



Te Tiriti, Equality and the Future of New Zealand Democracy

Dominic O'Sullivan

‘This will be a seminal book in Aotearoa New Zealand political and Māori scholarship. O’Sullivan moves beyond the weirdness of the Treaty principles and interminable originalist arguments. Instead, he provides a language grounded in republican ideals of non-domination and equality to debate the political morality of our current institutional arrangements. He thinks through the practical implications of rangatiratanga, mana motuhake and community control amongst iwi, hapū and other Māori political authorities – offering a new way of thinking about how we ought to live together, given the legacies of colonisation.’

— Lindsey Te Ata o Tū MacDonald, University of Canterbury,
Te Whare Wānanga o Waitaha

‘I admire O’Sullivan’s work and think it is significant and timely. He explores the potential of deliberative democracy in a commonwealth that draws upon legacies from te ao Māori, the indigenous “world” as well as cosmopolitan modernity in a way that respects his own critique of “a simple Māori/Pākehā or kāwanatanga/rangatiratanga binary”. This holds great promise. As O’Sullivan argues throughout, the challenge is for deliberation and decision-making to be equally shared, rather than unilaterally imposed, as has too often been the case from the beginning.’

— Dame Anne Salmond, Waipapa Taumata Rau, University of Auckland

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Chapter 1

Introduction

This is not a book about ‘them’ and ‘us’. It does not view Te Tiriti o Waitangi¹ as a partnership between races or a partnership between Māori people and the British Crown. Neither does it accept that Te Tiriti created a homogenous ‘one people’ with the assimilation of Māori people into a single Pākehā community. Instead, the book’s ambition is to help shift treaty discourse towards the development of a republican commonwealth. This concept will be explained as the most likely path to balancing and fairly distributing the powers and responsibilities of rangatiratanga, kāwanatanga and citizenship as Te Tiriti set them out.

Te Tiriti was agreed between rangatira (Māori chiefs) on behalf of their hapū (sub-tribes) and the British Crown in 1840. The Anglican missionaries who helped draft it presented it to the rangatira as a sacred and enduring covenant. Te Tiriti allowed the Crown to establish government

1 I follow the Waitangi Tribunal’s practice of using ‘Te Tiriti’ when referring to the Māori text of the agreement, ‘the Treaty of Waitangi’ when referring to the English text, and ‘the treaty’ when referring to the two together.

(article 1), while Māori people would retain authority over their own affairs (tino rangatiratanga) (article 2). ‘The Queen of England agrees to protect the chiefs, the subtribes and all the people of New Zealand in the unqualified exercise of their chieftainship over their lands, villages and all their treasures’ (Waitangi Tribunal, 2025, article 2).

Rangatiratanga is an inherent authority, not one that is secondary or subservient to the powers and responsibilities of government. It is an authority that belongs to Māori persons individually and collectively and reflects hapū as spaces of political authority that predate the state and are also independent of it. Hapū were the original ‘empowered’ spaces (Davis, 2021, p. 379). In this sense they were – and remain – political, just as much as familial and cultural, communities.

Te Tiriti also promised Māori people the rights and privileges of British subjects (article 3) based on the presumption of equal tikanga (culture and right conduct) (Kawharu, 1989). Although rights of subjecthood were limited in 1840, in 2026 they continue to evolve as New Zealand citizenship and may be ‘interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith’ (United Nations General Assembly, 2007, Resolution 61/295).

Citizenship and Liberal Democracy

Citizenship defines who belongs to a state, how and on whose terms. It is a set of rights, responsibilities and capacities, which evolve with changing values and circumstances and determine how people influence society’s development and political structures. It reflects whose values, customs and laws count the most and shapes how public decisions are made. Citizenship describes and guides people’s obligations to one another and the relationships between people and the state. It is, therefore, a value system, which makes it a cultural concept as much as a political one. It has the potential to uphold human equality as an inclusive construct, on the one hand, or undermine it as an exclusive political force on the other. Citizenship presumes a meaningful share in the political authority of the state – the kind of authority that Aristotle (ca. 350 BCE/1984),

the ancient Greek philosopher, imagined when he said that the citizen is simply one who deliberates.

