

Extract:

Chapter 10: Healing Our History; The Challenge of the Treaty of Waitangi (updated 2005)

White Privilege: The Hidden Benefits

Koukourarata (Port Levy) Banks Peninsula

The environment is spectacular and the silence begins to calm my grieving heart. Standing at the top of the urupa, I view the harbour before me in all its colours as the setting sun creates a canvas of contrasting light across the water and into the valleys. In the ground at my feet, slightly higher up the hill than her ancestors, the Tikao and Manawatu whanau, Irihapeti Ramsden (Ngai Tahu/Rangitane), my friend, colleague, mentor and fellow traveller on the journey, lay in her final resting place. The clay, flowers and flax weavings lay scattered across the grass like a rich quilt celebrating a life lived to the full. As I stood there the memories of an earlier journey with Irihapeti, to this place Koukourarata (Port Levy), flooded back in the balmy warmth of the late afternoon sun.

After passing Onawe, where Ngati Toa chief Te Rauparaha massacred many Ngai Tahu in the 1830s, and visiting the marae at Onuku, near Akaroa, where her ancestor, Tikao of Pigeon Bay and Iwikau of Puari, had signed the Treaty of Waitangi, Irihapeti decided to show me her land at Koukourarata. ‘We’ll take the short-cut. Just turn right at Little River. It’s not far,’ she announced. For the next terrifying 20 kilometres we lurched our way on a steep, narrow shingle road, around a winding cliff face, over the top of the hill and down the other side into the spectacular beauty of the harbour. As I struggled to keep my old car on the road, Irihapeti laughed, completely oblivious to the fact of my ‘near-death’ experience, as she gave me a running commentary on the history of her people in this place.

Banks Peninsula had been ‘purchased’ by the Crown in three blocks. Between 1849 and 1856 negotiations occurred at Port Cooper, Port Levy and Akaroa. Commitments were made about Maori reserves and natural resources. Most of these promises, however, were not kept, and as a result of these Crown acts most Ngai Tahu of Banks Peninsula were driven off the land and lost their turangawaewae.¹ Irihapeti’s anger about the plight and place of her people and other indigenous peoples was never far below the surface. She had endured ridicule, the lot of all prophetic people, in her struggle to develop her lasting legacy of cultural safety.² As is the lot of many indigenous people, some of the criticism included the added sting of racism. Yet the levelling influence of a mischievous sense of humour prevented her from ever becoming bitter—whatever the provocation.

¹ Waitangi Tribunal, *Wai 27: The Ngai Tahu Report, Volume Two*, p. 527.

² Irihapeti Ramsden, ‘Cultural Safety and Nursing Education in Aotearoa and Te Waipounamu’, thesis.

Standing on top of the urupa that day, looking out over the land and sea, caused me to reflect, once again, on my connections to this country the differences in the life journeys of myself and my friend Irihapeti. Although she never raised the subject directly in the many years we worked together, I became increasingly aware of the many privileges I enjoyed as a white middle-class male as we travelled and worked together throughout New Zealand.

What I took for granted, she fought for daily. This was evident in a range of different ways: the way people deferred to me in conversation; the appointments I could secure for both of us (often only after vouching for her competence and political reliability) that would not have been readily available to her alone; the patronising way she was ‘tolerated’ in some groups; the way I almost never had to think about ‘being Pakeha’ in the way she had to think about ‘being Maori’; and the fact that I could worry about racism without being seen as ‘self-interested’. I could express alternative views and not be seen as speaking for all Pakeha; did not have to educate my children to be aware of how systemic racism may impact on their lives; was not singled out as a failure or a success because of my culture; and had always been free to criticise the government of the day without being seen as a demanding Pakeha seeking more benefits for my own people. I could have an argument with a colleague, or be late for a meeting, without these ‘failings’ being attributed to my culture. Never once did I have to carry the cultural stereotypes of laziness, violence, trouble-making, poor parenting and living by ‘Maori time’.

My experience with Irihapeti, and increasing knowledge of New Zealand’s colonial history, made me more aware of the immense benefits I had simply inherited by virtue of belonging to the majority culture. I live in a system which, despite significant limitations, largely reflects my cultural values. But while I have a love of and pride in my Irish Catholic Pakeha culture and history, it stands alongside my awareness of the privileges I have inherited as a result of the dispossession of Maori.

What is White Privilege?

White privilege is based on a set of assumptions about what is regarded as neutral, normal and universally available. Says James Baldwin: ‘The biggest problem with white privilege is the invisibility it maintains to those who benefit from it most. The inability to recognize that many of the advantages whites hold are a direct result of the disadvantages of other people ...’³ In New Zealand white privilege evolved in colonial times where structures were put in place that were designed to meet the needs of Pakeha settlers.

³ James Baldwin, *What is White Privilege?*, website.

Immigration, assimilation and integration policies directly benefited Pakeha and marginalised Maori, yet these systemic structural benefits remain ‘invisible’ to most Pakeha.

Reading ‘The Invisible Knapsack’, an article exploring the concept of white privilege by international researcher Peggy McIntosh, expanded my awareness. In it McIntosh identifies 46 ‘white privileges’ as ‘an invisible package of unearned assets, which I can count on cashing in each day, but about which I was “meant” to remain oblivious. White privilege is like an invisible weightless knapsack of special provisions, maps, passports, codebooks, visas, codes, tools and blank checks.’⁴ McIntosh says she was taught to see racism only in ‘individual acts of meanness, not in invisible systems conferring dominance on my group’.⁵ It is crucial, if we are to further this debate, to understand the origins of the invisible systems of institutional racism and policies from which Pakeha have benefited.

Maori Land: The Historical Foundation of Settler Wealth

In the 19th century there was nothing unusual about the dispossession of aboriginal peoples by European powers. Despite solemn commitments by the British at Waitangi and some legal protection, what happened in New Zealand was normal for the times. Theodore Allen, an independent scholar, discusses the way land was ‘acquired’ from indigenous peoples globally through colonisation. His conclusions apply equally to the New Zealand colonial story. Allen talks about colonial society as ‘a society organised on the basis of the segmentation of land and other natural resources under private, heritable individual titles, [underpinned by] a corresponding set of laws and customs, acted out under the direction of the ruling class’. This society, Allen argues, ‘brings under its colonial authority people of societies organised on principles of collective, tribal tenure of land and other natural resources, and having their respective corresponding sets of laws and customs’.⁶

After assuming sovereignty in New Zealand, Britain brought Maori under its colonial authority. That meant British governors imposed a legal process intended to deny, ignore and de-legitimise the tribal and kinship system that underlay traditional Maori society, making Maori structures and systems illegal. Maori were ‘stripped of their tribal and kinship identity ... rendered institutionally naked to their enemies, completely deprived of the shield of social identity ... [and] made strangers in their own native land’.⁷ As in all colonised countries, the colonised people (Maori) were unilaterally assigned a place in the new system defined by the coloniser (the British).

