HINE WANANGA

Ko te kai rapu, ko ia te kite

Seek and you shall find

HINE WANANGA REPRESENTS WISDOM
Nga Pou Wahine Series Robyn Kahukiwa 2000©
Chapter Seven

Critical Discussion of Mana Wahine and GM

_Nga Wahine Tiaki o te Ao maintain that Aotearoa is Maori land, and therefore any organism grown from it is subject to tikanga Maori which provides a collective basis from which to properly care for the environment and distribute resources. Anything created in Aotearoa will be subject to Maori claims for ownership as kaitiaki, furthermore we will continue to exercise our rights as Maori and prevent the introduction of GM and GMO experimentation in Aotearoa. We expressly do not give permission for our intellectual property to be used for the purposes of GM and GMO experimentation._

(Nga Wahine Tiaki o Te Ao, 2001:1).

Introduction

The purpose of this chapter is to provide a critical discussion of GM with regard to mana wahine and decision making. I will apply the critical focus area of decision making\(^49\) from the mana wahine conceptual framework developed in Chapter Six to the process of the RCGM and its strategic recommendations. Through this application, I aim to highlight how the framework can be applied to analyse new information and evidence. I recognise that a limitation of this thesis could be that I am not able to apply all seven critical focus areas to an analysis of GM given word and space limits. Therefore, I recommend that others working in the field of mana wahine and GM apply the other critical focus areas from the framework at a later stage to an analysis of GM.

\(^49\) I have chosen to discuss the critical focus area of decision making due to the research participant’s involvement in the RCGM process as an interested persons party and their frequent discussion of this area with regard to the RCGM in the interviews.
Decision Making, Mana Wahine and the RCGM.

I have defined the critical focus area of decision making from the mana wahine conceptual framework as asking the following overarching question and sub-question:

Decision making
• In what ways are Maori women recognised and supported as decision-making participants in the development of this technology?
• Are mana wahine perspectives visible and validated with regard to this technology?

In order to answer the questions above, within this chapter I will overview the RCGM requirements with regard to Maori. Following this I will present a summary, as reported from the RCGM final report\(^\text{59}\), on Maori views with regard to GM. I will outline the RCGM strategic recommendations in particular focusing on the Maori specific recommendations. I will also discuss the critical focus area of mana wahine and decision making with regard to the RCGM.

RCGM and the Requirement to Engage Maori

The RCGM in regard to Maori views was required to investigate and receive representation upon the following:

• The Crown's responsibilities under The Treaty of Waitangi in relation to genetic modification, genetically modified organisms, and products.
• The main areas of public interest in genetic modification, genetically modified organisms, and products, including those related to -
  • Cultural and ethical concerns
• The key strategic issues drawing on ethical, cultural, environmental, social, and economic risks and benefits arising from the use of genetic modification, genetically modified organisms and products. (RCGM A3, 2001:144 book 1)

Maori Consultation Process and Options

The RCGM was responsible for; “consulting with Maori in a manner that specifically provided for Maori needs and cultural and ethical concerns, and the Crown’s

\(^{59}\) The final report of the RCGM is referred to as the Report.
responsibilities under the Treaty of Waitangi” (RCGM A1, 2001:144). The Commission developed a Maori consultation programme that they believed provided an opportunity for Maori to participate in an appropriate way. This specific Maori consultation programme was one of several options available to Maori to participate in the inquiry. The other forums included the formal hearings process, public submissions, a youth forum, public meetings and a public opinion survey.

The RCGM held an initial hui at Tunohopu Marae, Ohinemutu, Rotorua, with the assistance of the Te Arawa Kaumatua Council, Bishop Manu Bennett and Te Puni Kokiri. The Commission report that it was expressed at this scoping hui a desire for independence from government agencies in the organisation of the consultation programme.

Based on this hui and other consulting advice purchased by the Commission they formulated a consultation process of 28 regional workshops and 10 regional hui throughout New Zealand from 24 October 2000 to 10 March 2001, with a National hui at Turangawaewae Marae, Ngaruwahia, on 6-8 April. The Commission appointed an independent consultant to manage the programme. The varying elements of the Maori consultation programme are recorded in the Commission’s Report as having the following objectives (RCGM A1, 2001:145):

1. The workshops were intended to inform Maori regarding the Commission, its terms of reference and the submission process.
2. The 10 Regional Hui were intended to provide a familiar and reasonably accessible venue for Maori to make submissions.
3. The National Hui would double as a Regional Hui for the King Country, Waikato and Counties areas and also as a hui which representatives from the 10 completed Regional Hui could attend and korero [discuss] about the results of the hui in their regions, and so provide a composite view of the results of the Commission’s workshop and Regional Hui consultation programme.

The RCGM aimed for the workshops to provide information on the role and tasks of the Commission and how, where and when to make a submission to it. They were
approximately two hours in duration and preceded the regional hui in the area, attendance varied from 4 (Kaikohe) to 30 (Te Kuiti).

All but 1 of the 10 regional hui were marae based, the Commission were accompanied to all but one hui by Te Arawa kaumatua and kuia, Pihopa Kingi and Inez Kingi. Each regional hui was held over one day and according to the Commission reports (ibid: 147): “Provided a formal channel on a marae setting for Maori to present oral and/ or written submissions directly to the Commission. Each submitter was allocated 15 minutes to make a submission.” In regard to the submission presented at the regional hui the RCGM state (ibid:148):

Submissions and views were presented by a range of groups and individuals, including national Maori organisations, Maori doctors and health practitioner groups, iwi organisations, rangatahi groups, university lecturers, specialised Maori organic food groups, Maori lawyers, land trusts, and individuals (Maori and non-Maori).

The marae based hui format and the presence of the Commission at all Regional Hui provided Maori with an accessible, familiar, open, free-flow forum to present their submissions, written or oral, directly to the Commissioners, kanohi ki te kanohi [face to face].

