Te Kāhui Tika Tangata
Human Rights Commission

Maranga Mai!

The dynamics and impacts of white supremacy, racism, and colonisation upon tangata whenua in Aotearoa New Zealand

Human Rights Commission

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Our purpose is to promote and protect the human rights of all people in Aotearoa. We work for a free, fair, safe and just Aotearoa, where diversity is valued, and human dignity and rights are respected. For more information, please visit our website: www.hrc.co.nz

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He Mihi

Tihei mauri ora! Ki te whaiao, ki te Ao Mārama.
E ngā mana, e ngā reo, ngā karangatanga maha. Ngā kupu whakamihi.

Tangihia ō tātou mate huhua kua ngaro atu i te tirohanga kanohi.
Koutou kua whetūrangitia, haere rā ki te pō nui, ki te pō roa, ki te pō e au ai te moe.

Rourangatira mā, koutou ngā kaituitui o te kupu, ngā kaimanako o te kōrero.
Ka nui te mihi kia koutou.

Tēnā hoki tātou te hunga i whītiki, i maranga kia toitū ai te tino rangatiratanga, te mana motuhake o te tangata whenua o Aotearoa ki tōna whenua taurikura, ūkaipō.

Maranga Mai!

Authorship

The Tangata Whenua Caucus of the National Anti-Racism Taskforce (2021-2022) and Ahi Kaa, the Indigenous Rights Group within Te Kāhui Tika Tangata | the Human Rights Commission (the Commission), worked together on the development of Maranga Mai!

The report contains their views, analysis, and recommendations. It should be read alongside the Commission's community engagement report for developing the National Action Plan Against Racism, Ki te whaiao, ki te ao Mārama, which was commissioned by government. Although Maranga Mai! does not necessarily represent the views of the Human Rights Commission, the Commission is proud to publish this major contribution to what are very challenging and important issues.

Acknowledgments

The Commission acknowledges all the courageous leaders and community members who, in seeking justice and equality, fought for the kaupapa of tino rangatiratanga, anti-racism and indigenous justice over many generations.

It acknowledges the Tangata Whenua Caucus and Ahi Kaa for their work on developing and writing Maranga Mai!

The Commission acknowledges its former Pou Ārahi, Tricia Keelan, who led Ahi Kaa throughout the crucial development and writing of Maranga Mai!

The Commission also acknowledges those who reviewed drafts of Maranga Mai! including the Pou Tikanga of the National Iwi Chairs Forum, and everyone who assisted in the research, writing, and editing of the report.

Special thanks to the Caucus chairs Tina Ngata and Dr Rawiri Taonui who both led the Caucus contribution to Maranga Mai! alongside distinguished Professor Linda Tuhiwai Smith, Hilda Halkyard-Harawira, Katie Murray and Kingi Snelgar, all of whom generously shared their time and valuable expertise and were interviewed for Maranga Mai!

E ngā rangatira, he mihi nunui ki a koutou katoa.

Lastly, and with immense gratitude, the Commission acknowledges and reflects on the contribution of the late Dr Moana Jackson whose humility, courage, intelligence, and unwavering commitment to Indigenous justice, was exceeded only by the immense aroha he held for his whānau and mokopuna. He was interviewed for Maranga Mai! and passed during the finalisation of the report.

In appreciation of Moana:

Te matai o te ture, he māngai, he kauwhata!

E te tōtara haemata, te rākau tapu o te wao nui a Tāne. Te uri ō Hawea, ō Poporo, ō Hinerupe, ō Rongomaiwahine, ō Ngāti Kuripakiaka, e tangi-momotu nei te ngākau mōu. Takahia atu rā, te ara whanaunga a o mātua tīpuna, haere, okioki atu ki tua o Paerau.

Kua ngū tō reo whakatēnātēnā i te Ture. Kua ngū tō reo whakatinana i tōna kupu. Waiho mai ko ō mātauranga pūrākau hei tikitiki mō tō iwi Māori. Haere i runga i ngā Maunga kōrero, ngā pae Maunga a ō tupuna e moe nei i te whenua, rātou kua whetūrangitia, rātou kua ngaro ki te pō.

Mahue mai tō whānau, tō iwi Māori, me tō rangatiratanga hei whakaruruhau mō mātou katoa. Kia noho mai tō mana-motuhake hei korowai i a mātou me ō mātou mahi katoa.

E te rangatira ō tawhito, e moe, e moe, haere rā koe, e oki.

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He Kōrero | Message From The Chief Human Rights Commissioner

A few months ago, I was talking with a senior elected official, and they said, "Paul, try not to use the word 'racism', it really doesn't help".

I don't speak for the government, but I know it doesn't share that view. The government is committed to agreeing a National Action Plan Against Racism (NAPAR) and has asked Te Kāhui Tika Tangata | the Human Rights Commission (the Commission) to contribute to this government-led initiative by gathering views from communities. These community perspectives are set out in the community engagement report for developing the NAPAR, Ki te whaiao, ki te ao Mārama.

Maranga Mai! on the other hand is written by tangata whenua, within the framework of Te Tiriti o Waitangi, and should be read alongside *Ki te whaiao, ki te ao Mārama. Maranga Mai!* is one of the most unsettling reports I have read for a very long time. The Commission invited a group of eminent tangata whenua scholars and leaders to discuss and write about the racism experienced by tangata whenua in Aotearoa New Zealand over many years. Inevitably, consideration of racism led to the issues of colonisation and white supremacy.

Maranga Mai! is a 'phenomenological' report meaning it focuses on the experience of racism, colonisation and white supremacy by tangata whenua. Through this research and narrative, tangata whenua speak. The Commission is honoured to publish their research, analysis, stories and views.

Maranga Mai! provides a crucially important perspective on extremely challenging issues which will define Aotearoa for years to come. The report compels us to acknowledge the racism and white supremacy that was woven into the fabric of the British colony as immigrants settled in these islands.

There is only one authentic way of confronting this element in our collective history: tell the truth, listen with an open heart, look for fair and peaceful reconciliation, imagine a future of partnership and promise, and commit to action and justice.

This report contributes to the first step: truth-telling.

Many countries have troubled pasts and some, like Canada and South Africa, have established a process to help them heal and chart a way forward. Maranga Mai! takes a leaf out of their book and recommends that, for a three-year period, a Truth, Reconciliation

and Justice Commission is established. This time-bound commission would hear and document tangata whenua's experience of colonisation, racism and white supremacy and recommend meaningful pathways towards reconciliation and justice by 2040.

The role of the Waitangi Tribunal is extremely important and ground-breaking, but hitherto it has mainly focussed on specific treaty settlements. A Truth, Reconciliation and Justice Commission has a larger vision of truth-telling, national reconciliation and constitutional reform.

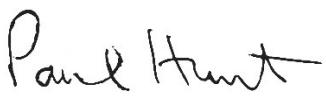
The group of eminent tangata whenua with primary responsibility for *Maranga Mai!* was robustly supported by Ahi Kaa, the Commission's Indigenous Rights Group. The report was led by then Pou Ārahi, Tricia Keelan. *Maranga Mai!* would not have happened without Ms Keelan's leadership, determination, industry and insight.

The National Iwi Chairs Forum and numerous others also played indispensable roles in the preparation of *Maranga Mai!* On behalf of the Commission's board, Race Relations Commissioner Meng Foon, has shouldered responsibility for securing rich and dynamic community engagement for the NAPAR, including supporting the preparation of *Maranga Mai!*

The section headed He Mihi provides a more detailed recognition of those who contributed to this report.

I am grateful to everyone for their invaluable contributions.

We can all benefit from *Maranga Mai!* which, despite everything, is remarkably constructive and hopeful.



Paul Hunt
Chief Human Rights Commissioner
Te Kāhui Tika Tangata

Kupu Whakataki | Foreword

Ahi Kaa, the Indigenous Rights Group, within Te Kāhui Tika Tangata | the Human Rights Commission (the Commission) and the Tangata Whenua Caucus of the National Anti-Racism Taskforce (2021-2022), have worked together to develop *Maranga Mai!* This report is an historical and phenomenological[1] analysis which shines a light on the impact of colonisation, racism and white supremacy on tangata whenua in Aotearoa New Zealand.

The report is intended to inform the Commission, the Ministry of Justice and the New Zealand government on these matters from a tangata whenua and Tiriti o Waitangi (Te Tiriti) perspective and to ensure that the work to address and eliminate racism in this country continues to be prioritised. Many governments have made efforts to reduce racism in Aotearoa, however, *Maranga Mai!* reveals that much more needs to be done.

Both *Maranga Mai!* and the community engagement report, *Ki te whaiao, ki te ao Mārama*, will contribute towards the development of the National Action Plan Against Racism (NAPAR) for Aotearoa. The Ministry of Justice is responsible for developing the plan and has partnered with the National Iwi Chairs Forum - a collective of iwi leaders from Aotearoa – on its creation. This is a positive step by the government in recognising that racism exists and that tino rangatiratanga input is crucial in developing such a plan.

We offer *Maranga Mai!* as a gift to ensure that the work to address racism in this country is undertaken in a spirit of pono, tika and aroha.

Pono invokes truth

The elimination of racism is a strategic priority for the Commission, and it is the Commission's responsibility to inform the government on actions it should take to achieve this. To eliminate racism throughout Aotearoa will require nothing less than constitutional transformation and we urge the government to commit to this much needed change.

The first step in the process is for tangata whenua to tell the truth about the impact of racism on their whānau, hapū, iwi, ancestors, communities and lives. New Zealanders need to understand that colonisation, racism and white supremacy are intertwined phenomena that remain central to the ongoing displacement and erosion of tino rangatiratanga. The cumulative effects of this are evident in the intergenerational inequalities and inequities tangata whenua suffer across all aspects of their lives. These serious matters are the focus of this report.

Maranga Mai! honours the tradition of previous seminal anti-racism reports such as *Puao-Te-Ata-Tu* (Department of Social Welfare, 1988) and *He Whaipaanga Hou* (Jackson, 1988) which have long identified the presence of institutional racism in society, 93 percent of Māori experience racism "on a daily basis" (Smith, Tinirau, Rattray-Te Mana, Tawaroa, Moewaka Barnes, Cormack & Fitzgerald, 2021, p. 9). Despite efforts to address the problem, there is substantial and overwhelming evidence of continued systemic, structural and personal racism toward tangata whenua.

1. Phenomenology helps us understand the meaning of people's lived experience. A phenomenological study focuses on what people experienced during an event or occurrence.

Our goal is to move Aotearoa toward constitutional transformation and reconciliation with tangata whenua, led by kawa and tikanga, and underpinned by the ethic of truth-telling. The Truth and Reconciliation Commission of Canada sheds light on the qualities of reconciliation:

> **'reconciliation' is about establishing and maintaining a mutually respectful relationship between Aboriginal and non-Aboriginal peoples... In order for that to happen, there has to be awareness of the past, acknowledgement of the harm that has been inflicted, atonement for the causes, and action to change behaviour (Truth and Reconciliation Commission of Canada, 2015, p. 113).**

Detailing histories of racism and white supremacy in Aotearoa is pivotal to developing an accurate awareness of the past that is sufficient to change the future. However, a reflection on the past must be accompanied by action today.

The elimination of racism in Aotearoa requires true and authentic acknowledgement from the state that indigenous and tangata whenua rights exist.

Also, that the continued dismissal and violation of these covenants, and Tiriti responsibilities, by the Crown and settler society must cease. The reliance on the Doctrine of Discovery, to validate the New Zealand colonial state, must also cease alongside a transition to recognise Te Tiriti o Waitangi as the rightful source of kāwanatanga legitimacy in Aotearoa.

As we explore solutions, tika will be necessary to address the many wrongs perpetuated against tangata whenua and to restore and heal relationships. Tangible actions will be required to atone and provide restitution to tangata whenua, while laying a foundation for healing and constitutional certainty.

Maranga Mai! encourages people to reimagine Aotearoa and support flourishing and sustainable tino rangatiratanga futures, as tīpuna dreamt of in 1840. Invoking pono, and within the ethics of tika and aroha, we look forward to Aotearoa giving body to this vision. The dream of the rangatira who signed Te Tiriti remains as pertinent today, as ever, and it is within this context of reimagining Aotearoa that Ahi Kaa and the Tangata Whenua Caucus present *Maranga Mai!*

Tricia Keelan
Pou Ārahi (February 2020 - August 2022)
Indigenous Rights Group
Te Kāhui Tika Tangata

Meng Foon
Kaihautū Whakawhanaungatanga ā Iwi
Race Relations Commissioner
Te Kāhui Tika Tangata

Whakarāpopoto | Executive Summary

Maranga Mai! documents the dynamics and impact of colonisation, racism and white supremacy on Māori in Aotearoa New Zealand since first contact with Europeans. This report has been written by Ahi Kaa, the Indigenous Rights Group, within the Commission and tangata whenua, within the framework of Te Tiriti o Waitangi (Te Tiriti) and is an historical and phenomenological[2] analysis which shines a light on the impact of racism on tangata whenua in Aotearoa.

Since the signing of Te Tiriti in 1840, tangata whenua have endured more than 180-years of colonisation, racism and white supremacy, often enforced by the rule of law, unjust legislation, and government sanctioned violence. The Māori experience of this racism has resulted in severe marginalisation, disadvantage and impoverishment over multiple generations.

Maranga Mai! does not seek to cover all the history of Aotearoa, which would take many volumes. However, it does seek to raise understanding that the racism Māori experience is a serious human and Indigenous rights issue that should be addressed as a priority by government and society.

Racism against Māori and other peoples cannot continue without significant negative impacts for tangata whenua and all New Zealanders.

This report provides a strong rationale and call to action for the government and New Zealanders to address racism against Māori. This will require society accepting what Māori have faced and are still facing in this country and taking action to resolve it.

Maranga Mai! acknowledges that many other peoples and cultures also experience racism in Aotearoa, including Chinese, Indian, Pacific and African peoples and other Asian, Jewish and Islamic communities. Migrant communities often come from lands with parallel histories of colonisation and racism such as North America, Ireland and India. The report authors believe that addressing racism against Māori is central to combatting racism against all other cultures in Aotearoa.

Methodology - privileging Māori voices

Maranga Mai! combines evidence-based literature and research with the first-person testimony of recognised experts in the field of anti-racism about the impact of colonisation, white supremacy and racism on tangata whenua and communities. This methodology centres and amplifies Māori voices, memories and experiences, the value of which lies in documenting lived inter-generational and cumulative insights of how Māori have experienced colonisation, racism and white supremacy (Smith, 2013; Creswell, 2013).

Maranga Mai! adds to this body of evidence the testimony of experts of the Tangata Whenua Caucus of the National Anti-Racism Taskforce (2021-2022). Key interviews were conducted with prominent Māori scholars and activists, distinguished Professor Linda Tuhiwai Smith, chair Tina Ngata, Hilda Halkyard-Harawira, Dr Rawiri Taonui and Kingi Snelgar, and the late Dr Moana Jackson.

In the following report, the guiding voices of our experts are reinforced by the oral testimony of ancestors, published comments from other Māori and non-Māori experts, and testimony of tangata whenua, leaders, experts, tāne, wahine, kaumātua, pakeke and taiohi over multiple generations.

Who is this report for?

Ahi Kaa and the Tangata Whenua Caucus provide the report *Maranga Mai!* to the government and the Ministry of Justice to guide the development and

2. Phenomenology helps us understand the meaning of people's lived experience. A phenomenological analysis focuses on what people experienced during an event or occurrence.

recommendations for the National Action Plan Against Racism (NAPAR).

The report is also for the consideration of politicians, central and local government, public sector officials and policy makers, when making or reviewing current legislation, policy or services which impact on Māori or affect their interests. Politicians and political parties have a particular responsibility not only to eliminate racism, but to show leadership in not displaying racism, or encouraging racism against Māori or any other ethnic group.

This report conveys the hard truth about how Māori have experienced colonisation, racism and white supremacy in Aotearoa. It is not what most New Zealanders understand, or necessarily believe, as the denial of racism in Aotearoa is a long-standing legacy that many governments and settler society, over successive generations, have refused to accept.

For this reason alone, it should be read and discussed widely so Aotearoa can have mature conversations about racism. For without truth-telling, there can be neither justice nor reconciliation for tangata whenua, or honour for kāwanatanga and wider society, under Te Tiriti.

The development and implementation of a comprehensive national plan to end racism cannot be undertaken without the full and active partnership and participation of iwi, hapū and whānau. It is imperative that their voices are heard, understood and acted on.

Maranga Mai! adds to the growing body of evidence about these matters in Aotearoa.

Main recommendations for Maranga Mai!

Commit to constitutional transformation

The principal recommendation of *Maranga Mai!* tasks the government with committing to constitutional transformation and establishing co-governance as recommended and articulated by the *Matike Mai Aotearoa* and *He Puapua* reports. Central to this reform would be the government condemning and rejecting the constitutional application of the Doctrine of Discovery to Aotearoa and committing to Te Tiriti and He Whakaputanga o Nu Tireni | the Declaration of Independence (1835) (He Whakaputanga), as the source of legitimacy for kāwanatanga.

As stated in the *Matike Mai Aotearoa* report on constitutional transformation:

> **Te Tiriti never intended us to be "one people" as Governor Hobson proclaimed in 1840 but it did envisage a constitutional relationship where everyone could have a place in this land (Independent Working Group on Constitutional Transformation, 2018, p. 112).**

Rather Te Tiriti established a partnership between the tino rangatiratanga of Māori and the kāwanatanga of the Crown. This recommendation would include recognising and restoring tino rangatiratanga as the pre-existing and ongoing form of Māori indigenous authority and self-determination, under He Whakaputanga, Te Tiriti, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007).

Establish a Truth, Reconciliation and Justice Commission

The second key recommendation of *Maranga Mai!* is to establish a three-year Truth, Reconciliation and Justice Commission as the first step towards constitutional reform. This Commission will set a pathway to realise tino rangatiratanga and constitutional certainty for Te Tiriti before the bicentenary of its signing in 2040.

A Truth, Reconciliation and Justice Commission would focus on enhancing understanding about the injustices perpetrated against tangata whenua by the Crown, and lead to healing and reconciliation between tangata whenua and the government, and Tiriti peoples. It would also establish transitional justice processes to restore tino rangatiratanga and honour Te Tiriti. This is a separate process from the Waitangi Tribunal, which is primarily concerned with claims bought by Māori in relation to breaches of Te Tiriti.

Such a Commission will represent a positive step forward for Aotearoa to progress the journey to eliminate racism. More importantly, it will shine a light on why Aotearoa needs constitutional reform and co-governance for tangata whenua. Co-governance

will realise tino rangatiratanga and kāwanatanga for both Te Tiriti partners. This will enable Aotearoa to make the transition to become a modern democracy, grounded in Te Tiriti, that honours and respects tangata whenua and also acknowledges the place of Tiriti peoples in Aotearoa.

Draft principles to guide such a Truth, Reconciliation and Justice Commission for Aotearoa are outlined in Chapter 8.

Establish an independent body or bodies to deliver transformation

The third main recommendation is to establish an independent body, or bodies, to develop and deliver constitutional transformation within Tiriti processes and with tino rangatiratanga partners.

Strengthen Indigenous and human rights in Aotearoa

The fourth recommendation is that government urgently appoint a full time, permanent, Indigenous Rights Commissioner, to strengthen the capacity of Te Kāhui Tika Tangata | the Human Rights Commission (the Commission) to fulfil its strategic role to uphold domestic and international human rights and the Indigenous rights of tangata whenua and honour Te Tiriti.

The establishment of an independent Indigenous Rights Commission is also recommended for exploration by the government, with a key function of advancing the NAPAR; developing and delivering a decolonisation and anti-racism strategy to assist the further elimination of racism in central and local government and civil society; and supporting the Truth, Reconciliation and Justice Commission.

Summary of report

Maranga Mai! is written in two Parts.

Te Ūpoko Tuatahi | Part One

He Kōrero | A message from the Chief Human Rights Commissioner: Paul Hunt provides a welcome and overview comment on the significance of the *Maranga Mai!* report.

Kupu Whakataki | Foreword: Race Relations Commissioner, Meng Foon and Te Kāhui Tika Tangata | the Human Rights Commission, Pou Ārahi, Tricia Keelan provide an introductory foreword. Tricia Keelan was formerly Pou Ārahi and led Ahi Kaa, the Indigenous Rights Group within the Commission.

Whakarāpopoto | Executive summary: Overview of Maranga Mai! and summary of the main recommendations and eight subject chapters.

Ngā Taunaki | Main recommendations: Describes the main recommendations from tangata whenua for Maranga Mai! to contribute toward the government's development of the NAPAR. There are also secondary recommendations which follow the relevant chapters in Part Two and which are listed fully in Appendix One.

Ngā Tautuhi | Definitions in *Maranga Mai!* Provides definitions for colonisation, racism, white supremacy and white privilege that are used in this report.

Kupu Arataki | Introduction: *Maranga Mai!* Begins with an overview of the Doctrine of Discovery which remains the authority by which Aotearoa was first colonised. It discusses the significance of foundational constitutional documents, He Whakaputanga o Nu Tireni | The Declaration of Independence (He Whakaputanga) and Te Tiriti o Waitangi (Te Tiriti). The analysis examines the status of Te Tiriti under international law and why Te Tiriti, the te reo version, is regarded as the principal text. The section also outlines the three key principles of anti-racism necessary for New Zealanders to understand and eliminate racism. They start with the need for telling the truth about racism in Aotearoa, healing and reconciliation, and finally the government and settler society taking anti-racism actions and delivering justice and constitutional reform for tangata whenua.

Tirohanga Whānui | Overview of colonisation: Provides context and a brief overview of the impacts of colonisation over the 182-year colonial history of Aotearoa – the loss of Māori land, war, political, cultural and identity marginalisation, the destruction of whānau, and unjust legislation. This narrative history is further expanded in Chapters 1-8.

Te Ūpoko Tuarua | Part Two

Part Two: Renews the call for restoring Te Tiriti to its rightful place, enabling tino rangatiratanga for Māori, and constitutional reform and co-governance. It contains the main body of the report which includes the following chapters and related secondary recommendations.

Chapter 1: Kaikiritanga | Colonisation, Doctrine of Discovery, racism and white supremacy: Charts a harrowing 182-year narrative history of the impact that colonisation, the Doctrine of Discovery, racism and white supremacy has had on tangata whenua, including the forcible taking of Māori lands and resources. Colonisation was essentially an economic project led by the Crown.

New Zealand was colonised by the British Crown under the authority of the Doctrine of Discovery. The doctrine and other Papal Bull decrees provided the rationale for the conquest, colonisation and subjugation of Indigenous peoples and the seizure of their lands. The doctrine is still recognised under international law and underpins the position of the New Zealand government and its legislation.

The chapter chronicles how the Crown has consistently eroded the tino rangatiratanga of iwi, hapū and whānau and undermined the agreement – Te Tiriti – rangatira signed in 1840. Central to this has been the dispossession of Māori land through force and law, triggering untold impoverishment for generations of Māori. The cumulative effect has been that the freedom of Māori to design and imagine their own destinies was severely restricted through the machinations of law, policy and Crown violence.

Racism and white supremacy are examined alongside the myth of Aotearoa having the 'best race relations in the world'. The Crown and settler society has continued to deny and downplay the racism that occurs against tangata whenua. The practices of strategic amnesia, assimilation, cultural tokenism, the concepts of biculturalism and multiculturalism, and the over-homogenisation of Māori and Pacific peoples are also reviewed.

Secondary recommendations include actions to embed Te Tiriti, the decolonisation of central and local government alongside key sectors, and the development of an anti-racism strategy and measurement index.

Chapter 2: Ka Takahi | Treaty making and treaty breaking: Describes the significance of the constitutional foundational documents He Whakaputanga and Te Tiriti. It outlines the signing of the two versions of Te Tiriti (te reo version) and the Treaty (English version) and how decades of unjust legislation and war undermined Māori self-determination leading to political marginalisation, the alienation of Māori land and cultural identity, intergenerational impoverishment, and racism.

Secondary recommendations include broadening the mandate of the Waitangi Tribunal to make its recommendations binding on the Crown, restoration of tino rangatiratanga so Māori landowners have control over their whenua, review the rates system for Māori land and expunging rates on the five percent of land still under Māori ownership. Establish a Te Tiriti Whenua Māori Authority to improve systems to help Māori develop their whenua.

Chapter 3: Ngā Hikoi | Māori renaissance protests: Examines the contribution of the Māori renaissance protest movement in seeking justice and self-determination for Māori in Aotearoa. Born of alienation and urbanisation, often very young Māori leaders rose up in organisations like Te Hōkioi, the Māori Organisation on Human Rights (MOOHR) and Ngā Tamatoa to lead protests against rugby tours with South Africa, the loss of te reo Māori, injustice over land, and racism.

The chapter traces the contribution of protests for equal human rights for tangata whenua and Mana Motuhake, including at Waitangi, the Māori land march, Raglan Golf Course, Takaparawhā | Bastion Point, He Taua, Te Hikoi ki Waitangi, the 1990 Sesquicentennial Celebrations, reaction to the fiscal envelope and foreshore and seabed legislation, local body representation, Te Mana Motuhake o Tūhoe, and the more recent Ihumātao land protest.

Chapter 4: Mātauranga | Impact of colonisation and racism on education: Overviews the impact of racism on Māori in the Western school system and the inequities and harm this has caused. It details how the Crown used colonisation and legislation to structure education to alienate Māori identity, te reo and culture, and to train young Māori to become manual and domestic workers.

Contemporary issues in education are also canvassed, such as, the use of deficit education models, the mispronunciation of Māori names and use of nick names for Māori students, racism in schooling, and the low expectations the education system has for ākonga.

The main secondary recommendation is to establish a stand-alone Māori Education Authority to undertake a Tiriti-based legislative and policy review of education to strengthen tino rangatiratanga and enable tangata whenua to regain mana motuhake over the education of Māori, education systems and ākonga. Others include strengthening kaupapa Māori and wananga education; the development of a sector-wide, Tiriti-based, anti-racism curriculum; and training of educators to understand how racism affects Māori.

Chapter 5: Hauora | Impact of colonisation and racism on health: Describes how colonisation and racism undermined tangata whenua health and wellbeing leading to the social collapse and rising mortality rate of Māori in the late nineteenth century.

The chapter tracks the cumulative legacy of the barriers that racism constructed for Māori in contemporary health care and stresses the importance of replacing these structures with 'for Māori by Māori' kaupapa and Tiriti-based approaches to improve health outcomes and reduce inequities.

Secondary recommendations support the new Māori Health Authority to achieve improved and equitable outcomes for Māori; that the Authority

is properly funded and gives full effect to Te Tiriti and enables tino rangatiratanga; that the principle of equity applies within all health legislation, policy and action plans; and there is stronger monitoring and data reporting for Māori health.

The Commission made a comprehensive submission to the Pae Ora Bill and stands behind its recommendations. The Act can be read on the New Zealand Parliament website **www.parliament.nz**.

Chapter 6: Manatika | Impact of colonisation and racism in criminal justice: Traces the historical over-policing of tangata whenua and contemporary institutional racism in the police and criminal justice system since colonisation. Racist profiling and the high disproportionate incarceration of Māori in the justice system today is proof of the racism that exists in the system.

Secondary recommendations include a comprehensive review of the justice system to abolish prisons by 2040, reviewing criminal legislation to align with Te Tiriti and te ao Māori values and tikanga, establishing a Mana Ōrite justice partnership to share governance and decision-making at all levels of the justice sector and embedding kaupapa Māori approaches across the court system. Institutional racism must be challenged through law changes, diverse recruitment, effective training and anti-racist programmes.

Chapter 7: Tino rangatiratanga | Racism, Māori, and human rights statutory bodies and the media: Addresses some of the concerns raised by tangata whenua regarding Māori statutory bodies, the Race Relations Act, the role of the Commission, the historical role of media in racism against Māori and the current housing crisis.

Secondary recommendations include strengthening the Human Rights Act 1993 to better protect Māori and Indigenous rights and give full effect to Te Tiriti. Amendments to the Act are needed to reflect a co-governance arrangement for the Human Rights Commission, and to include definitions of racism, institutional racism, and white supremacy. A primary function for the Commission to protect Indigenous and human rights of tangata whenua under Te Tiriti o Waitangi and the UNDRIP could also be added.

Chapter 8: Mana motuhake | Constitutional transformation: Details the constitutional steps Aotearoa needs to take, based on the vision first laid out in Te Tiriti and articulated in *Matike Mai Aotearoa* and *He Puapua*, to redress the racist oppression of tangata whenua. This argues for Māori governance of things Māori (rangatiratanga), Crown governance of its own affairs (kāwanatanga), and a joint sphere to deliberate upon matters of mutual concern (the relational sphere) where both parties can work together.

The secondary recommendations aim to support the achievement of constitutional transformation. These include embedding Te Tiriti into central and local government systems and processes to eliminate racism in Aotearoa, a review of the Treaty Settlements policy which continues to inflict injustice on tangata whenua Māori, and the reform of central and local government legislation and policies to return dispossessed land to iwi, hapū and whānau and improve access and use of Māori whenua.

Ngā Taunaki | Main Recommendations

Human Rights Commission's contribution to the National Action Plan Against Racism

Maranga Mai! is an historical and phenomenological[3] analysis explaining the impact of colonisation, racism and white supremacy on tangata whenua in Aotearoa New Zealand. It is predominantly a research and narrative report, which also contains testimony from the Tangata Whenua Caucus of the National Anti-Racism Taskforce (2021-2022) (Tangata Whenua Caucus), and voices of Māori over generations.

The recommendations have also been informed by Te Kāhui Tika Tangata | the Human Rights Commission's (the Commission) own knowledge, numerous reports, such as *Matike Mai Aotearoa, He Puapua*, and the Stop Institutional Racism's Briefing Paper (STIR), and the many sources cited in the extensive bibliography.

Maranga Mai! and its recommendations should be read in conjunction with the report *Ki te whaiao, ki te ao Mārama*, which is a community engagement report developed by the Commission, at the request of the Ministry of Justice and government. *Ki te whaiao, ki te ao Mārama* records the voices and experiences of tangata whenua (people of the land) and tangata Tiriti (people of the Tiriti) on racism and their visions to create a racism-free Aotearoa. These reports are provided to the government, the Ministry of Justice and Aotearoa to assist with the important kaupapa of eliminating racism. You can read both reports on the Commission's website.

Read together *Maranga Mai!* and *Ki te whaiao, ki te ao Mārama* create the call to action "Rise Up! Emerge from darkness, into the natural world of life and light".

Maranga Mai! recommendations

These recommendations should be further explored and developed in the National Action Plan Against Racism (NAPAR) with tino rangatiratanga partners. While some of the work can be led by the government, the strengthening of tino rangatiratanga can only be led by tangata whenua.

Commit to constitutional transformation (for government with tino rangatiratanga partners)

1. The government, with tino rangatiratanga partners, commits to constitutional transformation, and undertakes the necessary steps to review current arrangements and develop and implement reform options. We recommend the following actions:
    i. Acknowledge that the Doctrine of Discovery has caused cumulative intergenerational harm, violence, and inequities for tangata whenua, that it is racist and unjust, and violates Māori, human and Indigenous rights. The government therefore condemns and rejects its constitutional application to Aotearoa and commits to transitioning to position te Tiriti o Waitangi (Te Tiriti) and He Whakaputanga o Te Rangatiratanga o Nu Tireni| Declaration of Independence (He Whakaputanga) as the source of legitimacy for kāwanatanga.

3. Phenomenology helps us understand the meaning of people's lived experience. A phenomenological study focuses on what people experienced during an event or occurrence.

ii. Recognise tino rangatiratanga is a pre-existing and ongoing form of tangata whenua and Indigenous authority and self-determination under Te Tiriti (Article Two) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007).

iii. Engage Aotearoa in conversation and wananga, building on the foundational work and recommendations in *Matike Mai Aotearoa*. (This work will need to consider the forthcoming action plan for the UNDRIP).

iv. Rebalance the power between tino rangatiratanga and kāwanatanga to achieve the vision of Te Tiriti, where tino rangatiratanga and kāwanatanga are honoured by both partners.

v. Undertake legislation and policy reform for central and local government systems to reduce and eliminate inequities for tangata whenua and give full effect to Te Tiriti.

vi. Progress constitutional transformation by recognising Te Tiriti and He Whakaputanga as the founding documents of Aotearoa. Elevating Te Tiriti to its rightful place in the constitutional framework of Aotearoa as the primary step in addressing racism against tangata whenua.

Truth, Reconciliation and Justice Commission (for government with tino rangatiratanga partners)

2. The government establish an independent three-year Truth, Reconciliation and Justice Commission comprising experts to hear and document the evidence and testimony of the Māori experience of historical and contemporary colonisation, racism, and white supremacy in Aotearoa.

    i. The Truth, Reconciliation and Justice Commission should be distinct from the Waitangi Tribunal and built within te ao Māori processes grounded in tikanga and kawa.

    ii. The Truth, Reconciliation and Justice Commission considers how the government can offer transitional justice and reconciliation to tangata whenua for the cumulative and intergenerational impact and trauma on the mana and wairua of generations of iwi, hapū and whānau Māori including their cultural, economic, political, mental and physical wellbeing.

    iii. Develop actions and recommendations to provide authentic pathways so reconciliation, restoration and justice for Māori is progressed and well underway by 2030.

Establish an independent body, or bodies, and Tiriti process (for government with tino rangatiratanga partners)

3. The government, with tino rangatiratanga partners, establish a Tiriti-based independent body, or bodies, and a process to uphold Te Tiriti o Waitangi and tangata whenua human and Indigenous rights and eliminate racism in Aotearoa. The independent body, or bodies, to:

    i. Following the current work of developing the NAPAR, lead a comprehensive plan for eradicating racism against Māori.

    ii. Prioritise a Tiriti-based consistent transformation across the public sector through the implementation of the NAPAR.

    iii. Support tino rangatiratanga partners to progress the conversation on the foundational work and recommendations in *Matike Mai Aotearoa*.

    iv. Noting the UNDRIP action plan is still in development, support tino rangatiratanga partners to lead a process for the adoption and integration of the UNDRIP (2007) into central and local government policy and strategy.

    v. Lead a Tiriti-centred review of current New Zealand legislation to give full effect to Te Tiriti o Waitangi.

vi. Working with tino rangatiratanga partners, conduct an annual survey on racism, and monitor and report on racism and the status of Te Tiriti and the UNDRIP to the Commission, government and the United Nations. Government to provide resources to enable tangata whenua to participate.

vii. Provide resources and pathways to support tangata whenua to work together with other Indigenous peoples around the world to progress Indigenous and human rights.

viii. Ensure institutional arrangements for the independent body, or bodies, are Tiriti-based with power and decision making. This could take the form of co-leadership and co-governance arrangements.

