007, p. 4). Some scholars view this version of self-determination as a watered-down compromise with states that feared stronger conceptualisations could imply statehood or secession rights for Indigenous peoples (Engle, 2011, p. 145). Article 5 of the Declaration, however, reads:

> Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State. (UNDRIP, 2007, p. 5)

This article has led other scholars to argue that the Declaration approach is still strong in establishing Indigenous "self-determination in political, legal, economic, social and cultural matters" (Borrows, 2017, p. 23).

As secession or statehood are not often pursued in contemporary Indigenous movements (Engle, 2011), the study reported in this article based its concept of self-determination on elements of the UN definition, including autonomy and self-governance in internal affairs, while recognising movements for pluralistic governance between Indigenous peoples and state governments. The study also considered the broader range of issues over which Indigenous peoples should exercise self-determination, based on the 1993 draft of the Declaration, including health, education and resource management.* Crucial to the research's context, self-determination is also a component of the Māori concepts tino rangatiratanga and mana. The study further recognises that issues discussed with interviewees are inextricably linked to self-determining activities, and the Declaration's use in supporting Māori claims necessarily supports their self-determination.

Critically, the Declaration was changed in the final hour from guaranteeing Indigenous peoples the right *of* self-determination to guaranteeing us the right *to* self-determination, a change which Māori activist, scholar and Declaration-drafter Moana Jackson (personal communication, October 3, 2017) argues implies that the right of self-determination is not inherent in Indigenous peoples as it is in others, but is something we may someday be granted or achieve.

Knowing that we are inherently self-determining, in this research I explored the Declaration's role in Indigenous activism and claims which advance self-determination, contextualising it within domestic challenges to Māori rights and the New Zealand Government's sincerity in endorsing the Declaration. This research departs from existing literature by Indigenous and non-Indigenous scholars in multiple disciplines in order to fill a gap in empirical research from Indigenous peoples' perspectives and draw conclusions on the strategy behind Declaration use and the interaction between rights-based approaches and Indigenous-based approaches to advancing self-determination, which remain thin.

Approaching this work as a Chickasaw scholar, Indigenous to Turtle Island, and from the International Development discipline, I apply the analytical framework of rights-based approaches and Indigenous-based approaches to explore the perspectives of 18 Māori activists who are champions of self-determination in their communities and fields. Findings indicate that conditions for Māori substantively match those which the Declaration strives to improve, and a majority of Māori activists use the Declaration pragmatically as one of many creative tools to complement their Indigenous-based approaches and advance self-determination.

This article first provides background on the Declaration, drawing on existing literature. Next, an outline of the analytical framework is followed by a description of the research methods. Empirical findings address the research aims, before concluding remarks are offered.

Background

Passed by the UN in 2007, the Declaration is the most extensive international tool for Indigenous peoples' rights (Tauli-Corpuz, 2017). Drafted over almost three decades, largely by Indigenous peoples from all over the world, including Māori, the Declaration addresses issues of culture, identity,

* The full list from the 1993 draft includes "culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members" (Engle, 2011, p. 145). These issues are considered here as a closer approximation to Indigenous peoples' conceptualisation of self-determination, as they were originally collectively proposed by Indigenous drafters but later omitted in negotiations (Engle, 2011).

lands, territories and natural resources, equality and non-discrimination, fundamental freedoms, sovereignty, consultation, and more. Yet it faces challenges. The primary debate on its utility is whether its non-binding, soft law status is detrimental or advantageous, and whether endorsing states are genuinely committed to implementing it. Though this study is not grounded in law, the prominence of this debate in the literature and among Indigenous communities warrants longer discussion. Engle (2011) argues that the Declaration is not progressive in asserting legal implications, and that key Indigenous rights are rigorously qualified and ultimately superseded by the Declaration's allegiance to state sovereignty. Others maintain that soft law can still be influential in a number of ways. First, its flexible nature affords it a prominent role in setting international norms as it is interpreted and elaborated upon in various mechanisms (Barume, 2017; Lemaitre, 2011). Second, as a collection of previously committed to binding rights from other instruments, it has strong legal authority (Bellier & Préaud, 2012). Finally, soft law has an advantage over binding treaties because it encourages broader endorsement and allows Indigenous peoples to engage with states around implementation (Barelli, 2009). However, state engagement is not always easily accomplished, and while flexibility theoretically allows creative implementation strategies, it has also been used by numerous states to justify a lack of progress in implementation (Favel & Coates, 2016). Several endorsing states, including New Zealand, interpret it as merely aspirational, or claim their national laws and standards protecting Indigenous rights exceed Declaration standards (Favel & Coates, 2016).

In Aotearoa, scholars offer diverse conclusions about factors influencing the Declaration's impact. Erueti (2017) argues successive governments have intentionally demarcated Māori rights within the arena of culture and property to avoid commitment to more substantive historical rights of Māori tino rangatiratanga (p. 717). Alluding to issues of power and state will, this indicates the force with which the state attempts to dictate the confines of the Declaration's domestic utility. It also premises that governments may consider some rights "safer" or "easier" than others. As is the case with other Indigenous peoples (Tauli-Corpuz, 2017), advancements in Māori rights are frequently stymied by politicians and third parties who believe that distinct advancement in Māori rights is discriminatory, exclusionary and even racist against non-Māori groups (Erueti, 2017), leading to minimal focus on areas that would restore tino rangatiratanga or other historical rights critical to Māori identity, culture and mana.