As the National Hui doubled as the regional hui for the King Country, Waikato and Counties region, a major part of the hui was spent hearing submissions from those areas. Representatives from the other 10 regional hui were allotted time to speak after local submissions had been heard. On the evening of the second day, Maori met without the Commission members. The next day at the hui 16 recommendations on GM were presented to the hui\textsuperscript{51}. The hui endorsed these recommendations and presented them to the Commission.

**RCGM Formal Hearings Process**

The Commission was bound by the provisions of the Commissions of Inquiry Act 1908, section 4A(1) of the Act states, *Persons entitled to be heard*. The relevant definition of ‘person’ is in section 30 of the Interpretation Act 1999:
'Person' includes a corporation sole, and also a body of persons, whether corporate or unincorporated.

The establishing warrant of the Commission did not name any specific parties to the inquiry, therefore persons wanting to appear before the Commission under interested persons status were asked to satisfy the Commission:

- That they have 'an interest in the inquiry', that is, an interest in the Inquiry of GM., and
- That their interest is apart from that in common with the public".

Interested persons had the right to appear before the Commission in person or by their counsel or agent and give oral evidence. The Commission's formal hearing process included the following components:

- Application for interested persons status,
- Written submissions,
- Formal hearings,
- Additional presentations,
- Rebuttal and new evidence,
- Closing and legal submissions and
- Documents tabled during formal hearings.

At the conclusion of two application hearings for parties to obtain interested persons status, the Commission had considered 292 applications for interested persons status and decided 117 were considered to meet the statutory criteria. 7 of the 117 parties accorded interested persons status were Maori. The organisations included two national representative bodies, New Zealand Maori Council and New Zealand Maori Congress. The Federation of Maori Authorities (FOMA) a national body representing Maori landowning authorities, Trust Boards and Runanga. WAI 262 claimants, Ngati Wai, Ngati Kuri and Te Rarawa who have an interest in intellectual property rights. Two tribal organisations, Te Runanga o Ngai Tahu and Muaupoko Co-operative Society and Nga Wahine Tiaki o Te Ao, an organisation representing views of a group of Maori women52.

51 These recommendations are presented further in this chapter.
52 Nga Wahine Tiaki o Te Ao were introdced and discussed in the Preface.
A Summary of Maori Views Presented to the RCGM.

On the 6-8 of April 2001 a National Hui was held at Turangawaewae marae, Ngaruawahia. The group attending this hui endorsed and presented 16 recommendations on GM to the Commission. These are outlined below.

1. That the Crown honour Te Tiriti o Waitangi.
2. That a process for implementing constitutional change is negotiated between Maori and the Crown which includes a revision of all legislation inconsistent with Te Tiriti o Waitangi including the Hazardous Substances and New Organisms Act 1996.
3. That following such a process, any constitutional change implemented reflects a basis in tikanga Maori and acknowledges the following constitutional documents as the foundation for such process:
   - Declaration of Independence;
   - Te Tiriti o Waitangi;
   - Draft Declaration of Indigenous Peoples Rights; and
   - Mataatua Declaration.
5. The Crown fund a parallel process which seeks Maori knowledge and opinions on genetic modification (GM) sourced from kaupapa Maori processes and contexts immediately.
6. That a moratorium be placed upon all activities related to GM and GMO's immediately.
7. That we outlaw the patenting of any life forms.
8. That an inventory on GMOs and GM activity in Aotearoa be completed by Maori and the Crown. Such an inventory must source all GMOs and GM research, outputs and activities to date.
9. That Maori in negotiation with the Crown commence immediately an environmental, spiritual and cultural GMO impact assessment, followed by a cultural, spiritual and environmental clean up.
10. That the Crown stops free-trade negotiations and stops biotechnology multinationals from entering Aotearoa to conduct GM experiments.
11. That Maori in negotiation with the Crown develop separate standards from the current ANZAF and other food standards that label GM foods.
12. That Maori in negotiation with the Crown label all GM foods.
13. That Maori in negotiation with the Crown half the import of GM foods for the future.
14. That the Crown fund sustainable organic agriculture practices and implements processes that will ensure that Aotearoa is an organic nation by 2020.
15. We declare Aotearoa should be an independent, nuclear and GE Free Nation.
16. That the Royal Commission include the resolutions form the National Maori Hui held 6-8 April 2001 in their final report, and to the New Zealand Government.
The National Hui at Turangawaewae acknowledge and support the recommendations presented by Nga Wahine Tiaki o te Ao and other whanau, hapu, iwi, and Maori submissions that were received and delivered (RCGM, A3, 2001:152-153).

It is clear from these recommendations that there was a resounding 'no' coming from Maori with regard to GM. In addition to these National recommendations oral submissions made by Maori during the Royal Commission's Maori consultation process also identified the concerns Maori presented to the Commission with regard to GM. These have been recorded and summarised within the RCGM report (RCGM, A3, 2001:150-151) and are outlined below.

Oral submissions referred to:

- Whakapapa and the marketing of Maori intellectual property.
- The breaking down of traditional relationships in the natural world.
- Western constructs of patents hiding behind the ethic of stewardship.
- Controls over genetic modification experiments and field tests.
- Labelling genetically modified foods properly.
- Health risks.

Other themes in the oral submissions included:

- Genetic modification is a direct offence to Te Ao Maori, is a breach of tikanga.
- Maori rights and perpetuates colonialism.
- Maori will be further disadvantaged and alienated from their taonga.
- Maori own the responsibility to protect the legacy of their own future generations and need to be able to give informed consent to genetic modification.
- Genetic modification development without Maori consent is a breech of the Treaty of Waitangi.
- Genetic modification agenda will be undermined by multinationals.
- Concerns were expressed about Government's ability to control outcomes.
- There should be no moratorium on genetic modification developments now and until such time as the Maori Treaty partner agrees.
- There is a lack of information and time to make informed decisions on genetic modification.
- Many concerns were expressed over Maori rights under the Treaty being ignored. Who will benefit and who will control? Who knows what is truly happening?
- Scientists and Crown Research Institutes should be held responsible and accountable for the results of their work.
- Flora, fauna and rongoa need to be protected.