⁴ Peggy McIntosh, *Unpacking the Invisible Knapsack*, p. 1.

⁵ *Ibid.*, p. 1.

⁶ Theodore W Allen, *The Invention of the White Race*, p. 35.

⁷ *Ibid.*, p. 35.

In 1840 all land and resources were recognised by the Crown as being owned by Maori hapu, under Maori customary tenure. There had been pre-Treaty ‘sales’, but these were thoroughly investigated. The ‘Chief Protector of Aborigines’, George Clarke, who had been appointed on 6 April 1840, returned some land to the Crown—but not to the Maori owners. Because Clarke was also responsible for purchasing Maori land on behalf of the Crown he had a clear conflict of interest. In 1842 he asked to be relieved of his land-purchasing role, and this was agreed to.⁸

Fraudulent land deals had started well before the Native Land Courts were set up in the 1860s, despite the explicit royal instructions from the Marquis of Normanby that ‘the acquisition of land by the Crown for the future settlement of British subjects must be confined to such districts as the natives can alienate, without distress or serious inconvenience to themselves’.⁹ The ‘Right of Pre-emption’, which made the Crown the sold land agent, was included in the Treaty in order that the Crown could protect Maori from land sharks. Maori were not allowed to sell directly to settlers.

But in the event the Crown became the biggest land shark of all. The Waitangi Tribunal’s 81 claim reports and 29 research reports detail widespread and systemic theft and fraud by Crown agents, to the ultimate benefit of the government and British settlers.¹⁰ And yet all the transactions by the Crown in the following examples are still considered legal sales, so the land involved cannot be reclaimed:

- In 1840, the centre of Auckland city (3000 acres) was brought from local Maori for cash and goods worth £341. Within nine months a mere 44 acres was resold for £24,275.
- In 1845, 16,000 acres of Ngati Whatua land were retained by the Crown without compensation.
- In 1850, in suburban Auckland, 700 acres, ‘after prolonged and wearisome interviews’ were brought for £5000 and one third of this was then sold immediately for £32,000. The whole block eventually realised £100,000.¹¹
- From 1844 through to the 1860s, 34 million acres of land passed from Ngai Tahu to the Crown for a total of £8750. In effect the Crown paid six one-hundredths of one penny for each acre purchased.
- In North Canterbury, ‘two years prior to concluding the purchase of 1,140,000 acres from Ngai Tahu for £500, the government actually sold a block of land containing 30,000 acres for £15,000,

⁸ Waitangi Tribunal, *Wai 27: The Ngai Tahu Report, Volume Two*, p. 270.

⁹ Correspondence Relative to New Zealand No. 16, *From the Marquis of Normanby to Captain Hobson*; also Claudia Orange, *The Treaty Of Waitangi*, pp. 29-31.

¹⁰ Waitangi Tribunal Reports, website.

¹¹ Waitangi Tribunal, *The Orakei Claim Report*, pp. 23-28.

which on a per-acre equivalent was 1142 times more than Ngai Tahu was paid two years later. It was also more than the Crown paid for all Ngai Tahu's 34.5 million acres'.¹²

Historian Jim McAloon describes another government strategy that contravened the Treaty of Waitangi. This policy forbade Maori to lease land to settlers directly. 'This edict proved essential in the purchase of the Wairarapa and Hawke's Bay, for it threatened Ngati Kahungunu income and left them with little choice but to sell in order to raise capital, despite the obviously low price.'¹³

Legislation passed to alienate Maori land proliferated. From 1865 to 1890, some 360 Acts of Parliament were passed that affected Maori land. Another 199 Acts came into force in the period 1891–1908.¹⁴ In fact the entire infrastructure of New Zealand was initially paid for by Maori, as their land was alienated and sold to settlers by the Crown at staggering profits. Gaining possession of New Zealand had cost the British government a derisory £3365/18s, with 'gifts for Maori' valued at an additional £562/1/5.¹⁵

However, there was nothing unique about this process. It happened in most colonised countries, to a greater or lesser degree, where colonisers imposed a political structure that furthered their own interests. In New Zealand it was done through a legal process that overrode and disregarded Treaty of Waitangi guarantees and Maori common-law rights. One such right was the right to exclusive possession and use of lands. This was further entrenched in an 1847 court judgement that said: 'It cannot be too solemnly asserted that [Native Title] is entitled to be respected, that it cannot be extinguished (at least in times of peace) otherwise than by the free consent of the Native occupiers ...'¹⁶ In the event, however, Maori rights were discarded as the needs of land-hungry settlers took precedence.¹⁷

The true value of the overwhelming transfer of wealth from Maori to settler society over the past 165 years is impossible to calculate. When Ngai Tahu accepted \$170 million in 1998 as a full and final settlement of their claim, their chief negotiator, Sir Tipene O'Regan, stated that the full value of their

¹² Waitangi Tribunal, *The Ngai Tahu Report, Volume One*, p. xiv.

¹³ Jim McAloon, 'Resource Frontiers, Environment and Settler Capitalism 1769-1860' in Eric Pawson & Tom Brooking (eds), *Environmental Histories of New Zealand*, pp. 62-63 .

¹⁴ Waitangi Tribunal, *Maori Land Councils and Maori Land Boards: A Historical Overview, 1900 – 1952*, pp. 75-76.

¹⁵ Claudia Orange, *The Treaty of Waitangi*, p. 86.

¹⁶ Andrew Alston et al (eds), *Guide to New Zealand Land Law*, p. 200.

¹⁷ For a chronology of 'land taking laws' see David Williams, '*Te Kooti Tango Whenua*': *The Native Land Court 1864 – 1909*.