Johnstone (2011) identifies the Declaration as a relevant tool for Māori, given its comprehensive protection of Indigenous rights and collaborative Indigenous and state origins. She credits the Waitangi Tribunal, the legal community and those who make submissions to the Waitangi Tribunal and courts with giving the Declaration early prominence as a supporting lever for Māori rights (Johnstone, 2011), yet she stops short of analysing the strategy behind Declaration use.

Internationally, the Declaration is complemented by mechanisms such as the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and the UN Permanent Forum on Indigenous Issues. Though invaluable as a means for gathering information about injustices against Indigenous peoples and for making recommendations to states, Indigenous peoples and other UN bodies or partners, these mechanisms can be difficult for Indigenous peoples to access as the forums are expensive to attend and using them requires extensive paperwork and preparation (P. Newton, personal communication, October 3, 2017; T. Whare, personal communication, October 3, 2017).

Barume (2017) finds the Declaration was used successfully with other rights instruments to support Indigenous claims after the "exhaustion of domestic remedies" (p. 2), and Ornelas (2014) notes its incorporation into multifaceted campaigns. However, neither researcher offers further insights on the strategy behind different method selections, leaving it unclear how the Declaration fits into a broader strategy of Indigenous activism.

Analytical framework

This research is grounded in two approaches to Indigenous activism: rights-based approaches and Indigenous-based approaches. Rights-based approaches to development are rooted in the need to impose basic restrictions on state power (Grugel & Piper, 2009) by adopting internationally accepted standards to emphasise rights, obligations and states' accountability (Keck & Sikkink, 1998). This approach relies on international rights instruments like the Declaration or the Universal Declaration of Human Rights and the bodies and special rapporteurs that investigate and report on state compliance with them. If states do not honour rights commitments, the appropriate rights bodies and rapporteurs may issue rebukes and make suggestions for improvement.

Through rights-based approaches, Indigenous peoples' self-determination no longer becomes a "nice to have" privilege from a benevolent state, but a minimum standard that states are compelled to guarantee. As many states are reluctant or insufficient in upholding Indigenous rights (Lemaitre, 2011), the international community and rights standards become tools for activists to impose influence on otherwise unresponsive states. This model has been called the "broken triangle" (Cotterill, 2011; Keck & Sikkink, 1998; Roth, 2004).

Modified from Cotterill (2011, p. 4), Figure 1 represents directions of influence over Indigenous rights. Crucially, there is little to no influence from the rights holders/advocates over the government, so they pressure their government through the international community, providing an otherwise unlikely check (Nelson & Dorsey, 2008). For soft law declarations, a check emanates from UN body recommendations, political solidarity and support or through expertise and network sharing, such as EMRIP provides. However, international influence over states is imperfect and variable (Barelli, 2009; Barume, 2017; Cotterill, 2011; Hewitt, 2017; Lemaitre, 2011), and states may make superficial changes (Goodman & Jinks, 2008).

Another concern is that sovereign states are legitimised as the guarantor of rights. This is problematic given the complicated history of states and Indigenous peoples, wherein states are frequent perpetrators of injustices against the latter (Cultural Survival, 2017; Tauli-Corpuz, 2017). This creates a contradictory situation within rights-based approaches, which are intended to help check state power while also reaffirming it.

Indigenous-based approaches—derived from the distinct values, practices and worldviews of Indigenous peoples—help explain methods and strategy behind Indigenous activism. Corntassel (2012) and Bellier and Préaud (2012) believe rights-based approaches can address Indigenous needs in limited ways, but Indigenous movements should focus primarily on shared values of *responsibilities*, *resurgence* and *relationships* to advance self-determination (see Figure 2).

Drawn from Corntassel's (2012) arguments, Figure 2 shows a holistic network of relationships at the foundation of Indigenous identity (Bellier & Préaud, 2012; Coburn et al., 2013; Corntassel, 2012). Indigenous peoples have inherent responsibilities to the natural world, our ancestors, our future generations, and everything in the relationship network. Resurgence involves actions that fulfil and honour these responsibilities, including revitalising Indigenous languages, growing and eating traditional foods, or performing ceremonies (Corntassel, 2012). In Aotearoa, activism centred around Te Tiriti, such as Waitangi Day protests or Treaty-based court arguments, is the primary example of an Indigenous-based approach, as this activism derives from traditional Māori values. Essentially, Indigenous communities' flourishing is dependent on revitalisation of the values, practices and methodologies which operationalise our responsibilities as guardians over our many sacred relationships. For development to be fully effective, these elements must be at the forefront of design and practice (Bellier & Préaud, 2012; Coburn et al., 2013; Corntassel, 2012).

