

## Appendix 3

**The structure of the inquiry***Conceptual overview*

5. The primary name of the Justice System inquiry is **Te Rau o te Tika**. It is the metaphor that overarches the whole of the inquiry. Below, Dr Hond provides an explanation of meanings comprised in 'Te Rau o te Tika' that make it the right concept to guide our inquiry into justice in Aotearoa from beginning to end.
6. Under Te Rau o te Tika will sit the various stages of the inquiry. **Whakatika ki Runga** goes first. This is a name for the mini-inquiry into the Crown's approach to funding the participation of claimants in Waitangi Tribunal processes. In our view, this is a threshold matter, addressing what may be obstacles to claimants embarking on the inquiry proper. The name Whakatika ki Runga captures the character of the mini-inquiry: preparing to take matters forward, to advance together.
7. In the context of the marae ātea, Whakatika ki Runga is at the front of the whareniui. Once things are resolved there, we proceed to Te Tūāpapa o te Tika, which also remains outside the whare. It is here that the implications of tikanga regarding justice will be investigated. This establishes a foundation of cultural and intellectual principles and practice as an essential precursor of what will follow in the whare. Those with the knowledge, expertise and status in this field will bring their traditional understanding and wisdom to elucidate tikanga found in justice, and justice found in tikanga. Only once these are confirmed is it right to enter the whare, Te Rau o te Tika, where the balance of the inquiry will take place.
8. Once the approach is settled and the cultural guidelines are endorsed, focus shifts to the tāhū of the whare. The balance of the inquiry is called Te Tāhū o te Rau. The rafters provide the structure for the inquiry. The different topics we will address are each a rafter, as these structures form the roof, a framework for the house. Each topic will take its own dimension under Te Rau o te Tika.

**The names used for different parts of the inquiry****9. Te Rau o te Tika**

This is the Māori name of the Justice System inquiry: Te Rau o te Tika. Here is Dr Hond's thinking about this expression:

About the word 'Rau'

First, it is the 'feather' of a bird, a huia tail-feather, an albatross flight-feather, a red-tinged kākā feather, a cloak of kiwi feathers, a leaf of a tree. Each has its own form, its own point of reference that is an inherent symbol of status, an expression lifting that status.

Second, it is the 'blade' of a weapon, the cutting edge of a steel tool or a stone patu, these are tools used by people. They reflect the different practices associated with law, business or structures of Government.

Third, it is the 'gathering' of content, collecting witness evidence, impacts, grievances or burdens that have arisen within the actions of law.

The first meaning is, however, the most important. The feather enables the bird's flight. That this inquiry may be considered a bird to be given flight, enabled to rise. Further, it is a symbol of leadership, in words of the past, 'adorn your head with the huia feather', giving status to the notion of justice.

It is readily recognised that 'rau' has multiple meanings. This is why the term is being used to put the inquiry into a broad cultural context that enables us to discern the essence of 'justice'.

10. It is permissible to use both the Māori name (Te Rau o te Tika) and the Pākehā name (the Justice System Inquiry). Don't translate Te Rau o te Tika into English lest its scope is reduced.

#### 11. **Whakatika ki Runga**

'Whakatika ki Runga' is the name of the first phase of this inquiry – that is, the mini-inquiry into the Crown's funding of claimants before the Waitangi Tribunal. Here is Dr Hana O'Regan's brief explanation of these words:

The word 'whakatika' is used for the image of the person rising up to go forth, or to stand to speak. The expression 'whakatika ki ruka' was used to signal the beginning of the enterprise if a speaker on the pae of a tribe was rising to begin his whaikōrero.

#### 12. **Te Tūāpapa o te Tika**

'Tūāpapa' (meaning foundation or bedrock) is a word that's already somewhat familiar in this context, so: Te Tūāpapa o te Tika/The bedrock of what is right or just. This is what we will call the part of the inquiry where we focus on tikanga.

#### 13. **Te Tāhū o te Rau**

When the inquiry moves – metaphorically – from the marae ātea into the house, the house and its ridgebeam and rafters offer a suitable image for the balance of the inquiry.

14. Set out at paragraphs 44-46 of the memorandum-directions is the sequence of the inquiry that we have decided upon. Each of the rafters adjoining the ridgebeam corresponds with a topic we will examine. Here is Dr Hond's explanation of the words:

The terms tāhū, tāhuhu or tāuhu are familiar in Māori contexts. The tāhū (ridgebeam) is placed longways on pillars, from the first pou at the front to the last at the back wall. It is the backbone of a building, and the support structure for this inquiry. As to the meaning of 'tāhū':

The tāhū is like the vertebral column of the roof, it holds together the many rafters, as if ribs providing protection to those who enter. A solid ridgebeam is an upright house

Another use of tāhū is in lines of descent passed down unbroken through generations. The succession provides a foundation of connection, a line of high status for an Iwi. Such lines are present in the way we engage with justice, to find a lineage as a structure for the inquiry.

Tāhū is also associated with narratives, that is, narratives that provide a way of engaging with the past, through to today. The narratives are heard by many, are relevant to great numbers, and provide a sense of substance for participants in this inquiry and those affected by it.

It is important to take note of how tāhū is used in relation to the weaving of korowai. In the first rows of weaving, the weft forms the initial structure for the warp of the garment. Weaving is a conceptual link between the texture and structure of this inquiry and the texture and structure of a woven textile. Justice might also be considered a protective covering.

Thus Te Tāhū o te Rau is the centering structure of this inquiry. It should also be said that the central ridge of a feather likewise holds together the filaments just like the ridgepole holds the rafters. They all connect to the central structure to remain firm and stable.

15. **Te Ohu Māngai** is the name for the lawyers' group that will be pulled together to focus on planning for each phase of this inquiry.
16. **Te Ohu Whai Taunaki** is the name of another group focused on planning, but its special focus is evidence that will be presented to the Tribunal. There are many sources of evidence – the claimants, Crown officials, experts, historians, and researchers. The quest of this group will be to answer questions such as: what is the best evidence on this subject? How long will it take to prepare? Who will pay for it?