Appoint an Indigenous Rights Commissioner under urgency within the Te Kāhui Tika Tangata | Human Rights Commission and explore establishing an independent Indigenous Rights Commission (for government, Human Rights Commission with tino rangatiratanga partners)

4. The government, in consultation with tino rangatiratanga partners, urgently appoints a full-time, permanent, Indigenous Rights Commissioner within the Human Rights Commission to strengthen its capacity. Noting the Commission is to become Tiriti-based, the government also explores the establishment of an independent Indigenous Rights Commission.

   The government to consider that the Indigenous Rights Commissioner has the following functions:

   i. Work with the Human Rights Commission, to promote and protect human and Indigenous rights as outlined in Te Tiriti and the UNDRIP.

   ii. Contribute toward, and support, the establishment of the Truth, Reconciliation and Justice Commission.

   iii. Support the implementation of the NAPAR and a decolonisation and anti-racism strategy to assist the further elimination of racism in central and local government and civil society.

   iv. Contribute to a Tiriti-centred review of current New Zealand legislation and make Te Tiriti and UNDRIP recommendations on proposed legislation.

   v. Report to the United Nations on New Zealand's progress on Te Tiriti, UNDRIP, and decolonisation and racism affecting tangata whenua.

   vi. Government adequately resources the Indigenous Rights Commissioner and explores the establishment of an independent Indigenous Human Rights Commission with similar functions.

Secondary recommendations have also been made at the end of the relevant chapters and are tabled in Appendix One for the consideration by the government for further development and action. These include strengthening the Human Rights Act (1993) to promote and protect Māori human and Indigenous rights; reducing inequities and inequalities and improving outcomes for Māori in education, health and criminal justice; and the reform of Māori land and rates for the benefit of Māori whenua owners.


DECOLONISE
Aotearoa
MĀURI ORA

Ngā Tautuhi | Definitions In Maranga Mai!

To adequately grasp the breadth of impact upon Māori, here we define the concepts of colonisation, racism, white supremacy, and white privilege in Aotearoa New Zealand. These concepts are elaborated upon in more depth in Chapter 1.

Colonisation refers to the systematic appropriation, seizure and exploitation of Indigenous lands and natural resources by settler colonies. Colonial processes undermine and disempower Indigenous self-determination, leadership, and political structures.

In Aotearoa, colonisation employed Christianity and Western institutions to subjugate Indigenous spiritual beliefs and knowledge systems and dismantle first peoples' societies, culture, social cohesion, and families.

Colonisation is ongoing and intergenerational for the coloniser and the colonised. Settler colonial societies structure the world in a manner that benefits dominant colonial groups while marginalising, alienating, suppressing and oppressing Indigenous societies to a political, economic, social, cultural and impoverished periphery. In Aotearoa, colonisation establishes white supremacy, white privilege and racism that assumes a presumed superiority of whiteness at interpersonal, institutional, cultural and internal levels.

Racism stems from cultural and ideological beliefs, bigotry and prejudice. Colonisation holds Western European culture and society as superior and 'other' Indigenous cultures and societies as inferior, backward, dangerous and untrustworthy. Racism justifies the exploitation and subjugation or destruction of Indigenous peoples for the benefit of Western cultures and societies.

Backed by monopoly power over the institutions of colonial-settler society this prejudice manifests as all-encompassing racism exercised at interpersonal, institutional and internalised levels.

- Interpersonal racism concerns derogatory attitudes, assumptions, remarks, abuse, or actions toward someone based on the perceived inferiority of their race and culture. The narrow-minded discussion of racism in Aotearoa society minimises interpersonal racism, by describing it as unconscious bias and casual racism. This form of racism is often framed as accidental and innocent, acts of oversight and omission, that occur between people.
- Institutional racism is the regulated exercise of different access to opportunities and resources in society that advantages and privileges dominant groups at the expense of a subordinated group based on their perceived racial inferiority.

Pākehā built the structure and institutions of New Zealand society in their image for their benefit to the exclusion of Māori. The inequities and inequalities of outcomes we witness across housing, education, health, justice, employment and wellbeing are the results of that racism.

Institutional racism is insidious, detrimental, damaging, and more intergenerationally harmful than interpersonal racism. Institutional racism causes the inequities and inequalities that marginalise Māori across all domains of life. The prevailing Pākehā tendency is to avoid acknowledging, recognising, or changing institutional racism.

- Internalised racism is the acceptance by racially stigmatised peoples of negative ideas and messages about themselves and other members of their community.

White supremacy is connected with colonisation and racism. White supremacy, whiteness, white culture and white norms carry the belief that Western European cultures are superior and Indigenous peoples inferior and less worthy. White supremacy assumes that other ways of being outside of these norms are invalid,

abnormal, untrustworthy, primitive and threatening. White supremacy calls for the disintegration and assimilation of Māori society and the merging of all cultures into an illusory 'one nation' that rejects Māori as valid citizens, whether assimilated or not.

White supremacy explains the inequities and inequalities that afflict Māori as the outcome of a "lazy, ignorant, abusive, brutal, and intellectually and morally inferior Māori culture and people" (Halkyard-Harawira, 2021).

White supremacy maintains a political, economic, cultural, ideological and religious system that through overt and covert, and explicit and implicit means, maintain white dominance and Indigenous subjugation for the benefit of white society and culture. Local and international research indicates that the volume and intensity of white supremacist ideology (in Aotearoa) and activism has increased significantly in the past three years (Spoonley, P., 2022).

White privilege is the inter-generational political, economic, social and cultural benefits and advantages that colonial settlers accumulate through the appropriation of Indigenous lands, natural resources and wealth. White supremacy entrenches and preserves white privilege through the monopoly control of institutions maintaining racist inequities and inequalities through the perpetual structural marginalisation of Indigenous peoples and societies.

Kupu Arataki | Introduction

Maranga Mai! begins with some necessary context to understand this report. There is an urgent need for New Zealanders to accept the truth about the magnitude of racism experienced by Māori today and acknowledge that this history of racism stretches back to colonisation. The authors believe the elimination of racism will not occur, without constitutional transformation and co-governance with Māori, and the rejection of the Doctrine of Discovery.

This section starts with an overview of the Doctrine of Discovery which is the authority by which Aotearoa New Zealand was first colonised and which still underpins the establishment of the New Zealand government and its legislation today. He Whakaputanga o Nu Tireni | The Declaration of Independence (He Whakaputanga) and Te Tiriti o Waitangi (Te Tiriti) are then introduced. The following sections describe the status of Te Tiriti (te reo version) under international law and why it is regarded as the principal text by Māori.

Maranga Mai! calls on the government to recognise He Whakaputanga and Te Tiriti as the founding constitutional documents of Aotearoa and to reject the Doctrine of Discovery as the basis for its position (see also chapter 1). For this to occur, the government is urged to enter a process of truth, reconciliation and justice with Māori and use this as a springboard to take bold actions to eliminate racism, commit to constitutional transformation, and enable a better future for tangata whenua and all New Zealanders.

Doctrine of Discovery

Indigenous nations at the United Nations have described the Doctrine of Discovery as the driver of all "Indigenous dispossession" (United Nations PFII, 2012).

The Doctrine of Discovery refers to a series of Papal Bulls (Catholic laws) made by the Vatican during the fifteenth century. These decrees provided the rationale for the conquest, colonisation and subjugation of Indigenous peoples and the seizure of their lands.

These racist actions were premised on the basis that non-European, non-white and non-Christian peoples had forfeited their rights of independent sovereignty, ownership of land and natural resources to what was presumed to be a superior European power.

The doctrine became part of international law through a series of landmark cases, such as, *Johnson v. McIntosh* (1823) (21 US 543) in the United States, where judges ruled that Western states that had taken possession of Indigenous lands immediately acquired a radical title to the land and could extinguish Indigenous ownership at will (Stuart Banner, 2005). The Doctrine of Discovery has never been rescinded.

In Aotearoa, Lieutenant William Hobson under the doctrine, declared sovereignty over Te Waipounamu (The South Island) in 1840 and claimed it for the Crown. In 1840, The Treaty of Waitangi (English version) was partially signed and mainly by North Island rangatira. Nevertheless, the British Crown proclaimed sovereignty and cession under the doctrine and the treaty (Ruru J. & Miller R.J, 2008).

The doctrine paved the way for colonisation of Aotearoa, underpinned the establishment of the New Zealand government and its legislation, and established the white supremacy and systemic racism which exists today. Through colonisation, premised on the notions of racial superiority outlined in the doctrine, tangata whenua were displaced from their traditional lands, territories and resources.

He Whakaputanga o Te Rangatiratanga o Nu Tireni | The Declaration of Independence (1835)

Drafted in 1835, 52 rangatira signed He Whakaputanga which formally asserted the mana and authority of Indigenous Māori peoples in

Aotearoa. It was an "innovative declaration of Indigenous power" that formally asserted the independence of Aotearoa as a "...Māori state" where "power resided fully with Māori and ... foreigners would not be allowed to make laws" (Archives New Zealand, 2021). He Whakaputanga is the foundational constitutional document articulating collective iwi and hapū identity grounded upon independence (Independent Working Group on Constitutional Transformation, 2018, p. 44).

Te Tiriti o Waitangi (1840)

There are two texts of Te Tiriti o Waitangi, one in te reo Māori (Te Tiriti) and the Treaty of Waitangi (The Treaty) in English. Despite many efforts to compare them, the texts do not readily equate in translation. However, it is incontrovertible that Te Tiriti is the principal text.

The history is clear that the understanding of the rangatira who signed Te Tiriti in 1840 was based on the discussions framed on the text in te reo Māori (Waitangi Tribunal, 2014, pp. 517-520, 521-525). Equally clear is that the Europeans who drafted the texts and led pre-signing discussions and assurances with rangatira "concealed the full British intentions" as outlined in the English version (Waitangi Tribunal, 2014, p. 526). Moreover, it is the text in te reo Māori which more than 500 rangatira signed in hui held in 1840, which holds weight for tangata whenua, compared to the 39 rangatira who signed the English treaty.

The Waitangi Tribunal Report, in its *Te Paparahi o Raki* 2014 report, affirmed that the rangatira that signed Te Tiriti in 1840 did not cede their sovereignty to Britain. That is, rangatira and their hapū (and iwi) did not cede their authority to make and enforce law over their people or their territories.[ii] Te Tiriti is not a treaty of cession.

International law

With regard to bilingual treaties, McNair in *The Law of Treaties* states that neither text is superior to the other. Lord McNair was a British jurist and judge of the International Court of Justice and later the first president of the European Court of Human Rights. The two texts should help one another so that it is permissible to interpret one text by reference to the other. While this approach may help in interpreting the Treaty (English version) and reconciling differences between the two texts, we must also have regard to other principles (Lord McNair, 1986).

Accepting Te Tiriti as the principal text is congruent with the Vienna Convention on the Law of Treaties (1969) Article 32, which considers the consideration of "the preparatory work of the treaty and the circumstances of its conclusion [signing]" when issues of ambiguity arise in the terms of a treaty.[iii]

This is also consistent with the wider body of international customary law.[iv] In that regard, we follow the findings of the Waitangi Tribunal in the *Waitara-Motunui* Report (1983) and the Manukau Report (1985). Both reports reference the United States Supreme Court that treaties with Indigenous peoples should be "construed in the sense which they would naturally be understood by the Indians" (*Jones v Meehan* (1899) 175 US 1). This is relevant when considering the "predominant role the Māori text played in securing the signatures of the various chiefs" (Waitangi Tribunal, 1985, p. 65).[v]

Both reports also accepted the principle of *contra proferentem* where, in the case of an ambiguity in the terms of an agreement between parties, specifically in the circumstance of unequal bargaining, the interpretation of the agreement should be read against the party who provided the wording.

Racism and truth

The elimination of racism is a strategic priority for Te Kāhui Tika Tangata | the Human Rights Commission. The first principle in eliminating racism is truth. Truth requires evidence and the testimony of those subject to racism. *Maranga Mai!* focuses on the history of racism and how racism is experienced by Māori.

A substantial and increasing body of historical evidence demonstrates that the impacts of colonisation, white supremacy and racism on Māori are multi-dimensional, cumulative, inter-generational and fundamental to the continuing displacement and marginalisation of Māori and their rights under Te Tiriti. The evidence confirms that the cascading and

compounding effects of colonisation, white supremacy and racism are evident in the inequities and inequality of outcomes Māori suffer across housing, education, health, justice, employment and everyday wellbeing.

It is to this body of evidence that *Maranga Mai!* adds the testimony of experts including the Tangata Whenua Caucus, alongside the late Dr Moana Jackson.

Detailing the history of racism and white supremacy in Aotearoa, through the testimony of the living repositories of that experience, is pivotal to building awareness of the past, understanding of the present, and configuring a racism-free future.

Colonisation, racism and white supremacy

Racism and white supremacy are integral to colonisation and colonisation is integral to racism and white supremacy. Colonisation appropriates indigenous lands, steals their natural resources, and undermines indigenous self-determination for the benefit of settler colonies. Colonial settler racism justified this by assuming indigenous peoples were racially and culturally inferior, therefore superior white settler colonies could take their lands and wealth, rhetorically for the benefit of all, but in reality, for the advantage of the settler. Colonisation, racism and white supremacy are intergenerational and ongoing and structure society for the benefit of white privilege.

Racism and reconciliation

Reconciliation is the second principle in combating racism. The evidence compels Aotearoa to progress from the ethics of Indigenous justice truth-telling toward a process of reconciliation. As the Truth and Reconciliation Commission of Canada described in its report on residential schools:

> 'Reconciliation' is about establishing and maintaining a mutually respectful relationship between Aboriginal and non-Aboriginal peoples... In order for that to happen, there has to be awareness of the past, acknowledgement of the harm that has been inflicted, atonement for the causes, and action to change behaviour (Truth and Reconciliation Commission of Canada, 2015, p. 113).

Racism and justice

The third principle of anti-racism is justice. Justice and change demand actions to halt and reverse racism against Māori.

Despite the long identified impacts of racism in reports such as *Puao-Te-Ata-Tu* (Department of Social Welfare, 1988) and *He Whaipaanga Hou* (Jackson, 1988), Māori continue to experience racism.

Successive governments have made some efforts to address racism. These have not turned the tide. The evidence of continued personal and structural disadvantage and racism toward tangata whenua is overwhelming with the vast majority, 93 percent, reporting that racism affected them "on a daily basis" and 96 percent saying racism was a problem for their wider whānau (Smith, Tinirau, Rattray-Te Mana, Tawaroa, Moewaka Barnes, Cormack & Fitzgerald, *Whakatika Report*, 2021, p. 9).

> Racism is alive and well. It is intentional, it is calculated; it is precise at ensuring the power and control of colonial structures remain in place. Survey respondent, 41, wāhine (Whakatika Report, 2021).

Truth, reconciliation and justice for tangata whenua are the fulcrums by which we can heal the wounds of our colonial past, address present racism, reverse white supremacy and build an equal, fair, and just Aotearoa that embraces all peoples and cultures.

Tirohanga Whanui | Overview Of Colonisation

This section provides context and a brief overview of the impacts of colonisation over Aotearoa's 182-year colonial history – the loss of Māori land, war, and political, cultural and identity marginalisation, the destruction of whānau, and unjust legislation. This history is further expanded in chapters 1-8.

Land

The old land claims, surplus land, forced land sales, raupatū land confiscations, and the operation of the Native Land Court (also known as Te Kōti Tangohia - the Land Taking Court) were the main means by which Māori lost possession of their lands, forests, waterways, lakes, rivers, foreshore and seaways. The taking of land and resources by the Crown and settlers robbed Māori of their primary economic base triggering inter-generational destitution and impoverishment, the impacts of which continue to be felt today. The opposite effect was achieved for tauiwi who received Māori resources leading to intergenerational wealth and prosperity at the direct expense of tangata whenua.

Arrival of settlers

Pākehā were brought into Aotearoa in much larger numbers than conveyed by the Crown at the signing of Te Tiriti o Waitangi (Te Tiriti) and their eventual possession of land was a major factor in the marginalisation of Māori. In 1840 Māori made up 98 percent of the population of Aotearoa, however, within 20 years of signing Te Tiriti, Māori became a minority people in their own land.

War

When Māori resisted, Pākehā Wars on Māori followed in the Wairau, Hutt, Northland, Taranaki, Waikato, Bay of Plenty, East Coast, Central North Island and Parihaka. The intention was to destroy resistance, autonomy, self-determination, the rangatiratanga of chiefs, and the cohesion of Māori society.

Political marginalisation

Political marginalisation confined Māori to just four seats in Parliament for more than a century when, by population, Māori were entitled to many more seats. Pākehā political institutions did all they could to erode Māori political initiatives like the 1850s Kingitanga, 1890s Te Kotahitanga and the 1990s Māori Congress.

Cultural and identity marginalisation

Pākehā institutions dismantled Māori culture, one example being an attempt to extinguish te reo Māori. A major activation of the state policy was delivered by teachers who would beat new entrant tangata whenua school children for speaking te reo and encouraged children to inform on each other for speaking te reo in the playground. The twentieth century loss of te reo caused catastrophic harm to the identities of several generations of Māori, doubly alienated from the kupu and kōrero of their ancestors and their non-acceptance in an English-speaking, prejudiced, Pākehā-dominated society.

The destruction of whānau

The loss of the land base, and colonial laws and assimilationist policies, forced Māori into urban areas during the 1950s where they were subject to racism and discrimination at all levels in housing, education, health, justice and employment. Ties to homelands became tenuous. Identity and whānau became fractured. Multiple layers of disjuncture impacted Māori youth. The social welfare system took thousands of young Māori into State care where staff subjected them to physical and sexual abuse, including torture and rape. Many youth sought support in gangs. Māori suicides and imprisonment spiralled upwards.

Unjust legislation

More than a century of unjust national legislation and policy, local by-laws and governmental and business practices affecting every area of life oppressed and suppressed Māori society and whānau in the areas of housing, education, health, justice, employment and wellbeing, as outlined in Chapters 1-8.

Part Two: *Te Ūpoko Tuarua*

In response to the history of colonisation, white supremacy and racism, *Maranga Mai!* renews the call for restoring self-determination for Māori and constitutional certainty through reform.

The need for constitutional transformation is primarily based on the vision first laid out in Te Tiriti o Waitangi and articulated in *Matike Mai Aotearoa*. Such a model would allow for tangata whenua governance of their affairs (rangatiratanga), Crown governance of its affairs (kāwanatanga), and a joint relational sphere to deliberate upon matters of mutual concern. Principles of reconciliation would underpin this vision.

It also makes the case for why constitutional transformation and the establishment of a Truth, Reconciliation and Justice Commission in Aotearoa is needed to eliminate racism.

Chapter I: Kaikiritanga

Colonisation, doctrine, racism and white supremacy

This chapter analyses the impact of colonisation, racism and white supremacy and the role of the Doctrine of Discovery. It also discusses the undermining of self-determination, and the denial of racism, strategic amnesia and downplaying of racism upon tangata whenua Māori society.

Colonisation and racism

Western colonialism subjugated Indigenous societies, by establishing permanent settler colonies, and taking Indigenous lands and resources for colonial exploitation (Aikman, 2019; Mills, 2011; Wolfe, 2016, 2011, 2006) (Wolfe, 2006).

Western racism emerged alongside European colonisation 700 years ago in post-Middle Ages Christian Europe (Kuper and Kuper, 1996, p. 715). After the Crusaders were ejected from the Middle East, European powers sought riches and resources in other lands. Their first middle-to-late fifteenth century forays traversed the western coast of Africa then crossed the Atlantic Ocean. The 'discoveries' on these voyages would lead to the mass exploitation of colonised natural resources in the form of 20 million African slaves, in addition to colonial settlement which killed 20 million or so Indigenous Americans (BBC, 2007).

Colonisation was a race-based process (Jackson, 2017, p. 7):

> Colonisation was constructed on the racist belief that so-called white, civilised people in Europe were innately superior and therefore had the right to dispossess non-white 'uncivilised' peoples who were inferior (Jackson 2017, p. 7, 2019).

Societies have debased and dehumanised one another throughout history through the disapproving interpretation of markers such as skin colour, physical stature, facial configuration, hair texture, eye shape, culture, dress, lifestyles, and customs and colour. The unprecedented scale and impact of Western colonisation in the Americas, Africa, Asia, and the Pacific triggered a new and more violent form of race hatred, we now term colonial racism (Taonui, 2021).

This racism was given shape and impetus in the edicts of Papal Bulls delivered by Catholic Popes from the mid-1400s onwards (Greenberg, 2016, p. 236). The Dum Diversas (1452) encouraged the conversion of new peoples to Christianity, while also justifying, if necessary, their enslavement, subjugation, or destruction as 'enemies of Christ'. This doctrine birthed virulent colonial racism which, combined with white supremacy, matured into the colonists' manifest duty (Taonui, 2021).

The Doctrine of Discovery

The *Romanus Pontifex* (1455) legalised the taking of lands from Indigenous peoples in new worlds without their knowledge or consent. Alongside other Papal Bulls, this emerged as the Doctrine of Discovery that articulated a violent European Christian entitlement to seize 'discovered lands'. This led to the destruction of Indigenous economies (Taonui, 2021) and "the genocide and deaths of millions of men, women and children" (Jackson, 2019).

Aotearoa New Zealand was first colonised by the British Crown under an international legal principle known as the Doctrine of Discovery. This fifteenth century Papal Bull asserted that non-Christian, Indigenous peoples inhabiting 'discovered lands' were enemies of God, less human than Europeans and therefore their land could be taken from them. This was key to the authority by which the British Crown first gained its sovereign and property rights in Aotearoa.

The doctrine is still recognised under international law insofar as it has never been repudiated. In this way, it continues to underpin the position of the New Zealand government and its legislation.

> The authority New Zealand Governments use to exercise legal rights over Māori lands and to control Indigenous people derives from the Doctrine (Ruru J. & Miller R.J, 2008).

The United States, Australia and Canada were also claimed and colonised under the Doctrine of Discovery.

In 2012 the United Nations Permanent Forum on Indigenous Issues recommended the doctrine be repudiated, and in 2013 that it be denounced, describing it as the "shameful" root of all the discrimination and marginalisation that indigenous peoples face today (United Nations PFII, 2012-2013). The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) fourth preambular paragraph refers to the doctrine when it states:

> Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust (UNDRIP 2007).

The *Inter-Caetera* (1492) set a goal of dividing Indigenous lands and territories between colonising Western powers. The *Inter-Caetera* was influential to the recognition of the Doctrine of Discovery in international law (*Johnson v McIntosh* 1823, 21 US 543). This doctrine provided that "newly-arrived Europeans automatically acquired property rights in the lands of indigenous peoples and gained political and commercial rights over the inhabitants" (Ruru, 2010, p.14).

Whether treaties with colonised peoples were harsh, benevolent, obscure, or absurd, they served as a mechanism between European nations for signalling and dividing areas of interest to each other. This system, which came to be known as the Law of Nations (European), also served as a way of temporarily suspending intentions to obliterate colonised peoples. Hence, treaties secured with the good faith of indigenous peoples were frequently broken by colonisers long before the ink had dried on the parchment (Taonui, 2021).

In Aotearoa, the Doctrine of Discovery "underpinned the European belief in their right to set up government sculpting societal reasoning of European superiority over all who are non-white and non-Christian alongside a supreme European entitlement to all non-white, non-Christian lands and resources" (Ngata, 2019).

The early decision of the New Zealand courts in *R v Symonds* (1847) (NZPCC 387) found that rights of land ownership "cannot be extinguished (at least in times of peace) other than by the free consent of the Native occupiers" (p.390). However, recognition of Māori customary title was rejected by Judge Prendergast in *Wi Parata v Bishop of Wellington* (1877) (3 NZ Jur (NS) 72) in favour of the Doctrine of Discovery (p.78).

In his ruling, Judge Prendergast stated that the Treaty of Waitangi was a simple nullity, which remained the default position of the New Zealand courts for over a century. It was not until the Court of Appeal's decision in *Attorney-General v Ngati Apa* (2003) (NZLR 643) that the *Wi Parata* case was overruled, and recognition of tangata whenua customary title was restored (paragraphs [13], [31] and [183] – [185]).

In response to the Court's decision in Ngati Apa, Parliament passed the Foreshore and Seabed Act 2004, to affirm Crown sovereignty in foreshore land (section 13). This legislation was repealed in 2011 when Parliament enacted the Marine and Coastal Area (Takutai Moana Act) 2011 which declared that "[n]either the Crown nor any other person owns, or is capable of owning, the common marine and coastal area" (section 11(2)). This Act, while repealing Crown ownership, also continued the Crown denial of tangata whenua rights of title to land, marine and coastal areas.

Western colonial racism

Western colonisation and colonial racism unleashed an unprecedented level of violence at all levels across the globe. The sheer scale of harm necessarily required an extensive accompanying ideology to justify, sanitise and exonerate colonisation and the racism (Snelgar, 2021).

The combined conquests of all former empires paled into insignificance compared with the worldwide reach of white colonisation. The devastation and harm were unprecedented and the extensive religious and philosophical justifications unparalleled in world history. These included religious doctrine and theorising Social Darwinism, race hierarchy, cultural evolution, colour, craniology, so-called scientific racism, planned breeding and eugenics. Based on self-serving myopic assumptions, the white Western world classified and ranked 'others' according to degrees of civilisation or primitiveness, advancement or backwardness, and cultural superiority or inferiority or in-betweenness. Whiteness presumed fair-skinned 'races' represented a civilised peak – intelligent, morally pure, brave, advanced and superior; and darker races primitive, backward, cowardly, untrustworthy, less intelligent, childlike, and inferior (Smith, 2021):

> This false ideology justified racism while forgiving the racist. The coloniser assumed we were inferior, this justified taking our lands which reduced our ancestors to poverty. That impoverishment and its cumulative intergenerational impact confirmed to the racist that we are inferior, while forgiving the racist from any act of racism. The assumption of our inferiority and their superiority informed the racist that whatever they did was for the benefit of all (Taonui, 2021).

Colonial settlement

The arrival in Aotearoa of the explorers Abel Tasman in 1642 and James Cook in 1769, marked the transplantation of colonial imperial dominion, racism and white supremacy into Aotearoa (Moewaka Barnes and McCreanor, 2019, p. 20; Aikman and Fu, 2021). The rapacious mercantile appetite of the expanding British Empire to exploit new lands and resources was a key driver of the arrival of Pākehā in Aotearoa (Moewaka Barnes and McCreanor, 2019, p. 20). Aotearoa was an 'economic project' (Ngata, 2021) built upon the aggressive extraction and exploitation of land and resources from Māori (Mills, 2011, p. 32; Sullivan, 2006, p. 4; Hall, 2002, p. 42).

The new British colonial settler society established permanent settlements, took control over land and resources, and ignored the prior settlement and rights of Māori inhabitants (Reid et al, 2017, p. 21).

Economics of colonisation

The colonial state of Aotearoa that emerged continued dispossessing and alienating tangata whenua from their ancestral estates and ways of being for the prosperity and enrichment of settler society. By 1865 Pākehā society had alienated two-thirds of the land area of Aotearoa from Māori (Taonui 2012), by 1939 they had taken 91 percent and by 2000 just four percent remained (Ministry for Culture and Heritage, 2021).

Land swiftly moved into Crown and settler ownership, kāinga Māori shrank to smaller parcels of increasingly marginal, non-arable land. Māori ownership and use of food and water resources were severely limited or disappeared. Malnutrition was widespread (Reid, J. et al, 2017:33). "Māori were impoverished on small parcels of land. Between the 1890s and World War II, many Māori in poor communities lived in a state of permanent epidemic" (Taonui, 2021). Rangatira and their hapū who were prospering through economic and trade development had their authority to collect taxes, lands, business tools and resources removed and taken over by the state and settlers.

Self determination

Undermining of self determination

Article 3 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) enshrines the right of Indigenous peoples to self-determination:

> Indigenous peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social, and cultural development (UNDRIP, 2007).

"Self-determination is the inalienable right of peoples and cultures to self-determine their destiny. Self-determination is integral to being human" (Jackson, 2021a).

Self-determination is the equivalent of rangatiratanga in Article Two of Te Tiriti. Self-determination captures a sense of Māori ownership and active control over the future at iwi and hapū levels, as well as to all Māori people collectively (Māori Congress (1995) cited in Hill, 2009, p. 7).

The usurpation of Indigenous rangatiratanga self-determination was central to colonisation, and intergenerational, ongoing and continuous because this structured the benefits that accrued to colonial settler society and protected their privilege and wealth (Wolfe, 2006; Aikman, 2019).

The structure is what matters because "all events that deprive Māori of opportunity, equality and self-determination are part of a wider colonial racist structure of privilege and protection" (Jackson, 2021a). The structures of white supremacy in Aotearoa "actively and implicitly limited the ability of Māori to realise their self-determination" (Jackson, 2021a). "Colonisation fractured the hope for inter-dependence and denied the possibility of continuing Māori independence" (Jackson, 2021b). By negating or constraining self-determination, colonisation dehumanised Māori:

> Colonisation and racism attacked the very being, the very humanness of people. It causes those people to lose faith in themselves and impacts our ability to govern ourselves, to be self-determining in a way that we self-determine *for* ourselves (Jackson, 2021a).

The right to self-determination

Because the suppression of Indigenous self-determination preserves white privilege, the former British colonies of Canada, Australia, Aotearoa and the United States opposed the endorsement of Article Three in the Draft Declaration on the Rights of Indigenous Peoples (1993) for 15 years. To concede the right of Indigenous peoples to shape their destinies as they saw fit, was for them a surrender of control:

> When we were drafting UNDRIP, every year we knew that Article 3 would be the cause of the most contention, because every other right flows from that. But for Indigenous peoples, you cannot exercise any other right if you are unable to exercise the right of self-determination. Everything flows from that; it's the fundamental right (Jackson, 2021a).

Aotearoa voted against the UNDRIP in 2007. The government eventually endorsed the UNDRIP in 2010, but only on the basis that it would not be binding on New Zealand (Watkins, 2010).

Giving full effect to self-determination would empower Indigenous peoples to shape their economic, political, social and cultural destinies. Settler governments oppose this because they fear losing white control and privilege:

> White people and structures will not oppose racism if it means giving back land and supporting constitutional reform. When you consider the economic implications, at global, national, and regional levels, of reckoning with the colonial project and its injustice, the implications are huge. Pākehā fear a true reckoning would destabilise our economy at a global level (Ngata, 2021).

Modern settler states such as Aotearoa see the fundamental right of self-determination as a threat to their existence, control, and hegemony because equality would mean power-sharing and a shift in the wealth and resources of the nation (Halkyard-Harawira, 2021).

"Colonisation imposed abusive, exploitative, racist power relations on society that saw steady gains for Pākehā and disastrous losses for tangata whenua" (Moewaka Barnes and McCreanor, 2019, p. 21). White supremacy lay at the heart of colonisation and was explicit in the "Anglo-Saxon belief that theirs was a race born to rule and tangata whenua was a race which required that rule" (Ballara, 1986, p. 111; Reid and Robson, 2007, p. 4). Colonisation undermined the self-determination of tangata whenua for the benefit of settler prosperity.

A history of racism

The social construct of race

Race is not a biological fact (Sullivan, 2006, p. 18). Race is a social construct fabricated by white society to structure and divide society on the presumption of white supremacy (Mirzoeff, 2009, p. 147; Calmore, 1995, p. 318; Hall, 2002, p. 40; Mills, 2011; see also Bailey and Zita, 2007; Buck, 2012; Crenshaw, 1995; Dua, 2008; Elder, Wolch & Emel, 1998; Filax, 2008; Green, 2008; Lund, 2008; Mane, 2012; Ortega, 2006; Oyewumi, 2000; Rodriquez, 2006; Smith, 2008a, 2008b; Sullivan and Tuana, 2007; Thompson and Thompson, 2008; Essed and Goldberg, 2002).

Christianity

'Race', however, has a distinct historical trajectory of its own. As a European-centric way of understanding human society, it emerged out of a particular sociohistorical context in early Latin-Christian Europe, some five hundred years ago. This was a world dominated by the Church, where 'to be human' meant 'to be Christian'. In the early Church-dominated colonial world, God sat atop a chain of being with humans descending hierarchically below 'from civilised to savage' (Salmond, 2020, p. 35). Europeans were pure. 'Heathens', 'nonbelievers', and non-Christians were subhuman 'others', 'sinful by nature', and to be treated as such (Wynter, 2003, pp. 263-4).

Colonisation caused the introduction and application of colonial racism and white supremacy. Papal Bulls like the *Dum Diversas* (1452), which encouraged the conversion of new peoples to Christianity, also justified their enslavement or destruction as 'the enemies of Christ' and sowed the seedbed of a new oppressive doctrine-endorsed racism and white supremacy (Taonui, 2021).

Race theory

Increasingly sophisticated race-based theoretical ideas emerged as Western colonisation expanded across the globe. In part, because the Renaissance colonial mercantile class and its intelligentsia sought to escape the strictures of the Church. Equally, if not more, it was because the scale of colonisation, the wealth at stake, and the destruction colonisation wreaked in new worlds required greater levels of secular justification and legitimacy.

The new sciences of racism rested on multiple assumptions. For example, white 'European man' had arisen from a 'state of nature' (see Mills, 2011, p. 12) to become white 'rational, thinking man'. Non-European peoples, on the other hand, were locked to nature, non-white and therefore irrational childlike beings (Wynter, 2003, p. 300; Mills, 2011, p. 11, Norris, 2020, p. 1).

During the late seventeenth and early eighteenth century Enlightenment, new hierarchical models appeared based on an evolutionary progression of human society from barbarism to civilisation (Hall, 1997, p. 239; see also Jolly, 2009, p. 74). New secularised definitions arose alongside, or in place of, religion, where phenotypical[4], genealogical and cultural variation became the essential signifiers of difference (Wynter 2003, p. 263;).

For European society, white people were evolutionarily advanced, non-whites were backwards. Whites were superior, 'others' were inferior. White culture was civilised, non-whiteness backwards. Physical features, culture, modes of dress and customs, of which skin colour was paramount, were the visual representation of this binary of superior and inferior. To advance to being rational, civilised and superior was to become white. To fail in the face of vast white power oppression was confirmation of the weakness and inadequacy of

4. An observable physical or biochemical characteristic caused by genetic makeup or environmental influences.

non-whiteness (Smith, 2021). "To be white was to be human, and to be human was to be white" (Montag, 1997, p. 285). "To be European was to be perfect, to be Indigenous was to be imperfect" (Jackson, 2005, p. 12).