Corntassel (2012) argues that rights-based approaches divert attention and energy away from

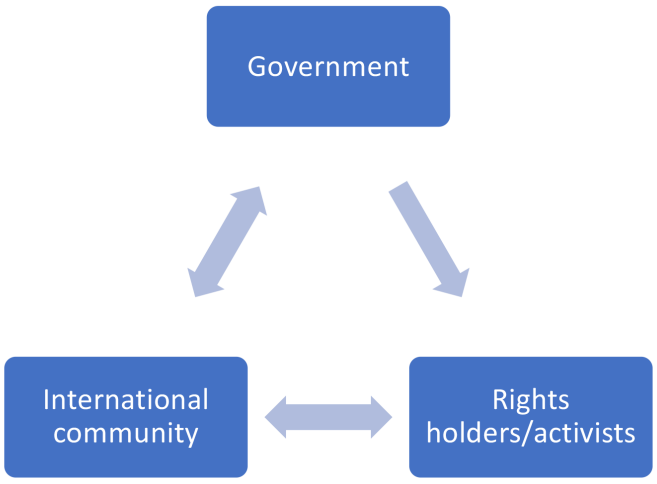

FIGURE 1 The broken triangle model

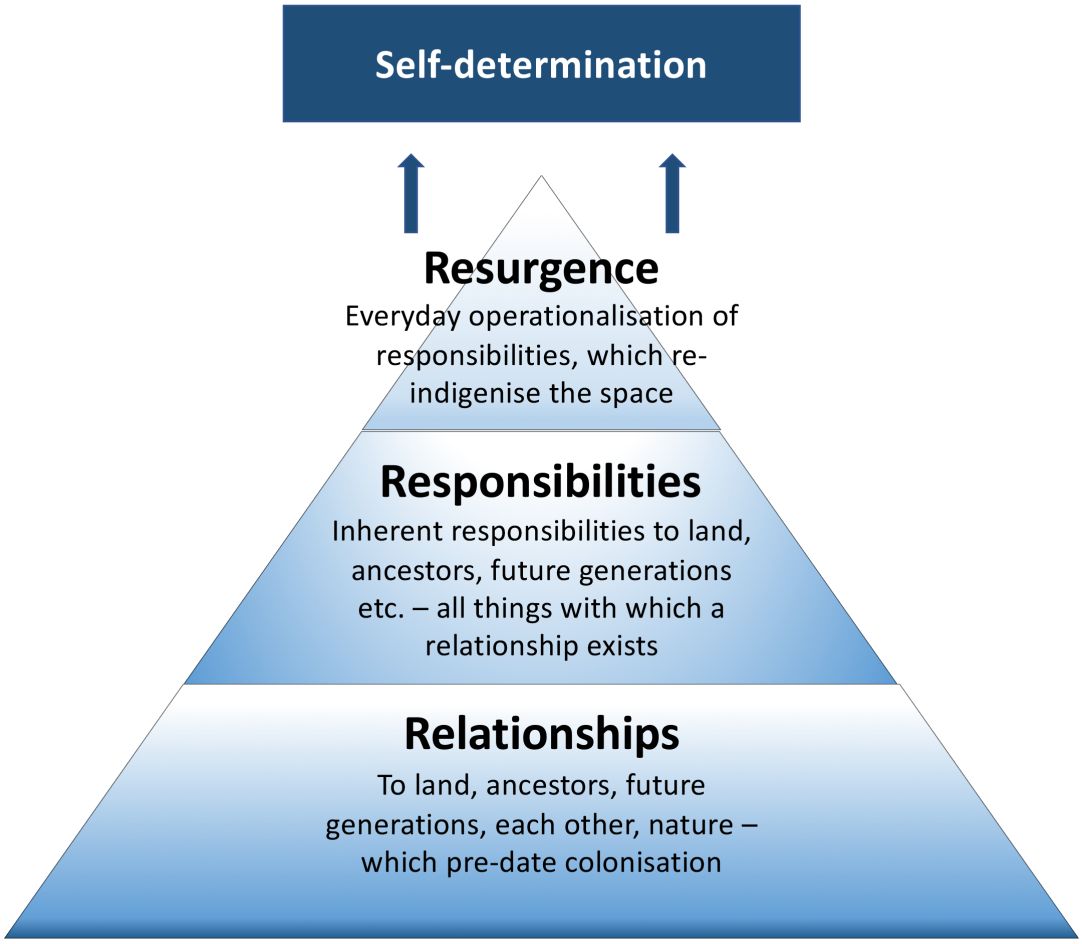

FIGURE 2 Indigenous-based approaches

Indigenous approaches, assimilating Indigenous peoples into the system of colonial entities. However, exaggerating the dichotomy between rights-based approaches and Indigenous-based approaches is an oversimplification and diminishes the significant advancements made through combining them. It overlooks the opportunities rights-based approaches provide for advancing self-determination, such as international support and capacity building, and lacks consideration of Indigenous peoples' extensive engagement with the international community. Indigenous peoples advocate in multiple ways, often combining the two approaches, even being "emboldened" to exercise resurgence because of rights protections (Ornelas, 2014, p. 12). As a product of rights negotiations between states and Indigenous peoples, the Declaration is itself a manifestation of the combined approaches. Reflecting on the combined contributions of the two approaches and the conclusions of existing literature, a new operational model is proposed in Figure 3.

Unlike previous models presenting approaches separately, the complementary framework model designed for this study incorporates how activists use both approaches complementarily to advance self-determination. As the arrows depict, this may affect self-determination directly, as with norming or resurgence, or by influencing government or third parties, as with UN pressure or protests. National bodies like courts and commissions can also drive rights (Johnstone, 2011) by providing forums for activists, submitting reports to international forums or setting jurisprudence (Barume, 2017). They also interact with government and third parties through law and recommendations (Barume, 2017). Third parties such as extractive industries can hinder self-determination through their influence on government (Morales, 2017), and the government itself can either violate or promote Indigenous rights.