South Island claim was about \$16 billion.¹⁸ O'Regan observed that 'this level of generosity to Pakeha society has never been acknowledged'.¹⁹

Native Land Courts

The Native Land Acts, which created the Native Land Courts of the early 1860s, were supposed to 'acknowledge Maori rights as British subjects by recognising their legal right to all their land and allowing them to do what they chose with it, including getting full market value if they sold it'.²⁰ In practice, however, the Native Land Courts became a vehicle for further Maori dispossession. A leading Maori scholar, Sir Hugh Kawharu, has called the courts a 'veritable engine of destruction for any tribes tenure of land, anywhere'.²¹ Historian Bryan D. Gilling notes that the courts have been 'the subject of sustained condemnation by historians as the central instrument of colonial oppression, depriving Maori of their lands peacefully and with a minimum of inconvenient fuss'.²²

There were some legislative mechanisms put in place to protect Maori, but in practice the courts had enormous power over Maori in respect of their property rights. Argues Alan Ward, 'If the court failed to interpret custom correctly, and found for the wrong claimants, or for insufficient claimants, some Maori would be dispossessed.'²³ The notorious 10-owner rule required hapu to name 10 owners for blocks of land of less than 5000 acres. This rule—a gift for speculators—became the source of all manner of difficulties for Maori, since those 10 owners were legally required to be absolute owners, not trustees for the tribe.²⁴

The entire process naturally undermined the Maori communal lifestyle and destabilised tribal structures. As Ward concludes, '[S]ettler politicians placed well-nigh insuperable obstacles in the path of well-founded Maori enterprise.'²⁵ Legal historian David Williams also asserts that the policies behind the Native Land Acts, along with other methods of promoting land purchasing from Maori, 'were implemented by the Crown without sufficient (or any) regard to the guarantees of the Treaty of Waitangi'.²⁶ A conclusion from Williams' study of the period 1865–1909, when 18 million acres were

¹⁸ In addition to the \$170 million the Crown offered a public apology, first right of refusal to purchase land from the Crown's 'landbank' and detailed cultural redress. See Ngai Tahu website.

¹⁹ Radio New Zealand, Insight: Sir Tipene O'Regan, Treaty of Waitangi Settlements, 2 February 2003.

²⁰ Waitangi Tribunal, *The Crown's Engagement with Customary Tenure in the Nineteenth Century*, p. 49.

²¹ I.H. Kawharu, *Maori Land Tenure: Studies of a Changing Institution*, p. 15.

²² Bryan Gilling, 'The Maori Land Court in New Zealand: An Historical Overview' in *The Canadian Journal of Native Studies*, p. 18.

²³ Alan Ward, *An Unsettled History: Treaty Claims in New Zealand Today*, p. 128.

²⁴ Bryan Gilling, op. cit., p. 20.

²⁵ Alan Ward, *A Show of Justice – Racial 'amalgamation' in Nineteenth Century New Zealand*, p. 187.

²⁶ David Williams, *'Te Kooti Tango Whenua': The Native Land Court 1864 – 1909*, p. 3.

‘alienated’ through the courts in the North Island, is that the work of the Native Land Courts amounted to ‘judicial confiscation ... the Native Land Courts were not truly an independent body, but actually an agent of the central government fulfilling its policy, and thus its actions were essentially actions of the Crown’. Further, the Native Land Acts, Williams argues, were ‘an all-out effort to relinquish Maori of title to their lands in the interests of European settlement ... the entire project of colonisation was a forward-looking enterprise and could have contemplated and did contemplate the outcome.’²⁷

Government Policies: White Privilege the Outcome

Although downstream economic benefits to Pakeha were obviously not evenly spread, new settlers arrived in a country that was governed by, and for the benefit of, primarily Anglo-Celtic immigrants. Maori became increasingly marginalised (see Chapter 4) in a process that was systemic. It was an English, largely male landowning Parliament that spawned New Zealand’s criminal justice system, land courts, education and health systems. Maori were systematically excluded from any influence or decision-making. Hundreds of laws were passed without any reference to a Maori view, let alone Maori authority. It was not all deliberate. Ward notes that ‘though altruistically conceived, amalgamation policies could, in doctrinaire hands, become as oppressive as settler self-interest’.²⁸ The outcome, to paraphrase Palestinian-born Professor of English Edward W. Said, was that Maori were re-constituted as a people requiring a British presence.²⁹

The idea of power-sharing with Maori, as guaranteed in the Treaty of Waitangi, was anathema to most settlers. The so-called guarantee to Maori (in Article Two of the Treaty) of tino rangatiratanga—unqualified exercise of authority—was denied time and again. Maori were expected to discard their traditional way of life, including their language, as the new settler government proceeded to pass an overwhelming number of policies that ensured British ‘rule’ was normalised. Maori were denied ordinary citizenship rights that Pakeha took for granted.

The Old Age Pension

The introduction of the old age pension in 1898 highlights the ways Maori have been denied a range of welfare benefits to which they were legally entitled. Despite the equal opportunity underpinning the Act, Deputy Registrars were instructed to make Maori access to pensions extremely difficult. A decision was

²⁷ Tom Bennion, Review Article ‘Te Kooti Tango Whenua’ The Native Land Court 1864 – 1909, in *The Maori Law Review*, July 1999.

²⁸ Alan Ward, op. cit., p. 36.

²⁹ Edward W Said, *Culture and Imperialism*, p. 202.

made to refer all Maori claims for pensions to the Native Land Court, which then had to place them in front of a magistrate, effectively slowing the process.

A wide range of mechanisms was used against Maori, including removing a significant number of Maori from the pension rolls. For those Maori who managed to stay on the roll the most common discriminatory policy was to reduce their pension to two-thirds of the amount paid to Europeans.³⁰ From 1925 the maximum Maori pension rate was £32.6s per annum, or 71 per cent of the maximum of £45/10s. In 1927 many Maori pensions were below £20, less than half the rate paid to Pakeha. In 1904 a decision made by New Plymouth magistrate, Thomas Hutchinson, to pay a reduced rate of pension (£12 rather than £18) to a Maori pensioner 'set a precedent for an unofficial policy which lasted over 40 years'.³¹ While officials were targeting Maori with these administrative mechanisms designed to block their entitlement to pensions, 'Maori pensioners were starving'.³²

The raising of Maori pensions was not automatic after the Pensions Amendment Act 1936, as it was for Pakeha. McClure notes that 'when [Prime Minister] Savage requested statistics on Maori pension rates in 1937, they showed that the department still held in nearly all cases to an arbitrary level for Maori which was one-fifth lower than Pakeha pensions: 2,213 out of 2,380 Maori received the lower rate of age pension, and 429 out of 474 widows were denied a full pension'.³³ Reduced pensions were paid to Maori until at least 1945.³⁴ (It is worth noting that the 1898 Pensions Act specifically excluded Asian residents from any pension.³⁵)

McClure also notes the irony that 'the extreme poverty of Maori communities became the rationale for different treatment. In critical Pakeha eyes, Maori poverty was a sign of lower expectations rather than greater need, and by the 1920s living in a pa had become a reason to disbar Maori from full pension entitlement'.³⁶

³⁰ Ibid., p. 134.

