
Focus on regulation theory

Stephen Buckingham

9 Derwent Street,
Christchurch, New Zealand
Fax: 0064 3 3594380 E-mail: spb@iconz.co.nz

Leo Paul Dana*

University of Canterbury, Private Bag 4800,
Christchurch, New Zealand
E-mail: leo.dana@canterbury.ac.nz
*Corresponding author

Abstract: The struggles of indigenous peoples for recognition of their rights to their customary land and resources are almost as common as the treaties that guide them. Governments of many countries have been, or are currently, involved in creating redress packages for these indigenous people. The people of these native groups often live in sub-standard socio-economic conditions, having low incomes and high unemployment. The way in which indigenous people use the redress packages or settlements will have substantial effects on their long-term socio-economic status. This paper looks at economic development theory, in particular, regulation theory, focusing on how indigenous peoples' rights to land and resources, and the settlements that result, can be utilised to create sustainable economic development. It draws from the experience of the New Zealand Maori, in particular the Ngai Tahu and Tainui tribes, to outline in terms of their land rights and how their ability to exercise these rights have affected economic development.

Keywords: regulation theory; indigenous people; economic development; land rights; entrepreneurship; New Zealand.

Reference to this paper should be made as follows: Buckingham, S. and Dana, L.P. (2005) 'Focus on regulation theory', *Int. J. Entrepreneurship and Small Business*, Vol. 2, No. 2, pp.178–187.

Biographical notes: Stephen Buckingham, formerly a graduate student at the University of Canterbury, in New Zealand, now works in Palmerston North.

Leo Paul Dana is tenured at the University of Canterbury and serves as Senior Advisor to the World Association for SMEs. He formerly served as Deputy Director of the Nanyang International Business MBA Programme, and was Visiting Professor of entrepreneurship at INSEAD. He is the author of 100 papers in various refereed journals and the founder of the *Journal of International Entrepreneurship*, published by Kluwer Academic in the Netherlands. Dana has served as keynote speaker at numerous international conferences in the UK and in continental Europe, as well as in Africa, Asia and in the Americas. His biography appears annually in the *Canadian Who's Who* and in *Who's Who in the World*.

1 Introduction

The struggles of indigenous peoples to regain control of their customary land and resources are almost as common as the treaties that guide them. Governments of many countries Canada (Anderson et al., 2005; Camp et al., 2005), Australia, and New Zealand for example, have been, or are currently, involved in creating redress packages for these indigenous people (Peredo et al., 2004).

The people of these native groups often live in sub-standard socio-economic conditions, having low incomes and high unemployment. The way in which indigenous people use the redress packages or settlements will have substantial effects on their long-term socio-economic status. It is through these compensation packages that indigenous people can create sustained economic development.

This paper looks at economic development theory, focusing on how indigenous people's rights to land and resources, and the settlements that result from the recognition of these rights, can be utilised to create sustainable economic development. It draws from the experience of the New Zealand Maori, to outline how their land rights and their ability to exercise these rights has affected economic development within the Maori community.

2 The Maori socio-economic situation

The current socio-economic status of Maori, the indigenous people of New Zealand, is poor when compared with the rest of the population, as unemployment, health, education, and housing statistics attest.¹

In 1996, the Maori made up 27.7% of all unemployed people, but only 12.3% of the total working age population. In 1996, 7.5% of the Maori labour force was unemployed, almost three times higher than that for the non-Maori, and the gap has been widening between the two groups since 1986. The average annual income for adults of Maori descent was a mere NZ\$ 14,800 in 2001, with three out of every eight Maori adults receiving government benefits in the 12 months before the 2001 census (Statistics NZ, 2003). The number of Maoris achieving a high school or post-school qualification has risen to approximately 50%; however, this indicates that half of Maori do not. In a recent survey, approximately 70% of Maori failed to meet the minimum literacy skills requirement necessary to meet the complex demands of everyday life and work, further outlining the problem (New Zealand Institute of Economic Research, 2002). Disadvantages extend beyond poorer employment and education. Maori people live in sub-standard housing, have less access to adequate health care, and have above average smoking rates. The life expectancy of Maori in New Zealand is seven years less than their non-Maori counterparts.