Māori identity is diverse. Cultural affinity and the desire for distinctive voice is stronger for some people than for others. Personal rangatiratanga means that people cannot be homogenised into a simple Māori political box. However, for many Māori people, political and human equality inevitably flows from the claims of culture and desire for independence. This book's purpose is to propose political arrangements to support these claims.

Culture influences people's perceptions of what equality looks like. It shapes people's ideas about what government is for and what it should achieve. It is therefore important that neither culture nor colonialism limit people's experiences of citizenship. We should be able to imagine a society where people of many cultures, including Māori people especially, can retain those cultures while taking a full and meaningful share of the political authority of the state. The alternative is a state where participation requires cultural assimilation (or at least the minimisation of cultural distinctiveness), so that some people cannot take part in public life as *themselves*.

Distinctively Māori voices count when citizenship is practised to allow parity of esteem, which is the outcome of what Fraser (Fraser and Honneth, 2003) calls participatory parity. There are two conditions that participatory parity requires, and just policy processes may be tested against them:

First, the distribution of material resources must be such as to ensure participants' independence and 'voice.' . . . The second . . . requires that institutionalized patterns of cultural value express equal respect for all participants and ensure equal opportunity for achieving social parity. (Fraser & Honneth, 2003, p. 36)

Participatory parity means that citizenship may be expressed differently to meet different cultural understandings of the good life and to ensure that equality is substantive and personally meaningful. Government is not, therefore, the singular possession of a Pākehā political community. For that would require inequality's formal acceptance in the sense that only one culture can rightfully claim 'ownership' of the state.

Although liberal democracies may work unequally in practice, each citizen's formal equality remains an essential ideal in liberal democratic

thought. This presumption of equality explains the tension between liberal democracy and colonialism as a political system that requires the colonised to occupy an inferior position in a hierarchy of human worth.

One should be able to say that a decision-making process is fair even if one is on the losing side in a democratic contest. In this context, fairness means that the process is not culturally foreign and does not create obstacles for the free expression of ideas. It means that Māori people see their tikanga reflected in how the state works so that they have reason to say that their views were not dismissed because they came from a Māori worldview or prosecuted a distinctly Māori aspiration or expectation. This is important because it is the strength of one's voice, not a process that simply occurs of its own accord, that determines whether one influences 'the conditions under which and the practices through which authority is constituted and legitimated, and what these constitutions and legitimations enable and disable' (Shaw, 2008, p. 1). Do these conditions and practices, for example, enable one to be Māori in public life? One response lies in what, exactly, citizenship looks like.

Modern citizenship means that kāwanatanga, or Crown, is not the source of its own power. Responsible government from the 1850s (government that is responsible to Parliament), and its development into liberal democracy, which is by definition always open to critique and evolution, means that by this time the British Crown did not intend for the right to *establish* government to continue as the right to *be* government. Liberal democracy's gradual introduction, well after Te Tiriti was signed, saw the transfer of political authority from the Sovereign to Parliament and the executive. This transfer of authority was the Crown's concession that it saw the powers of kāwanatanga not as its own, but as the property of the New Zealand people.

As citizens, Māori people contribute to kāwanatanga as shareholders in its authority. The project of government is theirs, as much as anyone else's, which means that to claim 'partnership' with government is self-exclusion. It is to position oneself on the outside as a stakeholder in a project that really belongs to other people. Neither Te Tiriti nor liberal democracy can sustain this limited view of political possibility. As shown throughout this book, self-determination is, by contrast, a more substantive body of political rights and capacities, equivalent

to the rights and capacities that other citizens are entitled to expect.

Although it is true that ideas to support liberal democracy's development as a colonial force were drawn from, among others, Aristotle (ca. 350 BCE/1984), Thomas Hobbes (1651/1946) and John Locke (1887/1988), their theoretical perspectives are not monolithic, and there are established strands in liberal democratic thinking that counter Indigenous peoples' exclusion. As a body of thought, with liberty its founding and essential concern, liberal democracy is supported by an expansive and emancipatory scholarship stressing *all* and not just *some* people's freedom. For example, John Rawls (1982), a leading contributor to twentieth-century liberal political philosophy, countered the argument that majority rule rightfully means excluding and silencing others.

The unity of society and the allegiance of its citizens to their common institutions rest not on their espousing one rational conception of the good, but on an agreement as to what is just for free and equal moral persons with different and opposing conceptions of the good (p. 160).