Consolidating the relevant activities, characters and their relationships, and their impact on self-determination, the analysis tests the model and

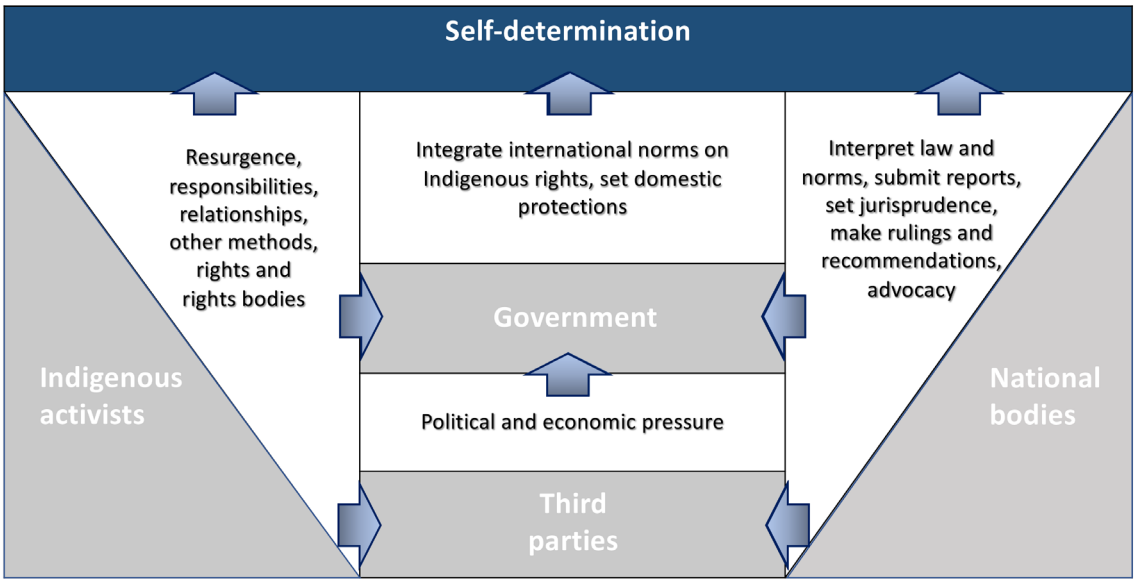

FIGURE 3 Complementary framework model

reflects on its usefulness in explaining the interaction between Māori self-determination space and the Declaration.

Research methods

A qualitative single instrumental case study was used to elicit rich, in-depth details on Māori perspectives to infer generally the role the Declaration plays in advancing self-determination for Indigenous peoples (Creswell, 2007). Studying in Aotearoa helps fill the research gap on rights' impact in countries with purportedly advanced Indigenous rights agendas (Grugel & Peruzzotti, 2007). Māori activists were chosen because they have a long history of engagement with their rights (Charters, 2007), resulting in substantive and institutional knowledge of the Declaration and the UN. Indigenous activists are also vital actors in pressing for reform (Grugel & Peruzzotti, 2007; Nelson & Dorsey, 2008).

Primary data was collected through 15 semi-structured one-on-one interviews with Māori activists (referenced as Activist A, B, etc.) and one focus group comprised of three (referenced as F-Activist 1, 2, etc.). The 18 activists were based throughout Aotearoa, and the period of data collection was January–February 2018. Activists were purposively sampled for their ability to make substantive contributions to the research (Bryman, 2007) and came from a range of fields, such as Māori health, education, children's rights, Indigenous rights law, Treaty law and the criminal justice system (see Table 1). Identified through a Māori gatekeeper who works extensively in the national Māori community, the activists varied in years of experience, age and gender, and their previous work was investigated to ensure a range of opinions.

Interviews were audio recorded, transcribed for accuracy, and coded using NVivo qualitative data analysis software. Secondary data, including organisational reports, government documents, Māori essays and Māori speeches from a national Declaration conference attended by the researcher, provided additional context and insight to enrich results and reveal patterns (Bryman, 2007; Tracy, 2010).

Results and discussion

This section reviews the current condition of Māori rights and the Crown relationship, provides insights into activists' conceptions of sovereignty and self-determination, and analyses the Declaration's role in their activism by discussing the four main themes that emerged through the study. These are: Domestic challenges to Māori rights; Government sincerity in endorsing the Declaration; Usefulness of the Declaration; Declaration use in Aotearoa.

Development of the Māori-Crown relationship

Preceding the Declaration, the primary protection for Māori rights in Aotearoa is Te Tiriti o Waitangi (Te Tiriti/the Treaty). It framed the relationship between the Crown and Māori as one of partnership, in which Māori retain tino rangatiratanga, equality and the right to participation