³¹ Ibid., p. 132.

³² Gaynor Whyte, 'Beyond the Statute: Administration of Old-age Pensions to 1938,' in Bronwyn Dalley and Margaret Tennant (eds), *Past Judgement: Social Policy in New Zealand History*, p. 132.

³³ Margaret McClure, *A Civilized Community: A History of Social Security in New Zealand 1898-1998*, p. 79.

³⁴ Whyte, op. cit., p. 134.

³⁵ McClure, op. cit., p. 19.

³⁶ Margaret McClure, 'A Badge of Poverty or a Symbol of Citizenship? Needs, Rights and Social Security, 1935-2000' in Bronwyn Dalley and Margaret Tennant in *Past Judgement: Social Policy in New Zealand History*, p. 145.

Even after the law removed the possibility of discrimination after World War II, it continued until the late 1940s.³⁷

Other Social Welfare Benefits

Social security benefits followed the same discriminatory pattern. Maori were promised that the Social Security Act 1938 would mean a fresh start of new rights and entitlement. Yet a loophole was provided by section 72 (2). 'In the first few years of administering social security, Social Security Department officers used this to continue their earlier pattern of clear-cut discrepancy between Maori and Pakeha payments by disbursing Maori benefits at a consistently lower rate. In the early 1940s leaders in Rotorua and Ratana communities complained that not one Maori in their district was receiving full payment.'³⁸

McClure notes that the high level of family benefit payments in the 1940s brought scrutiny of Maori rights. 'Family benefit made a huge difference to the spending capacities of Maori communities and meant that Maori children were better fed and dressed than they had been previously.'³⁹ However, the Treasury remained particularly 'concerned at the cost of raising Maori to equal pensions'.⁴⁰ White privilege continued to be maintained at Maori expense.

World War I and World War II

After World War I Pakeha soldiers went into a ballot for land for resettlement, but returned Maori soldiers did not. Apirana Ngata thought it might be seen as 'improper [for] the Crown to earmark land for Maori soldiers when it was popularly supposed that Maori had sufficient land of their own'. Provision for Maori was therefore made out of Maori tribal lands.⁴¹ A clause in the Native Land Adjustment Act 1916 enabled Maori to either sell land to the Crown or set their own land aside for soldiers who had been discharged.⁴²

During World War II the Maori War Effort Organisation, approved by Cabinet on 3 June 1942, operated with relative autonomy in profoundly Maori ways. Custom and tradition were central to the functioning of this voluntary organisation, which involved all tribes. While its primary purpose was military (recruitment for the Maori Battalion), it also came to have a welfare function. Some 315 tribal committees were

³⁷ McClure, *A Civilised Community: A History of Social Security in New Zealand 1898-1998*, pp. 121-122.

³⁸ Margaret McClure, 'A Badge of Poverty or a Symbol of Citizenship? Needs, Rights and Social Security, 1935-2000', p. 145.

³⁹ *Ibid.*, p. 145.

⁴⁰ McClure, *A Civilised Community: A History of Social Security in New Zealand 1898-1998*, p. 79.

⁴¹ Ranginui Walker, *He Tipua: The Life and Times of Sir Apirana Ngata*, p. 190.

⁴² *Ibid.*, p. 190.

formed, co-ordinated by 41 executive committees.⁴³ The popularity and the heroism of the Maori Battalion began to have a positive impact on Pakeha attitudes to Maori. But despite this, it was not until the late 1940s that ‘equal levels of age, widows’ and invalids’ benefits were accorded to Maori beneficiaries, and this was achieved in small stages as Maori protests made dents in the government’s policy’.⁴⁴

The Maori Social and Economic Advancement Act (1945), which was designed to promote the well-being of Maori communities, was seen by some as ‘an attempt to deflect a move towards rangatiratanga implicit in the success of the [Maori] War Effort Organisation’, which had ceased to exist in April 1944’.⁴⁵ Historian Claudia Orange concludes that the government was only willing to accept Maori leadership in a war crisis.⁴⁶ The Act, not surprisingly, had limited success. The tribal committees, argues Orange, ‘were in an ambiguous position—neither completely independent nor wholly a part of government’, autonomous up to a point and simultaneously firmly under government control.⁴⁷ The committees operating under the Act were confused over their responsibilities and lacked direction. Ngata apparently considered the Act a ‘botch’.⁴⁸

Orange concludes that under the first Labour government ‘Maori [were] concerned for the right to act autonomously, the Pakeha [were] concerned about the “mismanagement” of Maori affairs. The capacity to make political gain out of Maori policy and practice, often to the detriment of Maori welfare, [was] also evident.’⁴⁹ In the new millennium that conflict persists.

White Privilege ‘Normalised’

The dispossession of Maori land as well as the impact of the Native Land Courts and of successive social welfare policies demonstrates how the colonial infrastructure excluded Maori and guaranteed ‘white privilege’. Every institutional aspect of the new society was imported and implanted, and the wealth owned by Maori was systemically transferred to the new settlers.⁵⁰ White privilege was further reinforced through a long-term policy to ensure that only ‘suitable’ British and other European immigrants, with a

⁴³ Claudia Orange, ‘An Exercise in Maori Autonomy: The Rise and Demise of the Maori War Effort Organisation’, in *New Zealand Journal of History*, p. 159.

⁴⁴ McClure, op. cit., p. 121.

⁴⁵ Margaret Tennant, ‘Mixed Economy or Moving Frontier’ in Bronwyn Dalley and Margaret Tennant (eds), *Past Judgement: Social Policy in New Zealand History*, p. 53.

⁴⁶ Claudia Orange, op. cit., p. 162.

⁴⁷ Ibid., p. 170.