Meaningful inclusion requires serious engagement with Te Tiriti's third article: the Crown's promise of citizenship grounded in equal tikanga. It requires setting aside the third article's obvious nuisance value to those who would prefer to see partnership develop to its full potential, taking the form of a binational state. The third article is similarly obstructive to those who prefer to eliminate Māori distinctiveness from public life, while also diminishing rangatiratanga as an independent and enduring authority.

Inclusion is also important because accepting that government is the people's job means that one needs to think about who or what constitutes 'the people'. Is it everyone, or is it just Pākehā people conducting the affairs of government, only for themselves, and in their own ways?

Against this backdrop, this book considers republicanism's broader ambition and its implications for how political relationships might develop to give effect to Te Tiriti.

The Republic

Republicanism is a theory of non-domination originating in ancient Greek thought that privileges the citizen, not the monarch, as the source of public authority. The first Roman republic, in the sixth century BCE, took the concept from the Latin phrase *res publica* – owned by everyone and not dominated by a monarch. Machiavelli (Matei, 2011) later developed concepts of republican civic virtue, while the Enlightenment thinkers Montesquieu (1748/2005) and Rousseau (1762/1968) developed arguments of popular sovereignty that informed the American and French revolutions in the late eighteenth century.

As a body of liberal political thought, republicanism is not internally homogenous or without dispute over its essential characteristics. Nevertheless, its central tenet is that to be free one cannot be dominated by a master. In its original conception, republicanism was concerned with freedom, defined in part as government by the people for the common good. As a challenge to monarchical power, it holds that good government depends on people sharing sovereign authority by participating in public affairs as virtuous citizens (Lovett, 2002). In the contemporary New Zealand context, changing the person of the head of state would not be essential to forming a republican commonwealth. Eliminating the master is the essential point, and in a liberal democracy it is not the head of state who dominates. It is not the king who decides whether public policy obstructs or affirms the distribution of political power in ways that are consistent with Te Tiriti. Nor is it the king who decides whether the institutions of rangatiratanga and kāwanatanga operate in ways that are fair and reasonable. Whoever is the head of state, and by whichever means, the republican ideal is that people neither fear nor 'defer to a power of interference' (Pettit, 2012, p. 84). Another's interference is just only when it occurs to protect a universal human right, rather than a policy priority of self-interest.

Domination contravenes the republican understanding of the *liber* or free person, which requires that 'all enjoy freedom of choice fully, and yet also enjoy it equally' (Pettit, 2012, p. 82). Choice must surely not, then, be exclusive to a single cultural tradition. If one cannot choose to *be* Māori while exercising the capacities of citizenship, one is dominated by the limits on participation that another has imposed. People are necessarily

dominated if they are not free to participate in decision-making wherever it occurs. For civic republicans, ‘liberty is the paramount political value’, which is, in turn, ‘independence from political power’ (Lovett, 2022, para. 2). It is significant, therefore, that ‘instead of the fixed representation of differences, republicans tend to favour inclusive participation in deliberation with others’ (Laborde & Maynor, 2009, p. 18).

This book’s overarching question is, then, how might *all* and not just *some* people – Māori people as much as anybody else – reach a point where they can say that New Zealand is recognisably ‘owned’ by everyone, and that their share in its ownership is meaningful and worthwhile? Would it, for example, become obvious that rangatiratanga is an essential contributor to the liberal concern for liberty – obvious because rangatiratanga is a tangible political authority that helps to make people’s lives better?

Civic virtue means that no citizen can say that the powers and responsibilities of government belong to someone else. This presumption explains why, for the republican, ‘justice entails the fair distribution of political and social power’ (Bellamy & McHugh, 2024, Summary). Republicans further define freedom in ways that resonate with rangatiratanga, as ‘a sort of structural independence – as the condition of not being subject to the arbitrary or uncontrolled power of a master’ (Lovett, 2022, 1.2) and the condition where no one has ‘the capacity to interfere in [others’] affairs on an arbitrary basis’ (Pettit, 1999, p. 165).

Racism’s ultimate expression is a political order where some people do not count. Some people not counting is not compatible with democratic values. Those values are sometimes rashly and incoherently co-opted into the argument that equality means sameness of a kind that supposes cultural homogeneity: the presumption that equality means ‘everyone should look and think like me’.