Written submissions expressed similar concerns to those in oral submissions. Additional issues included:
• Public money is being used on genetic modification without any clear understanding of the risks and whether or not it is in the public interest. The Commission has a duty to comment on this.
• Maori views are sought when convenient and scoffed at if 'unsuitable' or considered not scientific.
• Legislation needs to be passed to ensure and guarantee Maori a full decision-making role covering all aspects of genetic modification development in New Zealand.
• Genetic modification interferes with the integrity of species and the mauri of the affected species. (RCGM, A3, 2001:150-151).

It is evident from the RCGM report that Maori expressed many concerns with regard to GM. Tikanga Maori values raised frequently involved concepts of whakapapa, mauri, tapu, noa, hara and ke, mana, ihi and wehi, whanau, hapu and iwi. All of these concepts are relevant to the Commission understanding the holistic ecological approach Maori have to the environment, but also to explaining why Maori prioritise an obligation to kaitiakitanga. The other imperative issue to raise in regard to the RCGM is Te Tiriti o Waitangi.

Findings and Conclusions of the RCGM

The major conclusions of the RCGM was of, "preserving opportunities" (RCGM, H, 2001:331). The major conclusions are:

• There are aspects of genetic modification we consider positive and useful, and hence to have an important place in New Zealand's future in certain defined situations. We also want to maintain non-genetic modification options as effective choices. We favour a strategy of preserving opportunities and proceeding selectively with appropriate care.
• The Commission considers that genetic modification technology should be used in ways that are carefully managed. All opportunities to use the new technology should be seen in terms of the net contribution they will make to New Zealand. This would allow controlled use of genetic modification, the degree of control varying with the situation.
• It is our view that an appropriate regulatory and institutional framework for the controlled use of genetic modification is already provided by the Hazardous Substances and New Organisms Act 1996 (HSNO). Nevertheless throughout the report we have made recommendations for additional controls to make the existing system more robust. (RCGM, H, 2001: 331)
In addition to the major conclusions there are 49 recommendations with eight pertaining to Maori interests. The eight Maori specific recommendations are listed below:

Recommendation 6.10
• That IBSCs include at least one Maori member, appointed on the nomination of the hapu or iwi with mana whenua in the locality affected by an application.

Recommendation 6.14
• That public research funding portfolios be resourced to include research on the socio-economic and ethical impacts of the release of genetically modified organisms.

Recommendation 10.3
• That a Maori Consultative Committee be established by the Intellectual Property Office of New Zealand to develop procedures for assessing applications, and to facilitate consultation with the Maori community where appropriate.

Recommendation 10.4
• That New Zealand be proactive in pursuing cultural and intellectual property rights for indigenous peoples internationally.

Recommendation 10.6
• That all parties concerned work to resolve the WAI 262 and WAI 740 claims currently before the Waitangi Tribunal as soon as possible.

Recommendation 11.1
• That section 8 of HSNO be amended to provide that effect is to be given to the principles of the Treaty of Waitangi.

Recommendation 14.1
• That HSNO section 68 be extended to include significant cultural, ethical and spiritual issues as grounds for the Ministers call-in powers.

Recommendation 14.2
• That Government establish Toi te Taiao: the Bioethics Council to:
  • Act as an advisory body on ethical, social and cultural matters in the use of biotechnology in New Zealand.
  • Assess and provide guidelines on biotechnological issues involving significant social, ethical and cultural dimensions.
  • Provide an open and transparent consultation process to enable public participation in the Council’s activities.
Maori Women and Decision Making in the RCGM Process – A Critical Discussion.

I now engage with the mana wahine conceptual framework and the critical focus area of decision making. In particular, I apply the question I have developed from the framework: Are mana wahine perspectives visible and validated with regard to this technology? The areas of relevance to Maori women with regard to GM have been summarised in the critical focus areas of the mana wahine conceptual framework and include concerns relating to: tikanga, Papatuanuku, kaitiaki, Te Tiriti o Waitangi, decolonisation, decision-making and intellectual property rights.

Through the application of the questions from the focus area of decision making a number of critical weaknesses and significant omissions become apparent in the content and recommendations of the Royal Commission’s Report with regard to mana wahine views and GM. In this chapter, I highlight three particular areas of concern.

Mana Wahine, Decision Making and Te Tiriti o Waitangi

This thesis calls into question whether the Commission upheld Te Tiriti o Waitangi. As noted earlier in this Chapter, the Warrant sought views on the Crown’s responsibilities in relation to GM under Te Tiriti. The Report (RCGM H, 2001:300) highlights the divergence in submissions about what this part of the Warrant might have meant.

- That Maori views have ‘no primacy’ resulting from the Treaty but that Maori had established a ‘community of interest’, which required their views to be taken account along with others.\textsuperscript{53}
- That the Crown’s obligations in this area were unclear\textsuperscript{54}
- That it was premature to address this matter while such cases as the WAI 262 claim to the Waitangi Tribunal, or the appeal to the High Court (the Bleakley case\textsuperscript{55}), were still outstanding. Regardless of that, however, we are required to report on Treaty obligations. So far as the Bleakley case is concerned, in fact the High Court decision became available before the Commission completed its work and has been taken into account.

\textsuperscript{53} A2 Corporation [IP26]. Closing submission of Interested Person [CL IP26]: pages 12 and 13.
\textsuperscript{54} New Zealand Wool Board [IP30]. Interested Person submission: sB9g), Summary
\textsuperscript{55} Bleakley v ERMA AP177/00 HC, Wellington 2 May 2001 unreported.
The Report also notes (RCGM A3, 2001:153) that Te Tiriti was amongst predominant Maori opposition to genetic modification:

The submissions, both oral and written...were predominately opposed to genetic modification. However although a large part of that negativity stemmed from the submitters' views about the mixing of genes between species, a major concern was also the abrogation of Maori rights under the Treaty of Waitangi, a lack of information and time to make informed decisions...and concerns about who will control genetic modification...and who will benefit from it.