Race: Emerging from fifth century Latin-Christian Europe, race is a social construct that organised the world into hierarchised racial categories based on physical differences (such as skin, hair, and eye colour). Drawing from the evolutionary progression from barbarism to civilisation, race theory presumes the superiority of European peoples above the rest of the non-European world.

Racism

Prejudice, power and racism

The social construct of race is based on the ideological notion of white supremacy, which is driven in society by racism. The report on *Institutional Racism in the Department of Social Welfare* (1985) defined racism as:

> Where one group, which views its way of life as superior to that of other groups, holds and exercises power over these groups. In doing this, it oppresses groups of different colour or race (Berridge et al, 1985, p. 3; see also ACORD, 1986, p. 7).

Racism is 'prejudice plus power'. Any form of racial oppression through power is racism (Belknap, 1991, p. 309). The prejudice and oppression of racism mirrors itself in the structure and operations of the institutions of society (Barndt, 1991).

"You cannot abuse or benefit from power, knowingly or unknowingly, when you don't have it" (Belknap, 1991, p. 309; Prasad, 2000, p. 144–5). Māori can hold negative beliefs and stereotypes about other cultures and communities. This prejudice is sometimes mistakenly termed 'reverse racism'. While prejudice and racism overlap, for prejudice to become racism, an individual must be a member of a group wielding monopoly power over institutional privilege so they can benefit from racism and prevent other groups from enjoying the same. Prejudice without power is not racism.

Interpersonal racism

Racism affects tangata whenua and people of colour at interpersonal, institutional and internalised levels.

Interpersonal racism refers to acts by individuals holding discriminatory beliefs and prejudice based on "different assumptions about the abilities, motives and intentions of others according to their race, and discrimination means different actions toward others according to their race" (Jones, 2000, pp. 1212–1213).

The assumptions underpinning interpersonal racism include that "Pre-European Māori were warlike savages and cannibals hellbent on self-destruction through uncontrollable raging desires for utu and unending ever more ferocious internecine tribal fighting", "Māori are poor because they are lazy", "Māori men beat their wives and children", "Māori women are more promiscuous", "Māori aren't bright at school", and "the pre-European Māori language only had 80 words" (Snelgar, 2021):

> Pākehā holders of these assumptions accept them as fact because these beliefs are intergenerationally embedded in white society regardless of evidence to the contrary. These fixated assumptions, shaped by myopic racism, ignore and deny that colonisation impoverished Māori. The prejudice of white racism prophesies that Māori are impoverished because they are Māori. For example, the assumption that Māori are warlike and violent, ignores the violence of colonisation and that European countries fought two world wars causing the deaths of more than 60 million people. British colonisers fought more wars on more continents against more Indigenous and colonised people than any other country or Empire in history (Taonui, 2021).

Unconscious, implicit and latent bias

Unconscious, implicit, or latent bias reflects the tendency of racists to unknowingly perceive 'others' in stereotypical ways (Blank, Houkamau & Kingi, 2016, p. 13; Houkamau, 2016, pp. 125–6). Māori suffer disproportionately from implicit bias (Houkamau, Stronge, & Sibley, 2017: p. 74) because the negative and racist attitudes sown during colonisation towards Māori are now deeply entrenched in New Zealand (Blank et al, 2016, p. 13).

The assumptions underpinning latent bias can express as overt derogatory abuse like 'Māori bastard' and 'nigger'. The notorious racist Philip Arps refers to Māori as 'shit skins' (Taonui, 2021). More commonly, the assumptions will remain unspoken, leaving the prejudice detectable only by observation of their actions and impacts. This can include omissions like a lack of effort to learn how to pronounce the name of someone from another cultural group, casual assumptions about the occupation of another person based on their perceived race, or declining an application to rent a property because someone is Māori (Taonui 2021). Another common example is when Māori are followed or receive unfair treatment in shops, based on the racial assumption they are criminal and potential shoplifters (Smith et al, 2021, p. 10).

While bias can be unconscious, the over-emphasis on unconscious bias in Pākehā society becomes a way to avoid discussing racism and its impacts upon Māori, and the central role of white supremacy and colonisation in the social production of racist outcomes (see Cooper and Davis, 2013). As Dr Jackson described:

> The police like the term 'unconscious bias' because it is less threatening than the 'r-word'. But that does not address the racism that underpins the whole police structure, that underpins a colonising society. So there's no way the police will want to talk about racism because it goes to the very base of a colonising state (Jackson, 2021a).

This tendency is captured in a recent media article: "Police are investigating whether they have an unconscious bias against Māori, but won't say it is an inquiry into racism" (*Radio New Zealand*, 2021a).

The existence and expression of unconscious bias is a result of societal racism toward Māori:

> Unconscious bias cannot be separated from the broader racism it services. So, when we ask the question, 'Why is someone unconsciously biased against Māori'? it is because society is based on racism directed against Māori. If we weren't a race-based society, there would be no unconscious bias against Māori (Jackson, 2021a).

Structural, institutional and systemic racism

Personal prejudice, inter-personal racism and institutional racism are related. However, an important distinction needs to be made between personal prejudice and racism, and institutional, structural and systemic racism (ACORD, 1986, p. 7, Workman, 2011, p. 7).

When members of a dominant group, holding prejudiced assumptions, monopolise government legislation and policy, and decision-making in housing, education, health, justice, welfare and other public and private sector organisations, the result is structural and institutional racism (Taonui, 2021). This is because the way that relationships are structured privileges white norms (ACORD, 1986, p. 7) and imposes a dominant European worldview on society (Came and McCreanor, 2015, p. 2). This entrenches a pattern of differential access to opportunities, resources and state power that advantages Pākehā while disadvantaging Māori (Came and McCreanor, 2015, p. 2; Department of Social Welfare, 1985, p. 3). In this manner, white privilege perpetuates disparities and inequities experienced by Māori (ACORD, 1986, p. 7).

Institutional racism is not always obvious because the underlying prejudice hides behind complex rules, practices, policies and decision-making processes. These are framed, written and confirmed in the absence of Māori. The effects of institutional racism are cumulative, intergenerational and profoundly more damaging than interpersonal racism (see ACORD, 1986, p. 7).

Māori in Aotearoa live under a constitutional and legal structure that is foreign to them and which derives from England (Charters, 2009). Tikanga

Māori customary law is not currently recognised under the current legal structure and is often seen as inferior. This "one law for all" approach, as coined by Brash, and often repeated by other politicians and New Zealanders, can fail to remedy inequalities facing non-dominant groups, such as Māori. As ACT's Stephen Franks implied in 2004 as Justice spokesperson "the 'one law' should be the law of the state, not customary law, unless the customary law conforms to, and is accepted by, the state legal system." This type of approach "can (and often does) systematically privilege the majority nation in certain fundamental ways."[vi]

In Aotearoa, the *Department of Social Welfare* (1988) report stated institutional racism works through:

> ...the outcomes of mono-cultural institutions which simply ignore and freeze out the cultures of those who do not belong to the majority. National structures are evolved which are rooted in the values, systems and viewpoints of one culture only.[vii]

Internalised racism

Internalised racism occurs when there is acceptance by members of stigmatized races, such as Māori, of negative messages about their abilities and intrinsic worth (Jones, 2000, p. 1213). Internalised racism relies on the economic, political, religious and ideological violence of colonisation and racism to destroy the integrity of Indigenous land ownership, self-determination, spiritual beliefs, culture, language, leadership, and social and family structures. When colonisation, racism, and destruction peak, colonised peoples begin to internalise beliefs that they are inferior to whiteness and white society (Taonui, 2021). Internalised racism, therefore, is "a product of colonisation: self-hatred, and the instilled belief that anything Māori isn't good" (Halkyard-Harawira, 2021).

As an example, there continues to be a great proportion of individuals with Māori ancestry who prefer not to identify as Māori (Durie, 2005; Kukutai & Callister, 2009). Reasons for Māori choosing not to identify as Māori are likely to come from the high rates of discrimination toward Māori by the dominant Pākehā culture.

Racism reflects degrees of prejudice and power at interpersonal, institutional, and internalised levels. **Interpersonal racism** concerns omissions, remarks, and actions toward someone based on unfounded assumptions about their perceived race. **Institutional racism** refers to differential access to opportunities and resources in society, based on race, where the structures of society advantage one group at the expense of others. The structure of society in Aotearoa and its institutions work for the benefit of Pākehā. This leads to the inequities and inequalities we see across sectors such as housing, education, health, justice, employment, and wellbeing. **Internalised racism** is the acceptance by racially stigmatised peoples of negative ideas and messages about themselves.

Cultural imperialism and inferiorisation

Cultural imperialism and treating 'others' as inferior are key tenets of internalised racism. The attribution of inferior race-based characteristics and traits to tangata whenua was immediate, ongoing and consistent. From their earliest interactions, Europeans saw Māori as 'inferior' (Nairn, Pega, McCreanor, Rankine & Barnes, 2006, p. 188; Salmond, 1991).

Angela Ballara, in her work, *Proud to be White? A Survey of Pākehā Prejudice in New Zealand* (1986), traced the racialisation of Māori across the nineteenth and twentieth centuries (see also Barnes, Borell, Taiapa, Rankine, Nairn & McCreanor, 2012). For example, in 1817, John Nicholas wrote:

> The inhabitants of these islands ... appear to me to be descended from a once powerful people, who ... gradually degenerated into barbarism, from a high state of civilization ... The spirit of enterprise-led them in successive migrations to ... the southern ocean, where they ultimately passed the last stage of moral degradation (Ballara, 1986, p. 9).

In 1863 the geologist Ferdinand von Hochstetter celebrated Māori 'progress in civilization' but predicted their inevitable extinction:

> Richly endowed by nature with intellectual and physical powers, of a lively temper, energetic and open-minded, and with a natural wit, the Māori is fully aware of his progress in moral improvement and culture; yet he is not capable of attaining the full height of a Christian civilized life; and it is from this very incompleteness, that his race is doomed to gradual extinction.
>
> Compared with the fresh and full vigour, with which the Anglo-Saxon race is spreading and increasing, the Māori is the weaker party, and thus he is the loser in the endless struggle for existence (Te Ara Encyclopaedia, European ideas about Māori, 1910).

In 1881, Dr Alfred Newman, attempting to explain the decline of the Māori population, wrote:

> Taking all things into consideration, the disappearance of the race is scarcely a subject for much regret. They are dying out in a quick easy way and are being supplanted by a superior race" (Newman, 1881, p. 477).

The ethnographer, Elsdon Best, saw the "'human' mind as a civilised European mind while Māori lived in a state of barbaric simplicity" (Best, 1897, p. 5).

In 1939, Attorney General Sir John Findlay wrote:

> As a rule, civilised nations do not recognise the right of scattered handfuls of barbarians to the ownership of immense tracts of soil, only a fraction of which they cultivate or use (Ballara, 1986, p. 39).

These attitudes continued well into contemporary times. The infamous 1961 Hunn Report, which highlighted the difficulties Māori faced in urban centres, classified three kinds of Māori: half-castes, who were more European-like, lived in cities, spoke no Māori and were advanced; those who lived in the cities who were still 'Māori' but were making progress; and those who lived in rural areas, spoke Māori, and remained backward and retarded (Taonui, 2008).

Assimilated racism

Assimilated racism derives from internalised racism. When Māori internalise negative stereotypes about themselves this creates the potential for prejudice by Māori, against Māori, or by Māori toward other similarly marginalised peoples, such as Pacific, Asian and Islamic communities. This can take many forms, such as Māori stereotyping and immigrant communities being blamed for societal problems in Aotearoa. These are instances of racial prejudice, however, they lack the power differential racist action requires.

White supremacy encourages 'divide and conquer' tactics to maintain that supremacy because "two oppressed peoples are stronger allied, but much weaker apart" (Aikman and Fu, 2021).

> **Politicians and those who oppose indigenous rights and Te Tiriti reconciliation, and justice are adept at racialising tangata whenua as receiving unwarranted and illegitimate special rights and treatment at the cost of the general population. They ignore or legitimise the usurpation of power, taking of land and resources, violence and the harm perpetrated against tangata whenua, while invalidating any actions to address justice and honouring Te Tiriti and indigenous rights (Taonui, 2021).**

These tactics of white supremacy include distorting how marginalised groups are represented, especially in the media. Narratives of Māori as 'violent, lazy, dole-bludgers'; Pacific peoples as 'overstayers' (see Anae, 2012); and Muslim communities as 'terrorists', come from an assumption of white superiority and the inferiority of Indigenous peoples and peoples of colour. When politicians or the media actively circulate these stereotypes, Indigenous Peoples and other marginalised groups can internalise prejudice against each other and thereby lose sight of the overarching white racism that subjugates them collectively. This is an environment of multiple injustices, replete with acts of physical and psychological violence, with the victims of common racism lashing out at each other (Reid, Rout, Tau & Smith, 2017, p. 66).

White supremacy

The origins of white supremacy

White supremacy is the presumption of the superiority of whiteness, white culture, and white norms (Mills, 2011). White supremacy assumes that ways of being outside its norms are invalid or abnormal; it also assumes these norms require white control (Reid and Robson, 2007, p. 5).

The doctrine of white supremacy ran deep in Western colonisation. For example, Arthur de Gobineau, in the *Essay on the Inequality of Human Races* (1853–1855), maintained that the 'white race' represented the highest level of human development. According to nineteenth century British writers such as Rudyard Kipling, Charles Kingsley, Thomas Carlyle, and others, it was the "white man's burden" to bring civilization to non-white peoples through beneficent imperialism (Jenkins, 2005).

This doctrine enjoyed violent support during slavery and the early era of the Klu Klux Klan (KKK) in the United States, and the rise of fascist Italy and Nazi Germany. Between the end of World War II and the mid-1960s, overt white supremacy fell into deep disfavour only to re-emerge as a reaction against the Civil Rights Movement and international immigration, including a revived KKK in the United States and the National Front in Britain (Jenkins 2005).

> Mainstream white society finds the label white supremacy abhorrent. For them, white supremacy represents the far-right fringe of white supremacist violent extremism in the form of white fascist, neo-Nazi, identarian, ultra-nationalist, pan-European far-right political ideologies whose aims are to establish European only enclaves and/or fight a final conflict against non-whites. From the 1960s onwards, several of these movements have transposed themselves into Aotearoa, for example, the National Front, the Right Wing Resistance, the Western Guard and most recently Action Zealandia. The position that rejects white supremacy mirrors the privilege and fragility that denies racism.
>
> In the Indigenous world of colonised peoples, a rising consciousness and sophisticated understanding of racism, born of analysis and experience, has led to an incontrovertible deduction that white supremacy exists along a continuum between mainstream society and far-right groups, one covertly violating, one overtly violent (Taonui, 2021).

The issues of white privilege and white fragility are addressed later in this chapter.

Manifestations of white supremacy

White supremacy shows itself in diverse ways. At one level, it comprises what European culture considers 'normal' to wear, eat, and talk about (Aikman and Narayanan, 2021). At another level, white supremacy expresses itself in racial abuse and name-calling like 'nigger,' 'black bastard', 'lazy Māoris' and the more recent Aotearoa 'white far right' mantra that a 'greedy self-enriching Maoripean elite is attempting to take over the country' (Taonui, 2021). White supremacy is also embedded in our institutions as a sometimes invisible "ideological, political, and religious system" of white control (Norris, 2020, p. 6). We see white supremacy in extremist white violence, such as the nineteenth century Crown invasions of Te Urewera (Binney, 2009) and Parihaka (Riseborough, 2002), and the terrorist attack on Christchurch masjidain in 2019.

White privilege and white fragility

White privilege is the benefits and opportunities that accrue to white society through colonisation. White privilege rests upon the destitution of Māori. White privilege is legitimated, and colonisation is denied, by statements such as, 'I worked hard for what I achieved' and 'Māori would achieve if only they would get off the dole and do some hard work' (Halkyard-Harawira, 2021).

White fragility is unaddressed guilt about the past, fear of admitting personal prejudice and racism in the present, and trepidation about sharing power with Māori because Māori might do to Pākehā what Pākehā did to Māori. When the topic of racism arises, white fragility centres the white person's anguish and opinions, silencing Māori so they once again hear earnest promises about doing wonderful things for Māori (Smith, 2021).

White supremacy is the assumed superiority of whiteness, white culture, and white norms. It is an insidious ideological, political and religious system maintaining institutional control. White supremacy manifests as prejudice and bigotry in everyday life and is evident in extremist white supremacist violence like the March 2019 terrorist attack on masjidain in Christchurch. White supremacy assumes that non-white ways of being are invalid and abnormal.

Denying racism

Avoiding the R-Word

New Zealand has an historical tendency to avoid talking about racism deferring instead to euphemistic discussions about unconscious bias and 'casual racism' (Azarmandi, 2017). This avoids addressing the impacts of racism, colonisation and white supremacy in society today: "If we don't talk about racism then it follows that we cannot be racist" (Cooper and Davis, 2013):

> To ignore racism is to demonstrate an historical amnesia, and a blindness to the ongoing legacies of colonialism, the premise of which is white racial superiority; that is, racism (Cooper, 2016).

The fallacy of the 'best race relations' in the world

The myth that Aotearoa has had the 'best race relations' in the world is another way of denying racism (Sinclair, 1971). In the late nineteenth century, for example, it was not uncommon to hear "never had a civilised power treated a native race as kindly as they had treated the Maori" (*Wanganui Herald*, 1894). While this fiction has waned more recently (O'Malley, 2021), Pākehā once universally believed "no social colour bar, no segregation in public transport or living areas ever existed in New Zealand". Without talking to Māori, Pākehā believed there was "relatively little social prejudice against Maoris" (Sinclair, 1971, p. 121). The purpose of perpetuating an illusion of good race relations is to whitewash systemic racism.

Historical amnesia

Historical amnesia is an extension of the myth of best race relations and whitewashes racism by "misremembering" the past (Jackson, 2019, 2016). Historical amnesia diminishes the violence and racism of the past (MacDonald, 2018, p. v) through deliberate forgetfulness and romanticisation of healthy race relations:

> The myth of healthy race relations has obscured the reality of what colonisation was and is. It has replaced the harsh reality of its racist violence and its illegitimate usurpation of power with a feel good rhetoric of Treaty-based good faith and Crown honour (Jackson, 2019).

In places like mid-twentieth century Taranaki, a colour bar existed in all but name:

> Māori were not welcome in any Pākehā social institutions. Māori women were discouraged from entering the only public restroom; the community centre was regarded as a facility for Europeans only (Ballara, 1986, pp. 61, 99).

In South Auckland between the 1920s and 1960s, barbers refused to cut hair for Māori, theatres had partitioned areas for Pākehā and Māori, by-laws prevented landlords from renting a house to Māori, schools had separate toilets for Māori students, and Māori children swam in the afternoons so they would not pollute the water before white kids swam (Bartholomew in *Te Karere*, 2020; Bartholomew, 2021, 2020).

Of course, there were exceptions, but this practice was widespread in Aotearoa.

Assimilation

Colonisation dangled the carrot of civilisation in the face of Māori. The promise was that if Māori assimilated and became civilised, they would become equal with Pākehā. Assimilation denied the existence of racism and equality never arrived (Taonui, 2021). Massive land loss caused the rapid urbanisation of impoverished Māori between 1950 and 1980. In the towns and cities, Māori experienced racism daily. The New Zealand government knew about the rising tide of racism against Māori but did nothing about it for decades. By 1960 government officials agreed that a widespread problem of discrimination did exist and that "the problem was probably growing more acute" but many Pākehā refused to concede that there were fundamental flaws in New Zealand. Rather than address racism against Māori, the government reframed the problem as social maladjustment in the cities and then focused attention on Māori assimilating as quickly as possible to become like Pākehā (Hill, R. 2009, pp. 85-86).

Cultural tokenism

Cultural tokenism based upon a well-intentioned but misconceived sense of 'kindness', becomes a default position as Pākehā refuse to confront their racism. Pākehā like to revitalise 'decorative' aspects of te ao Māori (Husband, 2020) in preference to discussing more confronting issues about racism:

> While ongoing colonisation permits, for example, the revitalisation of kapa haka, and that is wonderful to see, it does not allow the revitalisation of self-determination. It doesn't allow Māori or any other Indigenous places, like Australia and Canada, to reclaim the right to govern ourselves (Jackson, 2021a).

Cultural tokenism occurs every day. An example of this is Family Group Conferences which when set up in 1989 were:

> hailed as a New Zealand innovation which at their best, fully involved whānau, hapū, iwi, and family groups in decisions about the welfare or alleged criminal offending of their children and young people... (Beacroft, 2017)

However, a 2016 study of Māori experiences of family group conferences found the process was 'Eurocentric' and not culturally responsive in the way "that advocates repeatedly claim". Rather, it marginalised Māori and was tokenistic toward Māori culture, such as using kaumātua only for 'performative' aspects of tikanga, like leading karakia, while not drawing from their expertise during the substantive process (Moyle and Tauri, 2016, pp. 87, 101).

Similar messages have been given to successive governments most recently by the Oranga Tamariki Ministerial Advisory:

> Oranga Tamariki is self-centred and constantly looks to itself for answers. Its current systems are weak, disconnected, and unfit for the population of tamariki it serves, and there is no strategy to partner with Māori and the community (Tukaki, Glavish, Solomon, and Pakura, 2021, p. 10).

Cultural tokenism explains why, for example, some white people will strive to correctly pronounce commonly-used French words but do not extend the same courtesy to Māori names or words (see Higgins, 2019).

Biculturalism and multiculturalism as a Pākehā monopoly of race

A Pākehā preference to use biculturalism and multiculturalism in policy processes avoids addressing racism and Māori rights under Te Tiriti o Waitangi. Biculturalism assumes Māori and Pākehā are working together. However, because Pākehā dominate policy development and the decision-making process, biculturalism reflects white values, norms and prejudices making biculturalism little more than Pākehā management of Māori, with the added convenience of setting aside Te Tiriti. Similarly, in a modern diverse Aotearoa, multiculturalism allows the system to regard Māori as just one of many cultures white privilege must consider. This allows white decision-makers to hide behind a veil of cultural neutrality where their values, norms and assumptions reinforce prejudice and inequality. Whiteness hides behind multiculturalism and Te Tiriti is set aside. One of many wonderful cultural groups, Māori are no longer the colonised and marginalised with the longest history of racist subjugation in Aotearoa. This historical reality becomes lost in a pile of liberal submissions and papers (Ngata, 2021; Halkyard-Harawira, 2021; Smith, 2021).

The over-homogenisation of Māori and Pacific peoples

The Pākehā monopoly over inter-cultural relationships also leads to the homogenisation of Māori and Pacific peoples. Treated as if they were the same, based on a shared common Pacific cultural heritage, cultural homogenisation smudges racism by eulogising a mythical identical history (Enari and Haua, 2021, p. 3). True, Māori and Pacific peoples have shared ancestral whakapapa in the Pacific Ocean, but their respective experiences of racism and white supremacy differ in Aotearoa. When the Crown treats Māori and Pacific peoples as the same it removes the right of Indigenous peoples and other people of colour, to self-define who they are. It also ignores the status of tangata whenua in Aotearoa and undermines Te Tiriti o Waitangi.

Te Tiriti o Waitangi decolonisation and anti-racism recommendations

In addition, to *Maranga Mai!* main recommendations, the following secondary recommendations could be further explored and developed within the National Action Plan Against Racism. See Appendix One for the full list.

The government could consider the following actions:

- Decolonise central and local government and key sectors, including housing, education, health, justice, employment, and work and income to realise tino rangatiratanga for Māori.
- Set policies, goals and priorities to eliminate racism across central and local government, and across key sectors, thus improving Māori outcomes.
- Strengthen legislation and other standards to regulate, reduce and eliminate racism and white supremacy in all its forms across the government and society.
- Support agencies to establish authentic partnerships with tangata whenua.
- Develop and embed a Tiriti o Waitangi Anti-Racism Strategy and a Tiriti o Waitangi Decolonisation and Anti-Racism Index.
- Include an assessment of the current state of all government agencies' performance to determine whether each body is fit for purpose to eliminate racism and uphold Te Tiriti and indigenous Māori human rights.
- Include an assessment of the medium to long-term impacts of current and proposed government legislation and policies on tangata whenua.
- Report on the progress of decolonisation and anti-racism strategy goals in government agency annual reports.

Chapter 2: Ka Takahi
Treaty making and treaty breaking

This chapter describes the significance of He Whakaputanga o Te Rangatiratanga o Nu Tireni |The Declaration of Independence (He Whakaputanga) and outlines the signing of the two versions of Te Tiriti o Waitangi, the te reo Māori (Te Tiriti) and English (the Treaty) versions, and how decades of unjust legislation and war undermined Māori self-determination leading to political marginalisation, the alienation of Māori land, and intergenerational impoverishment and racism.

Aotearoa's foundational constitutional documents

He Whakaputanga o Te Rangatiratanga o Nu Tireni - The Declaration of Independence (1835)

Fifty-two rangatira signed He Whakaputanga in 1835, formally asserting the mana and authority of indigenous Māori peoples in Aotearoa. Power resided with Māori and foreigners would not be allowed to make laws (Archives New Zealand, 2021). He Whakaputanga is the foundational constitutional document articulating collective iwi and hapū identity, grounded upon independence (Independent Working Group on Constitutional Transformation, 2018, p. 44).

He Whakaputanga was a "unilateral declaration" of fact that asserted rangatira independence and sovereign authority (Waitangi Tribunal, 2014, p. 198). Busby, significantly involved in the drafting, wanted rangatira to forfeit their "authority" to an annual assembly at Waitangi. This, however, would be tantamount to signing away their mana, an unacceptable and culturally nonsensical request. In practice, Busby was trying "to establish a Māori legislature... to do his bidding [at an executive level]" (Waitangi Tribunal, 2014, p. 200), undermining the intent of what rangatira thought He Whakaputanga was articulating. In this way, the British were already attempting to subvert Māori authority and self-determination.

The duplicity played out in the signing of He Whakaputanga continues today. The government seldom states its true intentions, there are omissions of purpose and detail. Consultation with Māori is little more than lip service (Peace and Spoonley, 2019, p. 100). Promises are frequently unfulfilled.

Te Tiriti o Waitangi (1840)

At the time of signing Te Tiriti o Waitangi, Māori were trading and providing goods for settler society as well as overseas economies (Petrie, 2006; Reid et al, 2017, p. 34). Māori were eager to continue trade and ensure a measure of control over the settlers who were becoming increasingly unruly, lawless, and disorderly. They were also starting to arrive in Aotearoa in larger numbers. Captain William Hobson was dispatched to New Zealand and Te Tiriti and The Treaty was signed on 6 February 1840 (Orange, 2012).

An English and te reo Māori version were drafted, with more than 500 rangatira signing the Māori version. In a speech delivered before signing, the Crown's representative, Captain William Hobson, emphasised that the Crown needed to exercise control over its British subjects. While articulating a partnership between Māori and the Crown, the two texts say fundamentally different things. Article One of te reo version gave the Queen governance over the settlers (kāwanatanga), and guaranteed Māori full authority over their lands, forests, fisheries, estates and taonga (rangatiratanga). While its English counterpart gave the Queen "all the rights and powers of sovereignty" (Orange, 2012).

In te reo version, rangatira were granting the Queen the right to govern her people, in the exercise of Kāwanatanga, but not ultimate authority over the land. That sovereign right would rest with rangatira Māori who were agreeing that:

> We will allow you to come here and exercise control over out-of-control Pākehā. But we will retain the rangatiratanga, the authority, with regard to our people. And in the way you relate to us, you have to recognise that independence, and fundamental to that is you will not treat us, any worse than how you treat your own citizens (Jackson, 2021a).

From the perspectives of rangatira, the Queen's power was entirely subordinate to theirs. The ceding of sovereignty or mana and rangatiratanga, as a form of supreme authority, was inconsistent with the notion of governorship. Governorship and sovereignty are fundamentally different concepts. That rangatira granted kāwanatanga to the queen was itself a sovereign act. The British assured Māori that their authority would remain in place under Article Two [of te reo text], underpinning the ideal of a shared authority in Aotearoa (Orange, 2012). Rangatira upheld their side of the agreement by showing manaaki and protection to Pākehā, in return for economic benefits and protection against outside threats to their rangatiratanga. For *Matike Mai Aotearoa*, Te Tiriti:

> Created a new constitutional configuration with the grant of kāwanatanga for the Crown to exercise over its people while providing for a joint site of power where Māori and the Crown could work together in a Tiriti-based relationship (Independent Working Group on Constitutional Transformation, 2018, p. 101).

This is not what unfolded. Despite rangatira signing te reo Māori text, the British presumed that sovereignty had been ceded to them, despite Hobson's signature on the Māori version.

Indeed, the infamous 1877 case of *Wi Parata v Bishop of Wellington* dismissed Te Tiriti as a "simple nullity". To the Independent Working Group on Constitutional Transformation, proceeding with the fallacy of "sovereignty ceded", and ignoring the constitutional arrangement detailed in Te Tiriti, "remains the most egregious of all of the Crown's breaches of Te Tiriti" (Independent Working Group on Constitutional Transformation, 2018, p. 101). That rangatira would give up the essence of who they were, their mana, was ludicrous:

> I'm not aware, at any time, of the King of England waking up and saying '...I don't want to be [the] King of England anymore, I'll go and ask the King of France to make all our decisions.' Yet we've been taught to believe, that on the 6th of February 1840, every Māori in the country suddenly woke up and said, 'We don't want to make our own decisions anymore; we're going to ask a lady in London we've never met to make them for us.' That is such a gratuitous lie and insult, that I'm amazed the Crown still has the effrontery to promote it (Jackson, Brown-Davis, & Sykes, 2016, p. 5).

Furthermore, the notion of 'cession' did not exist in the Māori world:

> The fact that there is no word for 'cede' in te reo is not a linguistic shortcoming but an indication that to even contemplate giving away mana would have been legally impossible, culturally incomprehensible, and politically and constitutionally untenable (Independent Working Group on Constitutional Transformation, 2018, p. 35; Jackson, 2016).

The right of tino rangatiratanga meant Māori were subject to no higher authority:

> [Māori would] remain citizens of our iwi and hapū. We do not become your citizens [under the Crown]. If we retained our rangatiratanga, we would never have been subject to someone else. Ngāti Porou could not claim to be Ngāti Porou if they were subject to the authority of Ngā Puhi. It's not comprehensible (Jackson, 2021a).

For Erima Henare, this amounts to a manipulation of the past:

> The bias comes with the myths that explain and justify the New Zealand State and the idea of undivided parliamentary sovereignty. The history invoked is not the Māori history. The Treaty invoked is the English version, not the Māori version (Henare in Waitangi Tribunal, 2014, p. 527).

In a landmark 2014 report, the Waitangi Tribunal reaffirmed that rangatira did not grant sovereignty to the British. Having the Tribunal validate the understanding of their tīpuna rangatira was a triumph for tangata whenua.

> **Rangatira did not cede their sovereignty** in February 1840; that is, they did not cede their authority to make and enforce law over their people and within their territories. Rather, they agreed to share power and authority with the Governor. They and Hobson were to be equal, but with different roles and different spheres of influence... But the rangatira did not surrender to the British the sole right to make and enforce law over Māori. It was up to the British, as the party drafting and explaining the treaty, to make clear that this was their intention. Hobson's silence on this crucial matter means that the Crown's self-imposed condition of obtaining full and free Māori consent was not met (Waitangi Tribunal, 2014, pp. 526–7).

Despite this, the Crown "hastily and peremptorily dismissed" the Tribunal's findings (Independent Working Group on Constitutional Transformation, 2018, p. 55), because conceding would have had constitutional implications for Aotearoa. Even after major Treaty settlements in the 1990s, the Crown in the 2000s, showed little sign of recognising any significant form of rangatiratanga (Hill, 2009, p. 9).

Wars of sovereignty and unjust legislation

Questions regarding the limited powers of kāwanatanga, granted to the Crown, and the rangatiratanga, retained by Māori, created tensions between the Crown and Māori. This led to wars perpetrated by the Crown on Māori. The first war began five years after the signing of Te Tiriti and continued for another 20 years with significant warfare over land, with rangatira and hapū resisting European expansion and settlement (Belich, 1988, p. 15):

> Nineteenth century Māori fought in defence of mana and land in the Wairau, Northland, the Hutt Valley, Whanganui, Taranaki, Waikato, the Bay of Plenty, the central North Island, the East Coast and Hawke's Bay. Titokowaru Riwha and Te Kooti Arikirangi Te Turuki led guerrilla campaigns across the central North Island. Māori won many battles but, like other minority indigenous populations, were unable to win the war against a colonial government able to apply larger numbers of settlers, overwhelming military resources, and divide-and-rule strategies to extinguish the flames of those it labelled as rebels.
>
> During the darkest days of these campaigns, colonial cavalry charged and sabred to death Māori youths foraging for geese at John Handley's woolshed, near Pātea (Cowan, 1923, p. 260); bounties were paid for Māori heads in South Taranaki (Simpson, 1979, p. 189); four prisoners were summarily executed at Ngātapa (Belich, 1986, p. 266); surrendering Māori were shot at Rangiaowhia (Cowan, 1922, pp. 343-347); non-combatant men, women and children were starved and shot during the scorched-earth invasion of the Urewera Forest (Cowan, 1923, pp. 337-361); and Auckland Māori were expelled, or interned and forced to wear coloured armbands. Imprisonment, land confiscations, dubious land sales and wholesale European settlement of ancestral lands followed (R. Taonui, Māori Urban Protest Movements, in D. Keenan, *Huia Histories*, 2011, p. 230).

Historically Pākehā have termed these conflicts 'The Land Wars' or in the case of Belich (1988) 'The New Zealand Wars'. More correctly, they can be termed 'The Wars of Sovereignty' because this "more aptly recognises them as colonising wars to take power" (Jackson, 2016) or 'The Pākehā Wars on Māori' because that is exactly what they were (Taonui, 2021).

The New Zealand Settlements Act 1863 and the Suppression of Rebellion Act 1863

The aftermath of the wars saw the application of unjust legislation to suppress Māori.

Lands were confiscated through an Order in Council, under the New Zealand Settlements Act (1863), which

enabled "land of any rebellious tribe" to be taken as punishment (Waitangi Tribunal, 2009, p. 161). At the same time, the Suppression of Rebellion Act (1863) was passed to "suppress a rebellion and punish those responsible for certain acts of 'atrocity and outrage'" (Waitangi Tribunal, 2009, p. 295).

This legislation was passed at a time when settlers were demanding more land (Webb, 2017, p. 685). Both acts resulted in the confiscation of over four million acres of Māori land, centred mainly on the fertile lands of the Waikato, Taranaki, and Bay of Plenty regions (Ministry for Culture and Heritage, 2021).