Democracy’s purpose, by contrast, is to consider and manage difference fairly and with order. Its purpose is not to respond to the argument that difference per se is unfair to me. From these perspectives, republicanism is well suited to thinking about what Te Tiriti could mean in practical terms. What does it mean to say that the rangatira who signed the agreement were not accepting a subservient relationship with the British Crown?

Rangatiratanga’s challenge to the New Zealand political order is reflected in the republican aim to eliminate the master. The tyranny

of the majority is the ‘ultimate form of arbitrariness’ (Pettit, 1997, p. 8) and republican emphasis on non-domination therefore requires that partnership is displaced as the principal framework for thinking about Māori relationships with the state. A partnership framework entrenches political inequality by confining relationships to a senior/junior binary. This framing of political possibility does not consider Māori people’s political standing *inside* the state as shareholders in kāwanatanga’s authority to govern.

Just as material ‘inequality undermines freedom by corrupting the character of those rich and poor and destroying the commonality necessary to self-government’ (Sandel, 1996, p. 330), political inequality compromises freedom by reducing some people’s agency. This is colonialism’s purpose, and the reason freedom may never be fully realised in a colonial society. One must, instead, enjoy a series of positive political capacities as the product of one’s agency, natural ability, inclination and aspiration. Positive liberty contrasts with negative liberty, which ‘merely requires the absence of something, namely, the absence of any structural dependence on arbitrary power or domination’ (Lovett, 2022, para. 13).

This book presumes that it is not whether the king or citizen is head of state that really matters. Non-domination is the republican principle that potentially makes a difference. This is because non-domination may influence political arrangements to take Te Tiriti from the discourse of partnership to one of more substantive and transformative self-determination. As the United Nations *Declaration on the Rights of Indigenous Peoples* (United Nations General Assembly, 2007) explains it, self-determination is a universal right and ‘by virtue of that right they [Indigenous peoples] freely determine their political status and freely pursue their economic, social and cultural development’ (article 3).

A republicanism rooted in self-determination provides new ways of thinking about what Te Tiriti says about the location of political power and responsibility. It provides a framework for thinking about who does what, where, why, how and for whom, at different points in the political system.

The Commonwealth

In New Zealand, the republic best takes the form of commonwealth. This is because Te Tiriti may be understood as the bringing together of political communities – hapū with their own authority and responsibility (rangatiratanga) and kāwanatanga as a political community constituted by *everyone* and for *everyone* (neither the monarch nor Pākehā population alone).

While the Commonwealth of Nations is an international political forum composed largely of former British colonies, the Commonwealth of Australia is a political federation constituting a single nation state, and the four US states styling themselves commonwealths do not materially differ from other states in their political and constitutional structures, my concept of commonwealth is derived from its broader foundation in seventeenth-century English political theory. In this tradition, commonwealths are established by individuals sharing their personal political authority for the common good (Hobbes, 1651/1946). The commonwealth's purpose is akin to the purpose of hapū, constituted by whakapapa, and similarly concerned for shared well-being.

The commonwealth is the repository of all people's sovereignty. Although, as Hobbes (1651/1946) conceptualised it, the Sovereign was all-powerful and indivisible (though it could be an assembly rather than an individual), it was not an unconditional power. It had to be exercised for the collective good because 'no one gets their living by degrading someone else, nor by degrading the health of the land or the larger living world' (Purdy, 2019, p. xiii). The Sovereign's authority could be withdrawn if it was not used for the collective good. The Sovereign could not rule for itself and matters not requiring shared authority remained the individual's preserve.

The Sovereign could compel obedience, but only in the interests of the common good. 'When our refusal to obey frustrates the End for which the Sovereign was ordained; then there is no liberty to refuse; otherwise there is' (Hobbes, 1651/1946, p. 142). While it is true that Hobbes (1651/1946) developed his conception of sovereignty on the 'supposition of the absence of sovereignty in the New World' and his 'motif of savage anarchy remained central to our conceptualisation of the modern state . . . into the twentieth century' (Moloney, 2011, p. 189), it is also true that no Indigenous society met Hobbes's (1651/1946) description of anarchy, so it is always an argument

of convenience to cite him in favour of the colonial project (O'Sullivan, 2021b). The commonwealth, if it is genuinely the repository of all and not just some people's sovereignty, is inherently counter-colonial, and a concept of wide transformative potential.