With regard to Te Tiriti o Waitangi, of the 107 Interested Persons, 31 made substantive comments in their submissions, 23 made cursory comments and 53 made no comment or stated they took no position (RCGM A2, 2001:204). All seven submissions from Maori organisations as Interested Persons contained references to Te Tiriti o Waitangi. Submitters identified the responsibilities of the Crown under Te Tiriti as a major issue.

With regard to Te Tiriti o Waitangi and the Maori Interested Persons submissions, the Report notes (RCGM A2, 2001:205) that:

Views ranged from those who saw the obligation to honour the Treaty as an essential first step to those who saw a case-by-case consultation with Maori on genetic modification proposals as acceptable. Thus, some stated that constitutional change to honour the Treaty was required before anything else; others were prepared to consider a system of assessing genetic modification proposals providing Maori participated in the assessment and decision-making processes.

Te Runanga o Ngai Tahu noted that Te Tiriti o Waitangi is a fundamental cornerstone to any consideration of GM in New Zealand. Maori Congress affirmed Te Tiriti o Waitangi and stated:

Te Tiriti o Waitangi is the only starting point for any recommendations concerning the possible move to permitting genetic modification in Aotearoa/New Zealand. Te Tiriti o Waitangi as the Magna Carta remains within our country as a duly constituted agreement between two sovereign nations to advance the future of two peoples.
WAI 262 claimants regarded the Treaty as; “the only reason the Crown is entitled to assert any form of governance in this country”, they also added that it must be accorded primary attention by the Commission (RCGM A2, 2001:206).

Maori submissions used Te Tiriti as a vehicle to argue for the protection of Maori values. It is also evident from the summaries presented earlier in this chapter that Maori oral and written submissions to the RCGM raised Te Tiriti o Waitangi as an issue of relevance.

Te Tiriti o Waitangi concerns was also raised by non-Maori parties. The Safe Food Campaign stated; “…the Crown’s responsibilities under The Treaty of Waitangi mean relating issues about GM back to the principles of partnership, protection and participation.” (RCGM H, 2001:300). Other submitters were concerned with the views expressed through consultation should actually be heard. The Interchurch Commission (RCGM A2, 2001:212) noted the following:

The Crown has a responsibility to give real expression to Treaty principles through establishing a new process whereby Maori views in relation to genetic modification, genetically modified organisms and products can be treated with greater respect than has thus far been the case…The extent to which Maori spiritual concerns in relation to GE are genuinely heard will indicate the depth of our commitment as a nation, to the Treaty upon which our nation is founded.

The submission from Te Puni Kokiri quoted the New Zealand Maori Council v. the Attorney General56 with regard to Te Tiriti (RCGM H, 2001:300), they stated:

The Treaty of Waitangi required the Crown to promote the well-being and economic prosperity of all New Zealand’s peoples. A strategy in which the Crown approves and encourages the responsible research, development and application of genetic modification in New Zealand is consistent with this requirement. The desire of Maori to place genetic modification technologies under fair scrutiny should be supported.

56 See the New Zealand Maori Council v. the Attorney General56 [1994] 1 NZLR 513, 517 (Broadcasting Assets Case).
The impact of the Report in failing to uphold Te Tiriti o Waitangi with regard to Maori women has two serious implications. The first implication is that Maori women are denied the right and ability to use Te Tiriti o Waitangi as a vehicle to argue and support their views. Secondly, the failure of the RCGM to uphold Te Tiriti o Waitangi provides another example of the denial of status and rights of Maori women under Te Tiriti o Waitangi.\(^{37}\)

In its dealings with Te Tiriti o Waitangi, the RCGM Report discussed the need to actively protect Maori interests is closely linked to consultation. They stated (RCGM, 2001:301):

> We consider that the responsibilities to consult and to actively protect Maori interests are closely linked: consultation is needed, for instance, to identify the relevant interests and how best to protect them.

The Report discussed the current legislative provision pertaining to Te Tiriti o Waitangi contained within the HSNO Act 1996 and the ability of this provision to adequately protect Maori interests. This provision reads:

**8. Treaty of Waitangi** – All persons exercising powers and functions under this Act shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

The Report discusses the use of stronger wording within the above provision to protect Maori interests and recommended that section 8 of the HSNO Act 1996 be amended to provide that effect is to be given to the principles of the Treaty of Waitangi.

As discussed in this thesis, Te Tiriti o Waitangi is an important tool of analysis for assessing GM in Aotearoa as it provides for the equitable participation of Maori, outlines our rights as Maori women, contains a mana wahine perspective, and provides an analysis that is relevant to mana wahine. However, within the GM debate Te Tiriti was not used as a central tool for analysis, and was in fact breached and redefined in a manner

\(^{37}\) It is the denial of Maori women’s Te Tiriti o Waitangi rights that led to Maori women lodging a claim to the Waitangi Tribunal, as discussed earlier in Chapter Four.
inconsistent with protecting Maori rights. This is noted by Moana Jackson (2001:5) who states:

The Commission did not go as far as saying that the Treaty permitted genetic modification, but in its Treaty-based redefinition of Maori concerns and the jurisprudential base upon which it constructed its Treaty discourse the effect was much the same. As so often happens, the Treaty was used to acknowledge contesting views then with equal facility used to dismiss those of our people in favor of those of the Crown.