TABLE 1 Activist attributes

Gender	Age	Education	Field	Activist years
M	29	Master's	Environmental issues	25
M	44	PhD	International human rights	10
M	41	PhD	Legal advocacy, the Treaty, Māori land, criminal justice, Māori Justice Network	40
M	27	Two bachelor's	Legal advocacy	"Since I was 9."
M	64	Master's	International human rights	"Since university, so 20 years ago."
M	30	PhD	International human rights	30
M	30	Indigenous school of learning	International human rights	20. "I am not sure if you suddenly become an activist, or rather you just pick up on issues as they come along."
M	40	Bachelor's	International human rights	22
M	52	Bachelor's	Legal advocacy, criminal justice	"Since I was very young. That is what has been reflected back to me from my parents and grandparents."
M	56	PhD	Te Tiriti, constitution	"We were groomed into these positions from very young."
F	38	Master's	EMRIP, Committee on the Elimination of Racial Discrimination	"Still striving to be an activist."
F	44	PhD	Public health, United Nations Convention on the Rights of the Child	"With awareness, only about 7 or 8 years. And then there are just some things you practice when you are growing up that you value, that I would not have known as activism, I would have just known it as the right thing to do."
F	47	Master's	International human rights	"I am an activist, but it is just a normal part of being Māori rights to be involved in these kinds of issues."
F	41		International human rights, Waitangi Tribunal	"Probably all my life. But as an active formal one, 45 years. My aunties and nans told me when I was a little kid, and all my life, this is your job."
F	46	Bachelor's	Children's rights, public health	"All my life. I have always been passionate about justice. I have always known how important it is to stand up for yourself and what you believe in. Everyone is an activist really, if they know how to use their hands and mouths to stand up for what is right."
F	69	Some tertiary	Environmental management	15 "I was just born into a family that has valued social justice and has valued Māori rights and standing up for rights."
F	55	Master's	Treaty-based organisation, human rights education and Treaty rights	25
F	48	Bachelor's	International human rights, Indigenous rights, monitoring	10

Note: All attributes here are unmatched. New Zealand has a small population and the community of activists is close, so there is concern over activists deducing the identity of others. Efforts were made to ensure that confidentiality is maintained by providing pseudonyms and detaching identifying demographics from individual responses.

(NZ Human Rights Commission, 2016), and allowed the Crown to establish a governorship in the country.

However, the Crown's Te Tiriti promises have not been kept. Historically and currently, Māori have experienced violation of their rights through discrimination, health and justice inequities, land appropriation, cultural suppression, and lack of self-determination. Te Tiriti is not structured into New Zealand's legal foundations, leaving Māori rights in a flux of vulnerability and captive to the whims of changing governments (Activist B; NZ Human Rights Commission, 2016).

With current circumstances so detached from Te Tiriti obligations, all activists expressed that their main goal is to see these promises actualised, specifically the restoration of unhindered and comprehensive tino rangatiratanga. For Activist C, this means embracing a collaborative partnership with government, even on Māori-specific issues. This view on partnership differed from that of the majority of the activists, who fight for a system wherein the government governs the nation but Māori retain local control of their own affairs, lands and issues of vital concern like resource management, health and youth justice (Activists B, D, E, G, I, J, K, L, M, N and O). Activist I believed that some things Māori should govern, some things government should control, and they should partner equally in making decisions on many things in the middle. Activists F and L highlighted the urgency of a conversation as equal partners regarding restoring sovereignty and Te Tiriti, while others (Activists G, H and N) noted that Māori across Aotearoa have already consulted on models for Te Tiriti partnership for the *Report of Matike Mai Aotearoa—The Independent Working Group on Constitutional Transformation* (Mutu & Jackson, 2016), and they would like progress in implementing one of those models.

All activist responses highlighted resurgence, responsibilities and relationships as important aspects of self-determination, whether through resurgence of Māori values in education (Activist H; F-Activist 2), in the justice system (Activists E and K) or in child health (Activists A and C); through relationships among Indigenous peoples in international forums (Activists J, L and O); or through responsibilities to care for the whenua and tangata whenua (Activists D, G and J). Several activists (Activists G, H and L; F-Activists 1–3) also called on government to accept Māori attempts to engage it in honouring its 2014 agreement to implement the Declaration in full (Human Rights Commission, 2018; NZ Human Rights Commission, 2016).

Domestic challenges to Māori rights

Reflecting circumstances the Declaration was designed to address, activists identified the Māori-government power imbalance and successive governments' fear of losing power as primary obstacles to self-determination. New Zealand lacks internal checks against parliamentary supremacy and phrases like "unchecked government power", "parliamentary sovereignty", "supreme authority" and "concentrated power" were frequently used by activists: "They hold all the cards, we have to play their game . . . It's pretty frustrating" (Activist O).

Evident throughout the transcriptions was a complete divergence in Māori and government understandings of the world, and a lack of partnership in bridging this mismatch. Some activists acknowledged the government's actions make sense for government but not Māori; government thinks that if it makes sense to them, it makes sense for everyone (Activist H and L; F-Activists 1–3). Both can view the same issue and draw completely different conclusions, illustrating that Indigenous worldviews generate distinct perceptions of a problem and the appropriate solution (Bellier & Préaud, 2012; Coburn et al., 2013; Corntassel, 2012). For example, after over three decades of awareness that discrimination exists at every level of the criminal justice system (Activists C, E, K, N and O) and multiple admonishments from international forums (Human Rights Commission, 2018), Māori incarceration rates have only gotten worse (M. Jackson, personal communication, October 3, 2017). Activist C pointed out that Māori men's lifelong negative engagement with the criminal justice system usually starts with them driving without a licence: "Well, why don't you invest in getting them driver's licences?" Another illustrates the lack of Māori worldview in the education system:

> Even if it . . . is supposed to be [an] Indigenous educational space, most are set up with a teacher up front and a square classroom with kids sitting at a square desk, square chairs, and that's not an Indigenous learning space. We still fall into the paradigms we've been given and try to label it as ours but it's not. (F-Activist 2)

By carrying on with existing power structures and ways of doing things, government reproduces patterns of discrimination. Without concerted

effort to partner and resolve these issues from a point of mutual understanding, they seem likely to continue.