⁴⁸ Ibid., p. 170.

⁴⁹ Ibid., p. 170.

⁵⁰ See Waitangi Tribunal Reports, website, particularly Waitangi Tribunal, *National Overview Vol. One*, by Alan Ward.

few exceptions, immigrated to New Zealand until the early 1970s. The emerging majority British culture guaranteed that the New Zealand Parliament governed primarily in the interests of settlers.⁵¹ This ‘white’ immigration policy only changed with a labour shortage in the early 1970s.⁵²

The full impact of these major policies has taken generations to emerge and intensify. The 1907 Suppression of Tohunga Act (discussed in Chapter 3) and assimilation policies that required Maori to abandon their culture and become English (discussed in Chapters 6 and 8) were other examples of policies that discriminated against Maori.⁵³

Public works legislation theoretically applied to all citizens, but there is overwhelming evidence that Maori were targeted disproportionately.⁵⁴ The British government provided no money to develop the infrastructure of New Zealand, but private British investors lent money to the New Zealand government, especially from the 1870s onwards. By that time investor confidence was maintained by portraying New Zealand as a ‘New Britain’. Former Treaty Negotiations Minister Sir Douglas Graham has noted that wealth accrued primarily from ‘buying land on the cheap from Maori and selling it at a profit to settlers’.⁵⁵

Although some individual settlers had mutually beneficial relationships with Maori, most people’s attitudes were shaped by the beliefs of the time, which portrayed Europeans and European practices as superior and ‘normal’. Maori were expected to learn the Pakeha way of life; Pakeha certainly did not expect to learn the Maori way of life. Cultural misunderstanding was naturally rife. For example, the Muriwhenua Land report notes that ‘transactions posited as land sales by one race were contracts for long-term social relationships for the other’.⁵⁶ Maori had no word for sale and differences in understanding were endemic.⁵⁷

Colonial policy aimed to keep ‘white’ countries and peoples together, connected through the mechanism of the British Empire and more recently the Commonwealth. Loyalty to the ‘home country’ was nurtured in a variety of ways, including royal visits and a variety of educational exchanges, such as Rhodes scholarships. Rugby and cricket were a conscious part of the colonial relationship. The belief that

⁵¹ W.D. Borrie, *Immigration to New Zealand 1854 – 1938*, pp. 168-176.

⁵² For an overview of the period see Stuart W. Greif (ed) *Immigration and National Identity in New Zealand* and Tony Simpson, *The Immigrants: The Great Migration from Britain to New Zealand 1830-1890*.

⁵³ For an exploration of the policy of assimilation see Waitangi Tribunal, *Crown Policy Affecting Maori Knowledge Systems and Cultural Practices* by David Williamson and Andrew Armitage, *Comparing the Policy of Aboriginal Assimilation: Australia, Canada and New Zealand*.

⁵⁴ For a full Report see Waitangi Tribunal, *Public Works Takings of Maori Land, 1840 – 1981* by Cathy Marr.

⁵⁵ TVNZ, *Bastion Point: The Untold Story*, Sir Douglas Graham.

⁵⁶ Waitangi Tribunal, *Wai 45: Muriwhenua Land Report*, p. 1.

⁵⁷ *Ibid.*, p. 76.

everything important came from greater Europe and that Europeans were ‘brighter, better and bolder’ than everyone else was an assumption that permeated society, and particularly the education system.⁵⁸

Maori as ‘The Other’

In this colonial climate emerged the idea of Maori as ‘the other’. In essence this was a way of thinking that meant Maori and Maori culture were seen as being ‘less than’ and ‘inferior to’ everyone and everything European. Settler thinking was that Maori were lazy, immoral, degraded and dirty, and suffered from ‘natural depravity’. This thinking created a rationale that made white supremacy inevitable, particularly as British settlers became the majority.⁵⁹

The notion of Maori as ‘the other’ remains deeply embedded in the unconscious of Pakeha New Zealand. Otago University lecturer Brendan Hokowhitu sums up the phenomenon thus: ‘Racially based traits imposed on Maori ... were the antithesis of those qualities desired by Europeans ... representing Maori as physical, unintelligent and savage; a process that continues unabated.’⁶⁰ The savage was represented as ‘immoral and sinful, ruled by mythical ritual, and burdened by an encumbering collective’, while the ‘civilizers’ were ‘virtuous, secular, liberated in thought and autonomous’.⁶¹ However, while Maori and tikanga Maori (Maori culture) were viewed as abnormal and inferior, the dominant culture approved of aspects of Maori culture that were in accord with colonial thinking. Consequently, kapahaka and ka mate as well as Maori success in war and sport were praised, and cited as further evidence of Maori as the savage other.

Irihapeti Ramsden’s thinking about Maori as ‘the other’ was prophetic. ‘If you think Maori have experienced racism when we are poor, powerless and marginalised, you wait and see what happens when we begin to become more powerful and successful. While we remain in our colonised state, know “our” place and remain “the other”, it will be less evident. But, watch the climate change when we begin to threaten the privileges of the dominant culture and their normality, which Pakeha take for granted and assume is “their” right. Then we will really experience the deep ugly underbelly of racism that exists in this country.’

We didn’t have long to wait.

⁵⁸ For a full discussion on the ‘European superiority thinking’ see J.M. Blaut, *The Colonizers Model of the World: Geographical Diffusionism and Eurocentric History*.

⁵⁹ For an overview of racial prejudice amongst Europeans in the 19th and 20th century see Angela Ballara, *Proud To Be White*.

⁶⁰ Brendan Hokowhitu, *Maori as the Savage Other: Icons of Racial Representation*, p. 1.

⁶¹ *Ibid.*, p. 1.

Despite the political, social and legal advances of the last 20 years, Pakeha amnesia concerning our colonial history remains. The public uproar against the Labour government's *Closing the Gaps* policy in 2000, designed to target poverty among Maori and Pacific Islanders, revealed a significant level of confusion and racism in the majority culture.⁶² The outcry was so great the policy was subsequently abandoned. Many New Zealanders still do not want to face the ugly side of our colonial history. Others claim that colonialism happened so long ago that there are no contemporary outcomes. Still others argue that colonisation was for the *benefit* of Maori.

