



Prior to 1840, [Iwi](#) and [Hapū](#) were vibrant and functional constitutional polities with the right, capacity and authority to make politically binding decisions for the wellbeing of our people and the protection of our lands.

That authority was exercised within the construct and values of our own culture, and was part of a unique constitutionalism that jealously guarded the independence of each polity, while stressing the interdependence that is fundamental to whakapapa.

It included the obligation to maintain the peace or make war, the right to define what we would now call citizenship, and the authority to decide who could enter into our jurisdiction as immigrants, what tikanga would govern their presence, and what entitlements, if any, they might be granted.

In spite of all that has happened in the last 176 years to the effective practice of that constitutionalism, those who took part in the 252 hui held by [Matike Mai Aotearoa \(the Independent Constitutional Working Group\)](#) between 2012 – 2015 are clear that our right to it remains intact.

“I can’t see how we could have existed without mana, meaning that we governed ourselves ... You just have to look at all of the things we did before [Pākehā](#) came to

know that. We made mistakes ... but humans do that everywhere ... it doesn’t mean they’re not in charge of their own lives.”

“Of course we governed ourselves. I’m [Tūhoe](#) and I know that no other Iwi had the right or would even claim the right to make decisions for us ... and because we never signed the Treaty we never intended to let the Crown do what other Iwi had never been able to do to us before 1840.”

“I don’t know of any people who never governed themselves. Self-determination is just a reality which our [tūpuna](#) lived every day. It was real because they did it, and they would literally fight to keep it.”

While constitutionalism and government are often regarded as complex ideas, they are really very simple. Government is the process we choose to regulate our affairs, and a constitution is the code we use to describe how government will function.

Constitutions are based on “[a concept of power](#)” and “[a site of power](#)”. The concept of power is the philosophy a society develops about what constitutional authority is, and the values or interests that underpin it. The site of power is the institution or place where a society decides the authority may be exercised and the limits that might, or not might not, be placed upon it.

Every way of governing, every concept and site of power, is based upon and gives expression to the values of the people from which it comes, and which in turn it is designed to serve. Like the law of any society, a constitution is a cultural creation.

Next week we will briefly consider the Western concept and site of power.

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<sup>1</sup> Edited extract from pp. 30 – 31 of He Whakaaro Here Whakaumu Mō Aotearoa – The Report of Matike Mai Aotearoa – The Independent Working Group on Constitutional Transformation.