Although activists E, F, I and K acknowledged government efforts were better than many other states', or that they make small advancements—such as establishing the Waitangi Tribunal in 1975, giving legal identities to rivers and mountains, and formalising te reo Māori classes—they frustratedly concluded that substantive, sustained and fully participatory action hasn't occurred, and that New Zealand governments who have engaged treat them more like contractors than partners:

> The disappointing thing in all the things I've tried to change in the last ten years—we haven't had *meaningful* changes . . . It's hard for me to think what we've achieved because there are pockets of things, but we haven't achieved transformative change for our people. (Activist K)

Activist J shared a story about the land that captures many activists' overwhelming sense of long-standing government disregard for Māori:

> The ocean just here, they closed it off in the '60s and made the Mangere wastewater treatment plant, and they polluted it with all of the sewage waste. So we lost access to our pantry. Then we had to adapt, and we started to use the awa [rivers], but then they closed the access off to that, and it was polluted, and then we lost all of our custom and practices to access food. And it just goes on and on and on. When they did the second runway for the Auckland airport, they unearthed 87 bones, [even] after we'd told them that there was a 600-year-old [Māori] burial site there. They still progressed with it. They returned the bones to us in a sack and said we had to bury them somewhere else.

Activist F listed examples of efforts to engage government and being rebuffed, calling it "relentless".

Government sincerity in endorsement

Findings indicate the New Zealand Government did not intend for the Declaration to be consequential when it endorsed it. Initial refusal to endorse "was a *huge* statement to tangata whenua about the value that the state placed on us" (F-Activist 3). Activist H asserted that endorsement in 2010 was politically motivated because "they wanted the Māori Party in government . . . It was one of the non-negotiables for the Māori Party to join the coalition." Some activists corroborated scholars' accounts that the government disputed the binding nature of the Declaration and rights of self-determination, power sharing, and more historical rights like land (Activists B, F, G and L; F-Activists 1–3), reflecting arguments that some rights are easier for governments to support than others (Engle, 2011; Erueti, 2017; Ornelas, 2014).

Findings reflect existing research that follow-through on the Declaration is low, even when national bodies and the international community suggest greater action (Bellier & Préaud, 2012; Hewitt, 2017; Lemaitre, 2011; Ornelas, 2014): "We keep saying 'set up a work group' [for implementation]. And it's just a mantra that I keep bleating all the time to them" (Activist H). F-Activist 3 lamented that "nothing has been gained without protest. Nothing has been gained without activism". Referencing six years of reports by the Independent Monitoring Mechanism for the United Nations Declaration on the Rights of Indigenous Peoples in Aotearoa New Zealand (see Whare et al., 2017) that found the same or worse disparities in health outcomes, Activist F wondered: "How can we really say the government is taking heed of the Declaration?"

Government insincerity is no impediment to Māori activism: "You say it's irrelevant as much as you want; we're not saying that" (Activist H). By combining all approaches available, including work with the Iwi Chairs Forum (Activists, F, H and G) and EMRIP (Activists A, B, C, G, J, K, L, M, N and O; F-Activist 1), or simply asserting themselves through resurgent acts like speaking te reo at home and at work (F-Activist 3), they still advance self-determination and drag the government towards their cause (Goodman & Jinks, 2008).

Usefulness of the Declaration

Activist D felt the Declaration is weak on self-determination and of limited value in New Zealand. Activist K also believed that domestic laws are stronger and that the primary value of rights-based approaches is forums like EMRIP. However, the other activists saw the Declaration as a relevant and complementary tool. Activist H is so "nutty about the Declaration" that they carry it everywhere, even reading from it during our interview. Activist G summarised: "I look at the Declaration in terms of can this help my people? and hell yeah, it can . . . It addresses issues that are fundamentally important to my people . . . It gives the ability for Indigenous peoples to exercise their self-determination."

Activists explained that they commonly hear Māori say the Declaration has no "teeth" (Activists

B and O; F-Activist 2) and dismiss it because it is not codified: "Declarations are pretty hard to get compliance about because they're totally voluntary for states" (Activist H). However, they argue that "there are other ways you can normalise the Declaration and it can . . . be quite powerful" (Activist M). One is through national bodies like courts: "There are common law courts all over the world that are taking it on into their jurisprudence. BAM! Legal authority!" (Activist F). F-Activist 2 agreed the non-binding status is inconsequential:

> I acknowledge that everything that human rights are built on—the Universal Declaration of Human Rights—that's still a declaration and it's done so much for humans all over the world. So I don't hold on to giving it a certain mana; it stands on its own.

In keeping with others' findings (Bellier & Préaud, 2012; Corntassel, 2012; Engle, 2011; P. Newton, personal communication, October 3, 2017), the activists in this study explained that their scepticism relates to rights being rooted in a state-centric, neoliberal worldview:

> They emphasise the central role of the state . . . given the problematic history between Indigenous peoples and states, you can see immediately the tensions there . . . Human rights are intricately tied up with neoliberalism, and individual rights and property, so it's problematic that way, knowing how that has ravaged Indigenous communities. (Activist N)

Activist D shared this scepticism, preferring resurgence over rights-based approaches.