Another method of muddying the waters is the contention that we are all indigenous.⁶³ Maori studies lecturer Rawiri Taonui describes this assertion as 'unreasonable where it infringes upon Maori identity, denies history and ignores international law'.⁶⁴ It would seem the *winners* and beneficiaries of New Zealand's colonial history are reluctant to look back, let alone through the cultural mirror, and recognise the level of Pakeha privilege. This is the shadow, painful side of New Zealand's colonial history.

The source of Pakeha privilege remains embedded in functioning of our institutions. The following are examples of the fact that our democratic system still functions on the assumption that the Pakeha way of doing things is 'normal', and fails to include matauranga Maori—the Maori world view.

Town and Environmental Planning

In 1977–78 the occupation of Bastion Point, overlooking Auckland harbour, highlighted Maori exclusion from town and environmental planning. (This despite the fact that the Treaty provided a basis for the evolution of a dual environmental planning tradition.) In a video history, *Bastion Point: The Untold Story*, protest leader Joe Hawke describes how Ngati Whatua had been unable to get permits to rebuild and refurbish buildings, install running water, sewerage and electricity on this piece of prime real estate. The resultant downgraded state of the land became part of the rationale for its brutal clearance by the Muldoon government in 1978.⁶⁵

⁶² New Zealand Government Executive, *Closing the Gaps*, Budget 2000, website.

⁶³ *New Zealand Herald*, 29 July 2004, Trevor Mallard, a Pakeha Cabinet Minister asserted that he is an indigenous New Zealander.

⁶⁴ *The Press*, 19 August 2004.

⁶⁵ TVNZ, *Bastion Point: The Untold Story*.

Environmental and planning expert Hirini Matunga argues that both the Maori and the English texts of the Treaty explicitly affirmed ‘the highest degree of Maori authority over their natural resources’.⁶⁶ He further notes that ‘the colonial discourse of exclusion has created an environmental planning system devoid of even minimal recognition of rangatiratanga’.⁶⁷ This exclusion was consolidated through ‘adoption of planning law which simply excluded iwi from regulatory planning’.⁶⁸ The Town Planning Act 1926 made no reference to rangatiratanga, Maori people or Treaty promises. Matunga further notes that it took until 1977 for a revised Town and Country Planning Act to acknowledge the ‘uniqueness of the relationship between Maori and their environment’, although the Act ‘still did not acknowledge the existence of a parallel Maori planning framework’.⁶⁹

In the 1990s resource management law reform addressed the need for the restoration of rangatiratanga, including recognition of Maori rights of self-government, restoration of tino rangatiratanga over natural resources, recognition of Maori ownership of resources such as water, seabed and coastal habitat, protection of and access to resources, and provision for Maori involvement in resources decision-making processes. However, eight years on, Matunga concluded ‘that the Maori Treaty partner [is still] on the outside, looking in on a passing parade of environment decision and policy processes’ from which they are excluded.⁷⁰

Conservation: A Recent Pakeha Discovery?

What are modern conservationist values? How have they come to be in opposition to Maori rights?⁷¹ The colonisation of plants and animals was driven by the same imperative as the colonisation of the ‘natives’. New Zealand scientist and historian Ross Galbreath records that the ‘British colonists arriving in New Zealand came armed with the expectation that all the native life—plants, animals and people alike—would inevitably be supplanted and displaced’.⁷² He further contends that ‘ideas concerning the native people on the one hand, and native plants and animals on the other, were closely connected’.⁷³

It was expressions of alarm from Britain and the subsequent promotion of protection ideas that prompted some small policy changes including colonial laws, from the late 19th and early 20th century. This initiated

⁶⁶ Hirini Matunga, ‘Decolonising Planning: The Treaty of Waitangi, the Environment and a Dual Planning Tradition’ in Ali Memon & Harvey Perkins (eds) *Environmental Planning and Management in New Zealand*, p. 38.

⁶⁷ *Ibid.*, p. 39.

⁶⁸ *Ibid.*, p. 40.

⁶⁹ *Ibid.*, p. 41.

⁷⁰ *Ibid.*, p. 45.

⁷¹ Ross Galbreath, ‘Displacement, Conservation and Customary Use of Native Plants and Animals in New Zealand’ in *New Zealand Journal of History*, p. 36.

⁷² *Ibid.*, p. 36.

⁷³ *Ibid.*, p. 36.

the preservation of some native bush, flora and fauna.⁷⁴ But it took mass protests from the 1960s to see the government act to ‘conserve, protect and preserve the eco-systems that ... give this country its unique character’.⁷⁵

When Pakeha did discover conservation, around 1900, this was pretty much at the expense of Maori traditional use. Bird protection laws made no exceptions for traditional harvest.⁷⁶ Distinguished doctor, anthropologist and Maori leader Sir Peter Buck summed up the contradiction in 1910. ‘There is no greater menace to the animal life of this country ... than the so-called sporting proclivities of the white man ... the attitude taken up by the Maori race in this country in that respect was totally different. The Maori never killed for sport, he killed for the pot.’⁷⁷ The modern conservation movement could learn much from studying this history.

Foreshore and Seabed: ‘The Latest Pakeha Land Grab’

At a meeting one evening with concerned local residents, our local MP attempted to explain the Labour government’s response to the foreshore and seabed controversy. A group of about 60 vocal Pakeha had arrived and the atmosphere was electric. Some were so angry they refused to allow the MP to explain the government’s policy. The anger was palpable: ‘Those bloody Maori are getting everything’; ‘More privileges for Maori’; ‘Haven’t they got enough?; ‘Now we can’t even go to the beach’—it was a litany of fear and prejudice.

The Court of Appeal in June 2003 decided in the case brought by Ngati Apa, Ngati Koata and Others in Marlborough that ‘the Maori Land Court has jurisdiction to determine the status of the foreshore and seabed’.⁷⁸ It has this jurisdiction under Te Ture Whenua Maori Act 1993. The case was designed to protect commercial rights to coastal space. The judgement further noted that ‘the transfer of sovereignty did not affect customary property. They are interests preserved by the common law [of England] until extinguished in accordance with the [new] law... the legislation relied on in the High Court does not extinguish any Maori Customary property in seabed or foreshore.’⁷⁹

The Court of Appeal also decided that the 1963 ruling *In Re the Ninety Mile Beach* (where the High Court and Court of Appeal ruled that Maori ownership had been extinguished) ‘was wrong in law and should

⁷⁴ Ibid., pp. 37-38.

⁷⁵ Ibid., p. 41.