In 1996, Maoris were 14.5% of the total New Zealand population, the second largest group after New Zealand Europeans. It was projected that in 2001 the Maori resident population would reach 586,000, 15% of the total population; and by 2021 almost 750,000, representing approximately 17% of the total population (Statistics NZ, 2003). Without a major change in Maori socio-economic circumstances, the predicted increase in Maori as a percentage of the New Zealand population will put more pressure on the economy as a whole in the future. The anticipated extra strain makes the plight of the Maori people not only a concern for the Maori themselves, but also for the

New Zealanders Government. Finding a means for improving the socio-economic situation of this group is a paramount issue for many stakeholders.

3 Maori land rights and the Treaty of Waitangi

To understand the role of land claims in economic development, it is useful to have at least a basic understanding of the history leading to today's circumstances. Archaeologists have estimated that Maori people migrated from Polynesia and have been occupying New Zealand since the 10th century. Originally living in the North Island, some tribes progressively moved south approximately 1,000 years ago. Europeans did not visit New Zealand however until 1642, when Abel Tasman 'discovered' New Zealand. The first European to actually set foot on New Zealand was Captain James Cook in 1769. Whalers, colonists, and missionaries were amongst the first European settlers to New Zealand, and by 1840, European settlement was growing at a rapid rate.

Wanting to establish British sovereignty over New Zealand, Captain William Hobson was chosen as a representative of the Queen to establish a treaty with the Maori people. On 6th February 1840, four Maori chiefs signed the Treaty of Waitangi. A further seven copies of the treaty were created and circulated around the country to be signed by other chiefs; however, not all tribes signed the treaty. Under the papers of the Treaty, Britain received sovereignty and the right to pre-emption for land sales in return for the Queen's promise to protect the Maori. However, because the Maori and European versions of the document were not exact translations, wide debates about what the agreement actually stood for have emerged. Following the signing of the Treaty, Europeans bought land from Maori people at exceedingly low prices, undermined their customs and traditions, giving them little say in the running of the country.

Although there are many possible underlying issues relating to the socio-economic status of Maori, it has been argued that the current position can be traced back to misinterpretation of cultural assumptions when the Treaty of Waitangi was initially signed in 1840 (Bourassa and Strong, 1998). The situation in summary is that tribes were dispossessed of most, if not all, of their lands: some losses occurred through transactions culturally viewed by Maori as leases and not by a transfer of ownership; some through private sale in violation of tribal and Crown (government) law; some through sales to the Crown with no mutual understanding of the terms of the contracts and/or violation of the sales contracts by the Crown; some through confiscation by the Crown; and some through the enforcement of laws designed to terminate tribal communal ownership (Bourassa and Strong, 2002).

Accompanying the decreasing levels of assets was that Maoris were less adept in westernised skills and trade, and as a result there has been a downward spiral to a depressed socio-economic status for the Maori as evidenced by a greater dependence on social welfare and lower than average income levels.

4 Economic development theory

Economic development is the key to the recovery of Maori. The State Welfare system has shown that merely throwing money at the problem does not make it go away. Economic development is about long-term capacity building,

... involves much more than developing land and creating jobs and revenue. The ultimate goal is not to build 'this project' or attract 'that company'; rather the goal of economic development is to improve the standard of living and quality of life of the citizens ... (RDC, 2000, p.3)

Since 1984, with the commitment shown in the amendment to the Treaty of Waitangi Act 1974, the direction of the government has been to encourage innovation, productivity, knowledge and skill development. It is through development that the Maori will shift from a situation of state dependency to one of self-sufficiency, where they are able to contribute to the economy of New Zealand.

In addition to the shift towards indigenous development, there has also been a recent change in the approach to economic development in terms of its theoretical perspectives. There are a number of theories with regard to economic development, and these can be essentially divided into two broad categories: historical approaches and modern approaches. The historical perspective includes neoclassical theory, modernisation theory, dependency theory and structuralist theory. The contemporary approach is from the regulation and humanistic perspectives. Here, we consider the regulation theory approach.