The commonwealth is a political organisation that belongs to everyone because it *is* everyone. It is a federation of political communities allowing space for hapū and other Māori entities to support their members' common good through rangatiratanga. Kāwanatanga, meanwhile, is not a distant Crown. It cannot claim that it is the source of its own authority with powers of colonial domination. Its powers and responsibilities reflect a meaningful Māori share in the 'ownership' of the state through the equal tikanga that Te Tiriti promised (Kawharu, 1989).

Through the commonwealth, republican non-domination also supports rangatiratanga, as a complement but not an alternative to fair and reasonable kāwanatanga. It supports more just relationships between Māori people and the state and accepts a substantive and meaningful expectation that Māori people may use their citizenship to craft their distinctive membership of the state in ways that reflect equal tikanga, giving effect to the expectation that membership of the state is as worthwhile for Māori people as it is for anybody else. The republican commonwealth, with king or citizen as its titular head, allows people to establish, implement and evaluate policy priorities so that all citizens contribute to what McConnell et al. (2020) call 'the dominant legitimacy narrative' (p. 595) – in other words, the shared story that makes the state legitimate.

Replacing the word Crown with commonwealth may, on its own, contribute to a stronger sense of the state belonging equally to all people. One might, then, think about sovereignty as a social contract, drawing people together, with the commonwealth making it less logical to see the state as distant and belonging only to 'them' in a binary partnership where the state is sometimes friend, but usually foe, and never constitutive or representative of 'us' with the same regard, purpose and political value that it has for others. Instead, commonwealth requires deep consideration of what it is that we hold in common and what our common good looks like. This necessarily juxtaposes what we hold in common against what we hold differently and requires ordered arrangements for respecting the two.

The commonwealth derives moral legitimacy from everyone having the same capacity to influence the values under which it operates and the political ambitions that it decides to pursue. If the commonwealth belongs to everyone because it is everyone, the meaning of ‘the people’ it includes must be determined through just terms of association, which means that it cannot be structured to serve colonialism’s essential positioning of some people above others.

Conceptualising hapū and kāwanatanga as constituents of a commonwealth allows one to think about Māori self-determination and political authority in more complex and useful ways than what may be drawn, for example, from the Supreme Court of Canada’s (1996) reasoning that policy should aim towards ‘the reconciliation of the pre-existence of Aboriginal societies with the sovereignty of the Crown’ (para. 31). Furthermore, replacing Crown with commonwealth provides a deeper conceptual framework for responding to the Waitangi Tribunal finding, in 2014, that Te Tiriti was not a cession of Māori sovereignty to the British Crown. It also provides a far-reaching and inclusive way of responding to the Attorney-General’s reply that ‘there is no question that the Crown has sovereignty in New Zealand’ (Bennett & Quilliam, 2014, para. 7). Ideally, the commonwealth reflects the terms on which people have consented to its formation. Consent to a commonwealth is not consent to an unconstrained sovereign because consent is offered for a purpose – the collective good – and a negotiated account of the good: a good that is proposed to constrain power by distributing it according to agreed principles of justice. In this way, one might develop the republican argument that, as Pettit’s (2012) book title puts it, republican government must occur ‘on the people’s terms’.

Whether this is an ideal that would advance rangatiratanga and foster distinctive, equal and politically worthwhile Māori citizenship hinges on who is included among ‘the people’ and on the political system’s willingness to recognise that freedom and domination are not absolutely and objectively defined. They derive meaning from culture and political experience. If their different meanings to different people are not accepted, then some people must be left unfree.

People need to be free to make choices about how they live and the aspirations that they intend their political activity to serve. This may be achieved when a state is culturally homogenous by choice, but not if it is culturally homogenous by imposition.