The stance of the RCGM, as is evident through their Te Tiriti recommendation, and the Government with regard to Te Tiriti is that while Maori are tangata whenua, they are really only a community of interest as opposed to a sovereign Te Tiriti partner. This stance Moana states (ibid.):

Comes from the still contested view that our people ceded sovereignty in the Treaty and granted absolute authority to the Crown, subject to certain obligations that the Crown has since defined. Its effect on the deliberations of the Commission was not just to marginalise the views of Maori in the light of majority interests but also to limit future Maori involvement in the institutional structures it [RCGM] recommended to monitor GM issues.

The process of the RCGM in assessing strategic options for GM in Aotearoa/New Zealand has occurred in breech of Te Tiriti. Cheryl Smith and Leonie Pihama both submitters to the Regional Hui in Wangamui and members of Nga Wahine Tikai o Te Ao, saw the Commission itself and its process as in breach of Te Tiriti o Waitangi. In particular they referred to matters preceding the establishment of the Commission, such as the lack of consultation with Maori over the RCGM terms of reference, and about who should be appointed as Commissioners. Nga Wahine Tikai o Te Ao focused on matters outside of the Warrant, such as the perceived obligation to implement Te Tiriti and effect constitutional change before examining any questions of GM.
The Marginalisation of Mana Wahine in the Final Recommendations

As Maori women articulating mana wahine it is important to assess the relevance of our views within the wider GM debate, for it is the processes and views of the wider debate that are the decision making forum for GM. Within this section I will present evidence detailing the marginalisation of mana wahine views, expressed by Nga Wahine Tikai o Te Ao, at the RCGM. I will apply the questions developed from the mana wahine conceptual framework; Are mana wahine views visible and validated within the analysis of the GM? The exploration of this question alongside the presentation of the evidence will provide for a wider discussion of issues with regard to the inclusion of mana wahine views in the final recommendations.

It is mana wahine voices that are opposing and speaking out against GM. However, although mana wahine concerns are strong, they are not the voices that are recognised as ‘legitimate’ Maori voices for inclusion in the GM debate. For example, positions of authority within Crown processes are and have been occupied by some Maori men purporting hegemonic colonial masculinist ideologies. I refer particularly to positions within ERMA NZ for a Maori adviser as well as the consulting advice paid for by the RCGM with regard to Maori and GM. Given that these decision making organisations are part of the hegemonic colonial patriarchal system for regulating GM in Aotearoa, I am not surprised that Maori women have been excluded from these positions and that the voices of Maori men with regard to GM have been given predominance and legitimacy. In my article, Molecular Kaitiakitanga (2001:10) I discussed how the Maori GM debate is being dominated by patriarchal ideologies, with vital issues of relevance to mana wahine being excluded. I noted the following:

Within Maoridom the GM debate is falling victim to patriarchal ways in terms of who participates how they participate and the issues being placed on the table. It is my deepest disappointment and concern that vital and important issues being debated in the south such as the connection between women and biodiversity, globalisation, biopiracy are often gate kept by those Maori enjoying the fruits of recent Treaty settlements, good salaries and positions of power. Is it too long ago, too painful, too threatening to current positions of some Maori to recall the aftermath of colonisation that we live in?
A mana wahine approach is about bringing change for all, as the challenges raised by Maori women are of benefit to all Maori people. It is incorrect to state that all Maori views presented to the RCGM were opposed to GM. The witness brief of two Maori men, Paora Ammunson and Tamati Cairns, who were contracted as consultants to the (GM advocates) Life Sciences Network, argued a pro-Maori GM view. The following excerpts from the executive summary of their witness brief overviews their main arguments (Ammunsen and Cairns, 2001:2). They stated:

The Maori focus on and understanding of the implications of genetic engineering is still evolving. There is a limited number of Maori commentators who are opposed to genetic engineering. This is because they believe that Maori have whakapapa to all animate and inanimate objects... The debate should be about how to best accommodate the new developments within Maori customs and tikanga. Particularly in light of the health issues that currently affect many Maori households that may be, and in the case of diabetes are already, addressed through new technologies. We do not believe that Maori were reluctant developers of technology; the overwhelming anthropological and customary evidence weighs against this interpretation of tikanga Maori.

Their brief goes on to highlight some of the benefits of GM they see for Maori. They stated (ibid:18):

Maori should embrace the benefits of biotechnology and should look to maximise the potential health, economic and environmental gains that can be made.

Kaitiakitanga Benefits – While it appears that several Maori commentators consider that genetic engineering undermines Maori ability to exercise kaitiakitanga over their resources, we consider this analysis to be flawed. Genetic engineering technologies offer an alternative to harmful pesticides and chemicals, and enhance plants natural abilities to respond to introduced pests and diseases.

There are possible benefits to Maori from our intellectual property in the development of pharmaceuticals and medicines.

Their witness brief goes on to discuss further benefits for Maori from GM. I argue that although the voices of Paora and Tamati are Maori voices, they are adopting a non-Maori discourse placing their arguments in a Life Sciences discourse, that favors hegemonic colonial patriarchal ideologies. The views of Paora and Tamati serve to remind us not to
essentialise or universalise Maori views with regard to GM as some Maori are arguing for the benefits of GM. This point is also highlighted by the membership of the RCGM having one Maori Commissioner, Dr Jacqueline Allen, who stated her whakapapa as Ngai Tahu. However on defining her role as a Commissioner she noted that she was not occupying her position as a Maori Commissioner but as a Commissioner who has an experience in working with Maori issues. Like Paroa and Tamati’s views, Jacqueline’s repositioning of her Ngai Tahu ethnicity to view and assess issues regarding GM remind us not to essentialise or universalise the views of Maori men and Maori women. Although Jacqueline is a Maori woman she is not purporting a mana wahine view. She is in fact working within and perpetuating the hegemonic colonial patriarchal ideologies by denying her space on the Commission as a Maori space.