The suppression of rangatiratanga, the destruction of tribes through war, and the seizure of lands reinforced by unjust legislation, became the pathway by which the settler-colonial society in Aotearoa legitimated the falsehood that the British Crown had gained sovereignty in 1840.

Historical amnesia and misremembering

The Victorian interpretation of the 'sovereignty wars' exaggerated British victory, emphasised British power, and invented British triumphs. The British were lauded as intelligent, strategic, and strong, in comparison to the 'savage', disorganised, and weak Māori (Belich, 1988, p. 316).

The education system taught this view in schools and accepted it as 'correct' well into the twentieth century. This included manufacturing rebellions where none existed, such as at Ihumātao (Waitangi Tribunal, 1985, pp. 17–8) and in Tainui. These were direct violations of Te Tiriti, as the Waitangi Tribunal noted:

> All sources agree that the Tainui people of the Waikato never rebelled but were attacked by British troops in direct violation of Article II of the Treaty of Waitangi (Waitangi Tribunal, 1985, p. 17).

The experience of colonisation has included the manufacture of false narratives. This "deliberate misremembering" (Jackson, 2019, 2016) has been pivotal in undermining the self-determination of Māori, for it invented myths that Māori were rebellious and belligerent, and forcefully defeated by the Crown.

The reality was that despite the overwhelmingly larger resources and armed forces of the British, Māori were more than a match for the British in battle. Māori defeated the British in two of the four major wars and regularly defeated forces several times their numbers (Belich, 1988, p. 291). Māori were easily able to match British officers in quality of leadership. There were no incompetent Māori leaders because, if they were incompetent, iwi withdrew their support for them. Māori were the first to develop trench and bunker warfare which the British had no experience of (Belich, 1988, p. 297).

The New Zealand Constitution Act (1852)

The establishment of English law proceeded swiftly during the sovereignty wars further legitimising the illegitimacy of British actions in Aotearoa by dismantling the rangatiratanga of Māori affirmed and guaranteed in Te Tiriti. The New Zealand Constitution Act (1852) was one of the first key pieces of legislation authorising a law-making body with power to create legislation over New Zealand:

> Pākehā laws were pivotal in undermining our self-determination. Self-determination was enshrined and affirmed in Te Tiriti. But the Constitution Act instituted a formal and official undermining of our self-determination in our land (Ngata, 2021).

The Act purported to grant Māori a vote alongside Pākehā settlers. However, tied to holding the individualised title of land by men, the Constitution Act resulted in non-Māori voters far outnumbering Māori (Derby, 2012).

The Native Lands Acts (1862, 1865)

Historians have shown that the Crown's early nineteenth century policy of negotiation with Māori concerning land acquisition was to avoid provocation of Māori, and any consequences for Crown settlements, rather than any commitment to Te Tiriti relationship. By the 1860s settlers outnumbered tangata whenua and insisted that accommodations of Māori interests were no longer required. By the 1870s, settlers had achieved the full removal of early Crown protections of Māori land and successive governments were generally dismissive of Māori concerns and interests including honouring Te Tiriti o Waitangi (Marr, 1997).

The undermining of self-determination proceeded hand-in-hand with the dispossession of Māori land.

The Native Land Acts (1862, 1865) establishing the Native Land Court played a pivotal role in alienating Māori land. The 1862 Act allowed the appointment of Māori judges. Later, the Crown, considering these positions too powerful, used the 1865 Act to demote Māori judges to the position of assessors where they no longer had a decision-making role in Māori land matters (Ministry for Culture and Heritage, 2016a).

The Native Land Acts created a new form of Māori land ownership through the individualised title to Māori land.[ix] Henry Sewell explained the aims of the Native Land Court were:

> **... to bring the great bulk of the lands in the Northern Island 'within the reach of colonisation' and 'the detribalisation of the Māori – to destroy, if it were possible, the principle of communism upon which their social system is based and which stands as a barrier in the way of all attempts to amalgamate the Māori race into our social and political system' (Taonui, 2012a).**

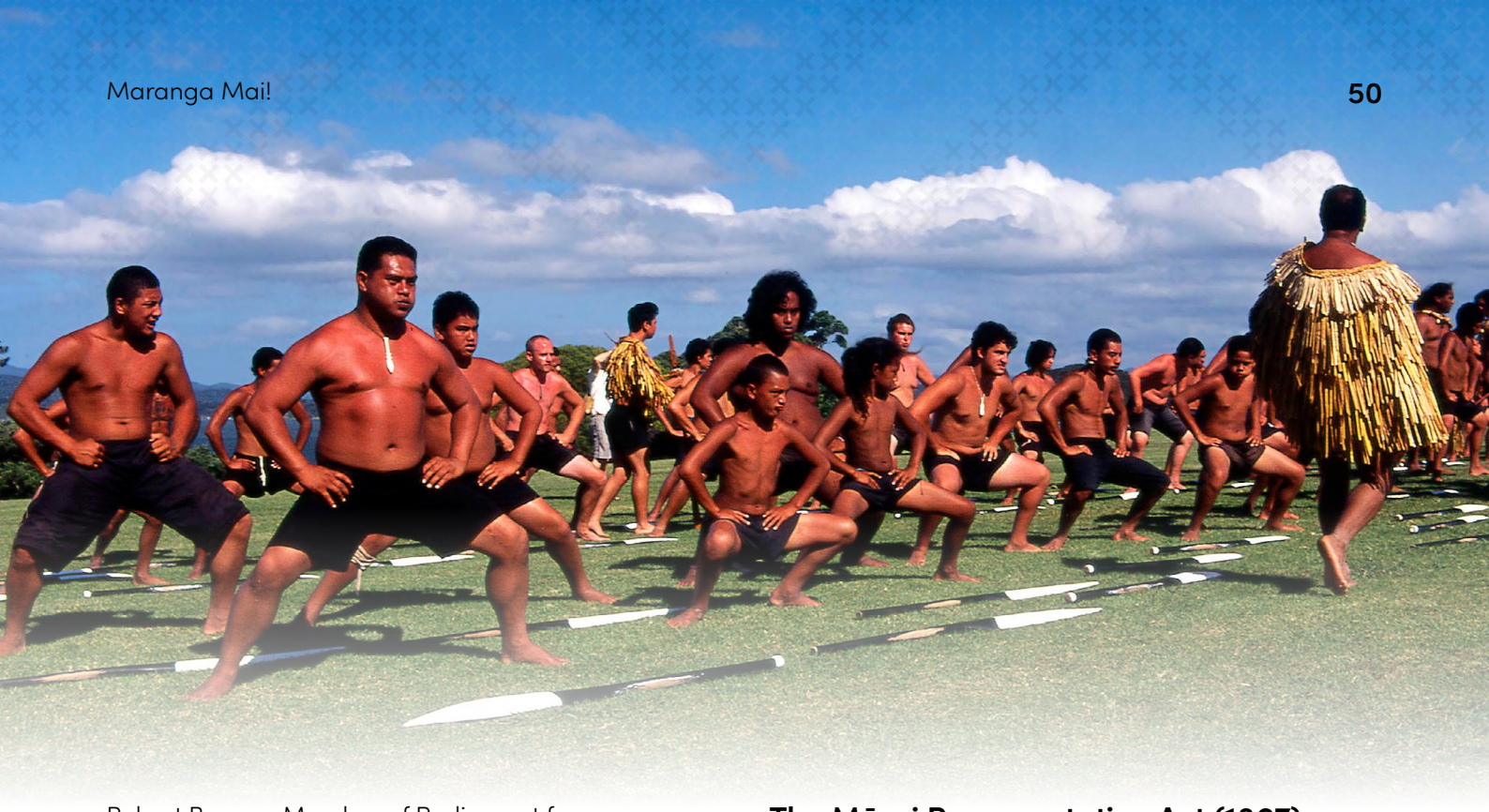
From the 1870s, the government's legislative and policy direction strongly reflected settler priorities with Māori calls to participate in political and economic power firmly rejected. Māori were exposed to intense and aggressive intolerance by the settler government with swift consequences applied to any who challenged its authority. Rather than choosing to honour Te Tiriti, the government elected to manipulate, dominate and manage Māori into landlessness, discrimination, poverty and destitution (Marr, 1997).

The newly established individualisation of title allowed settlers to acquire land by buying from individual owners. The net impact was not only the wholesale acquisition of land but also the undermining of Māori leadership and fragmentation of social unity and cohesion within iwi, hapū and whānau. Fundamentally, the individualisation and cash-sale of land constituted an absurd cultural imposition on Māori whose pre-colonisation tikanga customary practices never 'bought and sold' in this manner:

> **Customary Māori land is land held by Māori people in accordance with their traditional customs and usages. All land in New Zealand was originally Māori customary land. After 1840, the Crown not only pursued a policy of alienating land from Māori ownership, but also of converting land remaining in Māori hands from customary title into title derived from the Crown. This became known as Crown-granted or freehold Māori land. By the turn of the century, most customary Māori land remaining in Māori ownership had been transferred into [a Māori] freehold title. Māori land ownership had plummeted to five per cent by 1980 (Marr, 1997, p. 2).**

Māori land title was based on shareholders, whose number increased each generation. This was based on the Crown's decision in 1873 that the title to Māori land bequeaths equally to all shareholder descendants (removing the 10-owner rule of 1865). This fragmentation was untenable, as it "made each individual share an uneconomic size for farming" (Reid et al, 2017, p. 62). Once Māori land title was fragmented, Māori owners were often unable to access financial support for developing their land, in the way their Pākehā counterparts typically were (Kukutai, 2010, p. 53). As whānau could not find funds to develop their land, they began to move away from their land into urban areas.

Whānau would travel the country to wherever the land courts were sitting, to give evidence of their ownership. Even if they had always lived on their ancestral land, handed down through whakapapa, this had to be 'proven' in court. Whānau had to repeat their whakapapa rights to the land, speak on behalf of those who could not speak English, and then work tirelessly to negotiate with other whānau members as to whose name would go on which title (Te Whaiti, 2021). Whānau and whole communities would be involved in protracted hearings, incurring significant costs along the way. Even when Māori won, they had to pay expensive legal fees, leading some to sell the land they had just won to recover costs (Taonui, 2012a). In combination, these factors had a devastating impact on Māori society, which many Pākehā celebrated.



Robert Bruce a Member of Parliament for instance declared:

> We could not devise a more ingenious method of destroying the whole of the Māori race than by these land courts. The natives come from the villages in the interior, and have to hang about for months in our centres of population where they are brought into contact with the lowest classes of society, and are exposed to temptation, the result is that a great number contract our diseases and die (Taonui, 2012a).

During the first 50 years of settler colonisation, Māori were alienated from most of their land (Reid et al, 2017, p. 31) which amounted to a "stolen potential of over six Māori generations" (Halkyard-Harawira, 2021).

In 1885 the *New Zealand Herald* observed the **effects of the Native Land Court**: "men and women have abandoned all work and all industrious occupation. ... for the most part they have for years past lived in tents or slept on the ground with the shelter merely of a break-wind. They have been made to do this by having to run from one part of the country to another after Land Courts. They have had to live on wretched watery food, such as potatoes, and the only relief from the utter misery of their surroundings is in getting drunk. What wonder is it that they should die of consumption like rotten sheep, and that the children born of them should 'linger out a short life?'"(Taonui, 2012).

The Māori Representation Act (1867)

The Māori Representation Act (1867) created further inequality. Formed to lessen Māori opposition in the wake of the Wars of Sovereignty by providing a voice in parliament, the Act prioritised settler concerns about a potential Māori majority and limited Māori political representation.

This Act introduced four Māori seats and limited Māori to these seats for more than 150 years ensuring a Pākehā majority. On a per-capita basis, Māori should have had 16 seats (Ministry for Culture and Heritage, 2016c). From 1896-1975 only so-called 'half-castes' (people with one Māori and one European parent) were allowed to choose which seats they wished to vote in (Ministry for Culture and Heritage, 2018).

The Native Land Purchase and Acquisition Act (1893)

Richard Seddon's Liberal government of the 1890s intensified the alienation of Māori land. Driven by the want of more Māori land, the Seddon government oversaw the sale of over two million acres at artificially low prices to the benefit of Pākehā land buyers (Binney, 2009, p. 328; Brooking, 2014, p. 136).

The key strategy was to wrestle idle Māori land from Māori control through the Native Land Purchase and Acquisition Act (1893), the explicit purpose of which was to make what Pākehā argued was wasted and unproductive Māori land available for white settlement (Binney, 2009, p. 345; Banivanua Mar, 2013). For Pākehā, Māori practices of fostering and

protecting the land had no place in a world where the Pākehā measure of land use was set according to production for profit according to the norms of capitalism in white settler society (Brooking, 1992, 1996, 2014. pp. 198-9; Binney, 1997, p. 123):

> The perceived failure of Māori to exploit the economic potential of their land was used by settlers and Crown as justification for alienation through legislation (Kukutai, 2010, p. 53).

Commentators viewed the justification was racist because it applied a Eurocentric lens based on profit, and resource exploitation, and dehumanised Māori as inferior and therefore unworthy of land ownership for not utilising the land as a European (Liu and Robinson, 2016, p. 137).

Public works

Successive Public Works legislation was another means of taking Māori land. Land taken for public roads and railways began in 1862 and were mainly military in nature, with roads and railways built during the wars, enabling the Crown to quickly move troops to invade iwi lands and crush iwi resistance.

The Public Works Act (1864) authorised the taking of Māori land for infrastructure projects (Ministry for Culture and Heritage, 2016; Taonui, 2012b). While at face value the legislation applied to both Māori and Pākehā land, where possible, the government targeted Māori land because it could negotiate to pay the owners less compensation, or none at all (Taonui, 2012b). Land confiscated after the sovereignty wars was originally closely linked to public works provisions (Marr, 1997, p. 1).

Public Works Acts generally carried the provision that land should be returned to owners if no longer needed for the purpose that it was taken. The Crown regularly ignored or dishonoured this in the case of Māori land. The Public Works Act (1928) removed this provision making the taking of Māori customary land especially discriminatory (Waitangi Tribunal, 2010, p. 736).

Inflaming this situation further, local bodies could also compulsorily acquire five per cent of Māori land for similar infrastructural purposes (Waitangi Tribunal, 2010, p. 799). Indeed, a raft of provisions came into being, the common denominator of which was the swift separation of Māori from their whenua. The comprehensiveness of this land theft made it difficult:

> ... to separate out public works takings from other types of compulsory land [takings].This can involve issues such as compulsory vesting, punitive confiscations, compulsory perpetual leases, and disputed purchases (Marr, 1997, pp. 1, 55).

> "**Land grabbing** refers to the transfer of control over large areas of land or water from local control to more powerful outsiders (both domestic and foreign) for industrial, agricultural, conservation or tourism-related development (Borras et al. 2012; Edelman et al. 2013). It is symptomatic of a neoliberal process in which land is commodified and moved from local people to private companies and wealthy elites, natural resources are appropriated, and alternative, indigenous, forms of production and consumption are suppressed" Hagen, R. & Minter, T. (2020)
>
> Tangata whenua under Te Tiriti should be able to request that when government identifies land, that might be sold or otherwise freed up, government carry out an investigation which details the history of how such land came to be under government control. The land could then be returned to iwi if improperly or unjustly acquired (e.g., taken as 'punishment' or for public works) (Taonui, 2021).

Local government rates

The Native Lands Rating Act (1882) was yet another way of Māori land alienation. Local authorities levied rates on Māori land without the consent of the owners. Local authorities often did not advise whānau and hapū about these obligations and, in many instances, Māori rates were set as high as 300 percent, more than Pākehā owned land (Halkyard-Harawira, 2021). The increasing individualisation of land, and a prejudiced lack of access to development funds, meant Māori were unable to pay the rates with the result that land had to be sold to cover these costs (Reid et al, 2017, p. 67). In this way, local authorities were complicit in the government-led drive to alienate whenua Māori:

> Local authorities operate under the fiction that they are not the Crown, so they don't have to respect or honour Te Tiriti. Local government is a new forefront for us – they pretend they're not the Crown, but the Crown empowered them (Smith, 2021).
>
> Any history of the development of public works takings in New Zealand must inevitably include local authorities, as they and their predecessor organisations such as provincial councils were thoroughly and inextricably involved in the history and evolution of public works takings. In later years the responsibilities and activities of central and local government were also often very closely linked to this activity (Marr, 1997, p. 3).

Public Works and local authority land takings were typically for the development of projects and infrastructure needed for the settler state. Māori rarely benefitted leading to further destitution (Reid et al, 2017, p. 67).

The Pukekohe Council refused to allow the development of Māori housing "for decades". Landlords were barred from renting houses to Māori (Bartholomew, 2020, p. 10). This meant Māori paid rates to local bodies, on which they were not represented, for services they did not receive (Ministry for Culture and Heritage, 2016b).

The Whenua Māori Rating Amendment Act (2021)

Complex land legislation continues to hamper iwi, hapū and whānau from developing or building on Māori land today. The new Whenua Māori Rating Amendment Act (2021) allows councils to waive rates to make it easier for Māori whānau to utilise their land:

> Local Government Minister Nanaia Mahuta said nearly 100 years of a system that was not fit for Māori had resulted in the underdevelopment of Māori land and disadvantage for Māori living on Māori land. It had also resulted in a level of rates arrears which unfairly represented the level of unpaid rates on Māori-owned land (Ellis, 2021).

While progressive, the Act contains no requirement for the abatement of unpaid rates debt and there is no provision to compensate for or address the decades of local council neglect in providing infrastructure to Māori land. Aotearoa is currently in the midst of a housing crisis. The Waitangi Tribunal is hearing a claim concerning housing (Housing Policy and Services Inquiry, Wai 2750) and Te Kāhui Tika Tangata, the Human Rights Commission has undertaken an inquiry into this country's housing crisis which found that successive New Zealand governments have breached Māori and human rights, and Tiriti obligations, regarding the right to be housed. As the inquiry *Right to a decent home: Measuring Progress* states:

> Home ownership is one of the main sources of wealth in Aotearoa. People who own their own home tend to find housing more affordable, but in recent years it has become increasingly difficult for people to become homeowners. This is particularly true for Māori, Pacific peoples, and younger people.
>
> Home ownership has declined since the 1980s, with Māori experiencing among the lowest home ownership rates (45%), just above Middle Eastern, Latin American and African people (38%) and Pasifika peoples at 35% (Human Rights Commission, 2022).

Māori home ownership rates have been falling nationally since 1999, with the 2021 Census showing it had plummeted to 26 percent, compared with home ownership of 41 percent for non-Māori (NZ Statistics, 2021).

> If developers' demands are met and new homes are built, tangata whenua will not be able to afford them in the current market and freeing up land under the RMA will do nothing to address the housing instability for tangata whenua. We can assume that this land and these new homes will go to an expanding non-Māori population and likely only to those who are "well-heeled middle classes" (McCarten, M., 2021).

The Treaty Settlements Policy and Waitangi Tribunal recommendations

The following secondary recommendations could be further explored and developed within the National Action Plan Against Racism. See Appendix One for the full list.

The government consider the following actions:

- Review the 'full and final' Treaty Settlements policy because that process was forced on tangata whenua and has returned less than one per cent of land that belonged to Māori whenua owners.
- Investigate pathways to return and restore land to iwi, hapū and whānau.
- Investigate pathways to return and restore land to iwi, hapū and whānau, noting that historical claims have returned less than one per cent of land that belonged to Māori whenua owners.
- Empower the anti-racism mandate of the Waitangi Tribunal, by strengthening the levers to ensure that the recommendations of the Tribunal, to the Crown and Local Government, are taken seriously and actioned.
- Hear claims and make recommendations for the return of private land under the control of the Crown and Local Government, which the Crown and/or Local Government is considering 'freeing up' for sale and development.
- Recognise the Waitangi Tribunal as a Te Tiriti o Waitangi constitutional body.

Māori land and rates recommendations

The following secondary recommendations could be further explored and developed within the National Action Plan Against Racism. See Appendix One for the full list.

The government consider the following actions:

- Supporting the restoration of tino rangatiratanga so Māori landowners have control over their land and review the rates system for Māori land.
- Amending the Whenua Māori Rating Amendment Bill to direct Local Government to strike out all rates currently owing on Māori land and if rates are collected in future, these rates are returned to benefit Māori whenua owners.
- Develop easier pathways to return dispossessed land to iwi, hapū and whānau. This includes recognition of Māori land tenure, collective stewardship, collective self-determination, and collective sustainable self-sufficiency.
- The Minister of Local Government establishes an independent body, with tino rangatiratanga partners (supported by the Māori Trustee) to take urgent action to review the way Māori whenua is rated so the benefits are returned directly to the owners. The Government could consider the following actions:
    - Review and reassess rates on Māori land to reflect the owners' access to their land, and/or any obstructed use and development of their land.
    - Undertake surveys to confirm the correct boundaries of Māori land blocks.

Te Tiriti Whenua Māori Authority recommendations

The following secondary recommendations could be further explored and developed within the National Action Plan Against Racism. See Appendix One for full list.

The government could consider setting up a new Te Tiriti Whenua Māori Authority to:

- Use the information gathered by the Māori Trustee, to undertake a comprehensive engagement with Māori owners to canvass their views on how their land is developed and administered.
- Assist whenua Māori owners to put into effect appropriate administration for their land blocks, such as, through rūnanga, owner-led whānau incorporations or other structures consistent with Article Two Rangatiratanga under Te Tiriti.
- Assist and train owners to complete whenua development plans.
- Provide ongoing training, financial and legal advice, alongside planning, surveying, and support to owners who wish to manage and/or sustainably use their land for papakāinga and/or agricultural enterprise
- Provide comprehensive and up-to-date ecological development and agricultural advice.
- Meet the legal and other costs associated with developing Māori land to provide the requisite infrastructure to implement completed plans.

Chapter 3: Ngā Hikoi
Māori Renaissance Protests

This chapter examines the contribution of the Māori renaissance protest movement to realise justice and self-determination for Māori in Aotearoa.

Māori protest movement begins

Tino rangatiratanga, mana whenua, Te Tiriti o Waitangi, whenua Māori, te reo Māori, mana motuhake, 'not one more acre', 'Honour the Treaty', and tino rangatiratanga were the foundations of historical Māori resistance (Harris, 2004, p. 13). Emerging during the 1960s, the Māori renaissance protest movements ignited a response building on a legacy of resistance, population recovery and urbanisation to fight land dispossession, cumulative historical marginalisation and impoverishment, and systemic white racism. The protest movements became a powerful force in the struggle for justice and self-determination for Māori in Aotearoa.

Historical legacy

The movement, its leaders and stalwarts trod in the footsteps of 130 years of anti-racism resistance against colonisation. As described in Chapter 2, nineteenth century tangata whenua made repeated attempts to engage the government in relationship discourse. These were unsuccessful and their aims to exercise their tino rangatiratanga and mana motuhake, to participate in political and economic power and hold onto their lands were hampered and attacked by the government of the time. They were also forced to defend themselves against the violence and wrath of the government and protect their mana and land in the Wairau, Northland, the Hutt Valley, Whanganui, Taranaki, Waikato, the Bay of Plenty, Central North Island, East Coast and Hawke's Bay. Titokowaru Riwha and Te Kooti Arikirangi Te Turuki led guerrilla campaigns across the central North Island (Walker, 2004, pp. 101-103, 120-134).

As previously noted, Māori won many battles, but like other Indigenous peoples were unable to comprehensively defeat a colonial government able to apply large numbers of settlers, overwhelming military resources, and divide and rule Māori auxiliaries to extinguish the flames of those it labelled as rebels. Please refer to the previous chapter, Wars of sovereignty and unjust legislation pp 48-53.

> **Rising from the ashes of defeat, Te Whiti o Rongomai and Tohu Kākahi of the Parihaka community adopted strategies of passive resistance and civil disobedience, anticipating modern activism. Following a decade of passive resistance, Parihaka was denuded of men by arrest and detention without trial, followed by armed invasion, forced removal, looting, destruction and Apartheid-like pass laws in 1881 (Riseborough, 1989, pp. 96-117).**

Civil disobedience and occupation characterised other nineteenth century causes; all Māoridom was stirring during these years. Wiremu Parata and Hone Heke Ngāpua saw Kotahitanga as the best defence against the loss of autonomy, land, and cultural integrity, creating a Māori Parliament in 1889. Te Arawa chiefs refusing to pay dog taxes were put to work with shovels and wheelbarrows outside the Tauranga Court in 1895. Te Mahuki Manukura, described as a "veteran Maniapoto ploughman", set fire to a Pākehā store in Te Kūiti in 1896, angry at continuing land dispossession. Te Mahuki was sentenced to 18 months imprisonment before taking ill and dying soon afterwards in Avondale Hospital (Scott, 1975, pp. 178-179).

Modern radicalism also draws lineage whakapapa from Article Two of Te Tiriti o Waitangi, guaranteeing Māori te tino rangatiratanga, and Section 71 of the 1852 New Zealand Constitution Act, which empowered the Governor to establish autonomous Native Districts where customary law could prevail. The Crown honoured neither. In response, central North

Island tribes created the Kiingitanga Movement in 1858. Kiingi Taawhiao and his successor, King Te Rata, led deputations to England protesting at continuing land loss and seeking self-government. In Parliament, Hone Heke Ngāpua pursued the aspirations of the Kotahitanga Parliament by promoting the 1894 Native Rights Bill seeking Māori autonomy only to have Pākehā MPs, in a display of open racism at the highest level, walk out of the House of Representatives at the first reading. The Bill lapsed for want of a quorum (Walker, 1989, pp. 272-274; Walker, 2004, pp. 163-170).

Urbanisation

Urbanisation and population recovery underpinned the rise of Māori protest. Disease, dispossession, disenfranchisement, disempowerment, and dismemberment of culture had decimated the Māori population by 70 percent since first European contact, reaching a nadir of 42,000 Māori in 1896 (Poole, 1991, pp. 59-103). Pākehā expected Māori to become extinct.

However, inspirational leadership, and a cultural renaissance of sorts, improved medical and social conditions causing a dramatic decline in Māori mortality, coupled with a high birth rate, resulted in a doubling of the Māori population between 1901 and 1936 and a further 500 percent increase between 1936 and 1986. Sometime during World War II, numbers passed the 1840 population of 70,000 to 90,000 (Poole, 1991, pp. 161-189).

By that time, tribes had lost 24.4 million hectares or 92.5 percent of their ancestral land. Pākehā leased two-thirds of the remaining two million hectares leaving just 2.5 percent of their lands to support the burgeoning Māori population. Māori-owned lands supported just one-quarter of the Māori population (Walker, 2004, pp. 139, 196).

The tension between population and landlessness made Māori urbanisation inevitable. The catalyst would be World War II and a post-war economic boom. Māori had trickled into towns for some time. Sixteen percent of Māori lived in urban areas in 1926. The Depression of the 1930s checked further increase to just one more percent by 1936 (Poole, 1991, pp. 122-123). This changed with a significant wave of Māori migrants urbanising during World War II when the wartime Manpower Act and the Māori War Effort Organisation mobilised 17,000 Māori into the armed services and 10,000 into essential industries from a population of just 95,000. Young Māori men and women left papakāinga to work in towns and cities. By 1945, 26 percent of Māori were urban (Poole, 1991, pp. 153-154; Walker, 1992, p. 500; Belich, 2011, pp. 475-478).

Prolonged growth in the post-war global economy ensuring favourable markets for New Zealand agricultural exports, and the industrialisation of the domestic economy under protective barriers promoting import substitution, increased the demand for labour. This was met through greater paid work for women, immigration of skilled workers from Britain and Europe, and programmes recruiting unskilled workers from Pacific and Māori communities. New Zealand's workforce doubled between 1945 and 1976 (Ongley, 1991, pp. 17-36, 16-20).

Led by veterans not returning to rural homelands after the war, followed by young Māori women during the early 1950s, impoverished Māori abandoned homelands to pursue opportunity, work, and prosperity (Metge, 1964, p. 128; Belich, 2001, p. 472). By 1956, the trickle had become a torrent pushing urban Māori numbers to 35 percent (Poole, 1991, pp. 153-154).

Government programmes relocated 884 Māori families during the early 1960s (Rose, 1967, p. 20; Walker, 1992, pp. 498-519). Other whānau followed into the towns at the rate of 10 percent per annum between 1961 and 1966. The urban Māori populous climbed to 62 percent. Māori were now an urban people; the rural population which had, and remained, a majority in 1961 declined to just 38 percent by 1966. Subsequent migration saw 76 percent of Māori become town and city dwellers by 1976 and 80 percent by 1986 (Poole, 1991, pp. 153-154; Meredith, 2006, p. 247).

The impoverished path to protest

By urbanising, Māori had exchanged the economic poverty and cultural wealth of the rural marae for improved economic prosperity, cultural nullity, and racism of white cities.

Migrant Māori concentrated in poorer areas in large centres. Auckland grew from two percent Māori in 1945, to 11 percent in 1986. Initially settling in inner-city slums, the new urban Māori population moved to sprawling new state housing suburbs such as Ōtara, Māngere, Te Atatū, Pōrirua, the Hutt Valley and Wainuiomata (Belich, 2001, pp. 472-473; Walker, 1992, p. 501).

Māori incomes were higher than they had been for a century. But concentrated in low-income primary industry, manufacturing, freezing works, wharves, transport, and municipal labouring and construction, Māori were vulnerable.

When Britain joined the European Economic Community in the 1973, New Zealand saw reduced demand for its exports, the first oil shocks slowed the world economy in the 1970s, and the New Zealand economy faltered. The government restructured under 'Rogernomics' in the 1980s (Belich, 2001, pp. 473-474; Poole, 1991, pp. 122-123; Meredith, 2006, p. 248). During this time, Māori were hit hardest, poverty increased, homelessness rose, and the first group of 'street kids' were Māori (Taonui, 2021).

Double alienation of Māori youth

Nationally, the under-25 Māori age group had risen from 54 percent in 1945 to 82 percent in 1976 (Pooler, 1991, pp. 152, 180). The new Māori urban demographic was therefore overwhelmingly youthful. Urbanisation doubly alienated the new Māori youth generation, firstly by distance from culture and secondly by urban white racism (Taonui, 2021).

City Māori were increasingly less able to bear the cost of maintaining contact with tribal homelands and rural tribal communities. Rural Māori stripped of their economic base were less able to maintain links with relatives in the cities. Urban Māori made efforts to sustain traditional culture through urban marae, but there were not enough such marae to fill the widening cultural void. Urban and rural Māori communities slowly drifted apart (King, 2003, p. 477). By 2001, one in five Māori did not know which tribe they came from (Statistics New Zealand, 2001 Census):

> Urban Māori had also disconnected from the cultural capital of learnings from the historical struggles of traditional communities such as during the Wars for Sovereignty and exertions to retain land. These were lessons they would have to relearn in the foreign trenches of white city racism (Taonui, 2021).

Dominant Pākehā culture rejected city Māori. Landlords often advertised for 'Europeans only.' Jokes described evil-smelling insects as 'Māori bugs', 'Māori time' meant being unpunctual, and the wrong way to do something was 'a hōri way of doing things'. In 1959, Dr Henry Bennett, a Kingseat Hospital senior medical superintendent, was refused service in an Auckland lounge bar because he was Māori. A survey of hotels showed one quarter declined bookings with Māori names. The Pukekohe Hotel women's lounge was European only. Pukekohe restricted Māori to the cheapest seats at the cinema, enforced a segregated area at the local swimming pool, and Pākehā parents advocated for a separate Māori school to avoid their children coming into contact with dirty Māori children (Belich, 2001, p. 190; Harris, 2004, p. 20).

Assimilationist policies disguised as integration significantly added to Māori experiences of oppression and colonial trauma. Government policy banning te reo from schools saw Māori new entrants beaten for speaking te reo (their only language). The government policy to eliminate te reo Māori in favour of English language was incredibly successful. Whānau discouraged their youngest generations from speaking te reo to protect them from physical and emotional harm. Consequently, the number of Māori language speakers declined from 90 per cent in 1900 to five per cent in 1980 (Waitangi Tribunal, 1986).

The infamous 1961 Hunn Report, which highlighted the difficulties Māori faced in urban centres, classified three kinds of Māori: half-castes, who were more European-like, lived in cities, spoke no Māori and

were advanced; those who lived in the cities who were still 'Māori' but were making progress; and those who lived in rural areas, spoke Māori, and remained backward and retarded (Taonui, 2008). Apart from retaining a notional culture based on poi and haka, the report recommended more integration (Walker, 2004, p. 511).

Domestic and international consciousness raising

In the melting pot of the cities, Māori youth resisted and adapted to new circumstances with the advantage that, living in closer proximity to Pākehā, they were more 'streetwise' than their rural kin. If given direction, this 'streetwiseness' represented the potential for transformative change because proximity and knowledge of a dominant culture creates the potential for emancipation in subjugated cultures (Freire, 1972, p. 149).

Alienation paved a path to conscious radical protest (Newbold, Taonui, 2011). Some connected across a bridge of cultural loss. Others linked personal and collective experiences of racism with the wider colonial history of Māori. While structurally prejudiced, greater tertiary education opportunities, including for those who completed degrees and those who did not, introduced Māori to new analytical tools from Marxist, feminist, decolonial and anti-racism discourses (Taonui, 2021).

Awareness increased against a backdrop of the struggle for international human rights. The Universal Declaration of Human Rights (UDHR) was followed by the decolonisation of third world countries, the American Civil Rights Movement, and the passing of the United Nation's International Convention for the Elimination of all Forms of Racial Discrimination (CERD). Indigenous peoples' movements were also on the rise. The first meetings of Māori, Aboriginal and North American Indian representatives occurred in 1971 and 1974. Māori took inspiration from Martin Luther King, Malcolm X, and other African American activists. Posters of Che Guevara and cool-looking African Americans became popular accessories in the tool kits of aspiring activists (Taonui, 2021).

The metropolitan media raised awareness through prominent public debates over the Bennett affair, the 1960 tour, and the publication of Washday at the Pa, which patronised Māori life. With the introduction of television, Māori witnessed Black athletes giving Black Power salutes at the Mexico Olympics, the death of Martin Luther King in 1968, protests at home and abroad against the Vietnam War, the Aboriginal Tent Embassy of 1972, and the Wounded Knee occupation in South Dakota in 1973 (Taonui, 2021).

All Blacks tour to South Africa (1960)

Māori activists marched against the New Zealand Rugby Football Union decision to exclude Māori players from the 1960 tour to South Africa, declaring 'No Māori, No Tour', chanting 'all whites All Blacks tour' and 'fe, fi, fo fum, ain't no hōris in that scrum'. Māori activists would go onto up-skill in the domestic vehicles of CARE (Citizens Association for Racial Equality) and HART (Halt All Racist Tours). Māori activist, Tama Poata, is credited with inventing the latter's name. Ngāhuia Te Awekōtuku and Donna Awatere contributed to the Women's Liberation Movement. Syd Jackson was active in the union movement (Poata-Smith, 1996, pp. 98-102).