⁷⁶ Ibid., p. 43.

⁷⁷ Ibid., p. 40.

⁷⁸ Court of Appeal of New Zealand, *Ngati Apa, Ngati Koata and Ors v Ki Te Tau Ihu Trust & Ors*, p. 26.

⁷⁹ Ibid., p. 7.

not be followed ... as it had followed the discredited authority of *Wi Parata v Bishop of Wellington* (1877).⁸⁰ Maori customary title to the foreshore, if any, the court found, 'has not been extinguished by any general enactment' and it rejected 'the ingenious Crown argument that the reference to "land" in *Te Ture Whenua/Maori Land Act 1992* ... excludes the foreshore and seabed'.⁸¹

This Court of Appeal decision therefore affirms that Maori held *customary property rights to land* at the time of Pakeha settlement. It confirms that those rights were *not* dependent on or derived from the Treaty of Waitangi or Crown recognition. Furthermore, these customary rights continue to exist after the Crown assumed sovereignty. The Court of Appeal noted that 'native property over land is entitled to be respected and cannot be extinguished, "at least in times of peace" otherwise than by the consent of the owners'.⁸²

Despite the limited nature of the decision, public fear and confusion, mainly created by politicians and the media, was widespread. Consequently, all major political parties broadly supported the Labour government's proposed seabed and foreshore legislation, which aims to place the foreshore and seabed in Crown ownership. All parties thus committed to extinguishing Maori property rights.⁸³ Little wonder many Maori leaders labelled it confiscation, and more than 20,000 Maori from all walks of life, supported by many Pakeha, marched on Wellington in 2004 in the biggest hiko in the country's history.⁸⁴

According to figures sourced from Land Information New Zealand, about one-third—some 5866 km of foreshore—is in private hands, with Maori owning almost 2000 km of it.⁸⁵ In addition, 47 km of seabed and 670 km of eroded coast is also in private hands. Irrespective of ownership, most of the privately owned coastline has no public access. Furthermore, there is no such thing as an uninterrupted Queen's Chain—only 187 km of privately owned coastline has public access.⁸⁶ A report from the 2003 Land Access Ministerial Reference Group states that '70% of what would be regarded as the Queen's Chain is in public ownership. The remaining 30% is in private ownership.'⁸⁷

⁸⁰ *Ibid.*, p. 7.

⁸¹ Richard Boast, 'Constitutional Crisis over foreshore and seabed in Aotearoa' in *Pacific Ecologist*, Autumn–Winter 2004, p. 61.

⁸² Court of Appeal of New Zealand, *op. cit.*, p. 8. For a legal overview we recommend also Nin Tomas & Kerensa Johnston, *Ask That Taniwha: Who Owns the Foreshore and Seabed of Aotearoa?*

⁸³ The exception is the Green Party of Aotearoa New Zealand who strongly oppose Government legislation to put the Foreshore and Seabed in Crown ownership. Their position is 'that public access to the foreshore can be guaranteed in perpetuity, within a framework that recognises Maori customary title and Kaitiakitanga, which will also protect the environment. This can be achieved with simple changes to the *Te Ture Whenua Maori Act*.' 4 May 2004.

⁸⁴ For a full report on the Hiko see *Mana*, Issue 58 June–July 2004.

⁸⁵ Figures quoted by Bruce Ansley in the *New Zealand Listener*, 1–7 May 2004, p. 19. For a comprehensive overview of the foreshore and seabed debate see, Tom Bennion, et al, *Making Sense of the Foreshore and Seabed*.

⁸⁶ *New Zealand Listener*, 1–7 May 2004, p. 19.

⁸⁷ Ministry of Agriculture and Forestry, *Walking Access in New Zealand Outdoors: A Report by the Land Access Ministerial Reference Group*, p. 45.

The obvious question is: why is it possible for nearly one-third of our coastline to be in private ownership already, with virtually no public access and hardly a murmur of political, media or public concern until the issue of potential Maori ownership emerges?

The government's declaration that all remaining foreshore and seabed ownership would be vested in the Crown, with Maori getting access where some vague ancestral connection could be established, prompted an immediate claim by Maori to the Waitangi Tribunal. After six days of sittings in January 2004 the Tribunal—an independent body with power to recommend only—condemned the policy of cutting off Maori access to the courts and taking away recognised property rights.⁸⁸ It further stated that the Crown's proposed legislation was 'failing to treat Maori and non-Maori citizens equally. The only private property rights abolished by the policy are those of Maori. All other classes of rights are protected by the policy.'⁸⁹

The current position of the mainstream political parties is to confiscate Maori citizenship rights only. These are the rights guaranteed in Article Three of the Treaty of Waitangi to all New Zealand citizens. No Pakeha—non-Maori—rights are being touched. This is highly discriminatory. Will future generations look back and ask how a government in the new millennium, with the vast knowledge, expertise and resources at its disposal, could repeat the shameful land confiscations of its colonial forebears? Will they discover that Pakeha privilege was, once again, guaranteed at the expense of Maori legal rights? Or will they look back and celebrate a government and a political system that had the maturity and the courage to do what was right and just—and legal?

'Democracy: The Tyranny of the Majority'

The right for Maori to exercise full authority—*tino rangatiratanga*, as guaranteed in Article Two of the Treaty—has always been marginalised. However, the extent of Maori exclusion from political power in the majority system may well be driving some of the current political struggle. The nation state has failed to provide Maori with the same citizenship rights (as in Article Three) as other New Zealanders.

In New Zealand, democracy was *designed* to exclude Maori from political power, and there is no more obvious example than in the restriction of Maori to four parliamentary seats right up until 1996. In 1867 Maori were thus considerably under-represented: some 50,000 were given four seats, whereas some

⁸⁸ Waitangi Tribunal, *Wai 1071: Report on the Crown's Foreshore and Seabed Policy*.

⁸⁹ *Ibid.*, p.129.

250,000 Europeans had 72 seats.⁹⁰ A Maori MP had to represent 12,500 constituents, while a non-Maori (European) had only 3472 constituents to look after. The advent of MMP has seen the creation of seven Maori seats, and list seats. But there is overwhelming evidence that Maori, representing Maori interests, cannot get elected at any level of the system in a First Past the Post (FPP) system.