These reservations were not shared by most activists. Many embraced rights and saw them aligning strongly with their worldviews (Activists A, B, C, L and M; F-Activists 1–3). Activist J explained that the Declaration reaffirms the inherent rights of Māori, and what has always existed in Aotearoa. Similarly to Johnstone (2011), these activists believe the Declaration's unique roots in their community demonstrate how Indigenous peoples can use rights to support their aspirations.

Declaration use in Aotearoa

Activists who use rights-based approaches challenge government's dismissive attitude toward the Declaration. Aligning with Moana Jackson (personal communication, October 3, 2017), many believe that the more Māori use the Declaration, learn about and discuss their rights, the more the government must recognise it (Activists B, C, F, H, I, J, L, M and O; F-Activists 1–3). They note that understanding and use of the Declaration is still low, but that its relevance makes it an important tool for Māori to learn about and incorporate into activism. Responses strongly support the literature that even insincere governments cannot resist the permeating nature of human rights norms while activists continue to demand them (Barume, 2017; Goodman & Jinks, 2008; Lemaitre, 2011):

> It has a snowballing effect: as it's used in international fora to monitor New Zealand, as it's used in parliament and courts, it will gain traction, and become one of the standards against which you assess Crown actions . . . It's a matter of time. (Activist M)

In New Zealand, as with other cases (Barume, 2017), this normalisation is aided by national bodies also integrating the Declaration (C. Charters, personal communication, October 3, 2017; M. Jackson, personal communication, October 3, 2017). In addition to courts, the Waitangi Tribunal has helped "provide precedent for cases to come" (Activist J) and created an "osmosis" (Activist G) effect, allowing the Declaration rights to seep "into local thinking" (Activist B). However, acknowledging that few Māori or government officials understand the Declaration currently, activists pressed for increased education concerning it, and several include awareness-raising as a primary goal (Activists B, H, L and N; F-Activists 1–3).

Two inter-related uses of the Declaration are as an independent rights standard and as a way to reframe Māori rights as human rights, mitigating the political controversy Māori often see when self-advocating (Activists B and O; F-Activist 1). Declaration articles are "baselines for what should be universal standards expected by New Zealand and other states" (Activist O) and are used to show government shortfalls. This reflects the "shift in development" from benevolence to obligation (Grugel & Piper, 2009; Nelson & Dorsey, 2008), as explained by F-Activist 1:

> Some of the benefits are around framing [Māori rights] as human standards and . . . having to do something about it . . . Not special privileges or . . . something Māori are greedily trying to get their sticky fingers on . . . or something out of kindness of your heart as a government.

Framing Indigenous rights as human rights broadens them from being seen as privileges for Indigenous peoples, and instead "means they're an

issue for social justice . . . something that all Kiwis [New Zealanders] can identify with and support" (Activist B).

Activists using the Declaration value the external check that independent standards provide (Grugel & Piper, 2009; Nelson & Dorsey, 2008) as helpful for overcoming domestic political challenges:

> It offers an avenue for them to surface their human rights breaches and bypass the state. Oftentimes the state is the problem. Indigenous peoples are constantly taking our issues to the state and not being listened to, not being valued . . . and fobbed off, really. So, there is . . . that ray of hope that maybe something external might be able to effect change within Aotearoa. (F-Activist 3)

This supports the analytical model and rights literature (Cotterill, 2011), that when other methods are ineffective at creating change, rights-based approaches are another avenue for influence. Influence stems from a combination of recommendations, media, being called out in forums, and overall negative attention that activists feel embarrasses the government, which they say likes to think it is doing well on Indigenous rights. As already established, this is not always effective as government may ignore it, but successes also occur: after several international recommendations (Whare et al., 2017) and a multifaceted domestic campaign, the Labour Party promised to conduct an independent inquiry into abuse of children in state care—a top issue for Māori in recent years—before winning the 2017 election and is now taking steps to do so.

Indeed, the primary use of the Declaration in Māori activism has been ancillary. Even the most enthusiastic Declaration supporters note its limits, qualifying it as "influential and supportive, never as a decisive factor . . . [nor] a silver bullet" (Activist M). Activist E explained: "I've not been involved in a project where the Declaration is the hero or leader. It's always been a part of something bigger." This suggests the strategy behind its use:

> We've always been firm that we want to exhaust every legal and political means available to us . . . So we've accessed the UN select committee, the Parliament, we've written petitions, we've launched online virtual occupations, we're occupying the land peacefully and respectfully. We use social media, we used to do newspapers, and we just go everywhere we can really to raise awareness around this issue. (Activist J)

Many activists described including the Declaration in submissions to the government and international community to support court cases and add weight to arguments or to forge a framework for engagement between their iwi and government. Activist A's summary eloquently demonstrates the complementary nature of rights-based approaches and Indigenous-based approaches for advocacy:

> The Declaration is not the be all and end all of international mechanisms that are linked to the UN, [nor] the be all and end all of our Indigenous advocacy. We will do [Indigenous advocacy] regardless, but it certainly adds weight to our work if we do draw on these mechanisms.