An unaddressed history (1860 to 1980)

Alongside this, the emerging urban Māori movement was also learning lessons from past broken promises. At Kohimarama in 1860, the Crown promised chiefs an annual consultative hui, an advisory Native Council, and ongoing discussions, none of which ever materialised (Cox, 1993, pp. 77-80).

Crown support for Apirana Ngata's consolidation and development schemes on 240,000 hectares of Māori land between 1909 and 1940 was conditional on his agreeing to a fund that would alienate a further 1.4 million hectares of Māori land between 1910 and 1930 (Waitangi Tribunal, 1997, Vol II, pp. 383-384, 413-423).

Tainui refused to attend the centennial Treaty of Waitangi celebrations in 1940 in protest over unjust 1860s land confiscations. Ngāi Tahu attended the southern celebration but raised long-standing grievances. Apirana Ngata questioned the myth of harmonious race relations saying:

> I do not know of any year the Māori people have approached with so much misgiving as this centennial year. What does the Māori see? Lands gone, the power of chiefs humbled in the dust, Māori culture scattered and broken (Tū Ake Exhibition, 2011).

The government described Ngata as 'ungrateful' (Orange, 1987, pp. 235-238).

Despite a pact between Wiremu Pōtiki Rātana and Labour, it took 13 years to consider Rātana's 30,000 signature petition to recognise Te Tiriti o Waitangi, and 37 years to appoint a Māori Minister of Māori Affairs. The World War II 'Price of Citizenship' campaign, whereby Pākehā fought for their country and Māori fought to be accepted by their country, produced the Māori Women's Welfare League, tribal trust boards and the Māori Council, none of which possessed real authority or autonomy. Trust boards required ministerial approval for spending over £100. The Minister of Māori Affairs had to approve the tribal stamp. By the 1980s, over 2,300 historical petitions to the government over land losses and related issues lay unaddressed (Kelsey, 1990, pp. 98-99).

Māori Affairs Amendment Act (1967)

Interestingly, the first activist action came from a decade of traditionally conservative Māori leadership by the Māori Women's Welfare League and the Māori Council, who raised the awareness of Māori youth via their responses to the passing of the Māori Affairs Amendment Act (1967). Dubbed 'the last land grab' the Act required the compulsory sale of shares in Māori land worth less than £100 (Waitangi Tribunal, 1997, Vol. 1, p. 113). In 1968, a handful of Māori leaders boycotted Waitangi Day in protest at the land grab of the previous year. MP Whetū Tirikātene-Sullivan received a small protest delegation at Parliament.

Te Hōkioi and MOOHR (Late 1960s, early 1970s)

These multiple threads came together as a whāriki of dissent against injustice in two organisations formed after the 1967 Act. Te Hōkioi, named after the Waikato newspaper of King Tāwhiao, and the Māori Organisation on Human Rights (MOOHR), launched consciousness-raising newsletters highlighting the erosion of Māori rights by legislation and discrimination in housing, education, health, employment, sport and politics. Key issues were contextualised under the Treaty of Waitangi, the UDHR, the anti-apartheid struggle, Marxism, and liberal human rights philosophy (Walker, 1980c; Walker 1980e; Poata-Smith, 1996, pp. 97-116; Walker, 2004, pp. 209-210).

Ngā Tamatoa (Waitangi 1971)

The stage was set for a new wave of activism. While Te Hōkioi and MOOHR were 'underground' consciousness-raising mechanisms for a wider spectrum of Māori to engage in emancipatory practices, Ngā Tamatoa (Young Warriors), which formed in 1970, became the public face of action.

In previous generations, chiefs, prophets, charismatic leaders, and educated Māori had developed determined strategies to challenge Pākehā. The Māori Council and the Māori Women's Welfare League were their continuations. Freed from rural strictures, urban generations now had the freedom to choose the form and direction their actions would take. While the historical goals remained the same, they would challenge older leaders with new strategies (Walker, 1984, pp. 267-281). Members included Syd Jackson, Toro Waaka, Taitimu Maipi, John Ohia, Orewa Barrett-Ohia, Paul Kotara, Linda Mead (Tuhiwai Smith), Rawiri Paratene, Zac Wallace, Ripeka Evans, Tame Iti, Josie Keelan, Hilda Harawira, Tiata Witehira, Hone Harawira, Cora Davis, Donna Awatere, John Tahu and Larry Parr.

Ngā Tamatoa mixed urbanised dissident university students and graduates, unionists, and other experienced political activists. They opened offices in Auckland and Wellington. Members provided Māori offenders with court support. The mainly non-fluent membership prioritised the revival of te reo Māori. A petition to parliament called for the inclusion of te reo in schools. Ngā Tamatoa established the first community Kura Reo taking urban youth to rural marae to learn te reo from elders. Their advocacy saw the first annual Māori Language Day (the precursor of Te Wiki o te Reo Māori) and secured a one-year teacher training course for native speakers. In an irony of history, non-speakers had led the first revitalisation of te reo (Walker, 1980d; Walker, 2004, pp. 210-211; Poata-Smith, 1996, p. 102).

Ngā Tamatoa were the vanguard of future protests. They staged a sit-in at the Auckland office of Māori Affairs, protesting that the chief executives of all nine district offices were Pākehā, while half of the department's employees were Māori. Tame Iti and Rawiri Paratene led 60 others pitching a tent embassy on the grounds of Parliament in 1972. Their first protest at Waitangi Day in 1971 gathered Māori "to weep at the waters of Waitangi" mourning the loss of Māori land and culture. The protest highlighted the contradiction of how successive governments had celebrated the Treaty as the foundation of nationhood (Lord Bledisloe's 1934 gifting of the Treaty house, the 1940 centenary, and the Waitangi Day Act, 1960), while dishonouring the Treaty by continuing to oppress Māori aspirations (Walker, 1980d; Walker, 1989, pp. 275-279).

An embarrassed government sought the advice of the Māori Council, who responded with a submission citing 14 statutes contravening the Treaty. The government responded with the Treaty of Waitangi Act (1975) establishing the Waitangi Tribunal, tasked with defining the Principles of the Treaty, investigating Treaty grievances, and making non-binding recommendations for their resolution with the restriction that they could only hear claims after the creation of the Waitangi Tribunal (Walker, 1980d; Walker, 1989, pp. 275-279).

Ngā Tamatoa were also instrumental instigators and leaders in the 1975 Land March. They were the first tangata whenua activist roopu to have a strong influence on the attitudes of the public and to influence government policy. Ranginui Walker mused that people tended to downplay or under appreciate the achievements of the group many of whom he mentored:

> Few people will remember that they (Ngā Tamatoa) initiated Māori Language Day, a nationwide petition that culminated in the introduction of the Māori language into our primary schools, a one-year teacher training scheme for native speakers of Māori, and a legal aid system in the courts to assist young Māori offenders. Fewer people still will make the connection between Tamatoa and the establishment of the Waitangi Tribunal[xi].

The Māori land march (1975)

Dissatisfied by a Waitangi Tribunal unable to investigate historical losses, and having demonstrated the effectiveness of protest action, Ngā Tamatoa organised a series of powerful events around land rights.

A hui at Te Pūea Marae expressing deep concern over the historical and continuing alienation of remaining Māori land, including the 1967 Act and recent evictions of Māori from ancestral lands, including at Te Kapowairua, and proposed a national Māori land march. Led by two doyennes of the Māori world, Whina Cooper, the first president of the Māori Women's Welfare League, and Titewhai Harawira, the first hīkoi of the modern era set out from Te Hāpua in the north.

Captured in the iconic photo of Whina marching south, holding the hand of her granddaughter, the hīkoi initially began with 50 marchers and proceeded under the slogan 'Not one acre more' of Māori land. Marchers stopped at marae enroute, nightly discussions galvanizing and politicising Māori with a common purpose, to highlight the alienation of Māori land.

The sight of the thousands of marchers on national television crossing Auckland Harbour Bridge inspired others to action. Another protest group led by Nathan Dun Mihaka marched around the East Coast (Walker, 1980b; Walker, 2004, pp. 212-215). The land march travelled 1,100 kilometres and more than 5,000 people finally converged on Wellington to present a 60,000-strong petition, including Pākehā and other supporters.

The impact of the 1975 Māori land march contributed towards the establishment of The Waitangi Tribunal and can be considered as one of the march's most successful outcomes. The unprecedented protest created media and public pressure on government to examine the role it had played in the continuing alienation of Māori lands. The Minister of Māori Affairs Matiu Rata had the Tribunal created to provide a legal process for Māori grievances concerning breaches of the Treaty. Dame Whina Cooper was honoured recently with a bronze statue of her, with her granddaughter, in memory of the important role she had played in harnessing more than 150 years of Māori frustration and anger.[xii]

Raglan (1975)

During World War II, the government took land from the Tainui Āwhiro at Raglan in the Waikato for a military airfield forcing local Māori to leave their marae, homes, cultivations and urupā. After the war, 25 of the original 34 hectares was given to the Raglan County Council which leased it as a public golf course. In 1972, Tuaiwa (Eva) Rickard, a post office worker, and materfamilias mother of nine led a campaign to have the land returned. The family of a Pākehā official, who had negotiated the wartime use of the land and promised to return it after the war, publicly supported Ms Rickard.

The police arrested Rickard during an occupation of the golf course in 1975. Two years later, the police arrested 17 protesters for trespass, only to have the charges dismissed. Tainui Āwhiro declined three subsequent Crown offers to purchase the land back. The government finally relented and returned the land in 1987. Rickard passed away 10 years later. When Māori activist Annette Sykes stood to speak at her tangihanga she met cries from Māori men to 'sit down'. Ms Sykes challenged Māori men to recognize the mana of Māori women in honour of one of modern Māoridom's most stalwart kuia (Poata-Smith, 1996, pp. 97-116; Waikato Times, 30 May 2008).

Takaparawhā | Bastion Point (1978)

Takaparawhā | Bastion Point was a sordid saga of the colonial oppression of Ngāti Whātua ki Ōrākei. After selling 1,200 hectares on which the Auckland Central Business District now stands, the Crown and the Auckland City Council spent the next century pressurising Ngāti Whātua to sell more. Ngāti Whātua retreated to their central papakāinga at Ōkahu Bay and Bastion Point. The long-running struggle included the taking of land for defence against a supposed Russian invasion in the 1850s. Ngāti Whātua took eight actions in the Māori Land Court, four in the Supreme Court, two in the Court of Appeal, two in the Compensation Court, six appearances before Commissions or Com¬mittees of Inquiry, 15 Parliamentary Petitions seeking the restoration of tribal ownership of their land. All failed. There were also two reports from the Stout-¬Ngata Commission of 1907 and the Kennedy Commission of 1939 condemning the Crown. By 1929, the landholdings of Ngāti Whātua ki Ōrākei were reduced to 1.2 hectares at Ōkahu Bay (Walker, 2004, pp. 215-217).

In an act of 'shitty' racism by infrastructure the Auckland City Council, in 1912, piped sewerage across the front of the marae pouring effluent onto traditional shellfish beds at Ōkahu Bay and Bastion Point. Adding insult to insanitation, the council never connected Ngāti Whātua to the system. The sewerage pipe was covered with a road to the new luxury suburbs of Kohimārama and Mission Bay, and cutting off drainage to the sea, turned the papakāinga into a quagmire. Ngāti Whātua were evicted in 1951 because of the "filthy conditions they chose to live in" and to tidy the route Queen Elizabeth II would take during her visit to Auckland in 1953. Homes and the meeting house were bulldozed and burned. Only the church and urupā remained, the Crown stopping short of evicting God and the dead.

In 1976, the government announced plans to sub-divide 24 hectares of the land for luxury housing. In January the following year, the Ōrākei Māori Action Group led by Joe Hawke, who had witnessed the 1951 evictions as a boy, began a 507-day occupation demanding the return of all Crown land at Bastion Point, including the Savage Memorial and Takaparawhā Reserve, a total of 72 hectares. In a repeat of history, on 25 May 1978, 600 police and army personnel re-evicted Ngāti Whātua and their supporters making 222 arrests and bulldozing the temporary settlement built by protesters. The Police dropped all charges against several protesters and the Courts quashed all convictions on appeal.

Attempting to appease Ngāti Whātua, the Crown granted 5.3 hectares, 27 state houses and $200,000 to the newly constituted Ōrākei Māori Trust Board. Two further occupations took place in 1982 with 11 and 100 arrests respectively.

Ngāti Whātua then lodged a claim with the Waitangi Tribunal whose subsequent report condemned Crown actions. This led to the 1991 Treaty settlement, the first of the modern era, comprising $3 million in compensation, return of 16 hectares and joint management of a further 48 hectares mainly in Ōkahu Bay. Years later, the superintendent who had coordinated the 1978 arrests spoke movingly of how

he had organised the Armed Offenders Squad to prepare for Māori violence only to have his men met by tears, songs, and prayers (Hawke, 1999). On Millennium Day 2000, 40,000 Aucklanders gathered at Ōkahu Bay to welcome the tribes' canoe, *Māhuhu-ki-te-rangi*, into the bay where 50 years before Ngāti Whātua had been evicted. These were lessons that patience and perseverance can unlock the doors of all prejudice (*New Zealand Herald*, 6 January 2000).

Stop the celebrations – honour the Treaty (1979)

The land rights movement yielded a younger, more militant, ideologically sophisticated, and confident leadership that broadened activism in new directions, extended the boundaries of elders, redefined race relations, and fought to stop annual Treaty celebrations until the Treaty was honoured.

Groups now included Ngā Tamatoa, Te Matakite o Aotearoa, the Waitangi Action Committee (WAC), Waitangi Action Alliance (WAA), He Taua, the Māori People's Liber¬ation Movement of Aotearoa, and a Black Women's Movement. Each had specific regional, tribal, or ideological take (causes), focuses and goals with overlapping memberships that came together as larger groups for specific national-level campaigns. Collectively and individually, these groups challenged the core of racist mainstream white supremacy (Walker, 2004, pp. 220-221).

In 1979, WAC and Te Matakite began leading annual protests on the treaty grounds each Waitangi Day under the banners of: 'Stop the Celebrations', 'The Treaty is a Fraud', and 'The Cheaty of Waitangi' and 'Honour the Treaty'.

In a repeat of Parihaka, the Tent Embassy, Raglan and Takaparawhā, the government responded with force. In 1981, activists disrupted government plans to invest the knighthoods of Sir Graham Latimer and Dame Whina Cooper on the marae at Waitangi. Police stormed the group, made eight arrests, demonised the protesters as rioters and outcasts, changed the charges several times, and surreptitiously obtained defence documents. The judge dismissed the case for lack of evidence.

The following year, the Police 'batoned' 150 protesters off Auckland Harbour Bridge. Protesters responded at Waitangi throwing sticks and stones, setting off smoke bombs and an egg which, striking the Governor-General, delivered a wake-up call that not all was well. Thirty-two protestors were arrested.

In 1983, police in full riot gear intercepted and arrested 50 protesters on the Waitangi Bridge before making another 49 arrests on the Treaty grounds including Pākehā protesters from different Churches, HART and ACORD. They also arrested some non-protesting Pākehā because, in the act of wielding long-batons, all Pākehā look the same (Walker, 2004, pp. 221, 229-234).

In an aside, Dun Mihaka delivered an artful whakapōhane (a customary showing of the buttocks asking visitors to leave) to the passing limousine of Prince Charles and Princess Diana leaving Wellington Airport. When asked, Buckingham Palace declined to confirm whether they had waved back (Mihaka and Prince, 1984).

Maranga Mai! (1979)

In 1979, *Maranga Mai!*, a raw street-level protest drama performed at Māngere College, questioned the mainstream Pākehā myth that Aotearoa comprised 'one people' united in racial harmony. Many Pākehā were horrified. The Minister of Education attempted to ban the play, the Manukau City Council called for an investigation, the Department of Internal Affairs conducted one, parents lodged complaints with the police, and members of the white public lodged others with the Race Relations Conciliator's Office. When performed in the Beehive, some MPs were disgusted, others left (Walker, 2004, pp. 225-226).

The play was therefore a tremendous success because it provoked debate, highlighted a racist myth, and exposed the racism that could split Pākehā into equal but opposite reactions of horror or greater awareness. Reactions from conservatives and liberals alike, demonised protesters as separatist, discriminatory, ungrateful, personally motivated, and dysfunctional outcasts of Māori society. The degree of condemnation was directly proportional to the racism that underpinned it. Another reaction was an acceptance of the key message that Aotearoa was not as united as New Zealanders had thought.

He Taua (1979)

Wearing grass skirts, drinking, tattooing lipstick caricatures of male genitals and obscenities on their bodies and grunting mock haka, engineering students at Auckland University continued holding an annual culturally offensive graduation festival 'haka party', despite multiple requests from Māori students and the Auckland University Student's Association not to.

In 1979, WAC decided on direct action. A group later named He Taua stormed the Engineering School. Fighting ensued and continued over the following days with students on both sides being assaulted. Eight Māori were arrested and charged.

Proving the revolutionary maxim 'never too young to lead and never too old to follow' protest leaders defended themselves with scores of Māori students and Māori elders attending Court in support. Māori leaders such as Harry Dansey, the Race Relations Conciliator, the Auckland Māori Council, the New Zealand Māori Council and Māori Women's Welfare League disavowed the violence but supported He Taua's stand against the cultural violence of the haka party (Walker, 2004, pp. 222-225).

He Taua raised questions about the legitimacy of direct action. Should one never depart from passive protest? Can circumstance justify physical action where an absence of change perpetuates the violence of cultural racism? Whatever the rights or wrongs, there were no more haka parties.

Pākehā allies protest (1980s)

The 1981 Springbok Tour protests were a seminal experience for a generation of Māori activist leaders. Pākehā marched against racism in South Africa; Māori marched against racism in South Africa and Aotearoa. Forming the bulk of the Patu phalanx, which distinguished itself by crashing police lines, Māori accused well-intended but sometimes patronising liberal Pākehā of focussing on racism in other countries while ignoring racism in their own country (Poata-Smith, 1996, p. 105).

These actions reminded Māori that they must lead their emancipation because liberation from white dominance will never come by way of gift or consent conferred by white people. These views received polemic expression in Donna Awatere's *Māori Sovereignty* (1984) which argued that white society was inherently exploitative and dominating and Māori culture inherently egalitarian and that all Pākehā, including the progressive left and liberals, had benefited from the alienation of Māori land and culture (Awatere, 1984).

Awareness among Pākehā grew. Several Pākehā individuals and groups, such as HART, CARE, ACORD and the unions and churches, supported Māori protests and the role of Māori leaders in those struggles. Dr Richard Pelly of St John's Theological College raised funds to support the WAC defendants arrested at Waitangi in 1981 on the basis that their arrest and imprisonment was politically motivated. The multi-denominational National Council of Churches was increasingly uncomfortable with blessing Waitangi Day celebrations which Māori saw as perpetuating racist injustice. In 1983, the Catholic Church called for an inquiry into the issues raised by Māori each Waitangi Day. The Presbyterian Assembly and the Methodist Conference urged their congregations to repent over Waitangi Day. Several Christians joined protesters that year; some prostrated themselves cross-like in front of the police who quickly bundled them into police wagons. The National Council of Churches proposed a moratorium on Waitangi Day observances in 1984.

> In 1981, people from St John's Theological College supported WAC, especially the Reverend George Armstrong and his wife Jocelyn. George and Hone Kā were very influential alongside Mānuka Henare and a few others to get the churches involved. Titewhai Harawira spoke of the particularly good contribution of Reverend Alan Brash. Years later she told Don Brash, who gave a racist anti-Māori speech at Ōrewa in 2004 (see below), that 'Your father would be ashamed of you' (Halkyard-Harawira, 2021).

The Pākehā contribution was important because, while Pākehā could easily dismiss Māori protesters as trouble making haters and wreckers, the same could not be said for obviously well-educated white middle-class Christian leaders speaking out about injustice and white racism. That same year, the Race Relations Conciliator's Office and Human Rights Commission released the Race Against Time report which said

the myth of New Zealand as a multicultural utopia was foundering upon the reality of racism and urged the Crown to do more to meet its obligations under the UN Convention on the Elimination of All Forms of Racism (CERD) (Walker, 2004, pp. 232-234; National Council of Churches, 1983).

Te hīkoi ki Waitangi (1984)

In 1984 the Waitangi Action Committee, the New Zealand Māori Council, the Māori Women's Welfare League, Te Kotahitanga and the Kiingitanga (Māori King Movement) organised a hīkoi to Waitangi to protest Waitangi Day celebrations. Te Hīkoi brought together conservatives and radicals, the old and young, and Māori and non-Māori in the biggest display of unity since the Māori Land March in 1975.

With veteran rights campaigner Eva Rickard leading, the hīkoi departed from Tūrangawaewae Marae after multiple ecumenical blessings from God, via the clergy, and another from ancestors, via Dame Te Atairangikaahu. Over 4,000 protesters gathered at Paihia. Police action prevented them from attending a pre-arranged meeting with Governor-General Sir David Beattie, northern elder Sir James Henare, and the Race Relations Conciliator Hiwi Tūroa. Nevertheless, the hīkoi demonstrated that the government could not ignore the Treaty or divide Māori (Awarau, 1984; Blank, Henare and Williams, 1985).

The decade and a half of protests culminating in the hīkoi had an immediate and ongoing impact. Labour came to power later that year and the following year empowered the Waitangi Tribunal to investigate historical Māori claims dating back to 1840. Tribes and individuals mobilised to lodge claims (Walker, 2004, pp. 253-255).

Te reo Māori also progressed. In 1979, when facing trial over another protest, Dun Mihaka would speak only Māori in court. In 1982, a group of Wainuiomata mothers launched the Kōhanga Reo movement. In 1984, a telephone exchange manager demoted Naida Glavish for greeting toll callers with 'Kia ora'. After a public outcry, the government promptly demoted the manager and promoted Glavish to the international exchange from where 'Kia ora' beamed out to the world. In 1987, the Crown made te reo Māori an official language and inaugurated Te Taurawhiri i Te Reo | The Māori Language Commission to promote the use of the language in government and public arenas. From 1985 onwards, Māori began their own radio stations. New Zealand on Air began funding a network of stations in 1990. Te Māngai Pāho (the Māori Broadcasting Commission) established a permanent Māori radio network in 1993 and in 2004 funded the Māori Television Service (Walker, 2004, pp. 330-337, 369-377).

From 1986 onwards, the Māori Council and tribal leaders launched several largely successful court actions against the Crown over the sale of assets belonging to State Owned Enterprises, such as forests, fisheries, broadcasting, and natural resources. The Treaty found a place, via the Principles of the Treaty, in the State Owned Enterprises Act (1986) and other legislation (Walker, 2004, pp. 262-277).

The Sesquicentennial Celebrations (1990)

If the 1980s protests were about honouring the Treaty, the 1990s were about seeking justice under the Treaty. Between 1987 and 1989, the government had moved the annual Treaty celebrations to low key affairs in Wellington to avoid large-scale protests. Given the importance in 1990 of the sesquicentennial 150th anniversary of the signing of Te Tiriti o Waitangi, the government sensed it could rely on recent Treaty progress. The government decided to return the annual ceremonies to Waitangi after recent progress in legislation, Waitangi Tribunal reports, successful court actions, and supporting te reo. Drawing on an emerging nationalist Māori cultural sentiment, the government sequestered $30 million to construct 20 waka taua and an Aotearoa Māori Arts Festival. The annual ceremonies then returned to Waitangi.

> The Māori Kotahitanga movement responded and on no budget launched Kaupapa Māori waiata-music, with songs like Aotearoa by Black Katz, and Hokianga a Kupe by Chapman whānau (Ngāpuhi); an art exhibition in Tūhoe; and a Māori flag design competition won by Te Kawariki designers Hiraina Marsden, Jan Smith and Linda Munn with Te Kara Māori, also known as the Tino flag or Te Tino Rangatiratanga flag (Halkyard-Harawira, 2021).

With Queen Elizabeth II attending, Waitangi Day was a gala occasion drawing thousands of spectators. Protesters organised by Te Kawariki, a new northern vanguard, were present but not with the numbers of the early-1980s. Anglican Bishop of Aotearoa, Whakahuihui Vercoe, chosen to perform the blessing because of his conservative reputation, surprised officials and protesters alike, with a speech that encapsulated all there was to say about the Treaty. Met by the jeers and chants of the protesters clustered behind a police cordon, Bishop Vercoe stood to speak:

> One hundred and fifty years ago, a compact was signed, a covenant was made between two people. But since the signing of that treaty, you, our partners have marginalized us. You have not honoured the Treaty. The language of this land is yours; the custom is yours, the media by which we tell the world who we are, are yours.
>
> What I have come here for is to renew the ties that made us a nation in 1840. I don't want to debate the Treaty; I don't want to renegotiate the Treaty. I want the Treaty to stand firmly as the unity, the means by which we are made one nation. The Treaty is what we are celebrating. It is what we are trying to establish so that my tino-rangatiratanga is the same as your Kāwanatanga.
>
> And so, I have come to Waitangi to cry for the promises that you made and for the expectations our tūpuna (ancestors) had 150 years ago. And so, I conclude, as I remember the songs of our land, as I remember the history of our land, I weep here on the shores of the Bay of Islands (*New Zealand Herald*, 7 February 1990).

When he finished both protesters and officials were silent.

The Fiscal Envelope (1994)

Encouraged by the relative success of the sesquicentennial, official celebrations remained at Waitangi. An uneasy peace reigned. Meanwhile, tensions were building. Tribes were unhappy with the way the Crown had finalised the Sealord's Fisheries Deal (*New Zealand Herald*, 7 February 1990). The first Treaty settlements over land losses at Ōrākei and Waiheke Island were significantly smaller than the losses and the strict limits on its resources restrained the Waitangi Tribunal (Kelsey, 1990, p. 127).

The bubble burst in 1994, with the release of *Crown Proposals for the Settlement of Treaty of Waitangi Claims*. Colloquially termed the 'Fiscal Envelope', the proposals planned to settle all known and unknown Treaty claims for $1 billion. Apart from Tainui, who were signing the first settlement under the new proposals, Māori opposition was universal, the proposed fiscal limit represented a paltry percentage of Māori losses since 1840.

Te Kawau Mārō, a group of Auckland Māori students were representative of an emerging generation of indigenous protesters steeped in the theory of decolonisation, anti-racism, and wanting self-determination for Māori. They coordinated protests at the University of Auckland, outside the High Court, the Asian Development Conference, and the Commonwealth Heads of Government Meeting, which included making an impromptu presentation of a rangatiratanga flag to Nelson Mandela.

In January 1995, 1,000 delegates to the Hīrangi Hui of the newly formed and Māori funded Tā Hepi Te Heuheu-led Māori Congress, unanimously opposed the 'Fiscal Envelope' as racist and unjust. The National government rejected an offer to meet, describing the Congress as 'misguided'. Tensions boiled over at Waitangi. Tame Iti stomped on the New Zealand flag, showed his bottom, and spat with aplomb in the direction of the Governor-General and Prime Minister Jim Bolger. Police arrested a young Māori woman for throwing a t-shirt to the Queen. Hinewhare Harawira was jailed for spitting at the Queen. Hone Harawira and government official Wira Gardiner wrestled across the marae. Protest flags were hoisted on the Treaty House grounds. The protesters had won an emphatic victory and the National government, like Labour a decade earlier, moved official ceremonies to Government House for the next three years (Walker, 2004, pp. 303-304).

The Crown pressed forward with the Fiscal Envelope holding a series of consultation hui around the country. Māori considered the policy racist and vehemently rejected the proposal. Northern tribes sent a clear message to the Crown cancelling the hui at Mangamuka. At Tauranga, a challenging warrior threw down a copy of the proposal and stomped on

it. During another hui, the document was shredded in front of officials. East Coast leaders presented a gift of blankets to officials symbolising the inequity of colonial-settler land dealings. Tame Iti found the moral high ground atop a ladder in Ōpōtiki speaking down to officials. He also opened a Tūhoe Embassy outside Ruātoki and issued trespass and eviction notices to those living on lands confiscated from the Mataatua tribes and warned that 'Trespassers would be eaten'. At Ōwae marae in Waitara, three hundred mainly young protesters sat motionless wrapped in grey blankets in silent disapproval echoing the dignified display of their ancestors when Parihaka was sacked in 1881. Wira Gardiner who led consultations on behalf of the Crown later lamented his role promoting a package to Māori he agreed was unfair (Walker, 2004, pp. 303-304).

Individual and collective acts of indignation and dissent rippled across the country. The statue of former premier John Ballance was decapitated in Whanganui, Mike Smith chain-sawed the lone pine on One Tree Hill, Benjamin Nathan hammered the America's Cup, and a Colin McCahon painting was removed from the Lake Waikaremoana Visitor Centre. Central to this resistance were a series of land occupations at Whanganui's Pākaitore or Moutoa Gardens (twice), led by Ken Mair (Te Ahi Kaa protest group), Niko Tangaroa and Tariana Tūria. Land occupations included Takahue school in Northland (leading to its destruction by fire) and others in New Plymouth, Whakarewarewa, Huntly, Waikato University, Kaikohe, Helensville, Ōtorohanga, Pātea and Tāmaki Girls College in Auckland. The Pākaitore occupation lasted 79 days. In an act of overt racism, a judge imprisoned Ken Mair, for praying in Court (Gifford, 1995, 1996).

Despite universal rejection from Māori, the government formalised the Fiscal Envelope in a new Office of Treaty Settlements (OTS). Officially abandoned in 1996, in practice, the Envelope remained the guideline against which all settlements were measured, at least until the Central North Island Forestry Settlement in 2008.

In addition to inadequate compensation, a main weakness in the Envelope was how index values allotted to settlements were manipulated to reduce compensation. Landcorp New Zealand held lands, reserved for settlement, in land banks which were indexed to early 1990s Treaty settlement land values. When the value of land parcels began exceeding indexes during the late 1990s property boom, Land Corp began selling them. This led to the 2007 Whenuakite (Coromandel) and Rangiputa (Muriwhenua) land occupations, which coincided with complaints to the Waitangi Tribunal about OTS methods. The settling of land claims in Auckland and Te Arawa left some hapū groups out of the process, so that OTS could meet Crown deadlines. The policy was revised in 2007. In the north, Ngāti Kahu led several campaigns protesting the small percentage value of settlements compared to losses. In 2009, protest leaders, Wikitana and John Junior Popata accosted Prime Minister John Key at Te Tī marae on these issue (*Sunday Star Times*, 18 March 2007; Northern Advocate, 22 March 2007; Waitangi Tribunal, 2007).

Gendered protest (1998 to 2000)

White supremacist racism has different gender dynamics. As Aotearoa entered the new millennium, protests for Treaty justice evolved to include equal rights under Article Three of the Treaty, the doctrine of cultural equality and principles embedded within international human rights instruments. In 1998, Titewhai Harawira objected to Opposition Leader Minister Helen Clark speaking during a pōwhiri at Te Tī marae. Ms Harawira argued that if Māori women could not speak from the paepae, then Ms Clark should not do so either. Ms Clark's view was that Prime Minister Jenny Shipley had spoken on the marae. Māori responded that this was after and not during the pōwhiri. Labour and National reactions were in marked contrast. The Crown returned official ceremonies to Waitangi in 1999 and Ms Harawira and Prime Minister Shipley walked arm-in-arm onto Te Tī marae. Later that year, Ms Clark regained the treasury benches but refused to return to Waitangi in 2000 shifting official observances back to Wellington for the next two years.

Cultural rights (2002)

Two occupations in 2002 made stands on cultural rights. In 2002, northern Māori objected to a proposal to build a new prison at Ngāwhā Springs in Northland after the Crown had prevailed upon the Northland

Regional Council to change its decision, declining resource consent for a proposed prison site. The Department of Corrections built the prison anyway despite the sacredness of the site to Ngāpuhi.

East Coast Mana whenua Ngāi Tāmanuhiri challenged an Overseas Investment Commission decision approving the offshore sale of the historically important ancestral canoe landing site at Te Kurī a Pāoa (Young Nicks Head).

The first case advocated equal consideration of spiritually important Māori sites; the second case argued that land should be returned to tangata whenua to uphold the mana of Māori, and New Zealand history and ownership, rather than be sold offshore (Harris, 2004).

Ōrewa (2004)

The Crown returned official Treaty commemorations to Waitangi in 2003. In January 2004, Opposition National Party Leader Don Brash delivered a divisive speech at Ōrewa aiming to win support for his party by fuelling Pākehā paranoia and racist sentiment against Māori. Brash attacked the "special status of Māori", accused Māori of engaging in a "grievance industry" driven by financial gain, referred to the Māori parliamentary seats as anachronistic, proposed expunging the Principles of the Treaty from legislation, and questioned the validity of Māori identities which, he argued, were diluted by intermarriage. Brash's Orewa speech overlooked that Treaty claims were addressing just one to two per cent of losses while denying the billions of dollars of white advantage and privilege that Pākehā had accrued from generations of stolen land and institutional racism.

Foreshore and Seabed Act (2004), Takutai Moana Act (2011)

The Ōrewa speech had a significant impact on the longstanding debate about Māori ownership of the foreshore and seabed. In 2003, the Court of Appeal overturned assumptions that the foreshore and seabed automatically belonged to the Crown, ruling that Māori could seek customary title through the courts. The Court found that Māori possessed the foreshore and seabed under Aboriginal or Customary Title.

Prime Minister Helen Clark's Labour government, concerned about losing the next election because of Ōrewa and ill-placed Pākehā alarm at losing holiday time beach recreation, launched a pre-emptive strike against Māori rights with the Foreshore and Seabed Act vesting ownership of the foreshore and seabed under the Crown.

The Act allowed Māori to apply for a new limited customary title and granted the same right to Pākehā, which ignored the status of 800 years of Māori ownership. The Act was also racist because it denied Māori equal rights under common law before the Courts. The Foreshore and Seabed Act required Māori to prove an uninterrupted connection with the foreshore and seabed since 1840. This ignored the forced separation of Māori from their takutai moana through successive Crown actions via confiscation, forced sales and public works. The proposal was discriminatory because it did not apply to the 12,500, mainly Pākehā, private titles, and 30 percent of the coastline. Moreover, the Act was high-handed appeasement to white racism by a white government that ignored Māori guarantees that any restoration of Māori titles to the foreshore and seabed would not hinder or impede full public access.