4.1 Regulation theory

Regulation theory has emerged from the conflict between the modernisation and dependency perspectives discussed by Anderson (2002) and Anderson et al. (2005). Regulation theory emphasises the importance of economic and extra-economic institutions in economic development (Skrypietz, 2003), with the accumulation of capital being influenced by state and non-state institutions, and interactions between agents within the economic system (Dana, 2005). Value is placed not only on the economic aspects, but also on understanding the social relations and interactions within industrial economies. The objective of this approach is to develop diverse strategies that are suited to respective societal structure and consequently lead to a maximising of economic development for both distinctive economies as well as the general economy. The modes of development that emerge can reflect the history, values and cultural aspects, and the objectives of the people involved (Anderson, 2002). This suggests that the objective of Maoris, and indeed all indigenous groups, is to develop a diverse range of strategies suited to the unique characteristics of their economy as well as the cultural aspects in which they live, to achieve maximum results not only for themselves but for the economy as a whole.

4.2 Historical-contemporary shift

There is general agreement between the traditional and contemporary theories that economic development must include capital accumulation, introduction of new technology, human resource development, development of institutions and markets and a permissive international framework (Grilli and Salvatote, 1994). However, contemporary theory goes a step further to consider the additional requirements for equitable economic development. Hughes (1994) and Goulet (1989) point out that the policy framework adopted and implemented is critical for development. They collectively identify five characteristics for equitable development: economic growth that is oriented towards human progress, equitable distribution of the fruits of growth, optimal participation of

non-elite populations in decision making and implementation, ecological responsibility, and respect for traditional cultures when conducting development activities (Goulet, 1989, p.5). This considerably broadened focus emphasises the increasing social focus of economic development.

4.3 Economic development theory and indigenous land claims

Contemporary economic development theories highlight the importance of social development in addition to the traditional treatment of economic development. As part of this, the value is placed on traditional cultures. This is illustrated in the five characteristics delineated above with two of the five relating to minority races and one specifically referring to respect for traditional culture of indigenous people. Consequently, there has been a substantial global shift towards economic development for indigenous peoples and a primary strategy for this is based on the idea of addressing the land rights of indigenous people.

5 Cases of Maori land claim settlements

We now briefly examine the economic development of two Maori tribes occurring as a result of successful land claims.²

5.1 The Ngai Tahu tribe

The first case is that of the South Island tribe, Ngai Tahu, who gained a NZ\$ 170 million settlement in October 1997. Much of the settlement was a transfer of surplus Crown assets and properties to the people of the tribe, and although the tribe was not unanimous in support of the package, most members believe that it is a sufficient foundation on which to launch a sustainable future for their people.

Ngai Tahu has achieved rapid economic development in the last seven years. Its assets have increased from NZ\$ 4 million in 1990, to NZ\$ 28.7 million in 1997, not including the settlement package (James, 1995). The tribe's entrepreneurial model is essentially based on standard commercial practices that seek to generate significant and sustainable returns to assets. Ngai Tahu have used their settlement provisions to establish separate business identities for the development of Maori in their area. The Ngai Tahu Holding Corporation manages assets by operating as a profitable and efficient business, while the Ngai Tahu Development Corporation develops advancement programmes for tribal well being (Bourassa and Strong, 1998). Ngai Tahu also recognises the value of its right of first refusal to the sale of ancestral lands by the crown. The ability to buy crown land at government prices (which are usually substantially below market value) means Ngai Tahu can also increase its asset base by retaining or selling such land.

The bulk of Ngai Tahu investments are in properties (56%), fisheries (40%), finance (2%), and a tourist venture, Whale Watch Kaikoura Ltd. (2%) (James, 1995). The objective of the tribe's corporate model – the Te Runanga O Ngai Tahu – is to operate as efficiently and effectively as any private sector business. Its goal is to maximise profits, and not to act as a welfare service or agency to its tribal members (Sullivan and Margaritis, 2000).