Rights-based and Indigenous-based approaches need not be in competition. If rights-based approaches alone are insufficient to be the "hero" of a movement (Grugel & Piper, 2009), they can still strengthen, not replace, Indigenous-based approaches.

Activists also used the Declaration as a guideline and standard for Treaty partnership and tino rangatiratanga achievement:

> With the Declaration overlaid on Te Tiriti, it's like triangulating data, and just makes Te Tiriti stronger . . . Start with a Treaty-based argument with government, then tease it out and say the Declaration says this in particular about xyz. (Activist F)

All activists except Activist D saw the two instruments as partners for Indigenous rights and a way to check government power: "You have this external check on Indigenous rights in the country, whereas the Treaty is inherently limited by being a domestic instrument that's largely determined by the state" (Activist B).

Activists also used the Declaration to reconfigure rights spaces, such as forums, into Indigenous meeting spaces (Activists K and O), and fortify Indigenous methods. Responses revealed a wave of Māori resurgence, honouring their responsibilities to implement Māori solutions:

> If we as Māori don't advocate for ourselves, no one else is gonna do it . . . A reason we're in such a crap position as a people is because of the system, but in terms of improvement, we need to take it upon ourselves. (Activist E)

Examples of resurgence addressed the importance of everyday actions like those discussed by Corntassel (2012), such as creating a "Taniwha

Club" for guerilla gardening of native plants, teaching your children te reo Māori, and insisting people use Māori terms correctly. They also discussed deeper actions such as repossessing their Treaty land, growing traditional foods and rebuilding the justice system around Māori values. Supporting Indigenous scholars' arguments (Bellier & Préaud, 2012; Coburn et al., 2013; Corntassel, 2012), many activists excitedly shared that reasserting their values is of utmost importance for their self-determination and their vitality as a people:

> [We need to] reclaim our tikanga that was lost. We need to be making decisions for ourselves. We need our sovereignty back. In order to reverse the poor statistics that Māori face, we need to take back our mana, decolonise ourselves, educate ourselves, and be brave and courageous. (Activist J)

Activists felt a sense of urgency about and eagerness for Indigenous-based approaches and expressed that the Declaration reaffirms their right to resurgence of culture, land resources and more (Activists F, H, J and M). While some methods are technically illegal (guerilla gardening, blocking government oversight while claiming sovereignty on traditional lands), activists argued that Te Tiriti and the Declaration guarantee these rights and that government laws just have not caught up. Thus, while many methods were used strategically to complement and reinforce each other in the struggle for greater self-determination, many activists concurrently just asserted it.

Concluding remarks

In Aotearoa, several factors influence self-determination's advancement. Activists and government hold different understandings of what Indigenous rights are, how they should be advanced, and whether they are sufficiently respected by government. By many indicators, Māori rights are not being fully realised (C. Charters, personal communication, October 3, 2017; M. Jackson, personal communication, October 3, 2017; NZ Human Rights Commission, 2016; Whare et al., 2017), and progress can vary widely depending on political leanings of current governments (Favel & Coates, 2016). Successive governments have implemented Indigenous rights in piecemeal and often superficial ways that reflect the structural power imbalance that undermines Māori self-determination and underpins many of the struggles Māori face.

Activists are accustomed to weak government responsiveness, yet most believe the Declaration can help with their issues and aspirations and are undeterred by its soft law status. Rights are used strategically to advance domestic norms (Goodman & Jinks, 2008) and identify where government falls short of independent rights standards. This creates obligations on the government and increases pressure, helping activists circumnavigate some of the domestic power disparity and corresponding constraints and achieve successes (Cotterill, 2011).

Still, the New Zealand Government's sovereign power and constitutional design insulates it from a large amount of pressure (Hewitt, 2017; Lemaitre, 2011). While the Declaration is helpful in showing standards, complementing Te Tiriti and other Indigenous-based approaches and articulating Māori rights as human rights, it does not fully escape the same power constraints it is designed to address. Familiar with these limits, activists use multiple methods of advocacy to reinforce their efforts. The Declaration complements tools like Te Tiriti and Indigenous-based approaches focused on relationships, responsibilities and resurgence. It is used to strengthen Indigenous-based approaches by protecting Indigenous peoples' distinct worldviews and right to assert themselves. Activists are also bringing their Indigenous values into rights spaces, wielding the combined methods to better achieve their goals.

The analytical model used in this research has enhanced understanding of the various actors, activities and influence levels identified in the study, affirming its usefulness and contributing to the literature on the two approaches by demonstrating their complementarity uniquely from the perspective of Indigenous peoples and providing new insights on strategy behind their use. Findings reveal the overwhelmingly interconnected nature of the problems Māori face, and the appropriately interconnected activities activists employ to address them, further supporting the need for the interconnected and comprehensive analytic model offered here.

Most activists interviewed comfortably worked in the two worlds of Indigenous-based approaches and rights-based approaches, deftly combining them to challenge familiar injustices in creative ways and advance their self-determination.

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Glossary

Aotearoa	New Zealand
awa	river, canal
iwi	tribe
kaupapa	matter for discussion, agenda
mana	authority, spiritual power
tangata whenua	people of the land, Māori
taniwha	guardian, spirit
te reo Māori	the Māori language
tikanga	customary system of values and practices
tino rangatiratanga	self-determination, sovereignty, self-government
whenua	land

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