Labour Party MP Tariana Tūria resigned from Labour and formed the Māori Party. In May 2004, a hīkoi began in Northland and arrived at Parliament in Wellington with 50,000 people. Prime Minister Helen Clark described them as "haters and wreckers". The legislation passed later that year with the majority support of the Māori Caucus of the Labour Party, some of whom, tugging their forelocks to racism, argued that this was the best they could achieve (Durie, 2005, pp. 88-135).

The UN Special Rapporteur on Indigenous Peoples and UN Committee on the Elimination of Racial Discrimination (UNCERD) described the Foreshore and Seabed Act as discriminatory under international law (*Sunday Star Times*, 17 October 2010).

Māori abandoned the 80-year Rātana alliance with Labour. Winning five seats in the 2008 election, the Māori Party entered a partnership with the incoming National government. History repeats where lessons remain unlearnt. The partnership passed the Takutai Moana Act (2011) repealing Labour's Foreshore and Seabed legislation. The new Act remained

discriminatory on several grounds. Although restoring access to the courts and requiring the Crown to disprove claims rather than have Māori prove them, the new Act pre-defined customary title in a manner that restricted the court's reference to the principles of domestic and international customary law. The Māori Party argued that this was the best they could achieve under current circumstances. MP Hone Harawira resigned from the party and launched a new hīkoi. Despite majority Māori opposition, only 300 marched in Wellington principally because it is anathema for Māori to march against an injustice perpetrated by other Māori. The Māori Party ejected Mr Harawira who left and formed the Mana Party (*Dominion Post*, 22 March 2011).

The Rangatiratanga flag (2007)

In 2007, a new Māori sovereignty group, Te Ata Tino Toa, unsuccessfully petitioned Transit New Zealand (TNZ) to fly the Rangatiratanga flag on the Auckland Harbour Bridge on Waitangi Day. An official explained that TNZ only flew the flags of sovereign nations. Pundits were quick to point out that TNZ had flown the flag of Team New Zealand America's Cup on the bridge. Many also observed that Australia regularly flew the Aboriginal flag alongside its ensign on Australia Day.

The group adopted an array of tactics lobbying parliament, complaining to the Human Rights Commission, holding an annual 'Fly the Flag' competition, bungee jumping and jamming traffic on the bridge. After consulting with the Māori Party, the incoming 2008 National government allowed the Rangatiratanga flag to fly from the Auckland Harbour Bridge and other official buildings (such as Premier House) on Waitangi Day 2010, symbolising that New Zealand comprises one nation, two peoples and many cultures under an equal Treaty partnership (*New Zealand Herald*, 31 December 2009).

Local body representation (2009)

The Local Government Electoral Amendment Act (2002) asked local bodies to facilitate Māori participation to recognise and respect the Crown's responsibility for the Principles of the Treaty of Waitangi and to maintain and improve opportunities for Māori to contribute to local government decision-making processes.

The provision aimed to facilitate greater Māori representation and participation in local body politics by overcoming hidden prejudice, such as Pākehā reluctance to vote for Māori candidates who are strong advocates for their communities. For instance, after the 2007 local government elections, less than five percent of successful candidates were Māori, despite Māori forming 14 percent of the population.

Pākehā would later leverage another section in the Act allowing public referendums, which allowed five percent of the electorate to sign a petition challenging proposals to establish Māori local body seats. This section was discriminatory as the same did not apply, for instance, to establishing rural wards to increase the representation of mainly Pākehā farming and other communities.

Pākehā resistance, stemming from a reluctance to relinquish monopoly cultural control and share power with Māori, also argued that Māori seats constituted an extra vote for Māori. This is not the case; the measure ensures Māori participation without compromising democracy. Each voter, whether electing mainstream or Māori candidates, has just one vote each.

In 2004, the Bay of Plenty Regional Council inaugurated three Māori seats of the 13 council seats, voted by those on the Māori Electoral Roll. The three seats equated with the region's Māori population of 27.5 per cent. Other local bodies, rather than showing leadership, succumbed to racism by referring to voter referendums where organised racists, systematically aggravating Pākehā fears, voted Māori rights down (Taonui, 2011).

In 2009, the Royal Commission on Auckland Governance recommended the establishment of three elected Māori seats on the new Auckland City Council, two for ngā matā waka urban Māori (80 percent of Auckland's Māori population) and one for mana whenua local Auckland tribes (20 percent). The proposal was reasonable, given that there were no Māori on the Auckland City Council, or Auckland Regional Council, and just 10 Māori representatives of 250 members across all local bodies in the region.

The National government rejected the proposal. A hīkoi of 10,000 marched down Queen Street. Under pressure, the Crown replaced the proposal for three Māori seats by appointing a nine-member Independent Māori Statutory Board to advise the Auckland City Council. A mana whenua committee nominated the nine representatives to be approved by the Minister of Māori Affairs and Cabinet.

Ihumātao (2019) and Operation Eight (2007)

Protests began at Ihumātao in 2019 to regain land confiscated under the Land Settlement Act (1863), under the pretence that the Māori inhabitants were in rebellion (Waitangi Tribunal, 1985, pp. 17–18), were ultimately successful.

Operation Eight and the use of the Terrorism Suppression Act (2002) by Police in the Ngāi Tūhoe settlement of Ruatoki and Taneātua would be later described by the Independent Police Conduct Authority (IPCA) as "unlawful, unjustified and unreasonable" (IPCA Report, May 2013). These events are discussed in more detail in chapter six.

The role of protest

The 1970s protests cried 'not one more acre of Māori land'; 1980s protests said 'Honour the Treaty'; 1990s protests advocated treaty justice; new millennium protests seek equality. All Māori protests oppose colonisation, racism and white supremacy.

Future Māori protest faces many challenges. Māori rights have been contextualised as treaty rights, which detracts from a focus on sovereignty and structural institutionalised racism. To date there has not been a specific hīkoi against either. Some Māori leaders, and Māori and Pākehā Members of Parliament, regularly urge Māori to move on from grievance culture; few ask Pākehā to confront dominant white privilege and racism.

The current renaissance also faces risk from the rise of a new educated Māori middle class that leaves most Māori as a marginalised underclass. Many tribes have low rates of participation; one survey found that 70 percent of Māori felt left out of tribal affairs (Horizon Research Poll, 2011).

Many in the emerging Māori middle class are people of Māori descent, raised in non-Māori settings, who reactivated their identities as part of popular culture during the renaissance. International indigenous identity and tribal level identities rest on self-identity and reciprocal recognition by other Indigenous peoples and tribes. However, individual Māori identity rests solely on self-identification. If the inequalities that existed 50 years ago continued today, many may have chosen not to identify as Māori. Imbued with the advantages of Pākehā culture, and less at risk of primary discrimination by way of colour, some presume positions of leadership based on the same notions of superiority Pākehā have wielded over Māori for 170 years.

The role of Indigenous protest is to remind those wielding settler-colonial racism and power that the oppressed First Nations will not go away, to break down entrenched boundaries, and to allow the exploration of new possibilities. Protest can be a potent force for positive change because it raises the consciousness of the disempowered, the awareness of the silent majority, and can enable people to examine their own prejudice.

Radical protest takes courage and comes at personal cost because it challenges underlying assumptions in a way that can stimulate fear, revulsion, loathing and condemnation. This is constructive because such reactions force those in control to confront issues, without which there would be no debate, and without debate, there would be no change, and without change no progress, and without progress, neither justice nor resolution. The sacrifice of radical Māori activists of many different backgrounds, colours, genders, faiths, abled and disabled has been the single greatest contribution to Māori renaissance and transformative change in race relations in New Zealand society over the past 50 years. Treaty settlements, the revitalisation of te reo, the Principles of the treaty, and greater mutual tolerance by Pākehā and Māori are the fruits of their revolution.


Torpedo7
PROTESTORS

Chapter 4: Mātauranga

The impact of colonisation and racism on education

Chapters 4 to 6 provide an overview of the impact of colonial white supremacist racism on Māori education, health, and the historical over-policing of Māori and the institutional racism of the criminal justice system.

The colonial impact on education

Western Eurocentric education was central to the colonisation of Māori. The consequences and impacts of colonisation, racism and white supremacy upon Māori in education affected hundreds of thousands of Māori across multiple generations for more than 182 years. The colonial education system has been fundamental in undermining Māori self-determination, dismantling Māori culture and society, and eroding the mental health and wellbeing of Māori.

Mission schools

Thomas Kendall opened the first mission school in New Zealand in 1816 (Calman, 2012a). Mission schools were explicitly designed to civilise and decouple Māori from their culture, beginning with conversion to Christianity (ACORD, 1986, p. 1). Colonial racism and white supremacy were the bedrock of this 'civilising mission' ostensibly to uplift Māori from 'barbarism to civilisation', based on notions of European superiority and Māori inferiority (Walker, 2016, p. 20), to exploit their goodwill and labour, seize their lands, and exploit their natural resources for the benefit of a privileged white-settler society.

Māori granted missionaries land, who then set up small farms and taught basic farming skills to young Māori. Boys were taught to make fences and cultivate the land, while girls received instruction on clothes making (Barrington and Beaglehole, 1974, p. 14).

> This early emphasis on manual skills for Māori boys and domestic skills for Māori girls were precursory to the racist education that would follow. Pākehā were to be the leaders of industry and Māori the manual labourers and domestic workers (Ngata, 2021).

The failings of this system were clear. Literacy instruction was in te reo Māori but without a tikanga or kaupapa Māori practice of teaching. Essentially, therefore, the aim was to assimilate Māori into a Christian-British schooling system favouring white people. However, unbeknown to the Pākehā, increasing literacy would lay the seeds for the emergence many generations later of the Kaupapa Māori Advancement and Mātauranga Māori Movement which would push back against racism and assimilation. Early on, many Māori, both adults and children, wanted to attend school to become literate. In 1838, perhaps they foresaw the future. Read also the section on Assimilation. [on p50.]

Their intellectual prowess was noted in the House of Lords in 1838 by Minister John Tawell who noted that Māori pupils were 'as intelligent as any children' with a "power of acquisition… greater than our own" (Tawell in Barrington and Beaglehole, 1974, p. 22).

Church schools

Between 1840 and 1879, the Crown introduced multiple consecutive legislative measures on Māori schooling including the Education Ordinance (1847); the Native Schools Act (1858); the Native Schools Act (1867); and the Native Schools Amendment Act (1871). The cumulative effect of these measures sought to indoctrinate Māori into a way of life centred on the supremacy of British rule, European norms and white privilege:

> Māori were to be the underclass in colonial society. This was the Crown's attempt to reduce us to second-class citizens on our own lands, in front of our own maunga, by our own awa – reduced as a people (Smith, 2021).

Assimilation was central to colonial schooling. The Education Ordinance (1847) provided subsidies for church schools subject to the proviso "that instruction was conducted in English and te reo Māori excluded from the curriculum". The shift away from the mission school approach of teaching in te reo marked the inception of the colonial oppression of te reo.

The overt emphasis on a physically-centred curriculum was designed to prepare Māori for life as a labouring underclass brown proletariat (Walker, 2016, p. 23). As school inspector Henry Taylor remarked in 1862:

> I do not advocate for the Natives under present circumstances a refined education or high mental culture: it would be inconsistent if we take into account the position they are likely to hold for many years to come in the social scale, and inappropriate if we remember that they are better calculated by nature to get their living by manual rather than by mental labour (Calman, 2012b).

Therein were sown the seeds for instituting an education system predicated on channelling Māori towards low-skilled, low-paid menial work for the benefit of Pākehā, regardless of possible detrimental consequences for the wellbeing of Māori (Waikato Tainui, Tokona Te Raki, BERL & The Southern Initiative, 2019, p. 5).

Premised on the purported intellectual inferiority of Māori, the effects of racist Western assimilated education channelled Māori away from academia into domestic, manual or factory labour. This undermined the collective and individual integrity, identity, and the ability of Māori to self-determine their futures.

Native schools

After the cessation of the Wars for Sovereignty, the Native Schools Act (1867) and Native Schools Amendment Act (1871) established Native Schools adding further impetus to the formal entrenchment of a white supremacist assimilationist education system. Native Schools were to bring Māori 'into line' with European 'civilisation' (Timutimu, Simon, and Matthews, 1998, p. 111; Smith and Simon, 1998; Simon and Smith, 2001). A British curriculum (ACORD, 1986, p. 3) was to teach Māori children a range of labour and domestic skillsets (Calman, 2012b) so that by the 1930s "the Māori lad would be a good farmer" and the "Māori girl to be a good farmer's wife" (Office of the Children's Commissioner, New Zealand School Trustees Association, 2018, p. 16).

The suppression of te reo Māori

Located in the pre-Wars of Sovereignty era, when Māori were demographically stronger and rangatiratanga more robust and independent, mission and church schools had tolerated te reo out of necessity because their existence depended on the hospitality of Māori.

> A latent denigration and intolerance of te reo were implicit, real, and fundamental throughout the colonial settler project not only because of racist notions of a superior white culture and inferior Māori culture but also because Europeans believed the cultural and societal dismantling of Māoridom, disguised as the civilising project, was necessary to remould Māori as a new brown proletariat working for the benefit of white privileged colonial society (Taonui, 2021).

The visible expression of this became more overt and explicit as the colonial project progressed in strength and dominance. For example, in 1862, Henry Taylor, the Auckland Inspector of Schools, said:

> The Native language itself is also another obstacle in the way of civilisation, so long as it exists there is a barrier to the free and unrestrained intercourse which ought to exist between the two races, it shuts out the less civilised portion of the population from the benefits which intercourse with the more enlightened would confer (New Perspectives on Race, 1982, p. 1).

The Native Schools Act (1867) increased government control of the country after the 1860s Wars of Sovereignty. The Act moved to suppress te reo Māori through section 21 "No school shall receive any grant unless it is shown... that the English language and the ordinary subjects of primary English education are taught" (ACORD, 1986, p. 2).

Speaking during the debate on the 1867 Act, Member of Parliament Hugh Carleton said:

> Things have now come to pass that it is necessary either to exterminate the Natives or civilise them. Exterminating the Māori would be very expensive and could bankrupt the colony, therefore members should support the Bill to civilise them.
>
> We can never civilise the Māori through the medium of a language [te reo] that is imperfect as a medium of thought. If we attempt it, failure is inevitable; civilisation can only be carried out by a means of a perfect language [English] (New Perspectives on Race, 1982, p. 2; ACORD, 1986, p. 3).

By the early twentieth century, the Act, reinforced by later recommendations and regulations would lead to the exclusion of te reo in both Native Schools and Board of Education public schools, by which time the number of Māori attending each was about the same (New Perspectives on Race, 1982, p. 3).

In 1906, a School Inspector reported that Māori attending boarding schools spoke English in the playground while Māori attending Native schools continued to speak te reo. He impressed upon teachers the need for them "to take every care to impress upon the children the necessity of practising outside the school the lessons they learn within it" (New Perspectives on Race, 1982, p. 3).

The consequence of this was that subsequent generations of Māori students would experience this 'encouragement' as a complete ban on te reo "enforced by corporal punishment, on the speaking of Māori, even in the playground" (Bruce Biggs, 1968, pp. 65-84).

By the mid-1970s, at least half of the Māori interviewed for a study on te reo said they had been physically punished for speaking the language of their ancestors at school (Benton, 1981, p. 46). These policies caused the critical decline in Māori speakers of te reo:

> In 1913 90% of Māori schoolchildren could speak Māori. Forty years later in 1953, this percentage had dropped to 26%. Twenty years after that (1975) the figure had fallen to less than 5% (Waitangi Tribunal, *Te Reo Māori Claim* (Wai 11), 1986, p. 15).

Colonisation had successfully 'othered' te reo Māori me ōna tikanga.

The alienation of Māori identity

Tamariki Māori born and schooled in the early twentieth century were subject to physical and verbal abuse for speaking Māori (Benton, 1981, p. 46).

> Many were tamariki whose language of the home was te reo. As they matured to kaumātua and kuia, they never forgot the punishment inflicted upon them. The loss of te reo inflicted significant psychological disconnect and identity alienation on that generation, their children, grandchildren, and great-grandchildren (Halkyard-Harawira, 2021).

Language loss was one part of a wider cumulative erosion of culture and identity:

> The intentional acts of the settler state to disenfranchise Māori from political power and land was an indirect form of psychological abuse, the trauma of which emerges as identity alienation. Therefore, the colonising environment not only included the traumas of poverty and disease but was also likely compounded by a growing identity alienation (Reid et al, 2017, p. 36).

The systematic erosion of identity is central to the success of colonial oppression:

> The key to any social revolution is for people to identify with the cause or kaupapa. If you undermine a peoples' sense of identity enough, then it's much easier for you to oppress their health, take their children, incarcerate them. Oppressing identity is one of those key aspects that stops people from rising against those injustices (Ngata, 2021).

Denigration of Māori names and identity

The positioning of te reo as abnormal, uncivilised and inferior led to Māori language and identity being marginalised. This extended to the undermining of Mātauranga Māori and tikanga systems and belief systems. A continuing disregard for, and mispronunciation of, Māori names is an ongoing sign of this kind of racism:

> Colonisation pressured change on Māori names. Missionaries influenced Māori to accept Biblical names in te reo rather than authentic ancestral names. Legal processes forced Māori to adopt the first name of one of their parents as their surname.
>
> Pākehā were unconcerned with pronouncing Māori names properly. Doing so was an annoyance. They encouraged Māori to anglicise their names, take up English names or accept nicknames. The surname of a Pākehā parent gave an advantage. Māori men who enlisted in World War 1 often did so under Pākehā versions of their names. Māori went to the Māori Land Court under their Māori name and to other forums under a Pākehā name.
>
> Parents began giving their children Pākehā first names. Nicknames and Pākehā first names helped avoid racism, more so if you are fair, less so if you were brown. There is a frequent indignity where Māori with ingoa (Māori names) politely spell their name immediately after stating what it is; inter-generational colonisation encourages such compliance (Taonui, 2021).

For many Māori students, this is an everyday indignation:

> My name is 'Hoani' and apparently that is too hard to pronounce so teachers just called me, H (Muru-Lanning, 2020).

> When I started at this school, I had a Māori name but none of the teachers could say it. So now I am Tania (Berryman and Eley, 2018, p. 108).

For former chief executive of Te Taura Whiri i te reo Māori, Haami Piripi, it comes down to a matter of respect:

> The reason Pākehā mispronounce the Māori language is because they totally disrespect us, otherwise they would pronounce it correctly, if they respected us, they would. And after what, six, seven generations, we still can't get that respect – that's a real problem (in National Library of New Zealand, 2021; Husband, 2015).

There is a new generation of teachers that try to make a better effort:

> Rangatahi shared how it feels good when their teacher welcomes them in the morning and calls them by their name and pronounces it correctly (Office of the Children's Commissioner and New Zealand School Trustees Association, 2018, p. 21).

Deficit models in education

Deficit models, often framed as 'Māori underachievement', has dominated education since the 1980s (The Southern Initiative, Ministry of Education, The Auckland Co-Design Lab & Innovation Unit, 2020a, p. 17; Hynds and Sheehan, 2010, p. 107).

Ostensibly framed to uplift Māori, deficit models fail because it is assumed the problem lies with, and is inherent to, Māori students, rather than the result of the systemic deficiencies and racism in education. The result is an education system that has 'consistently failed whānau, hapū, and iwi for many generations, and has low expectations for Māori and of Māori achievement' (Office of the Auditor General, 2012, p. 15).

In the classroom, this is expressed in teachers having low expectations of Māori students, creating a downward spiralling, self-fulfilling prophecy of Māori student achievement and failure (Bishop, Berryman, Tiakiwai & Richardson, 2003, p. 204) "irrespective of actual achievement" (The Southern Initiative et al, 2020b, p. 18).

Deficit expectations by teachers via the dominant power relations of racism create low self-expectations in students from the subordinate culture:

> At high school, probably our biggest goal was to go on the Domestic Purposes Benefit and have children. There were no incentives to further yourself. We were not encouraged to achieve anything. It was like our futures were pre-written (Huria, Cuddy, Lacey, Pitama, 2014, p. 367).

This system is highly resistant to change because it is Pākehā who prescribe and assess the measures of Māori performance (The Southern Initiative et al, 2020b, p. 17).

> **Systemic racism in education:** The dispossession of land, coupled with racist education curriculum and language policies, led to intergenerational poverty and hardship (Reid et al, 2017, pp. 36–7). Pākehā teachers thought that inferior Māori needed European education to civilise. "My white history teacher told us we should be grateful NZ was colonised, otherwise Māori would still be savages" (Muru-Lanning, 2020).

And while the education sector conducts regular external and self-review systems it never critiques itself regarding Māori:

> Māori students are expected to thrive in a system that is not aware of its own Pākehā bias (The Southern Initiative et al, 2020b, p. 47).

As former Moerewa School principal Keri Milne-Ihimaera commented, "Our Māori kids are inherently capable, it's the system that doesn't work. We keep doing the same dumb shit in schools and expect different results" (Franks, 2019).

Racism and low expectations of tauira Māori

Low teacher expectations of Māori go hand-in-hand with Pākehā assumptions that tauira Māori (Māori students) are "slow", "unacademic", "thick", and "dumb" (Prasad, 2000, pp. 94–5). Māori are put in the too hard basket, "the effort is too much, they are not worth it, it's useless to even try" (Prasad, 2000, p. 97).

Over the past few years, new research has shown both the extent of these attitudes among teachers and a double standard in how they treat tauira Māori (Māori students) and non-Māori students:

> Because we're Māoris and the teacher might think we're dumb, they don't wanna pay as much attention to us, they focus more on the white peoples (Office of the Children's Commissioner and New Zealand School Trustees Association, 2018, pp. 19–20).

> I am good at maths, but my teacher just thinks I am stupid so never gave me any time except to get me in trouble. But if you are Pākehā it's all good (Office of the Children's Commissioner and New Zealand School Trustees Association, 2018, pp. 19–20).

> It is just pretty much like you must belong to a specific culture to receive fair treatment. If you are a Māori or Islander, then you are pretty much just treated like shit (The Southern Initiative et al, 2020b, p. 39).

Testimony from non-Māori students support these observations:

> Like before the teacher knew how intelligent my Māori friends were, they considered them dumb Māori. But as soon as they showed that they were bright, it was like, oh, you're not really Māori cause your mother is Pākehā. So it's like as long as you showed the stereotype of what a Māori was, it was like you're a Māori, and if you weren't, it was like, 'Oh, well you're not really Māori' (Prasad, 2000, p. 95).

The way teachers treat Māori reveals how many have lower expectations for them:

> Tama felt he was treated 'dumber' than Pākehā children, and commented feeling that, 'Māori were only expected to achieve so much, and never anything more on top of it' (Prasad, 2000, p. 95).

Evidence from students also speaks to direct interpersonal racism from teachers:

> Being Māori. Some teachers are racist. They say bad things about us (Berryman and Eley, 2018, p. 108).
>
> Teachers shame us. They say we're thick, we smell. Our uniforms are paru (dirty). They shame us in class. Put us down. Don't even try to say our names properly. Say things about our whānau (Berryman and Eley, 2018, p. 108).
>
> More recently, Chevron described a teacher at their school known for being openly racist, who 'made a late list specifically for Māori students and called students racist slurs like cannibal, savages, coconuts, pirates or terrorists' (Muru-Lanning, 2020).

> "Our principal said straight-up I don't like brown people" (Ngati Frybread in Muru-Lanning, 2020).

The evidence of Jamie demonstrates that racist teachers often seek to disguise their comments:

> You get teachers every now and then, you know, passing remarks about Māori students, but they say it in a way that you'd think they were joking like 'Oh, you're just a no-hoper', or 'Oh, you're just going to end up at the freezing works or something'. And so, you know, all the other kids would laugh. Only one person ever mentioned the word 'Māori.' Other than that, comments, you know, were directed at a Māori student, but they never said 'Māori' so it wasn't obvious (Prasad, 2000, p. 95).

Tauira Māori push back

There are examples of students pushing back:

> The teacher was telling the class about the story of the Māori, and somewhat eloquently the teacher was explaining the barbaric habits of an old Māori chief. The teacher informed the class he was a murderer and cannibal. Breaking the spell, a small child rose indignantly to protest 'He did nothing of the sort, I know, cause he was my great-grandfather' (*The Press*, 1933).

Internalised racism

Racist shaming of tauira Māori in education causes shame, embarrassment and poor outcomes for Māori. Each event constitutes a micro-aggression often resulting in internalised racism whereby Māori students internalise feelings of alienation, failure and inferiority. As one student described it: It's not good to be Māori. "I didn't learn anything positive at school about my own culture" (Muru-Lanning, 2020).

And another:

> They made me feel like I was different, and they were better. On the first day at intermediate, a teacher said I looked bad so I decided I would live up to that (The Southern Initiative, Ministry of Education & The Auckland Co-Design Lab, 2020a, p. 24).

Until recently, the emphasis on Māori deficits in a Pākehā dominated policy process has silenced Māori. This monopoly also silences histories of settler-colonial violence, and the structural racism of the school system (MacDonald, 2018, p. v).

Inequities for Māori education

The cumulative impact of interpersonal and institutional racism (also see chapter 1 for an earlier discussion on these issues) is a principal cause of the inequities and inequalities Māori endure in education, for example:

> Māori do not remain at schooling as long as other students (Office of the Auditor-General in Berryman and Eley, 2018, p. 106).

> English-medium schooling returns lower achievements rates for Māori, particularly in numeracy, literacy, and science (Udahemuka 2016 in Berryman and Eley, 2018, p. 106; Ministry of Education, 2020, p. 5).

> As of 2019, schools continue to stand down, suspend, expel, and exclude Māori students at a greater rate than any other ethnic group (Education Counts, 2021), and at a rate estimated at 3.4 times higher than for Pākehā (Berryman and Eley, 2018, p. 106).

Te Reo Māori and the Kaupapa Māori education revolution

The eradication of te reo in the Native and Public School systems did not wholly defeat Māori. Some Native Schools with strong community support held out against the ban, particularly in the Waikato and Tūhoe. Most did not do so beyond the 1920s (Smith, 2021).

Māori made other efforts to preserve the language. Most ran into a wall of racism. In the 1930s, the Director of Education refused a proposal to reintroduce te reo Māori into the curriculum, stating that "the natural abandonment of the native tongue involves no loss to the Māori" (Office of the Children's Commissioner and New Zealand School Trustees Association, 2018, p. 16).

After recognising the Māori effort during World War II, the Education Department did include te reo as a subject in School Certificate from 1945 onwards, but as a 'foreign language like French' (ACORD, 1986, p. 5). Considering te reo a 'foreign' language in the land that birthed it was a racist insult from a white society that considered itself superior and the Indigenous peoples of Aotearoa abnormal and alien in their own land (Ngata, 2021).

Māori took a te reo claim to the Waitangi Tribunal. The Tribunal found that the Crown had failed in duty under Te Tiriti to protect the language as a taonga to Māori and that the prioritising of English had done "great harm" to te reo and Māori people (Waitangi Tribunal, 1986, p. 1). They recommended te reo become an official New Zealand language which it did in 1987.

The broader systemic failure of education in serving Māori, and the near-death of te reo Māori, saw the emergence of a revolution in Māori education during the 1980s (Smith, 2003, pp. 6–7). Led by Māori communities, buttressed by Māori philosophies, with curriculum delivery in te reo, Māori education pathways were established from Kōhanga to Kura Kaupapa and Wānanga (Calman, 2012c).

> The educational and schooling revolution that occurred in New Zealand in the 1980s developed out of Māori communities who were so concerned with the loss of Māori language, knowledge and culture that they took matters into their own hands and set up their learning institutions at pre-school, elementary school, secondary school and tertiary levels (Smith, 2003, pp. 6–7).

Kaupapa Māori education is more successful for Māori students than mainstream English medium education:

> Māori school leavers in Māori medium education continue to have higher rates of attainment compared to the rates for Māori school leavers in English medium education. In 2018, the proportion of Māori school leavers in Māori medium education that attained NCEA Level 3 or above was 59% compared to 34% for Māori school leavers in English medium education and 54% for all school leavers (Ministry of Education, 2020).

Kaupapa Māori and continuing racism

Despite the history of success of Kaupapa Māori schools, the schools and students were still subjected to racism. During the 1980s and 1990s, Pākehā communities resisted the development of Kura Kaupapa in their neighbourhoods, suggesting instead that they be built far away, in one instance recommending the school be built near the rubbish dump (Smith, 2021).

Despite nearly 40 years of success, the racism against Kaupapa Māori-led education continues today. Establishing a new Kura Kaupapa is as difficult as it was in the 1980s:

> To set up a new kura is as hard as it was 30 years ago. And I just find that terrible. We were the pioneers, and we did what we had to do. But you can't ask the next generation to do the same thing. An Early Childhood Education service can be set up tomorrow if they do the paperwork. But a Kura Kaupapa Māori has to be a satellite to another kura until the Ministry of Education approves it (Halkyard-Harawira, 2021).

Institutional racism via government education policy, diverts resources from Māori and, in this way, perpetuates inequitable outcomes for Māori, thereby limiting and restricting the full restitution of identity, language, culture and society. Māori potential is risk-managed, thereby confining, constraining and above all controlling the ability of Māori to self-determine our education pathways:

> Kaupapa Māori schooling has never been allowed to fully flourish because the Crown controls both funds and is frightened by the more successful Māori-led competition. We are never really able to express and realise our aspirations to their full potential (Smith, 2021).

Colouring in the white spaces

Colonial racism and white supremacy have been central to Māori experiences of schooling in New Zealand. Dr Ann Milne uses the metaphor of a blank colouring book to describe the whiteness central to New Zealand schooling. Lines determine where colour can go on an otherwise white page, and in the same way, children are socialised into white supremacy by learning to recognise where 'colour' is expected to exist against a norm of whiteness and white values in the education system (Milne, 2017).

This speaks equally to the systemic marginalisation of te reo me te ao Māori in education, and the experiences of racism suffered by Māori students on a day-to-day basis. As ACORD noted nearly 40 years ago, "schools were co-opted for the white supremacist goal of 'civilising' the Māori".

Deficit models have permeated official thinking, with "Māori pupils [considered to have] deficiencies which account for their 'failure'" (ACORD, 1986, p. 6). One hundred and fifty years on from the colonial legislation surrounding education, Māori have yet to receive a formal apology for the psychological and physical abuse inflicted on tīpuna under the guise of education. In the end, the experiences of Māori students today are irrevocably tied to the white supremacist colonial histories of education in New Zealand, and the racism embedded in the education system.

Māori education recommendations

The following secondary recommendations could be further explored and developed within the National Action Plan Against Racism. See Appendix One for the full list.

The government consider the following actions to explore the establishment of a stand-alone Māori Education Authority with the purpose of:

- A Tiriti-based legislative and policy review of education to identify the changes needed to strengthen tino rangatiratanga and enable tangata whenua to regain mana motuhake over the education of tamariki and Māori education systems.
- Strengthening kaupapa Māori education and support traditional wānanga education for Māori.
- Transforming the English medium sector to achieve equal outcomes for Māori learners.
- Advising, guiding, and monitoring the Ministry of Education in the development and implementation of a sector-wide Tiriti-based anti-racism curriculum.
- Advising, guiding, and monitoring the Ministry of Education, Tertiary Education sector and public schools regarding training programmes for educators to understand Māori perspectives of colonisation, white supremacy, and racism, and the impacts on Māori.

Chapter 5: Hauora

The impact of colonisation and racism on health

The colonial impact on Māori health

The undermining of rangatiratanga self-determination, dispossession of land, suppression of te reo Māori, and dismantling of iwi, hapū and whānau has had a devastating cumulative inter-generational impact on the health and wellbeing of Māori.

Epidemics (1769-1840)

Māori life expectancy at the time of James Cook's visits to New Zealand was probably higher than some of the most privileged eighteenth century societies (Pool 2011; Reid et al, 2017, p. 33). Māori did not have infectious diseases such as influenza, measles, cholera, typhus, typhoid fever, bacillary dysentery and smallpox. The population was physically robust and in good health. There was a healthy older Māori population (Lange, 1999, p. 2).

The arrival of Europeans heralded the introduction of diseases for which Māori had no immunity, and decimated the Māori population (Lange, 2018). This caused a 60 percent decline in the Māori population (Lange, 1999, p. 18). One of the first epidemics to befall Māori was the rewharewha, likely to have been influenza or measles. Both diseases decimated Māori society in multiple successive epidemics. In 1827, Māori told the missionaries that they knew the new diseases killing Māori had arrived with the Pākehā ships (Lange, 1999, p. 18).

Social collapse (1840-1900)

Following the dispossession of land, iwi and hapū fell into material poverty and hardship. As Crown and colonial settler society took more land, Māori access to land for growing crops, forests for food gathering and hunting, and critical resources like water, declined. Kāinga moved to the meagre remnants of land. Malnutrition impacting health increased:

> The act of disenfranchisement was an economically and socially abusive act that resulted both directly and indirectly in the traumas of poverty and disease (Reid et al, 2017, p. 33).

The introduction of the Native Land Court led to sittings becoming conduits of disease as iwi congregated in townships and stayed sometimes for months on end in impoverished disease-ridden conditions (Taonui, 2012a).

At this point, Pākehā regarded the extinction of the Māori population as inevitable and considered it the duty of Europeans to "smooth the dying pillow" of the Māori race (Pool and Kukutai, 2018). Rather than recognise the racism of land alienation, and the resulting impoverishment of Māori, as the cause of the declining Māori population, Pākehā instead proposed that Māori were inherently inferior to Europeans. One scientist commented that "the disappearance of the race is scarcely subject for much regret. They are dying out in a quick, easy way, and are being supplanted by a superior race" (Alfred Newman in Pool and Kukutai, Tahu, 2018).

The dispossession of Māori land was directly responsible for the disastrous health outcomes Māori suffered throughout the nineteenth century. This is one of the most formidable, enduring impacts of white supremacy and colonisation upon tangata whenua:

> The period between the wars of the 1860s and the end of the century saw the loss of much of the land, the foundation of Māori subsistence and social cohesion. The result was that most Māori existed on the margins of the New Zealand economy. Their low standard of living had a direct effect on their health. In addition, the lack of cash income meant there was little possibility of capital expenditure or sanitary works, water supplies or housing improvements (Lange, 1999, p. 28).

Deficit thinking in health

The upheaval to Māori society and economic structure, in addition to the passing away of many prohibitions and observances, such as those associated with tapu, meant many safeguards around Māori health were lost. Māori customs around tapu and noa had protected Māori kāinga for centuries. Māori had exacting standards of sanitation and cleanliness. This included separating sick people from healthy people because sick and dying people were tapu. In 1902, when the government began its sanitary campaign, Te Whiti o Rongomai (who established Parihaka) told Māui Pōmare (the first Māori doctor of Western medicine) that the idea of maintaining sanitary environments was nothing new as Māori traditions already possessed a well-established system to keep kāinga clean (Lange, 1999, p. 5).