Within this thesis I am not saying that all Maori are anti GM, or that all Maori women are purporting mana wahine views with regard to opposing GM. The positions of Tamati, Paora and Jacqueline highlight this. It is evident throughout this thesis that mana wahine is a perspective that is carried by some Maori women, however, the gendered body of a Maori woman does not automatically mean she carries a mana wahine perspective. Therefore it is necessary to challenge assumptions that because the RCGM has a Maori women Commissioner, Maori women’s views and mana wahine views will be incorporated into the analysis and decision making process. For example the submission of Nga Wahine Tikai o Te Ao carried mana wahine views with regard to GM that were marginalised in the final recommendations of the Commission. The next section will overview the submission of Nga Wahine Tiaki o Te Ao.

An Overview of Nga Wahine Tikai o Te Ao Submission and its Relevance to the Recommendations of the RCGM.
The executive summary of the submission of Nga Wahine Tiaki o Te Ao provides an overarching summary of the submission and recommendations. The following is highlighted from the executive summary (Nga Wahine Tiaki o Te Ao, 2001:1) of their submission:
This submission positions genetic modification as antithetical to Tikanga Maori. We hold that Tino Rangatiratanga is guaranteed under Te Tiriti o Waitangi and that the Crown in its processes, including this commission process, is operating in breach of Te Tiriti o Waitangi. All genetic modification must be stopped. Within Tikanga Maori women hold key roles in the protection of whakapapa, mauri, ira, tapu and act as kaitiaki in relationship to all things. The concept of Mana Wahine asserts a fundamental belief that past, current and future generations have the right to tino rangatiratanga and that the tampering with genetic material is in direct conflict with that right.

This section presents evidence detailing that mana wahine perspectives as represented in the submission of Nga Wahine Tiaki o Te Ao were marginalised in the final recommendations of the RCGM. To assess this I will work through the key recommendations of Nga Wahine Tiaki o Te Ao as detailed in their submission and discuss these against the recommendations of the RCGM.

Within Section B of their submission, Nga Wahine Tiaki o Te Ao state (ibid. 5) that they are; “...absolutely certain that there should be no use, application or experimentation with GM and GMO in Aotearoa. This position finds its origins and certainty from our tikanga which has been handed down via the traditions and law of our ancestors.” Furthermore in response to the RCGM requesting advice on the strategic options available to enable Aotearoa/New Zealand to address, now and in the future genetic modification, Nga Wahine Tikai o Te Ao stated (ibid.) that; “all use [of GM] should halt immediately pending constitutional change and subsequent honoring of Te Tiriti o Waitangi”.

This view is clearly not upheld in the major conclusion of the RCGM that was presented at the beginning of this chapter, and states (RCGM H, 2001:331):

- There are aspects of genetic modification we consider positive and useful, and hence to have an important place in New Zealand's future in certain defined situations. We also want to maintain non-genetic modification options as effective choices. We favour a strategy of preserving opportunities and proceeding selectively with appropriate care.
Furthermore, the RCGM requested advice on any changes considered desirable to the current legislative, regulatory, policy or constitutional arrangements for addressing GM in New Zealand. In response to this, Nga Wahine Tiaki in their submission stated that; “We hold that Tino Rangatiratanga is guaranteed under Te Tiriti o Waitangi and that the Crown in its processes, including this commission process, is operating in breach of Te Tiriti o Waitangi. All genetic modification must be stopped”. Also pertinent to this is the comment by Nga Wahine Tiaki with regard to Te Tiriti where they stated (Nga Wahine Tiaki o Te Ao, 2001:3) that:

1. The Crown’s responsibilities under the Te Tiriti o Waitangi have clearly not yet been realised within current constitutional arrangements. Constitutional change that honours tino rangatiratanga as guaranteed to Maori in 1840 will provide a firm basis upon which the Crown’s obligations can be negotiated.
2. Until these changes and negotiations have taken place however ALL activities in relation to GM and GMO need to cease to ensure that no further breaches of the Crowns obligations with respect to Te Tiriti o Waitangi occur.

This recommendation clearly does not include the mana wahine perspective as detailed above. Rather it recommends a stronger principle based interpretation of Te Tiriti into legislation than currently exists. The recommendation also allows for the continuation of GM, which is explicitly recommended by Nga Wahine Tiaki to cease. The Commission’s recommendation 11.1, as presented earlier, states:

That section 8 of HSNO be amended to provide that effect is to be given to the principles of the Treaty of Waitangi.

I believe it is clear from the recommendations of the RCGM that the mana wahine concerns presented above, regarding changes to the current regulatory framework and Te Tiriti, have not been included as relevant in the final recommendations.

In regard to intellectual property rights Nga Wahine Tiaki o Te Ao (ibid.), raised the following issues in their submission:
Nga Wahine Tiaki o Te Ao maintain that Aotearoa is Maori land, and therefore any organism grown from it is subject to tikanga Maori which provides a collective basis from which to properly care for the environment and distribute resources. Anything created in Aotearoa will be subject to Maori claims for ownership as kaitiaki, furthermore we will continue to exercise our rights as Maori and prevent the introduction of GM and GMO experimentation into Aotearoa. We expressly do not give permission for our intellectual property to be used for the purposes of GM and GMO experimentation.

The RCGM in response to the issues of intellectual property rights raised by Maori recommended:

Recommendation 10.3

That a Maori Consultative Committee be established by the Intellectual Property Office of New Zealand to develop procedures for assessing applications, and to facilitate consultation with the Maori community where appropriate.

The establishment of a Maori Consultative Committee provides for the establishment of another forum to collect Maori views with regard to intellectual property. This recommendation gives Maori no power as decision makers in regard to protecting their intellectual property. I believe mana wahiine views with regard to intellectual property rights are expressed in the WAI 262 claim and therefore it is not the establishment of more forums a mana wahiine stance seeks, but decision making power and the ability and rights to protect their intellectual property. Therefore, this recommendation fails to uphold mana wahiine concerns with regard to GM.