Therefore, the book asks how people might respond to Justice Williams's remark, after substituting Crown for commonwealth, that

fundamentally, there is a need for a mindset shift away from the pervasive assumption that the Crown is Pākehā [non-Māori], English-speaking, and distinct from Māori rather than representative of them. Increasingly, in the 21st century, the Crown is also Māori. If the nation is to move forward, this reality must be grasped. (Waitangi Tribunal, 2010, p. 51)

Proposing that government is also Māori is to ask: What is a citizen? and Who owns the state? Seeing New Zealand as a commonwealth, comprising hapū and other Māori entities and kāwanatanga, may set the expectation that although these are different and distinctive they need not function as opposing forces. With hapū and Māori citizens holding influence, their share in the 'ownership' of the state becomes clear. Indeed, the more the state is Māori, the more secure rangatiratanga becomes and the more Māori people and values may be reflected in public life. This is not to foreclose the right of people with Māori ancestry to find political voice through kāwanatanga alone. Both rangatiratanga and liberal democracy give people choices and envisage political systems where the diversity and complexity of whakapapa, culture and relationships should be accepted. No one needs to choose which of two simply constructed boxes they will occupy – the Māori box or the Pākehā.

Distinctive Māori institutions are emphasised because this is a choice that rangatiratanga, liberal democracy and utu – balance and reciprocity – require, yet is a choice not routinely available to Māori people. Furthermore, when this choice is available it is often contested by the state and in public discourse in ways that say to Māori people that liberal rights and freedom are available only in institutions that 'we' are imposing according to 'our' values and modes of participation. 'We' are entitled to do this because 'we' are the people who really 'own' the state.

Structure of the Book

Chapter 2 challenges the idea that Te Tiriti instituted a partnership between races or between Māori people and the Crown, an idea that the Court of Appeal popularised with its *Lands* judgement in 1987 (*New Zealand Māori Council v Attorney-General*, 1987). The chapter recognises that Māori citizens share kāwanatanga's ownership and are entitled to expect that, through their participation, it will work as effectively for them as for anybody else. Therefore, the chapter challenges the idea of sovereignty as absolute and indivisible, suggesting instead a more nuanced understanding of political power and its distribution.

Chapter 3 argues that Te Tiriti's third article, which promises Māori people citizenship through equal tikanga, is understated in policy thought. This understatement is a significant constraint on kāwanatanga's inclusivity and effectiveness for Māori people. Understating the third article undermines the importance of citizenship as a relational construct that should draw people together as shareholders in a political community. To understate the third article is to say that citizenship and, therefore, a share in the state's ownership is only for 'them' in a 'them' and 'us' binary. Yet citizenship is an essential constituent of self-determination, and because it is to be exercised with equal tikanga it cannot require cultural homogeneity. One way of protecting and promoting distinctive Māori participation in kāwanatanga and its policy systems is Critical Tiriti Analysis (CTA), which Came, McCreanor and I developed and which this chapter introduces (Came et al, 2020). CTA provides a method for evaluating Māori leadership and participation at all points in the policy process. It provides Māori people with a practical means of asserting presence and shared ownership of kāwanatanga. CTA presumes that Māori people are not the state's junior partner, and that citizenship should develop as a meaningful constituent of self-determination.

Chapter 4 shows how republicanism provides a theoretical foundation for expanding Te Tiriti's political influence. It argues for non-domination as the essential philosophical test one should use to evaluate where and with whom, or what, political authority should lie. This test shows how symbolic reforms such as replacing the king as head of state do not reflect republicanism's true transformative potential,

which is to disrupt the Māori/Crown, Māori/Pākehā binaries that position Māori people beyond *kāwanatanga* and, therefore, beyond substantively equal participation in an institution that Te Tiriti's third article explicitly conceives as belonging to everyone.

The chapter uses republican theories of freedom and non-domination to show how these binary framings are necessarily colonial, and that the partnership approach to justice that they describe inhibits wider and more transformative thinking about Te Tiriti and its possibilities.

The chapter shows that citizenship and *rangatiratanga* are not competing forces but complementary and interdependent sites of authority. Ultimately, the chapter supports the book's overall purpose of showing that Te Tiriti's role in public life is not just to curtail domination but, as far as possible, to eliminate it. This requires Māori influence through substantive equality in public life. The chapter shows how republicanism adds clarity and purpose to liberty and, conversely, to colonialism's necessary deprivation of liberty. Republicanism is, after all, the people's authority over the state and, as this book shows, if that ideal is influential, culture and colonial context must inform how Māori citizens take their place among 'the people'.