Ngai Tahu Finance provides capital loans to start-up Maori enterprises, some as small as NZ\$ 5,000, enough to help an individual start as a lawn mower, carpenter, decorator, or even exporting spagnum moss to Japan. In 1995, the company had a total loan portfolio of NZ\$ 3.8 million, and financed 70 businesses employing over 180 people, half of whom, says chief executive Ngaire Mason, would otherwise be unemployed (James, 1995).

When a group of Maori entrepreneurs tried to set up a whale-watching business in Kaikoura in 1987, New Zealand banks turned down their applications for a loan. The group turned to Ngai Tahu Finance, a small company run by the tribe, and received a NZ\$ 99,000 loan. In 1995 Kaikoura Whale Watch carried 37,000 people and employed 36 Maoris (James, 1995). The company has since repaid the loan and won a number of awards in the process.

5.2 *The Tainui tribe*

The second case is of the Tainui people, a tribe in the central North Island of New Zealand. A settlement, including a written apology from Queen Elizabeth II, assets and cash, was reached in 1996 (Sullivan and Margaritis, 2000). This settlement was in recognition of the confiscation of 140,000 acres of land in the New Zealand land wars, and the abuse of land and tribal values resulting from public works, sewerage, and pollution (Bourassa and Strong, 1998).

The Deed of Settlement provided for the return of an Air Force base site, transfer of 35,787 acres of land from the Crown to the Trust, transfer of accumulated rent from forests, reimbursement of the NZ\$ 750,000 research and negotiation costs incurred in pursuing the claim, a NZ\$ 170 million land acquisition fund, 17% share of any total settlement amount for historic claims exceeding NZ\$ 1 billion, renunciation of claims to lands, minerals, and forests, and recognition that the settlement does not include the Waikato River, West Coast Harbour or the Maoro and Wairoa blocks of land (Bourassa and Strong, 1998).

Like Ngai Tahu, not all members of the tribe agreed with the negotiated package; however, over 75% of the respondents to a postal referendum on the issue voted in favour of the deal. The settlement has provided an opportunity for the tribe to become self-determining, and has provided a potential means for reducing the poverty levels of some of its members (Sullivan and Margaritis, 2000).

Tainui has rapidly invested in land, forestry, education and commercial enterprises. In 1994, the tribe's annual report showed total assets valued at NZ\$ 7.3 million. In 1998, its assets are reportedly valued at over NZ\$ 210 million (*Waikato Times*, 1998).

The Tainui tribe has also been particularly concerned with putting in place structures that will not only provide opportunity for investments and capital growth, but also for protection of its tribal lands. It has set up a legal structure to protect its tribal estate, which for all practical purposes can never be sold nor used as security for a loan (Sullivan and Margaritis, 2000). To manage its new assets, The Tainui Maori Trust Board has established several subsidiary bodies responsible for different functions, all actively contributing to the social and economic development of Maori; development that would not have been possible without the initial land claim settlement (Bourassa and Strong, 1998). The Tainui Corporation Ltd. is involved in commercial property management (retail stores, leased lands, forestry, casinos, and fisheries among others), while Tainui Development Ltd. is concerned with land development and the purchase of

lands, both with the aim of maximising shareholder wealth. Half of the profits are reinvested while the other half are distributed as tribal grants, much of it into education and scholarships (Sullivan and Margaritis, 2000).

6 The impact of land claim settlements

Indigenous land claims, such as the ones outlined earlier, are influential in advancing the socio-economic status of indigenous people, as they not only restore resources but also create development opportunities. This is evident in the development that had occurred as a direct result of the Ngai Tahu and Tainui settlements.³

Although the above cases are encouraging signs for tribes and their people seeking settlements and future development, one must realise that the acquisition of a large settlement does not equal instant economic recovery and success.

The Ngai Tahu settlement outlined above has been able to return benefits for the iwi (tribe). This is certainly strengthened by good negotiation, management and administration skills on the part of the tribe. Apart from the grievances of one hapu (extended family), and a few minor upsets as the tribe's administration determined the best combination of skills and experience needed to take the tribe into the new millennium, proceeds from the settlements appear to have set Ngai Tahu well on the path to social, economic, and cultural recovery (Mutu, 2001).