Despite the prior evidence of Māori wellbeing and highly effective sanitary standards, Pākehā attributed Māori dire health statistics to an inherent dirtiness, drawing attention away from the structural racism of the society that created these realities. The role of Pākehā and the Crown in creating these conditions through colonisation and land alienation was ignored. This is the early onset of colonial amnesia about the constitutive role of colonisation upon the impact on Māori health (Lange 1999, pp. 21-26).

In 1902, Māui Pōmare in frustration, pointed to the social determinants of health, and the structural racism embedded in health outcomes for Māori as the reasons behind these statistics:

> If Pākehās were exposed in the same way as Māoris, they would disappear just as fast and perhaps a little faster. Put the Māori in good healthy surroundings and he will thrive (Lange, 1999, p. 30).

Although the social determinants of health did later become a focus, the racist rhetoric did not change.

Barriers to health care

Access to medical care for Māori was almost non-existent at the turn of the nineteenth century. Protracted exposure to disease, economic destitution through land dispossession, and the lack of knowledge about the causes and spread of illness, eventually became the main causes of Māori morbidity and mortality.

Most Māori lived beyond Pākehā medical services located in towns. Few hospitals were situated in areas with high Māori populations. And although cost-free treatment was a legal entitlement, many hospitals would not admit Māori patients. Hospitals refused to meet their legislated duty of care to Māori (Lange, 1999, pp. 233–4).

For Māori by Māori

In response, Pōmare launched a campaign to build a network of hospitals for and by Māori. These were to be new, culturally specific and innovative, training Māori staff and accommodating Māori patients and whānau. Māori and Pākehā politicians supported the proposal. In a first for New Zealand, Māori contributed money and the land on which the new hospitals would stand. The first Māori hospital was planned for Dargaville and was ready for construction in 1904. All the project required was the final government funding. Despite years of campaigning by Pōmare and James Carroll, government funding never arrived. Not one hospital was built. The Crown's duty to protect the health of Māori was not honoured (Lange, 1999, p. 235).

Influenza pandemic (1918)

The disastrous state of Māori health meant Māori were far more vulnerable to the 1918 Influenza Pandemic than Pākehā. The pandemic (the Spanish flu) killed over 50 million people worldwide, including 9,000 in New Zealand. Māori died at a rate nine times higher than Pākehā (Rice, 2018; Ministry for Culture and Heritage, 2020).

Kāinga across the motu were affected. With a death toll so high, few were well enough to look after the sick or bury the dead. Māori MPs put aside their parliamentary duties to help their people through the pandemic. Pōmare returned to medicine and treated the sick and organised Māori councils to action. Many Māori people turned their homes into a hospital and tended to the sick.

Many Māori parents died. Many babies were orphaned and had to be cared for by wider whānau. In Waikato, for example, Te Puea took personal responsibility for 100 orphaned tamariki. The loss was even more poignant, as it meant tamariki lost access to their whakapapa, reo, customs and mātauranga due to their tīpuna, parents, uncles and aunties dying.

We can now only wonder what difference Pōmare's proposed network of Māori hospitals might have made to those tamariki and whānau and those generations still to come.

Racism and Māori health today

Considerable research has been conducted about the link between racism and health. This makes it clear that racism is "an underlying cause of ethnic health inequalities in Aotearoa New Zealand" (Talamaivao, Harris, Cormak, Paine & King, 2020, p. 55; Human Rights Commission, 2012, p. 18; Harris, Stanley & Cormack, 2018, p. 2).

Māori disproportionately experience racism across the health system (Talamaivao et al, 2020, p. 63). This effect is felt across the sector since Māori patients presenting to the health system, as well as Māori health workers working in the system, experience it. One Māori Registered Nurse reported being patronised by some of her patients, who would "speak slowly and enunciate their words more clearly as if I were stupid and didn't understand them". Another described "two geriatric patients who just didn't want to be attended by me because I was black" (Huria et al, 2014, p. 368).

The feeling of being spoken down to, or thought of somehow being 'less than others', is how Māori have long felt in their engagements with the health system. A collection of Māori experiences in health services shows this (Jansen, Bacal & Crengle, 2008, p. 44):

> Māori feel clinicians think, 'Oh, there they are again, bludgers. No Māori wants to feel as if he's a bludger'.
>
> White medical staff all look at us in that way. They're always asking if you've got a community card. If you are Māori, you get asked if you've got a card. Have you got a community card?
>
> I said to one doctor, 'Would you have been so rude if I was Pākehā?'

Inequities in health outcomes for Māori

For the Waitangi Tribunal in *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (WAI 2575), the Crown's failures in protecting Māori health are irrefutable, exacerbated by inadequate policy and legislative infrastructure (Waitangi Tribunal, 2019, p. 161).

These findings are evident in the inequitable health outcomes for Māori, where:

- Māori, in general, experience reduced healthcare across "primary and pre-primary through to secondary or tertiary [care] services and beyond" (Jansen, Bacal & Crengle, 2008, p. 17).
- Māori "obtain fewer diagnostic tests, less effective treatment plans and are referred for secondary or tertiary procedures at lower rates than non-Māori patients", despite comparable attendance at GP appointments (Jansen and Jansen, 2011, p. 53, in Human Rights Commission, 2012, p. 20). This is also apparent in comparatively low hospitalisation rates for Māori who are highly represented in certain disease categories (Reid and Robson, 2007, p. 7).

- Māori, on average, receive shorter consultations from doctors, "Pākehā doctors typically spend 17 percent less time (2 minutes out of a 12-minute consultation) interviewing Māori than non-Māori" (Houkamau, 2016, p. 127).
- Māori are less likely to receive chemotherapy, and where they do, are likely to experience "a delay of at least eight weeks" (Houkamau, 2016, p. 126).
- Similarly, Māori are likely to experience differential care through "inadequate pain relief during labour and childbirth; and diagnosis and treatment of depression; and diabetes screening and management" (Reid and Robson, 2007, p. 7).
- Māori men are less likely to receive care for cardiac disease (Houkamau, 2016, p. 126), leading to a disproportionate number of Māori dying from cardiovascular disease. Ischaemic heart disease is the principal cause of this, with 40.2 percent for under 65 year old Māori, compared to 10.5 percent for Pākehā (Miner-Williams, 2017, p. 23). Māori men are also more likely to receive poorer quality care for prostate cancer (Houkamau, 2016, p. 127).
- Māori women have "lower breast and cervical cancer screening coverages" (Harris et al, 2018, p. 3).
- Doctors are "less likely to prescribe prophylactic therapy to Māori and Polynesian children with asthma" (see Houkamau, 2016, p. 126) because doctors make "assumptions about the appropriateness of prescribing asthma prophylactic therapy for ethnic minority groups" (Mitchell, 1991, p. 835 in Houkamau, 2016, p. 126) amounting to a form of racial stereotyping and unconscious bias.

These inequities are the result of a white-dominated health system never designed to promote and nurture Māori health and wellbeing. The systemic underfunding of Māori Primary Health Organisations is exemplary of this (Waitangi Tribunal, 2019, p. xiii), where less than 0.1 percent of the $200 billion spent on health since 2012 has gone to supporting Māori patients (Came, O'Sullivan, Kidd & McCreanor, 2020, p. 212).

As the Waitangi Tribunal made clear in WAI 2575, the New Zealand Public Health and Disability Act "simply does not go far enough in ensuring that the whole health system complies with the Treaty" (2019, p. xiii). Similarly, the consistent absence of treaty-specific references in operational documents in the health sector "amounts to a concerning omission of the health sector's Treaty obligations" (Waitangi Tribunal, 2019, p. 162). To properly address these inequities, there is an urgent need to expand Māori health services (Goodyear-Smith and Ashton, 2019). The more Māori health inequities persist, however, the more funding will be required to address these disparities in future (Came et al, 2020, p. 217; see also New Zealand Herald, 2004).

The underinvestment in Māori health is a result of, and intensified by, colonisation and racism. "Colonisation created an environment that's designed to ensure Pākehā power and control at the expense of Māori indigenous rights and good health" (Curtis, 2020). This is seen through institutional racism across the health system, including at the decision-making table. Māori priorities are often excluded from the policy agenda and flawed consultation processes, asking the wrong people the wrong questions, within the wrong timeframes. The policymakers are familiar only with Pākehā models of health lack and cultural competence (Came and Humphries, 2014, pp. 104–5). The Crown's management and administration of public health funding repeatedly disadvantages Māori health providers and patients (Came, 2013, p. 3).

The marginalisation of te ao Māori in the health system

The marginalisation of Māori concepts of health and wellbeing in the health system, similarly, reflects racism and white supremacy. Western understandings of health and medicine remain 'the norm' in our health model, where bio-medical evidence is prioritised at the exclusion of kaupapa Māori concepts of health (Came and Humphries, 2014, pp. 104–5; Came, 2012).

This has seen the criminalisation of Māori health practices through instruments such as the Tohunga

Suppression Act (1907) which removed the centrality of Māori culture to health policy in New Zealand (Came et al, 2020, p. 210). This is demonstrated in non-Māori cynicism, or outright resentment toward learning about Māori concepts of health, often regarded as politically correct nonsense (Houkamau, 2016, p. 128). A 2000 study of psychiatrists' views on improving bicultural training concerning Māori mental health services, highlighted such views:

> I wish master's students would stop sending me crap studies like this, about meaningless, cultural rubbish. Māori only represent about 10 per cent of the population, for God's sake.
>
> I am sick of questionnaires regarding Māori stuff, there are far more important issues than those regarding Māori mental health. Do you really think that psychiatrists need to have an understanding of such concepts like spirituality, come on give me a break (Johnstone and Read, 2000, pp. 141-142).

The assumed norm of western medical knowledge also means that medical or healthcare practice can be, and often is, inconsistent with tikanga Māori. As a Māori Registered Nurse commented, "When I started my general training there was a whole lot of Pākehā structures and so you had to fit the mould and try very hard to squash any wider thinking" (Huria et al, 2014, p. 367).

This side-lining of te ao Māori plays out equally in what language is 'preferred' in hospital and clinical settings. As another nurse remarked, "I brought into the wards Māori names on things like the wharepaku (toilet). I convinced my colleagues to have 'Haere Mai (Welcome to) Ward 3' it was there a month before it got taken down (Huria et al, 2014: 368).

Many Māori nurses experience a comparably higher workload in going the "extra mile" for Māori patients. For them, this is to ensure the provision of culturally appropriate care that may not otherwise be received: "I don't tend to discharge Māori patients, they stay with me forever and I just cart them around. So consequently, I get busier and busier, you don't discharge whānau" (Huria et al, 2014, p. 368).

Elsewhere, the expectation that Māori nurses be responsible for all Māori patients is a *fait accompli*:

> The minute you put your hand up the workload increases by at least a hundred-fold. The minute you say yes I am a Māori health worker within a non-Māori organisation, all the Māori patients that come through are directed to you (Huria et al, 2014: 368).

This is part of the broader pattern of lumping 'everything Māori' onto few, or the only, Māori staff in an organisation. In academia, for example, Māori academics often have to "pull double-shifts" in doing their work as scholars in the academy, and "as unpaid cultural guides for non-Māori colleagues" (*Radio New Zealand*, 2021b).

Māori health recommendations

The following secondary recommendations could be further explored and developed within the National Action Plan Against Racism. See Appendix One for the full list.

The government consider the following actions:

- Following the Waitangi Tribunal, Hauora Report (2019 Wai 2575), last year the government appointed a new national Māori Health Authority | Te Mana Hauora Māori. The Authority took effect on 1 July 2022. The Human Rights Commission made comprehensive recommendations to the Pae Ora Bill and stands behind its recommendations. The submission can be read on the parliament.nz.
- The new Māori Health Authority is properly funded and resourced and gives full effect to Te Tiriti o Waitangi and enabling tino rangatiratanga.
- The principle of equity, which requires the Crown to achieve equitable health outcomes for Māori, must apply in all health legislation, policy documents and action plans.
- Stronger Māori Heath Authority-led monitoring systems be established to properly monitor quantitative and qualitative data on Māori health including reporting by regional health bodies, integrated alongside external Māori-led reviews.

Chapter 6: Manatika

The impact of colonisation and racism in criminal justice

Historical over-policing of Māori

The Sovereignty Wars were the forerunner to the method of policing and justice that exists today in Aotearoa New Zealand. The over-policing of Māori became a racist extension of the Sovereignty Wars designed to break Māori resistance and communities and force them to accept the dominance of the settler-colonial government.

Immediately after Te Tiriti o Waitangi was signed, troops arrived in April 1840 and were instrumental in putting down a 'threatening' Māori crowd in the town of Kororāreka. This event was a first step in the colonial process of forcibly acquiring control over Aotearoa (Hill, 1986, 91).

Ongoing interactions between Māori and the police often concerned the struggle for land and resistance to confiscation. Settlement required a police force willing to suppress Māori by any means, and legislation and policing in the mid-1800s began to focus on the violent suppression of Māori resistance and 'uprisings' (Hill, 2012). This became more of a reality as the settler population exploded and demographically overwhelmed tangata whenua. As Māori resisted legislative mechanisms of land alienation, the Crown used force underpinned by the threat of, or actual, violence to compel its illegitimate claim to sovereign control.

Armed Police Force (1846)

The Armed Police Force was established in 1846 with the express purpose of "conducting armed surveillance" within Māori communities (Hill, 2012). In addition to this purpose, early policing in settler-colonial societies enforced British values as a civilising agent of assimilation (Cunneen and Tauri, 2016, p. 67–8). In this manner, the armed patrols in Aotearoa became the all-pervading presence and power of the state (Hill, 1986, p. 95).

This was the beginning of the historic and continued over-policing of Māori communities. Through the Armed Police Force and its successors, such as the Armed Constabulary, the government enforced settler control of the country, always at the expense of Māori tino rangatiratanga, self-determination and wellbeing.

Parihaka (1881)

In 1879, a forced survey of the Parihaka block was peacefully obstructed by Te Āti Awa. This nonviolent resistance came 40 years before Ghandi's pacifist resistance in India. Several special Acts were passed over the next two years to try to force the people of Parihaka off their land eg, men could be arrested without warrant and could be held without trial.

In 1881, Te Āti Awa prophets Te Whiti-o-Rongoma and Tohu Kākaki led a pacifist community of followers at Parihaka. The kaupapa was peaceful resistance and protest against the Crown's confiscation of land in the Taranaki region (Binney, 2011; Ministry for Culture and Heritage, 2019; Riseborough, 2002). Many Māori, having experienced land dispossession, supported Parihaka and its cause.

The government considered this particularly threatening and responded with force. Native Minister John Bryce had "long wanted to invade Parihaka" (Keenan, 2016), and so over 1500 Armed Constabulary, with huge supplies of ammunition, invaded Parihaka on 5 November 1881. The force was met with 2,000 peacefully seated Māori, singing children, and offers

of water and food. (Riseborough, 2002, p. 172; Binney, 2011).

In less than three weeks, the Police destroyed Parihaka (Scott, 1984, p. 130). The leaders, Te Whiti and Tohu were arrested and held without trial until 1883 (Binney, 2011). Extended detention without charge or trial was a breach of *habeas corpus*, so the Crown passed special legislation to allow for their indefinite imprisonment on the basis of preventing them from doing harm (Binney, 2011; see also Scott, 1984, p. 64).

The government awarded some of the Taranaki confiscated lands, including around Parihaka, to individuals within the constabulary itself, transforming more than a few into landed gentry:

> My great-grandfather and his wife eventually controlled 412 acres of Taranaki land. The three farms they acquired allowed my great-grandparents to transform themselves from poor Irish migrants into settler landowners. This extraordinary economic and social transformation in a single generation was based upon land that the colonial state had taken from other people (Shaw, 2021).

The wider history of the seizure of land and suppression of rangatiratanga Māori in Taranaki disturbingly includes, not only scorched earth tactics and land taking, but also payment for bounties on Māori heads, torture and rape. To prevent these matters from being raised against the Crown, Parliament passed the Indemnity Act (1882) retrospectively granting "immunity from prosecution for any Pākehā who engaged in preserving peace or had committed any 'unexpected act' on the West Coast of Taranaki" (Smith, 2021).

Dick Scott published the first accounts of these atrocities in *The Parihaka Story* in the mid-1950s, the predecessor to his later work, *Ask That Mountain* (Scott, 1984). Fearing that "...sympathy from Pākehā for the struggles of Māori might prolong Māori organisation rather than work towards its disappearance", the Crown actively sought to discredit his work. (Hill, 2009, p. 29). Minister of Māori Affairs, Ernest Corbett, himself a farmer on lands confiscated in Taranaki, instructed the Department of Māori Affairs to find factual errors to discredit the book (Hill, 2009, p. 29):

> This was white supremacy in action; a white man ordering the whitewashing erasure of an act of white violence from which the white man enjoyed a position of white privilege both on the land and in the white government now protected from the non-white gaze of others (Taonui, 2021).

Maungapōhatu (1916)

Huge tracts of Tūhoe's most fertile lands were seized as punishment in 1866 (*New Zealand Gazette*, in Binney, 2009, p. 102). Tūhoe argued the confiscations were punitive, designed both to severely impair their Tūhoe economy, and subjugate Te Urewera to Crown authority (Waitangi Tribunal, 2009, pp. 162–3).

The prophet Rua Kēnana Hepetipa emerged in this context. He established a community of followers at Maungapōhatu promoting Tūhoe self-determination (Binney, Chaplin, and Wallace, 1996; Derby, 2009). Kēnana opposed Crown intrusions into Tūhoe affairs and homeland, especially the government's "aggressive" purchase of land in Te Urewera and under the Urewera District Native Reserve Act (1896), which facilitated an exclusive Crown right to alienate Tūhoe lands (Binney, 2009, pp. 399, 579).

Frustrated at Kēnana blockading government attempts to purchase land , in 1916 the government fabricated a case against him to force an arrest (Binney, 2009, pp. 579–80; Derby, 2009, pp. 76–7). What followed was a massive police assault on Maungapōhatu on 2 April 1916, when 57 armed militia invaded the small community to arrest Kēnana (Derby, 2009, p. 79; Binney, Chaplin & Wallace, 1996, p. 93). In the frenzy that unfolded, Kēnana's son, Toko, was killed by one of the commanding officers and the village was plundered (Binney, 2009, pp. 587–9).

Following his arrest and removal, the Crown forced the wholesale purchase of Tūhoe land. The assault at Maungapōhatu was one of several examples where the government employed over-policing to force injustice and alienation of land on Māori (see Aikman, 2020).

Takaparawhā | Bastion Point (1978)

The Takaparawhā | Bastion Point occupation is an enduring example of the racist deployment of police violence to suppress Māori grievances over the unjust taking of whenua Māori (Harris, 2004). The government took the land at Takaparawhā for national security purposes in 1859, but when no longer required for this purpose, failed to return the land to Ngāti Whātua. In the mid-1970s, the government and Auckland City Council agreed to subdivide the land and sell it for luxury housing. In 1977, the Ōrākei Māori Committee Action Group began a 506-day long occupation of the Ōrākei headland (Harris, 2004, pp. 78-85).

In early 1978, the Crown took an injunction and served eviction notices against four of the protesters. On 25 May 1978, 600 police and army personnel were sent to forcibly remove tangata whenua. The police arrested 222 people and destroyed the settlement (Harris, 2004, pp. 78-85). The use of the huge and disproportionate application of police and military echoed Parihaka and Maungapōhatu and reinforced the lengths the state would take to crush just Māori protests (Aikman, 2021).

Operation Eight and Ruatoki (2007, 2012, 2014)

On 16 January 2005, during a pōwhiri for the Waitangi Tribunal hearing, Tāme Iti fired a shotgun at the New Zealand flag in a re-enactment of the nineteenth century colonial campaigns that had devastated the Urewera Forest. Although filmed by television crews, the police ignored the incident until an ACT Party MP raised the matter in Parliament. Tame Iti was convicted of discharging a firearm in a public place in a dangerous manner. The Court of Appeal subsequently overturned the conviction.

On 15 October 2007, Operation Eight involving 300 police acting under the Terrorism Suppression Act (2002) raided 60 houses across New Zealand, on the basis of unfounded suspicions raised about outdoor camps in the Urewera. The highest profile raids occurred in the Ngāi Tūhoe settlement of Ruatoki and Taneātua where the Armed Offenders Squad set up roadblocks and stopped and searched cars and photographed occupants including children without required consents. The Independent Police Conduct Authority (IPCA) would later describe the roadblocks by Police as "unlawful, unjustified and unreasonable" (IPCA Report, May 2013).

The IPCA report also found Police had exceeded their authority and misinterpreted legislation. The IPCA Chair Judge Sir David Carruthers said while the Commissioner of Police's decision to undertake the operation was reasonable and justified, however:

> Police had no legal basis for stopping and searching vehicles or photographing drivers or passengers. 'The roadblock at Ruatoki and the presence of armed Police officers was intimidating and the report states that there was no assessment of the likely impact of this activity on the local community,' Sir David said (IPCA Media Release, 22 May 2013).

Eighteen people, including Tame Iti, were arrested; they were all supporters of Te Mana Motuhake o Tūhoe and from diverse networks of environmental, anarchist and Māori activism. Forty-one search warrants were executed throughout the country.

The Human Rights Commission received 31 complaints about the police operation. Complaints included the use of the Terrorism Suppression Act 2002, that people were stopped at roadblocks at Ruatoki, cars searched, and people photographed without their consent, and children confined in their homes for several hours, some without food. The Human Rights Commission report stated:

> Our report focuses on the innocent people affected by the operation. These people had done nothing wrong and did not break any laws but had their basic rights trampled. The report does not deal with those people arrested or charged (Human Rights Commission, 2013, pp8-10).

Ngāi Tūhoe sent a 500-person hīkoi to parliament, protesting at what they claimed was police terrorism targeting Māori activists. Police claimed they had uncovered a domestic terrorist plot and a paramilitary training camp deep in the Urewera mountain range.

The raids in the Ruatoki Valley and elsewhere saw 17 people face a total of 291 charges under the Arms Act. Most defendants had their charges dropped when the Court ruled much of the evidence inadmissible.

The 'Urewera Four,' Tāme Iti, Te Rangikaiwhiria Kemara, Urs Signer and Emily Bailey, were convicted on firearms charges in 2012. Iti and Kemara were sentenced to two and a half years jail and Signer and Bailey home detention. None of the four was convicted of terrorism (*Sunday Star Times*, 21 October 2007; Keenan, 2008, pp. 17-34, pp. 129-138; *Stuff News* 14 October 2017).

Hundreds of New Zealanders protested in support of those arrested and affected by the Police raids. Other protests were organised against the Terrorism Suppression Act and Terrorism Suppression Amendment Bill which some saw as an attack on the human rights of New Zealand citizens. The NZ Council of Trade Unions called for the Act's repeal stating it "could be used to suppress political expression".[xiii]

The paramilitary police response was unfortunately repeated in 2012 and 2014. In 2012, the Police deployed the Armed Offenders Squad into Uta, a small village in the valley, to apprehend a single individual. Tear gas was fired into the house, windows were smashed, and bullets fired into cupboards and walls (Te Kaokao a Takapau, 2012, p. 2). Tamariki waiting for a school bus witnessed the AOS surround the area "in their trucks, their guns, their gear" (Aikman, 2019, p. 269).

Similarly, in 2014, the AOS raided a whānau homestead suspected of harbouring a suspect involved in a weapon theft. A helicopter, numerous vehicles, and dozens of AOS officers were used in the raid, terrifying the whānau inside (Aikman, 2019, p. 271).

In both incidents, the police raided incorrect addresses, their information being based on incorrect or incomplete intelligence (Aikman, 2019, pp. 1–2, 270). That they proceeded to raid individual homes with such levels of violence is alarming, and emphasises the "sledgehammer and walnut tactics" that have long characterised police violence towards Tūhoe and Māori (Aikman, 2020).

Together, the raids in 2007, 2012, and 2014 represent examples of a colonial response that assumes Māori are dangerous and threatening, regardless of age. In each instance, the police declined options for mediation that would have de-escalated each situation before they began (Aikman, 2019).

In 2014, the Police Commissioner Mike Bush formally apologised to the Ruatoki community and Ngāi Tūhoe for police actions during the raids. He acknowledged that the mana of the Tūhoe people had been damaged.

In 2012, the government passed the Search and Surveillance Act, which controls how police and some other government agencies search people or property or use surveillance devices for the purpose of investigating crime, and the Video Camera Surveillance Temporary Measures Act 2011 which allows for legalised covert video surveillance by the State.

Ruatoki reminded Tūhoe of the power of white Crown supremacy and Māori suppression. As Prime Minister Joseph Ward firmly told Rua in 1908, "There can be no other Government or king, there can't be two suns shining in the sky at one time" (Binney et al, 1996, p. 38).

Ihumātao (2019)

Other justice-based land issues have also seen over-policing responses. The land at Ihumātao in South Auckland was confiscated under the Land Settlement Act (1863), under the pretence that the Māori inhabitants were in rebellion (Waitangi Tribunal, 1985, pp. 17–18) and their land was sold to settler farmers:

> Applying a scorched earth policy, gunboats, soldiers, and settlers destroyed canoes across the Manukau, looted possessions, raided food stores, burnt houses, and stole and sold Māori livestock. Māori sought shelter from the mayhem where they could or hid in the bush. Tony Simpson wrote that many of the infirm and very young died of exposure and starvation. On the Great South Road, some soldiers allowed Māori columns 'safe passage', others plundered their possessions and livestock. Many Māori were 'captured' and imprisoned without a warrant or charge. More died. Waiohua leader, Ihaka Takanini and 21 others were imprisoned in Ōtāhuhu. There, Ihaka's father and two of his children died. The survivors were transported to Rākino Island where Ihaka would also die. Only his wife, Riria, and one son, Te Wirihana, and four others returned to Pūkaki – Ihumātao. An 1864 report to Parliament found the

> imprisonment of Ihaka and his people wrongful and against the instructions of the Attorney General. As recently as 2011, the Te Ākitai Waiohua Iwi Authority requested the return of the missing 16 bodies. If not in body, then in soul they too were confiscated (Taonui, 9 August 2019).

Under special housing legislation Fletcher Development and the Auckland City Council, without consulting with mana whenua Ngāti Māhuta – Te Ahiwaru, attempted to build a residential project at Ihumātao. Save Our Unique Landscape (SOUL), an organisation comprising the descendants of those who had been evicted from the land many years before, organised direct action and occupation of the site from 2016.

SOUL protested that the land should be returned to mana whenua, given its significant historical-cultural and archaeological significance (Fernandes, 2019) and the grave injustice of the 1860s. In July 2019, SOUL was served eviction notices on the basis they were outside occupiers and not mana whenua. On 5 August 2019, dozens of police were sent to enforce the eviction just before the community's time of prayer (Radio New Zealand, 2019). A five-hour standoff ensued. For SOUL co-founder Pania Newton, "It was very intimidating, I was concerned for the safety of the people" (Radio New Zealand, 2019). Although considered a relatively "peaceful and calm" event by SOUL (Radio New Zealand, 2019) the fundamental error of the evictions and the disproportionate police response was a repeat of the history their ancestors had suffered.

Later, the Kingitanga would confirm that the occupiers were indeed mana whenua. The eventual outcome saw the government purchase the land and initiate ongoing dialogue toward an enduring solution.

Institutional racism in criminal justice

The intergenerational impact of colonisation, racism, white supremacy,nd over-policing the dispossession of Māori lands, and marginalisation of Māori explains the over-representation of Māori in the criminal justice system (Department of Corrections, 2007, p. 4). The imprisonment of Māori has reached a crisis point with the highest-ever number of Māori being caught in the justice pipeline (Te Uepū Hāpai i te Ora, 2019a, p. 2).

The racism of colonial criminal justice

He Whaipaanga Hou (1988) was a pivotal report highlighting Māori experiences of institutional racism in criminal justice. Built on Eurocentric monocultural attitudes, the criminal justice system actively oppressed Māori notions of justice and alienated Māori (Jackson, 1988; see also Webb, 2017: 687).

Colonisation introduced an Anglo-Saxon centred notion of western justice based on the fundamental principle of individual responsibility. This approach minimises the personal and social circumstances of accused persons (Department of Corrections, 2007, p. 38).

This means that the historical social, economic and political marginalisation of Māori, through colonisation, were not considered as factors shaping the overrepresentation of Māori in the criminal justice system (Jackson, 1988; Webb, 2017, p. 688):

> Rather what occurs is that Pākehā racism stereotypes Māori as racially inferior, prone to violence because of a savage cannibalistic heritage, and presumed dishonest and cunning because they are non-white and therefore impure. Consequently, the system assumes they require a white disciplinarian regime to shake out the brownness, that afflicts their core and so eagerly encourages their apprehension and punishment (Taonui, 2021).

The impoverishment and urbanisation of Māori

The urbanisation of Māori brought them in close proximity to Pākehā racism and the criminal justice system:

> Land Alienation marginalised Māori. At the turn of the twentieth century, Māori made up less than five per cent of inmates in prison. Unable to sustain their communities, between 1950 and 1980, Māori urbanised *en masse*. This increased the alienation of Māori, particularly young Māori, from the tikanga support of home marae. Raised in appalling, impoverished conditions, young Māori were further alienated by an education

> and health system that did not accept them. The colonisation of Indigenous youth alongside urbanisation and experiences of alienation and racist policing and sentencing causes prison rates to accelerate exponentially (Taonui, 2021).

Racist profiling

Racial profiling policing leads to more Māori than Pākehā being identified and treated by the police as suspects (Maxwell and Smith, 1998, p. 34). Discretion in decision-making is a core aspect of the criminal justice system (Department of Corrections, 2007, p. 11) and is "pervasive" from the decision to report incidents as a crime, through to prosecution, sentencing and parole (Latu and Lucas, 2008, p. 85).

The wide nature of police discretion, coupled with little transparency over its exercise, brings with it conscious and unconscious racial biases (Kim Workman & Associates Ltd, 1999, p. 14; Latu and Lucas, 2008, p. 87):

> The issue of structural discrimination and ethnic bias runs across the criminal justice sector. The police are at the front end of the system, and particularly vulnerable (Workman, 2011, p. 24).

More recent research by JustSpeak shows significant biases exist against Māori. Māori have reported:

- Being stopped and searched by police on the pretext of criminal suspicion.
- Racist verbal abuse from police.
- Physical abuse from police.
- More frequent strip searches.
- Disrespect for tikanga Māori (JustSpeak, 2020, p. 1; Te Whaiti and Roguski, 1998, p. 2).

One study reported the case of a tamariki Māori being stopped by the police:

> When out on his birthday bike, taking temporary possession of it and inspecting it meticulously in case he had stolen it (Pack, Tuffin & Lyons, 2016, p. 98).

Numerous Māori have also reported the use of violence and intimidation by the police, during arrest and in custody (Kim Workman & Associates Ltd, 1999, p. 12).

Māori perceptions of racist profiling

In 1998, Te Puni Kōkiri and the New Zealand Police commissioned research on Māori perceptions of the police. This research found:

> Participants were unanimous in their perception that the police institution is a racist institution that perpetuates strong anti-Māori attitudes (Te Whaiti, and Roguski, 1998, p. 2).

Māori are aware that 'looking Māori' means the Police are more likely to stop you:

> The police used to stop [my son], and he'd come home, and he'd say to me oh Mum! You know and I'd say what are you late home for? And he'd say oh the police stopped me. What for? Oh, they didn't even tell me. And then he had European friends too, and they were allowed to go (Pack, Tuffin & Lyons, 2016, p. 33).

Māori driving "a 'flash' car" also tend to be stopped by police (James, 2000, p. 16):

> When me and Tipene used to go in the car and that, we were pulled over all the time. I think it was cause like the car and driver and that they could see brown faces in it. Oh, it was just happening all the time. We were getting sick of it. One time they chased us. They said that they saw Tipene's face and thought he knew something. And it was, yeah, it was just ridiculous (Prasad, 2000, p. 117).

In another example:

> In the words of a young 19-year-old Māori that we interviewed recently, "If you look brown you go down" (Johnsen, 2020; see also Workman, 2011, p. 10).

Another study found racial profiling even when the Māori person was the one reporting the crime:

> I remember when I was working at [name of shop] and um we caught some shoplifters. And the police officer walked in, and I said... 'Shall I take you upstairs?' And he goes 'Yes, I'll take you upstairs right now.' And he thought I was the shoplifter! ...I'm pretty sure it's because I was brown. There was another time, I was sitting in the cafeteria, and the police officer walks in and goes 'Oh yeah, this is her is it?', thinking I was the shoplifter waiting (Prasad, 2000, p. 119).

Police perceptions of Māori

Research conducted on police perceptions of Māori, found the police have an "occupational culture" of discriminatory language and behaviour (James, 2000, pp. 8–9). This research report from 1998, found that racist language was common in the police (Maxwell and Smith, 1998, p. vi), as well as stereotypical views of Māori. As some respondents shared in that study (Maxwell and Smith, 1998, p. 11):

- Many long-serving Caucasian police officers have little time for juvenile Māori, or Polynesians, they talk down to them.
- Police are racist and have no tolerance for lower-class ethnic groups. They don't think they deserve to be treated like upper-class offenders.
- The darker races are all treated as second class citizens. The assumption of guilt is worse for Māori.
- There seems to be a stereotyped attitude. If one Māori offends then all are judged as 'typical Māori' or 'what are they claiming now?'

Policing stage

Statistics on Māori imprisonment show:

- In the year ending December 2018, 58.2 percent of males in prison were Māori tane, 4203 of a total of 7224 men. More than 66.2 percent of women in prison were Māori wāhine, 540 of a total of 816. Māori also comprised 67.7 percent of inmates in youth prisons, 189 of 279 youths (Statistics NZ, 2022).
- In the year ending March 2021, the number of Māori imprisoned decreased, but the percentage of Māori in prison increased, 59.7 per cent of the total prison population was Māori, 2979 Māori men of a total of 4983 men. The number of Māori wāhine in prison was 327, which was 73.2 percent (327 wāhine of a total of 447 women). In the youth prison there were 42 Māori youth or 63.6 percent (Statistics NZ, 2022).

Māori are also six times as likely to encounter the police, and are also "more likely to have been handcuffed or pepper-sprayed" (Te Uepū Hāpai i te Ora, 2019b: 45).

These staggering imprisonment figures reflect racism and colonisation considering that in 2021, Māori made up just 17 percent of the population:

> The young Māori man or woman in a prison cell cannot be isolated from the historic profiling of their bodies as inherently or potentially criminal, and the system which incarcerates them cannot be isolated from the space the colonisers have created to define their power to control those who threaten their law and order (Jackson, 2017, p. 11).