Chapter 5 considers how a uniquely New Zealand democracy might develop. It argues that reimagining sovereignty as best shared among *all* and not just *some* citizens occurs more easily and logically through a commonwealth rather than a partnership between the Crown or Pākehā and Māori as their 'other'. The chapter's critique of *Matike Mai Aotearoa* (Iwi Chairs' Forum, 2016) as a blueprint for giving effect to Te Tiriti is that this proposal for constitutional transformation commissioned by the Iwi Chairs' Forum includes arguments that make the agreement's third article redundant. With sovereignty a dispersed, flexible and evolving concept of power and possibility, the chapter argues that liberal rights *are* Indigenous rights simply because citizenship means helping to write the 'sovereignty story' (Shaw, 2008, p. 3) as equal shareholders, not junior partners. This must include helping to set policy agendas and frame opportunities rather than simply responding to government-defined problems.

The chapter adds to the book's consideration of what it means for the Waitangi Tribunal (2014) to find that Te Tiriti was not a cession of sovereignty – especially, what the finding means for the argument that the

Crown's right to establish government cannot be interpreted as the right to establish an exclusively Pākehā state. Instead, the chapter considers what it could mean to share the sovereign (O'Sullivan, 2022) and why the republican commonwealth provides a reasonable pathway for that to occur. It explains that the commonwealth means that nobody may say: 'Your participation in public life is conditional on you looking and thinking like me.' The rangatira who signed Te Tiriti were, indeed, convinced that the agreement was a promise of fundamental equality and that it would preserve their right to be themselves. Their initial fears that Te Tiriti was intended as an instrument of British subjugation were allayed at Waitangi (Orange, 1987), but in 2026 the promise of equality remains elusive. This book draws out some of the political spaces that might be developed to allow this promise to materialise.

Chapter 6's argument is that it is through non-domination, differentiated citizenship, and participatory parity that liberal democracy holds potential to work for Māori people as well as it works for anybody else. It adds to previous discussions of rangatiratanga and sovereignty by showing liberal democratic thought's scope for substantive inclusion.

The chapter begins by laying the ground in democratic theory for non-domination in the New Zealand context, by challenging the objectively false idea that democracy is a Pākehā-developed and -owned concept. It argues that democracy should reflect, not oppress, citizens' different ways of thinking about justice. It is only from this perspective that inclusive responses may be found to the republican question of 'Who rules?' (O'Sullivan, 2024b).

The chapter shows that differentiated citizenship recognises and gives substantive voice to rangatiratanga and citizenship of the state. It assumes practical effect through participatory parity and substantive presence in decision-making. Participatory parity is supported by deliberative reasoning, which is a distinguishing feature of both traditional Māori decision-making processes and contemporary deliberative democracy, which is discussed in detail in Chapter 9. Deliberative reasoning means that one cannot accept an imposed homogeneity as fair and reasonable. The chapter is, therefore, concerned with recognising pluralism.

Chapter 7 shows why tikanga matters and how it ensures that *all* people's ownership is reflected in public policy. Tikanga is a lens through which people reason about what policy is for and what it should aim to achieve. The chapter

shows how tikanga influences thinking on environmental management, housing, homelessness and health policy through an examination of selected Waitangi Tribunal cases, as well as how and why tikanga was to have influenced the Three Waters water infrastructure policy, proposed by the Ardern government (2017–23) and repealed by the Luxon government (2023–).

The chapter also shows that tikanga is a constituent of equality and protects people against democratic exclusion, which is essential for democratic legitimacy and non-domination. From these perspectives, the treaty partnership principle limits Māori agency by ensuring that colonial power structures remain influential. Instead, the chapter proposes substantive Māori participation, through participatory parity, to ensure tikanga's influence as a constituent of Māori self-determination. The chapter proposes that policy failure, in the domains it discusses, reflects the crisis of an idea – colonialism – more than the failure of the policy itself.

The chapter then presents the university as a site for exploring the nature of belonging beyond a treaty framework. Universities are unique entities. They are Crown owned but not part of any of the three branches of government. Their staff are not public servants who take direction from ministers; like their students and graduates, academic staff are members of the institution and shareholders in its teaching and research functions. One may then contrast the idea of Māori people as partners with equality as participants. This could – although it does not necessarily do so in practice – promote the normalising and institutionalising of Māori ways of being and knowing. Partners must, instead, take their place as outsiders.