Mana wahiine concerns presented from the submission of Nga Wahine Tikai o Te Ao with regard to GM were not upheld or reflected to any level of satisfaction within the final recommendations of the RCGM. This view was also expressed by the research participants. Within the wider Maori context it is evident that the Commission recorded and summarised Maori views as outlined at the beginning of this chapter, however nowhere within their recommendations are these views reflected. Aroha Mead (2001, pers.comm.) also notes this position, she stated:

Of the 49 recommendations of the Commission's report 8 were Maori specific or Treaty specific, and of those there weren't...I couldn't see much of a connection
between what they indicated they had received from Maori through submissions and what they actually came up with in recommendations; there's no logical extension of "we received this and so we came up with this". I thought, therefore, that they hadn't done a good job.

The recommendations rendered the voices of Maori women articulating mana wahine views as worthless, valueless and not of any notable importance. Glenis Phillip-Barabra's (2001, pers.comm.) reaction to the Commission's findings describes the recommendations as taking the middle ground. She expressed the following:

You know, it's a typical middle ground finding. Thinking about those commissioners, thinking about their responses to us, their application of the rationality in the extreme pursuit of the common good, which is never our good because we're not the common...its not surprising at all.

Glenis also described features of the RCGM, she noted the following:

Royal Commissions, the Government's henchmen, will never ever find for us; they never have and they never will. I mean, their position of power is absolutely dependent on our oppression. They're not going to free us, because it would be suicidal for them to do so. And that's why they all resist us at every turn, which is why we just carry on and do our own thing. Some of the most powerful movements I've seen occur within communities, small groups of women who just do, and in doing so shift an entire commonsense, and that's what we need to do.

The response from research participants with regard to the RCGM recommendations ranged from disappointment to disgust, all participants were not surprised that Maori views and the views of Nga Wahine Tiaki o Te Ao were negated due to the history of the Crown continually marginalising Maori voices. This is clearly articulated by Tere (2001, pers.comm.) in her response to the Commission's recommendations. She stated:

Not surprising. Disgusted by their uncourageous approach. I am largely disappointed that, as a nation of fighters, they chose not to make a stand. I think it is a sign of weakness, absolute weakness. I think that the Royal Commission's report is atrocious in the greatest sense. There was no courage, there was no foresight, they just did not have the balance to stand up and do something about it. It was so weak.
How can someone sit through months and months of hearings and adopt that framework? I think that it's crazy. I think it's so crazy. One's wairua must be severely severed from one's body to produce that form of thought. It's crazy.

When the report came out I purposely stayed away from the news and television and radio, because I knew the result. I had no faith in that process, no faith in that system, no faith in non-Maori, non-indigenous peoples making those decisions for us.

The marginalisation of mana wahine views in the RCGM recommendations highlights the limited power Maori women have in influencing agencies that are Crown driven or support the maintenance of hegemonic colonial masculinist ideologies. Hegemonic institutions like the Government have a history of marginalising mana wahine perspectives. This history has left Maori women cynical of Government as an agency that will protect mana wahine interests. However the concern with GM and the current wave of globalisation, is that Governments, including the New Zealand Government are now not driven by the interests of the general population, but by the interests of TNC’s and profits. This requires us to call into question the concept of democracy within our Government. Fiona (2001, pers.comm.) highlights this in her response to the RCGM report, she noted:

80% of its [the RCGM] submissions were anti GE, to come out with a report that was reasonably pro is bizarre and speaks to, I guess, the lobbying power of the biotech industry and its ability to talk as if it's the only kind of knowledge wave. So, I was not surprised by the decisions and the recommendations, but very disappointed. You know, I didn't expect anything really different really. I think that it was good that we were involved in submissions and the meetings but I actually think we need to do other things now. Like, people have already started, like people have been doing all along anyway, the Royal Commission was never going to save us.

Furthermore Donna (pers.comm:2001) discussed her cynicism of the Government to protect Maori interests, she also noted the influence of big business over the government. She stated:

I am very cynical about any kind of Government initiated inquiry. You know, because our history tells us that this whole question is not just about GM it's
It is clear that mana wahine views were not relevant in the final recommendations of the RCGM. Mana wahine concerns as expressed by Maori women often go unnoticed within the mainstream framework, by nature of the colonial perception of the views being from women who are Maori. The marginalisation of mana wahine views means Maori women must look outside hegemonic colonial patriarchal ideologies for an analysis of GM. Therefore, it is vital that we turn to other mana wahine voices to assist in shaping our analysis of this technology. This leads me to conclude that analysis originating outside of the experiences of Maori women is not a place from which we can gather relevant information with regard to GM. It must come from us. Voices other than those of Maori women purporting mana wahine analyses provide us with the task of checking and rechecking the assumptions on which the analysis is based. It is often by checking, we uncover hegemonic colonial masculinist assumptions that further perpetuate colonisation in Aotearoa.

*Maori Women, Decision Making and the RCGM.*

The overarching question I developed from the the mana wahine conceptual framework regarding Maori women and decision making asks; In what ways are Maori women recognised and supported as decision making participants with regard to this technology? From the evidence presented in this Chapter, it is clear that mana wahine views with regard to GM have been marginalised in the recommendations of the RCGM nor has Te Tiriti been upheld with regard to the RCGM recommendations. This has resulted in the Commission failing to provide a framework for protecting Maori interests.

The six recommendations, as outlined at the beginning of this Chapter and listed below, highlight the framework recommended by the Commission for protecting Maori interests.
Recommendation 6.10
- That IBSCs include at least one Maori member, appointed on the nomination of the hapu or iwi with mana whenua in the locality affected by an application.

Recommendation 6.14
- That public research funding portfolios be resourced to include research on the socio-economic and ethical impacts of the release of genetically modified organisms.

Recommendation 10.3
- That a Maori Consultative Committee be established by the Intellectual Property Office of New Zealand to develop procedures for assessing applications, and to facilitate consultation with the Maori community where appropriate.

Recommendation 11.1
- That section 8 of HSNO be amended to provide that effect is to be given to the principles of the Treaty of Waitangi.