This fundamental issue emerged at the time of the Royal Commission on the Electoral System in 1986.⁹¹ The commission considered the FPP system ‘unfair, inequitable, and unrepresentative of the general population’.⁹² It noted that FPP ‘favours the election of middle-class, middle-aged Pakeha (upper-income) males’.⁹³ The commission’s view would be borne out by the following statistics: (Note that Maori make up approximately 14.7 per cent of the population.)

Parliamentary election 2002: 120 MPs (16.6 per cent Maori)⁹⁴

- 2 Maori elected in general seats
- 7 Maori elected in Maori seats
- 11 Maori entered from party list seats

Local government elections 2001⁹⁵

- 1083 councillors elected
- 52 Maori elected (4.8 per cent)
- No Maori mayors

District health board elections 2001⁹⁶

- 147 candidates elected onto 21 boards (7 per board)
- 5 Maori (3.4 per cent) elected. There were 120 Maori candidates
- 51 additional Maori (plus 33 non-Maori) board members appointed by Minister of Health

⁹⁰ M.P.K. Sorrenson, ‘A History of Maori Representation in Parliament’ in *Report of the Royal Commission on the Electoral System: Towards a Better Democracy*, p. 26.

⁹¹ *Ibid.*, pp. 23-26.

⁹² Neil Atkinson, *Adventures in Democracy: A History of the Vote in New Zealand*, p. 135.

⁹³ *Ibid.*, p. 137.

⁹⁴ *Mana*, Issue 59, August-September 2004, p. 47.

⁹⁵ Department of Internal Affairs, *Local Authority Election Statistics*, 2003 (These statistics based on 940 returns from 1083 elected)

⁹⁶ Ministry of Health, *Health and Independence Report, Director General’s Report on the State of Public Health*, pp. 189-190.

In 1996 MMP enabled Maori to gain representation in Parliament proportional to their population size.⁹⁷ Without Maori seats in Parliament, the dedicated appointments to health boards allowed for in legislation, Maori would be left very marginal in all areas of governance.⁹⁸ In the current political climate these special mechanisms are wrongly being called privileges.

In May 1993 a national gathering of Maori was convened by the Electoral Law Committee to canvass views on electoral reform. It was the culmination of 20 regional hui convened by the Maori Congress, Maori Council and Maori Women's Welfare League. The overwhelming consensus of the gathering at Turangawaewae marae, Ngaruawahia, was that the government had obligations under the Treaty of Waitangi to ensure 'fair and effective representation for Maori', and that the Maori seats should therefore be retained.⁹⁹

Comedian Mike King summed it up succinctly when he delivered a message to what he called 'all those worshippers of the democratic system': 'I have this to say: democracy only works when you are the majority. As soon as you become the minority, it's a pretty stink system ... just ask Maori.'¹⁰⁰

Conclusion

ealand, through its colonial history, has been designed primarily to benefit Pakeha. Maori were required to fit into Pakeha culture and systems. All our basic institutions function on the assumption that being Pakeha is 'normal' and that there is only one way to make decisions, one way to deliver justice, health and education, one approach to conservation, and only one language that matters. Assimilation was predicated on the assumption that Maori tikanga was irrelevant if Maori were to succeed: everything had to be done the 'white way'. The result is that the infrastructure of New Zealand society is structured to deliver white privilege. Only the exotic features of Maori culture were encouraged, where they benefited the country in areas such as tourism and sport.

The legacy is the exclusion of an enormously rich indigenous culture—the exclusion of an entire way of life.

The outcome has been highly destructive for Maori people. Even recently, in a report entitled *Decades of Disparity: Ethnic Mortality Trends in New Zealand 1980–1999*, the Deputy Director-General of Public

⁹⁷ Neil Atkinson, op. cit., p. 136.

⁹⁸ Ibid., p. 215.

⁹⁹ Ibid., pp. 215-216.

¹⁰³ *Mana*, Issue 56 February-March 2004, p. 42 .

Health, Don Matheson, notes that in all countries ‘indigenous people tend to have poorer health’.¹⁰¹ Dr Tony Blakely, one of the report’s authors, notes that in the 30 years after World War II ‘Maori life expectancy improved considerably, but during the 1980s and 1990s the life expectancy at birth widened between Maori and non-Maori, showing a ten-year life expectancy gap’.¹⁰² Matheson concludes that ‘inequalities in access to and decisions over resources are the primary cause of health inequalities ... These structural inequalities may explain more of ethnic inequalities than is often recognised ... personal discrimination or institutional’ bias makes an important contribution to ethnic inequalities in New Zealand.¹⁰³

The appalling record of intergenerational discrimination against Maori needs to be considered alongside the contemporary assertions of Maori privilege.¹⁰⁴

In the mid-1980s New Zealand began to move towards being a more Treaty-based, bicultural society—one that began to recognise the existence of Maori culture in its structures. It has been painfully slow change for Maori, and an extremely rich experience for those Pakeha who faced their fears and had the courage to begin the bicultural journey. Tragically, in 2004, white supremacy has reasserted itself in all its ugliness, as the major political parties compete to take New Zealand back to a time when Maori ‘knew their place’ and white was right. But it won’t happen, can’t happen, because Maori, after 165 years of marginalisation, are better equipped than ever to confront the racism of the political system and find a way forward, drawing on their own strength and the inspiration of their tipuna.

In 1996 Justice E.T. Durie, chairman of the Waitangi Tribunal, defined the basis of right relationship in a challenging and insightful lecture entitled ‘Will the Settlers Settle?’¹⁰⁵ He said that successful settlement in another country ‘requires an appropriate respect for the pre-existing law and people, and if recognition is chary or tardy cultural conciliation will be delayed. As a test for cultural conciliation I am using mutual comprehension and respect.’

This is the challenge still faced by most Pakeha 165 years after the signing of the Treaty of Waitangi.

Chapter Ten:

Extract: *Healing our History - The Challenge of the Treaty of Waitangi*: Robert and Joanna Consedine Penguin (updated) 2005.

¹⁰¹ Ministry of Health and University of Otago, *Decades of Disparity: Ethnic Mortality Trends in New Zealand 1980-1999*, p. iii & ix.

¹⁰² Breakfast, Television One, 10 July 2003.

¹⁰³ Ministry of Health and University of Otago, op. cit., p. iii.

¹⁰⁴ Don Brash, *Nationhood – Don Brash Speech Orewa*, website.

¹⁰⁵ E T Durie, *Will the Settlers Settle? Cultural Conciliation and Law*.