Chapter 8 shows some of the ways a commonwealth, grounded in republican non-domination, and drawing on participatory parity, could work in practice. As its context, the chapter examines the 2021 Ministerial Review into the Future for Local Government. The review panel's final report was published shortly before the 2023 general election (Te Tari Taiwhenua Department of Internal Affairs, 2023a). The political climate was not conducive to considering distinctive Māori presence in public life and the report lacked the proposals of more transformative significance contained in the panel's draft that was published the previous year (Te Tari Taiwhenua Department of Internal Affairs, 2022). The chapter's primary focus is therefore on the draft and how its

recommendations, which were influenced by a discussion paper the panel commissioned me to write (O’Sullivan, 2022), would have put principles of differentiated citizenship and participatory parity at the heart of local government.

Chapter 8 argues for reimagining local government as a *system* with councils (kāwanatanga) and hapū and other Māori entities (rangatiratanga) playing complementary but distinctive roles. It proposes that when Māori people participate in council affairs, they do so as both citizens and rangatira, not as stakeholders in a senior partner’s project. Tikanga is, therefore, central. The chapter examines some of the preliminary principles and practices that would allow local government to function as part of a broader commonwealth, guided by the essential republican principle of non-domination.

The chapter draws a comparison with the City of Vancouver’s strategy to implement the United Nations *Declaration on the Rights of Indigenous Peoples* (United Nations General Assembly, 2007). Vancouver was the first local government in the world to adopt such a strategy and although the comparison shows that the strategy is significant, its transformative potential was not on the scale reflected in the New Zealand review panel’s draft report.

Chapter 9 argues that conceptually similar deliberative processes, in both Māori and liberal democratic traditions, could be better brought together to assist kāwanatanga’s operation with equal tikanga. Each emphasises respect, reasoning and listening. The chapter discusses the hui as an example of decision-making through the exchange and contest of ideas. Its processes predate modern liberal theories of deliberation, but share significant similarities as well as important tensions with the citizens’ assembly, which is a still-experimental but promising addition to public decision-making. The chapter not only shows that Māori decision-making processes can influence and enhance democratic practices, but also that a fair and inclusive political system requires it.

The chapter discusses the citizens’ assembly as a deliberative forum that allows everyone to participate, not as partners, but as themselves. It focuses on the possibilities and constraints that were found with respect to this objective in the citizens’ assembly conducted by the University of Auckland in 2021 for Auckland’s water supply company, Watercare.

The assembly brought together a group of randomly selected citizens to deliberate on options for securing Auckland's long-term water supply. The processes it used to ensure a distinctive Māori voice and influence are discussed to show the assembly's possibilities as an institution that allows Māori people to contribute to decision-making beyond the constraints of treaty partnership. However, the chapter is concerned less with the idea of citizens' assemblies per se than with their emphasis on reasoning rather than advocacy and conflict, which are principles that support the commonwealth as an institution to which we all belong, because we all share its decision-making authority. The chapter's essential purpose is to move beyond the language of partnership towards a presumption of inclusive public ownership – one that affirms a distinctively Māori share in the authority of the state. Chapter 10 shows how this may occur by extending the book's earlier arguments about deliberative democracy as pathways to non-domination and self-determination.

Chapter 10 shows how deliberation diminishes the state's colonial character because it is grounded in communication and the exchange of ideas, not the assertion of power based on some people's supposedly superior position in the political order. Presence and voice are deliberation's alternative requirements. It is a process that recognises the commonwealth as a constellation of various sites of decision-making and empowerment. The chapter examines how deliberative spaces work to provide checks on the coercive powers of the state. The emphasis is on political structures and processes that protect distinctiveness but also recognise that one should expect self-determination to be supported and developed through shared authority.

The chapter further considers relationships among citizenship, culture and deliberation. It challenges the idea of culturally neutral institutions because equal tikanga is required for participatory parity, inclusivity and trust to occur. Deliberative democracy shows how and why Māori people do not have to choose between rangatiratanga and citizenship. Nor must they see democracy as something developed by and for 'them', not 'us', in a binary account of political possibility. The questions I raised in my discussion paper for the Ministerial Review into the Future for Local Government showed how and why this is a false choice. I record an adaptation of these questions in the book's final

pages because they may be applied not only to local government but also to the political system as a whole, to provide ways of thinking beyond partnership and beyond the Crown towards what a true republican commonwealth could look like.