Tainui, on the other hand, has suffered several serious setbacks, making huge losses on a number of unwise investments, such as The Warriors NRL rugby league team, which has forced them to sell off reserved land to cover debts (Mutu, 2001). Internal conflict was evident as members of the tribe became disenfranchised by the settlement. Tainui's chief negotiator also became involved in very public dispute with his critics, and refused to stand down despite ill-health (Mutu, 2001).

Wise investment is needed to grow the wealth of the people and ensure long-term growth and prosperity. Groups that do not understand this are sure to fail and return to the cycle of poverty and state dependency. It is also noted that the goals and objectives set out by indigenous groups are achieved through a heavily localised process, the social objectives of the tribes must be grounded in the development processes. Even though the economic development of these tribes is still in its early stages, much can be learnt from observing them as they develop socially and economically, and grow a sustainable future for their people. The approach of the Maori is similar to that of Aboriginal people in Canada as can be seen in Figure 1.

7 Towards the future

This paper is limited to an overview of the plight of the New Zealand Maori and their current socio-economic situation. However, the ideas and principles have much wider ramifications for indigenous people facing similar situations in other countries.

The socio-economic circumstances of Maori today are indeed mirrored around the world by many other indigenous groups. Through observation and interaction much can be learnt, both for foreign indigenous groups and Maori alike. Other countries now look to New Zealand for programmes and advice on a wide range of indigenous issues such as education, language, building capacity, monitoring and evaluation. Continuing the

involvement with international issues is critical if Maori development is to produce opportunities beyond New Zealand (Beehive, 2003)

Figure 1 The Maori approach to development

| |
|--|
| A predominately collective ownership of assets and property rights at the community or tribal (iwi) level |
| <i>For the purposes of</i> |
| Attaining economic self-sufficiency as a necessary condition for the preservation and strengthening of the Maori community |
| Gaining control over activities on ancestral lands |
| Improving the socio-economic circumstances of Maori people |
| Strengthening traditional culture, values, and Te Reo (the language), reflected in development practices. |
| <i>Involving the following processes</i> |
| Creating and operating businesses than can compete profitably in the long run in the global economy |
| Exercising control over activities on ancestral lands |
| Building the economy necessary to preserve and strengthen communities and improve socio-economic conditions. |
| Building capacity for economic development through |
| Education, training and institution building |
| The realisation of the Treaty and Maori rights to land and resources |
| Having a conservative and diversified investment portfolio |

Source: Adapted from Anderson and Giberson (2004).

New Zealand has become more advanced in the area of compensating and attempting to rectify the wrongs of the past with its indigenous people. This was perhaps facilitated by the prominence of Maoris in society and government, and as a percentage of the total population compared to other nations. The government's willingness to negotiate compensation settlements for Maori grievances for breaches of the Treaty of Waitangi is an important factor in the overall reform for Maori recovery (Sullivan and Margaritis, 2000). It has been this recognition of the injustices of the past that has led to the handing back of land and resources to Maori, and it is these resources, and the proper utilisation of these resources, that will inevitably bridge the current socio-economic gap between Maori and non-Maori.

References

- Anderson, R. (2002) 'Entrepreneurship and aboriginal Canadians: a case study in economic development', *Journal of Developmental Entrepreneurship*, Vol. 7, No. 1, pp.45–65.
- Anderson, R.B., Camp II, R., Dana, L.P., Honig, B., Nkongolo-Bakenda, J-M. and Peredo, A.M. (2005) 'Indigenous land rights in Canada: the foundation for development?', *Int. J. Entrepreneurship and Small Business*, Vol. 2, No. 2, pp.104–133.
- Anderson, R.B. and Giberson, R.G. (2004) 'Aboriginal entrepreneurship and economic development in Canada: thoughts on current theory and practice', in Stile, C. and Galbraith, C. (Eds.): *Ethnic Entrepreneurship: Structure and Process*, JAI Press/Elsevier, pp.141–170.
- Anderson, R.B., Hindle, K., Dana, L.P. and Kayseas, R. (2004) 'Indigenous land claims and economic development: the Canadian experience', *American Indian Quarterly*, Vol. 28, Nos. 3–4, pp.634–648.