Recommendation 14.1
- That HSNO section 68 be extended to include significant cultural, ethical and spiritual issues as grounds for the Ministers call-in powers.

Recommendation 14.2
- That Government establish Toi te Taiao: the Bioethics Council to:
  - Act as an advisory body on ethical, social and cultural matters in the use of biotechnology in New Zealand
  - Assess and provide guidelines on biotechnological issues involving significant social, ethical and cultural dimensions
  - Provide an open and transparent consultation process to enable public participation in the Council's activities.

All of these recommendations provide for legislative change or the establishment of bodies that note Maori concerns and interests with regard to GM, but they do not allow for Maori or Maori women to be decision makers. Hence the decision making power lies away from Maori. Through the application of the framework to these recommendations and the analysis that Maori women are not decision making participants with regard to GM, wider issues with regard to western science, knowledge and power emerge. Through working through these wider issues, a deeper analysis and other areas of relevance are highlighted.
Issues With Regard to Western Science

I argue that the failure to include Maori women as decision makers with regard to GM is in part related to issues associated with the dominance of western science as the voice of authority with regard to GM. The dominance and legitimacy given to western science has obscured the views and knowledge of mana wahine, resulting in Maori women not being seen as relevant decision makers with regard to GM.

The dominance of western science as the voice of authority is highlighted by Professor David Penny, who in the RCGM debate stated that, “ethical, theoretical, spiritual, religious and cultural objections to genetic modification has no firm basis” (cited in Jackson, 2001:8). Professor Penny’s assumption is that science is not a cultural construct. I disagree with his claim, as science has been shaped by the history and circumstances of the culturally-defined western civilisation. To deny any cultural influence on science is to claim that it is value-free and neutral, which it is not.

The implication of this for Maori women discussing mana wahine views with regard to GM is that the western scientific paradigm cannot stretch itself to understand, accept and validate another way of knowing. Kremer explains this further (1996:3):

Instead of asking indigenous minds to stretch themselves into linearity and monocausality by giving definitions satisfactory to the Western paradigm, maybe this is the time for minds trained in the Euro-centered ways of knowing to stretch into the narrative nature of native being/knowing.

However even if the grounds of science shift, Linda Tuhiwai Smith (1999:105) believes that; “the clash between science and indigenous knowledge remains constructed around the interests of science”. This is partly due to western science being constructed from a discourse that has provided science itself with the right to know all there is to know. Within this perspective, philosophical and ethical questions usually come after the exploration has occurred and as Moana Jackson (2001: 2) argues, it means that these questions, “are therefore constrained by the certainties already established in the totalising and unfettered right to know”. This is evident in Aotearoa where the RCGM was established in 2001 to examine issues concerned with GM while cows with synthetic
human DNA were already in experiment on the tribal lands of Ngati Wairere by a GM research company AGResearch.

Therefore the practice of GM had not only exceeded but also negated the discussion of ethical and philosophical questions relating to GM. From a mana wahine perspective of GM, this situation is unacceptable. Therefore the failure of western science to acknowledge mana wahine as a legitimate body of knowledge is directly related to Maori women being excluded from decision making forums with regard to GM.

**Summary**

Through the application of the questions developed from the framework’s critical focus area of decision making, a number of critical weaknesses and significant omissions become apparent in the context and recommendations of the Commission’s report. When the report of the RCGM is compared alongside Maori submissions to the Commission and in particular mana wahine views as represented by Nga Wahine Tikai o Te Ao, the lack of analytical rigour employed by the Commission is realised. This is particularly apparent in the Report’s lack of analysis regarding Te Tiriti o Waitangi, Maori concerns, and mana wahine concerns with regard to GM.

The Report heavily focuses on reporting the views of witnesses and submitters, thereby directing attention to specific issues raised by those persons, rather than on the key matters with regard to Maori as identified under the Warrant.

The RCGM needed to assess if GM posed a risk, and how that risk could be managed. They also needed to review the benefits to understand if the risks were worth taking. Lastly, they needed to identify and investigate strategic options and determine an optimal solution.

There is not doubt that the Commissioners had a very difficult task, given that by its nature GM is complex, new, full of uncertainties and challenging in terms of bringing
together a debate from various and diverse disciplines. This was the first time an inquiry of this nature had been undertaken anywhere in the world.

I consider that the RCGM failed in reporting and evidencing why and how Maori concerns with regard to GM are upheld. In particular, I note the critical weaknesses of the report concerning Maori women and decision making, these being that the Report:

1. Failed to uphold Te Tiriti o Waitangi;
2. Failed to include Maori women’s views as relevant in the final recommendations; and
3. Failed to provide a comprehensive framework to protect Maori interests.

The reasons behind the omissions and lack of rigour relate to the RCGM working within and being a part of hegemonic colonial masculinist ideologies that do not allow for the inclusion of mana wahine, thereby locating mana wahine perspectives in the margins. I contend this is not a limiting position, as from the margins we are able to view GM and provide analysis that is otherwise not being provided. It does however mean, as is detailed in the evidence in this chapter, that our mana wahine concerns are not accounted for within the current debate.

Ideally Maori and, in particular Maori women working within a mana wahine framework, should have had decision making power with regard to assessing and accounting for Maori concerns. However, by nature of the debate being facilitated by hegemonic colonial masculinist agencies, our views will always be marginal voices. I contend that a mana wahine perspective with regard to GM is pertinent to the wider GM debate to provide an analysis of GM that the world view of hegemonic institutions cannot reconcile. This in itself is a challenge to these institutions and their decision making powers.

The problem from a mana wahine perspective with regard to the findings of the RCGM is that the omissions and lack of rigour do exist and are sufficiently material to call into question whether the government can make
a decision based solely on the Report's recommendations. I suggest the Government cannot make a decision with regard to GM until the failures mentioned above have been fully investigated, taken into account and Maori women working within a mana wahine analysis are positioned as decision makers with regard to GM.