- Beehive (2003) *Ministerial Briefings 2002 Government Administration and Infrastructure*, Te Puni Kōkiri, Ministry of Māori Development, Material cited September 2003 from <http://www.beehive.govt.nz/briefings/maori/development/06.cfm>.
- Bourassa, S.C. and Strong, A. (1998) *Restitution of Property to Indigenous People: The New Zealand Experience*, Real Estate Research Unit, Department of Property, University of Auckland, Working paper series, Working paper No. 7, April.
- Bourassa, S.C. and Strong, A. (2002) 'Restitution of land to New Zealand Maori: the role of social structure', *Pacific Affairs*, Summer, Vol. 75, No. 2, p.227.
- Camp II, R.D., Anderson, R.B. and Giberson, R. (2005) 'Aboriginal land rights and development: corporations and trust', *Int. J. Entrepreneurship and Small Business*, Vol. 2, No. 2, pp.134–148.
- Dana, L.P. (2005) *When Economies Change Hands: A Survey of Entrepreneurship in the Emerging Markets of Europe from the Balkans to the Baltic States*, International Business Press, Binghamton.
- Goulet, D. (1989) *Incentives for Development: The Key to Equity*, New Horizons Press, New York, NY.
- Grilli, E. and Salvatore, D. (Eds.) (1994) *Economic Development Handbook of Comparative Economic Policies*, Greenwood Press, Westport, CT, Vol. 4.
- Hughes, H. (1994) 'Development policies and development performance', in Grilli, E. and Salvatore, D. (Eds.): *Economic Development Handbook of Comparative Economic Policies*, Greenwood Press, Westport, CT, Vol. 4.
- James, C. (1995) 'Native talent: Maori entrepreneurs are making a comeback', *Far Eastern Economic Review*, June 22, Vol. 158, No. 25, p.94.
- Katschner, I. (2005) 'The role of the Treaty of Waitangi claim settlements on Māori economic development', *Int. J. Entrepreneurship and Small Business*, Vol. 2, No. 2, pp.163–177.
- Mutu, M. (2001) 'Maori issues, New Zealand', *The Contemporary Pacific*, Spring, Vol. 3, No. 1, p.236.
- New Zealand Institute of Economic Research (2002) *Maori Economic Development*, (Te Ohanga Whanaketanga Maori).
- Paulin, C. (2005) 'Focus on the Ngai Tahu tribe', *Int. J. Entrepreneurship and Small Business*, Vol. 2, No. 2, pp.200–208.
- Peredo, A.M., Anderson, R.B., Galbraith, C., Honig, B. and Dana, L.P. (2004) 'Toward a theory of indigenous entrepreneurship', *International Journal of Entrepreneurship and Small Business*, Vol. 1, Nos. 1–2, pp.1–20.
- RDC (2000) *From the Introduction to the Economic Development Functional Plan*, Metropolitan Planning Commission of Nashville and Davidson County, Tennessee State.
- Sibbald, J. and Wick, K. (2005) 'Foreshore and seabed', *Int. J. Entrepreneurship and Small Business*, Vol. 2, No. 2, pp.188–199.
- Skrypietz, I. (2003) 'Regulation theory and the crisis of capitalism', Book review, *Capital and Class*, Spring.
- Statistics NZ (2003) Statistics sourced August 2003, from <http://www.stats.govt.nz/domino/external/web/nzstories.nsf/Response/Impacts+of+unemployment>.
- Sullivan and Margaritis (2000) 'Public sector reform and indigenous entrepreneurship', *International Journal of Entrepreneurial Behaviour & Research*, Bradford, Vol. 6, No. 5, p.265.
- Waikato Times* (1998) 30 April.

Notes

¹Each of the papers on the Maori offers data on the socio-economic circumstance of the Maori, in particular Katschner (2005), Paulin (2005) and Sibbald and Wick (2005).

²Other papers including Katschner (2005) and Paulin (2005) discuss the Ngai Tahu Settlement, and especially the development outcomes in more depth.

³As it has in the case of the Inuvialuit in Canada as described by Anderson et al. (2004).