The court phase

The racial inequities also play out in the court system where Māori are:

- 4-5 times more likely to be apprehended, prosecuted, and convicted.
- 7.5 times more likely to be given a custodial sentence.
- 11 times more likely to be remanded in custody awaiting trial.
- 3 times more likely to be apprehended for drug offences (especially cannabis-related).
- 6 times more likely to be arrested for violent offences.
- Māori are significantly overrepresented in the remand population (Workman, 2011: 17).

Racism, Māori youth and wāhine Māori

Racism means that in youth justice, where Māori present with typically "less severe" offences, they are nevertheless more likely to be institutionalised into supervised care irrespective of the gravity of the offence (Workman, 2011, pp. 12–23).

In the 1980s, the number of Māori women in prison was under 10 percent (Jackson, 2021a). In 2020, Māori women were the fastest-growing prison population in Aotearoa (George and Ngamu, 2020, p. 242):

> The percentage of Māori men in prison has been much the same since the 80s. But the percentage of Māori women has gone up from less than 10 percent in the 80s, to 64 percent today. Our women are one of the most imprisoned groups in the world. I think there's a direct correlation in that between neoliberalism and the increased poverty and marginalisation that has impacted upon Māori (Jackson, 2021a).

Decolonising prisons

When rangatira Māori signed Te Tiriti in 1840, they did not envision a future where large numbers of their young people, men and women would be incarcerated.

Decolonisation, and constitutional transformation based on Te Tiriti and He Whakaputanga, necessarily involves abolishing prisons (Hurihanganui, 2017). A constitutional framework that embodies rangatiratanga is inconsistent with the mass incarceration of tangata whenua, because prisons themselves are institutions of colonial racism and violence:

> Abolishing prisons and protecting those who have been harmed is a step away from the racism which underpins the colonising society which benefits from it. In itself, that is therefore a de-colonising act (Jackson, 2017, p. 11).

We are challenged to envision a world free of prisons, as they maintain colonial structures and inequities in the disproportionate incarceration of Māori:

> This is particularly urgent for wāhine Māori, because of their comparably higher incarceration rates than tāne, and the fact that Indigenous women are more likely than any other group in the world to be killed and harmed. Diminishing women in a society is an attack upon families for they are so often at the forefront of change (Ngata, 2021).

In a colonising society, prisons are "dedicated to controlling the people it has dispossessed" (Jackson et al, 2016, pp. 2–3) by quarantining its Indigenous peoples (Foucault, 1982, 1980; Aikman, 2019).

Tangata whenua cannot exercise full rangatiratanga when the majority of those in prisons are our whānau and whānau whānui. Co-managing prisons with Māori is also not an option, as "that's not the taumata of prisons" (Snelgar, 2021) and, in such an arrangement, Māori remain incarcerated. Moreover, as *Abolitionist Demands: Toward the End of Prisons in Aotearoa, No Pride in Prisons* has reiterated, "incarceration does nothing to address the underlying issues the person may be experiencing" (No Pride in Prisons, 2016, p. 2). For Māori, these structural issues are based on established histories of institutional and interpersonal racism within the criminal justice system.

No Pride in Prisons details actionable steps toward achieving prison abolition in New Zealand across the short (2016, pp. 63–80), intermediate (pp. 81-88) and long-term futures (pp. 89-96). The report emphasises the need to defund the Department of Corrections (p. 82) and do away with privately run prisons entirely (p. 81). The latter are organisations run for profit, which means private prisons profit from the continued incarceration of Māori.

This terrible situation serves also to "limit the state's responsibility to prisoners and thus its accountability for their treatment" (*No Pride in Prisons*, 2016, p. 81). The report echoes the need for decolonising Aotearoa, in a way imagined by the type of constitutional transformation described here. Funding otherwise spent on incarceration could be redirected towards reconciliation, rehabilitation, and other community-based social initiatives to address the root causes of harm.

Criminal justice recommendations

The following secondary recommendations could be further explored and developed within the National Action Plan Against Racism. See Appendix One.

The government consider the following actions:

- With tino rangatiratanga partners, government develop and implement a comprehensive reform of Aotearoa's justice system with the goal of abolishing prisons by 2040.
- Review legislation relating to the justice system process, including the Sentencing Act (2002), Bail Act (2000), Criminal Procedure Act (2011) and all legislation relating to care and protection, and ensure it reflects Te Tiriti o Waitangi, te ao Māori, and tikanga Māori approaches to justice.
- Establish a Mana Ōrite justice partnership under which Māori and Crown agencies share governance and decision-making at all levels of the justice sector. Tikanga and te ao Māori values to be central to the operation of the justice system.
- A kaupapa Māori-based evaluation of the current youth, specialist and therapeutic courts across Aotearoa is completed. Key learnings and principles from kaupapa models are embedded across the mainstream court process. More specialist courts focused on rangatahi, sexual violence, alcohol and other drug treatment, and family violence courts are established.
- Institutional racism is challenged within the justice system through law changes, more diverse recruitment and effective training in the justice system, as well as anti-racist school programmes and media campaigns.

Chapter 7: Tino rangatiratanga

Māori and human rights statutory bodies and the media

Chapter 7 raises Māori Statutory bodies, the Race Relations Act, the Human Rights Commission, and the historical role of media in racism against Māori and the current housing crisis. These matters were raised in discussions and consultations with Māori while compiling this report and are not as substantial as previous chapters. Nevertheless, each section remains important as a reflection of lived Māori experiences and perspectives on racism in Aotearoa.

Māori affairs

Māori Land Boards and the Department of Native Affairs

The operation of the Native Land Courts established in 1862/1865 created complexities of title, lack of collective access to loan capital, and other problems. Māori owners faced significant difficulties in regaining control of their land. Control then passed to Māori Land Boards, essentially investing decision making in the judge and registrar of Native Land Courts. By the 1950s, the Māori Land Boards controlled the bulk of Māori owned lands and made all decisions on their use (Hill, 2009, p. 29).

Successive governments have been quick to praise Māori in times of crisis and to criticise Māori in times of peace. During World War II, iwi rallied and created the Māori War Effort Organisation (MWEO) which operated independently of the government. The MWEO did many things including recruiting Māori into wartime employment, fundraising and community-based welfare. Iwi ran their affairs autonomously and wanted the government to recognise their self-administration and discipline by replacing the Department of Native Affairs, and Māori Land Boards, with vibrant tribally based committees. These were to operate at community or marae level working with a decentralised new department in charge of Māori Affairs (Hill, 2009, pp. 12-13).

Instead, the government placed the MWEO under the Pākehā-led Department of Native Affairs and government control. In addition to the unjust Pākehā control of Māori land, blatant racism from top officials within the department, who encouraged the disappearance of independent Māori organisations and undermined Māori self-determination (Hill, 2009, p. 29).

The Department of Māori Affairs and the Māori Trustee

In 1945, the government passed the Māori Social and Economic Advancement Act. In 1949, the Crown authorised the improvement of more than a quarter of 'unproductive' Māori land under the Department of Native Affairs and their Pākehā managers. The proposals meant that Māori owners would have to agree in advance to Department of Māori Affairs operational control, meaning they would again surrender control to Pākehā managers before they could be granted developmental aid. For Māori owners, this would mean another protracted delay in the very long struggle to exercise rangatiratanga over their land in a meaningful way, even if they retained ultimate ownership (Marr, 1997; Hill, 2009, p. 30).

In 1950, Apirana Ngata questioned whether the Department of Native Affairs was the best fit to oversee the Act given many within the Department engaged in deliberate obstruction and questioned the appropriateness of Māori projects at every turn. The Department was renamed the Department of Māori Affairs after the passing of the Māori Affairs Act 1954. However, not much changed. Divided into nine regions, Pākehā were the managers of every branch. (Hill, 2009, p. 26).

Much of the newly developed land passed to non-Māori Pākehā lessees on long term tenure where it came under the control of the Office of the Māori Trustee (Māori Trustee). The Māori Trustee, established under the Māori Trustee Act 1953, continues to be appointed by the Māori Land Court to administer Māori freehold land and other assets on behalf of the beneficial owners.

The shift away from the Department of Māori Affairs did not improve the situation. For instance, officials within the Māori Trustee openly stated that they did not 'trust' Māori owners to farm their lands. Institutional racism had become entrenched, and owners had no means to exercise rangatiratanga over their lives and land. (Hill, R, 2009, p. 30).

The Māori Trustee continues to operate in a way that disempowers the ability of Māori owners to exercise rangatiratanga. The Māori Trustee can approve lessees without consulting the owners. Owners do not have an automatic right to receive copies of lease agreements or know how much their land is leased for, and the length of the lease (correspondence from the Māori Trustee, 10 May 2021). While authoring this report, *Maranga Mai!* received submissions that the Māori Trustee Office is difficult to engage with, emails and phone calls go unanswered, and the Office does not make proactive attempts to contact owners or to provide full information when requested.

Race relations

The Race Relations Act (1971) and Race Relations Conciliator

By the 1970s, racism and discrimination against Māori had become obvious, but the denial of racism's impact continued. However, there was a growing recognition in the government of the need to formally incorporate international human rights treaties into domestic law (McGregor, Bell and Wilson, 2015, p. 12). The Race Relations Bill was introduced in 1971 to implement the Convention on the Elimination of All Forms of Racial Discrimination (CERD).

New Zealand signed the CERD on 25 October 1966 and ratified it on 22 November 1972. In its preamble, CERD proclaims the rights of all people to freedom, equality and dignity without distinction of any kind and notes the United Nations' condemnation of "colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist". It requires States "to adopt all necessary measures for speedily eliminating racial discrimination in all its forms, and to prevent and combat racist doctrines and practices in order to promote understanding between races". Racial discrimination is defined in CERD as:

> any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. (Article 1 (1))

The Race Relations Act (1971) prohibited discrimination on the grounds of colour, race, or ethnic or national origin (sections 3 to 6). The Act engendered much debate amongst Māori. Many were concerned that it might become an attempt to disestablish the Department of Māori Affairs, and other Māori agencies, to further the goal of assimilation (O'Malley, 2012). The concerns of Māori were exacerbated by comments from the first Race Relations Conciliator appointed under the Act denying what Māori thought were key aspects of the racism that existed:

> The expression 'white racism' and 'white institutional racism' have also been used with reference to the New Zealand scene. I think this is a mistake. I think there is no or little racist intent in New Zealand, either among the citizens or in the way of life (Salient, 1974, p. 13).

In this climate, Māori continued to advocate for the Treaty of Waitangi to be officially recognised. The Māori Council's 1971 manifesto, argued:

> The Race Relations Act could be a charter of human relations at least as inspiring as the first Race Relations Bill, the Treaty of Waitangi. The Māori people still seek legal recognition of that treaty, and a comparison of its intentions with those of the Bill under review would show that the parallels are in fact close (Pei Te Hurunui Jones in O'Malley, 2012).

The Waitangi Tribunal and Treaty Settlements policy

The Treaty of Waitangi Act (1975) established the Waitangi Tribunal. At first, the Tribunal could only hear claims on contemporary issues. This changed in 1985 when the Tribunal was granted retrospective powers to investigate historical breaches from the date of the signing of the Treaty of Waitangi. The Tribunal's membership was increased to seven, and from the late 1980s acquired a dedicated research and administrative staff (Waitangi Tribunal, 2021, p. 5). The Crown has retained full control over the treaty settlement process and the Tribunal's findings are not binding on the government (Came, 2012).

The Treaty settlements policy and process was unilaterally imposed on tangata whenua, despite their vehement opposition. The result has been unjust settlements which have returned less than one per cent of whenua Māori lands, and more importantly, have not substantially increased the overall proportion of Māori owned land which still hovers around five percent.

The government could consider strengthening the levers to ensure that the recommendations of the Waitangi Tribunal to the Crown and local government are taken seriously and actioned. The Tribunal should also be enabled to investigate claims on private land, where such land is under the control of the Crown and Local Government, and which is being 'freed up' for sale and development.

Te Kāhui Tika Tangata | the Human Rights Commission

Te Kāhui Tika Tangata | the Human Rights Commission (the Commission) was established under the Human Rights Commission Act 1977 and operates under the Human Rights Act 1993, which provides better protection of human rights in New Zealand in general accordance with United Nations Covenants or Conventions on Human Rights. The Commission can receive complaints of discrimination and provide dispute resolution services. The Commission has an 'A' status accreditation enabling it to highlight human rights issues of concern, and hold the government accountable at the United Nations Human Rights Council and human rights treaty bodies.

The Human Rights Amendment Act (2001) saw the role of the Race Relations Conciliator replaced by the establishment of a new Race Relations Commissioner, one of four full-time lead Commissioners with the Commission. Concern was expressed at the time that the merger would dilute the race relations role.

The 2001 Amendment Act provided for the Commission to "promote ... a better understanding of the human rights dimensions of the Treaty of Waitangi" and for Commissioners to have knowledge or experience in the Treaty of Waitangi and rights of Indigenous peoples. These are the only references to the Treaty in the legislation. The overall effect of the 2001 changes and subsequent amendments, that have limited the number of Commissioners, has been to shift resources away from the Race Relations and other portfolios towards other human rights areas.

In 2015, the Commission committed to becoming a Tiriti-based organisation, with strong progress made particularly over the past two years of the journey. The Commission acknowledges that changes to the Human Rights Act are needed to enable the Commission to give full effect to becoming a Tiriti-based Commission.

There has been no Indigenous Rights Commissioner since 2017. The Chief Commissioner has since 2019, led efforts to secure this appointment. This report recommends government urgently appoint a full time, permanent Indigenous Rights Commissioner, filling the current Commissioner vacancy, and thereby strengthening the capacity of the Commission to fulfil its strategic role to uphold domestic and international human rights, and honour Te Tiriti o Waitangi and the human and Indigenous rights of tangata whenua Māori.

The establishment of an Indigenous Rights Commission is also recommended for exploration by the government, with a key function of advancing the NAPAR; developing and delivering a decolonisation and anti-racism strategy to assist the further

elimination of racism in central and local government and civil society; and supporting the Truth, Reconciliation and Justice Commission.

As the previous and only Indigenous Rights Commissioner said:

> An Indigenous Rights Commissioner would be a critical independent voice in advocating for the rights of tangata whenua laid out in Te Tiriti o Waitangi, the founding human rights document of Aotearoa New Zealand (Johansen, Karen, in Angeloni, A. 2021).

This appointment, and a new Commission, would address the clear evidence of racism and white supremacy in Aotearoa – and that these are real and present threats that deserve the strengthened focus.

The historical role of media in racism

The media has played a role in perpetuating racist vitriol against Māori. The first Māori language newspapers, which were published by the New Zealand Government, carried an express purpose of assimilating Māori into the superior ways of white settlers (McRae, Jane, 2014).

The media industry continues to be tethered to its colonial underpinnings (Nairn et al, 2006). We do not attempt to outline the evidence of racism in the media here because it would be too long and there are many Māori commentators with direct media experience to listen to, such as the Whanganui iwi leader Ken Mair (Mair, 2020).

Instead, we refer to one media outlet, Stuff (formerly owned by Fairfax NZ) which owns nine daily newspapers. On 30 November 2020, Stuff took steps to acknowledge the part it had played in its portrayal of Māori and apologised. In his introduction to their investigation into racism in Aotearoa, Stuff's Editorial Director, Mark Stevens, reflected on Stuff's role as a powerful influencer in perpetuating racism against Māori as part of the media history in Aotearoa.

> Our coverage of Māori issues over the past 160 years ranged from racist to blinkered. Seldom was it fair or balanced in terms of representing Māori (Mitchell, 2020).

An example of this type of coverage includes modern-day reporting about Māori and numerous news articles about child abuse. As recently as 2018, Stuff ran a child victim toll (Stuff, 2018) which it stated was the first and only known database of its kind in Aotearoa. The toll recorded hundreds of children who have died because of abuse, neglect or maltreatment since 1992. The articles often reported the identity of the tamariki and the trauma they went through, sometimes depicted in graphic detail. Their right to privacy and the privacy of their whānau is not mentioned.

Also worth noting is that, when child abuse victims and perpetrators are Pākehā, the Police approach and media reporting can be more sympathetic to the privacy of the perpetrator and victims and wider whānau (see Mitchell, C. 2020). For example, the recent Tīmaru tragedy:

> Police are still working to notify all next of kin, and for that reason - and to protect the privacy of those impacted by this tragedy - at this stage, we will not be releasing further details regarding the victims (Detective Inspector Scott Anderson, in Leask, 2021).

Pākehā crime is still considered an anomaly, particularly crimes against children. After years of biased reporting, the face of child abuse in the public's consciousness is Māori. This has not changed and has expanded to include Māori as lazy, beneficiaries, bludgers, drunks and drug pushers. (Mitchell, C. 2020).

Another contrast in the treatment of Māori, as compared to non-Māori, is around the subject of state abuse. It took a Māori whānau to be followed by a camera crew when their child was removed by Oranga Tamariki, before the media and the government finally questioned whether Māori are being unfairly targeted and stigmatised (Reid, 2019). Stuff finally acknowledged its part in framing child abuse as a Māori issue, admitted that its coverage of child abuse pandered to the largely Pākehā readership, and concluded that their reporting was racist (Mitchell, C. 2020).

Racist reporting over more than 100 years has resulted in many Pākehā and Māori internalising stereotypes about Māori as violent criminals. Media is shown to trivialise or vilify Māori and under-represent their positive achievements, which subtly supports a

Pākehā right to rule (Nairn, Pega, McCreanor, Rankine & Barnes, 2006). Even if Māori reject those stereotypes, the repeated negative depictions of Māori in the media cause many to hold a collective breath whenever a crime is reported because of the "worry amongst Māori that high profile [bad] news stories would be about a Māori person" (Smith et al, 2021, p. 10).

Māori Trustee recommendations

The following secondary recommendations could be further explored and developed within the National Action Plan Against Racism (NAPAR). See Appendix One for the full list.

The Ministry of Justice and the Minister of Māori Development, in the short term, consider directing the Māori Trustee to take the following actions:

- Update its records of owners and trustees in a timely manner.
- With local government, conduct comprehensive surveys and assessments of the state of all Māori land blocks under its trusteeship, including the infrastructure to service the land blocks and the state of the structures on the land.
- Provide market valuations on all Māori land blocks in its trusteeship.
- Develop situation reports and assessments and share these with the owners.

Human rights recommendations

The following secondary recommendations for actioning could be further explored and developed within the NAPAR. See Appendix One for the full list.

The government consider the following actions:

- Give full effect to Te Tiriti o Waitangi (Te Reo Māori text) throughout the Human Rights Act 1993. This includes all institutional arrangements for the Commission.
- Include via preambulatory paragraphs definitions of racism, institutional racism, and white supremacy within the Act.
- Add a primary function of the Commission to promote and protect the Indigenous and human rights of tangata whenua under Te Tiriti o Waitangi and the United Nations Declaration on the Rights of Indigenous Peoples.

Chapter 8: Mana Motuhake
Constitutional transformation

This chapter details the constitutional steps Aotearoa needs to take in redressing the racist oppression of Māori.

Overview

Te Tiriti o Waitangi (Te Tiriti) did not cede sovereignty from rangatira Māori to the Crown in 1840. Te Tiriti was an agreement to "share power and authority with the Governor", in which the Crown and Māori existed and operated within different "spheres of influence" (Waitangi Tribunal, 2014, pp. 526–7). Privileging the English version, and ignoring what rangatira agreed in te Tiriti, has led to the wholesale erosion and undermining of Māori self-determination and ways of being across the nineteenth, twentieth, and twenty-first centuries. It remains the Crown's most serious breach of Te Tiriti.

To address this fundamental disruption to tino rangatiratanga, our interviewees were clear: constitutional transformation and co-governance, based on He Whakaputanga o Te Rangatiratanga o Nu Tireni | Declaration of Independence and Te Tiriti, is needed. As echoed in *Matike Mai Aotearoa*:

> **Addressing the breach of the Crown's promises and finally honouring Te Tiriti is perhaps the most important reason for seeking constitutional transformation (Independent Working Group on Constitutional Transformation, 2018, p. 101).**

Such transformation is the only way to genuinely redress the damage and disempowerment wrought by colonisation (Independent Working Group on Constitutional Transformation, 2018, pp. 101, 26) because the current constitutional configuration centred on parliamentary sovereignty is premised on the dispossession of Māori lands and livelihoods (Aikman, 2019). In the end:

> **A full and final 'settling' of colonisation should mean more than a cash payment and even an apology. It requires a transformative shift in thinking to properly establish the constitutional relationship that Te Tiriti intended by restoring the authority that was once exercised through mana and rangatiratanga (Independent Working Group on Constitutional Transformation, 2018, p. 29).**

This has long been a conversation in te ao Māori, with *Matike Mai Aotearoa* and, more recently, *He Puapua: Report of the Working Group on a Plan to Realise the UN Declaration on the Rights of Indigenous Peoples in Aotearoa/New Zealand*, articulating a vision of what these constitutional arrangements might look like (see Charters, Kingdon-Bebb, Ormsby, Owen, Pryor, Ruru, Solomon & Williams, 2019; Independent Working Group on Constitutional Transformation, 2018).

Principles of reconciliation

For the Truth and Reconciliation Commission of Canada, a flourishing Canadian society must be grounded in reconciliation, to achieve the kind of fundamental shift envisioned in constitutional transformation. Their report details 10 principles that articulate this vision (Truth and Reconciliation Commission of Canada, 2015, pp. 3–4).

In imagining an equitable, anti-racist future for Aotearoa, these principles, together resonate with much of what was shared by our interviewees in the desire for constitutional transformation. The principles have been modified for the Aotearoa context, as guides for shaping this future:

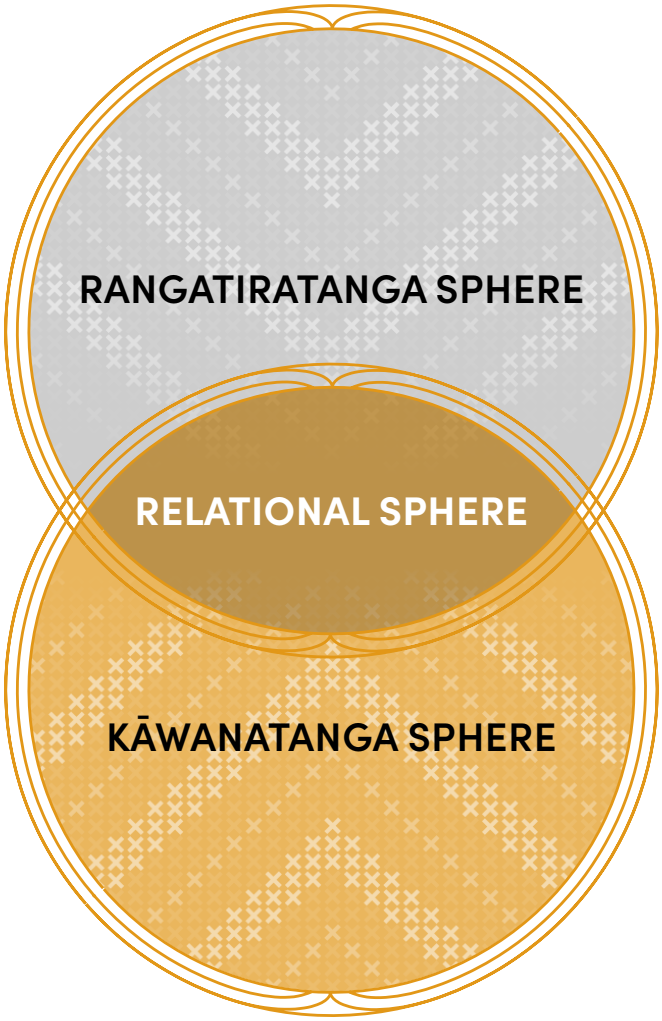
1. The United Nations Declaration on the Rights of Indigenous Peoples is the framework for reconciliation at all levels and across all sectors of society in Aotearoa.

2. Māori, as tangata whenua, and as self-determining peoples, have Tiriti o Waitangi-based constitutional and human rights that must be recognised and respected.
3. Reconciliation is a process of healing relationships that requires public truth sharing, apology and commemoration that acknowledge and redress past harm.
4. Reconciliation requires constructive action on addressing the ongoing legacies of colonialism that have had destructive impacts on Māori peoples' education, cultures and language, health, child welfare, the administration of justice, and economic opportunities and prosperity.
5. Reconciliation must create a more equitable and inclusive society by closing the gaps in social, health, and economic outcomes that exist between Māori and non-Māori.
6. All tangata tiriti, including Pākehā, Pacific Peoples, and other immigrants, share responsibility for establishing and maintaining mutually beneficial relationships.
7. The perspectives and understandings of kuia and kaumātua, as bridges between the past and present, are vital to long-term reconciliation.
8. Supporting the revitalisation and maintenance of Māori culture, including tikanga, te reo and mātauranga Māori, is essential to reconciliation.
9. Reconciliation requires political will, partnership, trust-building, accountability, transparency, as well as the investment of resources.
10. Reconciliation requires sustained public education and discussion, including youth engagement about the role of colonisation, racism, and white supremacy in Aotearoa, and the intergenerational effects of this for Māori (adapted from Truth and Reconciliation Commission of Canada, 2015, pp. 3–4).

Given the centrality of the UN Declaration of the Rights of Indigenous Peoples (UNDRIP) to this vision, we suggest it be given full effect in law and formally included as part of the constitutional framework of Aotearoa.

A Tiriti-based constitution

These principles of reconciliation would underpin a Tiriti-based constitution and co-governance. Matike Mai Aotearoa offered six possible constitutional configurations in this manner, which give effect to the relationship between rangatiratanga and kāwanatanga as laid out in Te Tiriti (Independent Working Group on Constitutional Transformation, 2018, pp. 104–111). The possible models set out the separate 'spheres of influence' of the Crown and Māori in everyday life, with each having the power to determine how affairs are respectively governed and managed in their own domains. The majority of models detail a third 'relational sphere', as a site of joint and shared governance between Māori and the Crown "over issues of mutual concern" (Charters et al, 2019, p. 11). This tricameral arrangement is presented below:



The kāwanatanga sphere would continue to source its power in its history of Westminster sovereignty, but it would no longer be the dominating power that is arrogant in its indivisibility and unchallengeability (Independent Working Group on Constitutional Transformation, 2018, p. 112).

For Māori, the rangatiratanga sphere would be:

> Exercised as an absolute authority in our sphere of influence because it has always been absolutely our power to define, protect and decide what was in the best interests of our people. As a taonga handed down from the tīpuna it could flourish by being sensitive once more to all of the relationships and tikanga that have shaped it in this place (Independent Working Group on Constitutional Transformation, 2018, p. 112).

This would mean that Māori can "make decisions over our resources and our own lives" (Ngata, 2021) which would look like "Māori having the freedom to actually realise our potentials; to develop, and not be hindered" (Smith, 2021).

Lastly, the joint sphere is an amalgamation of rangatiratanga and kāwanatanga together, as an "intersection of Articles 1 and 2, with an overlay of Article 3" (Charters et al, 2019, p. 11).

In developing a roadmap to realising the UNDRIP, *He Puapua* adopts this tricameral model as a basis for fulfilling this objective. *He Puapua* is anchored by Vision 2040, which asserts:

> That by 2040 rangatiratanga Māori is realised, Māori and the Crown enjoy a harmonious and constructive relationship and work together to restore and uphold the wellbeing of ngā tangata, Papatūānuku and the natural environment (Charters et al, 2019, p. vi).

The report details the path towards Vision 2040, across the themes of rangatiratanga; participation in Kāwanatanga Karauna; lands, territories and resources; culture; and equity (Charters et al, 2019, pp. iv–v). Constitutional transformation is needed to achieve this, as at present the kāwanatanga sphere overwhelmingly dominates the rangatiratanga sphere, with little joint collaboration. This change cannot come soon enough:

> I urge that we do not wait for 2040, the 200th anniversary of Te Tiriti [for] constitutional transformation. There needs to be a rigorous education and information programme over the next five years about lawful and human rights that tangata whenua are entitled to (Halkyard-Harawira, 2021).

Decolonisation: reclaiming power

Constitutional transformation is about reclaiming the power wrestled from Māori during colonisation. This is pivotal in decolonising the white supremacist power structures that continue to underpin society in Aotearoa (Jackson, 2021a). Citing the renowned American abolitionist, Frederick Douglass, he emphasises that of necessity, this entails a challenge to, and critique of power, "because power still resides with the Crown" (Jackson, 2021a). As Douglass professed over 160 years ago, there must be an insistent demand for change:

> If there is no struggle, there is no progress. Power concedes nothing without a demand. It never has and it never will. Find out just what a people will submit to, and you have found out the exact amount of injustice and wrong which will be imposed upon them, and these will continue till they are resisted with either words or blows or with both. The limits of tyrants are prescribed by the endurance of those whom they oppress (Douglass, 1857).

This unreserved insistence is important because "you can't expect the state to want to dismantle itself" (Ngata, 2021).

Decolonising colonisation

"Settling colonisation means deconstructing those lies, that if we did not give our right away to make decisions, then we have the right and authority, and I would suggest the obligation, to talk about how we reclaim it and make those decisions again" (Jackson, Brown-Davis, & Sykes, 2016, p. 5).

Further, the exercise of power must be on Māori terms, outside of the strictures of colonial institutions. As such, this "won't be done through prisons or state welfare homes, because in the end, you only address those things by addressing the power that sustains them" (Jackson, 2021a).

At its essence, this is an articulation of self-determination that must be championed, and accompanied by histories as told from Māori perspectives:

> We have our self-determination from our tīpuna as seen in spaces such as Kura Kaupapa and Kōhanga Reo. We need to exercise that self-determination, to speak our truth. You need truth forums! And if the coloniser isn't going to provide it, then we must create our own truth forums. We can create them at our kura, on our marae, and we have our own radio and media. Using what we have and what our tīpuna have fought for, we must use it to maintain our truth forums in our history, while we work towards full self-determination in that space (Ngata, 2021).

Speaking truth to power in this manner, however, does not invalidate the right of Pākehā to be and exist in Aotearoa. The vision encapsulated by Te Tiriti involves Pākehā by its very nature. Yet Pākehā anxiety around talk of constitutional transformation is inevitable, because of the existential implications this entails. There is also a "very palpable fear" from Māori that conversations around this "might provoke a Pākehā backlash" (Independent Working Group on Constitutional Transformation, 2018, p. 28):

> To reclaim power for Māori does not mean dising Pākehā as Pākehā. I think one of the unspoken fears of a lot of Pākehā, is that we will do to them what they have done to us. But the Treaty does not allow us to do that. For me, the Māori way of constitutional order is based on whakapapa. And so, it does not expect or demand the mistreatment of others, because others have whakapapa as well. Part of the change is for Pākehā to learn to accept that. The possibility that there can be a Treaty-based society in which the Crown can exercise authority in its sphere of influence, [and] that we can exercise authority in ours, but acknowledge there are relational spheres where we have to come together to make a decision, is what I think the Treaty envisioned (Jackson, 2021a).

The tricameral model espoused in *Matike Mai Aotearoa* and adopted by *He Puapua* is grounded upon this. Further, while Pākehā are not tangata whenua nor indigenous to Aotearoa, their whakapapa, within the context of Te Tiriti, "does give a special meaning to being tangata tiriti and therefore belonging to this land" (Independent Working Group on Constitutional Transformation, 2018, p. 83). Indeed:

> Te Tiriti never intended us to be 'one people' as Governor Hobson proclaimed in 1840 but it did envisage a constitutional relationship where everyone could have a place in this land (Independent Working Group on Constitutional Transformation, 2018, p. 112).

Obstacles to constitutional transformation

Several barriers stand in the way of fully realising constitutional transformation. The first of these is the inevitable safeguarding of the settler-colonial status quo and the economic privilege that has flowed from that for generations at the expense of Māori. The economic implications of constitutional transformation and addressing racism are significant, because "Many Pākehā won't oppose racism if it means giving land back and supporting constitutional reform" (Ngata, 2021).

Related to this is our collective inability in Aotearoa to talk openly, frankly and critically about the role of colonisation, race and racism, white supremacy, and white privilege in society today. There is a general lack of acceptance "that race exists". Nevertheless, to progress as a country "we need to name it and stop excusing it" (Smith, 2021; Snelgar, 2021).

This has flow-on effects for what is taught at schools in Aotearoa, and what narratives and 'taken-for-granted' assumptions are socialised therein.

In a similar vein, the state's promotion of the 'performative' and 'decorative' aspects of Māori culture (Husband, 2020), for example, using Māori greetings and adopting Māori names for organisations, is itself an obstacle to constitutional transformation. This is not to discount the positive

impact of 'seeing and hearing' tikanga and te reo more prominently in society, but is rather a comment on how this masks the inequities that endure beneath this decorative exterior:

> Our culture takes on this performative function that masks inequities, power relations, and racism. And Māori people buy into that because they feel flattered, but they don't see we're being distracted from the tino rangatiratanga argument and losing focus with the cultural revitalisation. If we're not critical about this, auare ake. A lot of leadership is completely distracted by things like reo revitalisation but while we're doing all of that, behind us, racism just flourishes (Smith, 2021).

These performative aspects in no way challenge the core issue of Crown sovereignty, nor provide for the exercise of rangatiratanga Māori as enshrined in Te Tiriti. The Crown's willing and active support to 'use more te reo' and 'have karakia at hui' is a fatal distraction from this:

> It is not okay to name a prison Korowai Manaaki. It's not enough to open meetings with a karakia as a way to honour the Treaty relationship. It's not okay to open new shopping centres with a whakatau but then exclude Black Lives Matters protesters. It's not enough to start and end your emails with Māori words if that's the sum total of your Treaty commitment. What we need instead is a commitment to significant change; a commitment to transformation (Snelgar, 2020).

Similarly:

> The colonial project will allow and even promote the revitalisation of cultural expressions like kapa haka but will prohibit the revitalisation of self-determination. It doesn't allow Māori to reclaim the right to govern ourselves. And if you deny a people that, then you deny a people a right to be free (Jackson, 2021a).
>
> Unless negative stats come down, we've just coloured in the white space but haven't changed anything" (Halkyard-Harawira, 2021).

An anti-racist agenda going forward

The final topic of discussion with our interviewees concerned what tangible actions we can take right now in working towards an antiracist future and constitutional transformation.

For Professor Tuhiwai-Smith, an anti-racism agenda needs to be implemented society-wide, from the Crown through to civil society (churches, community groups, sports clubs, and the like). Such an agenda would include "clear, unambiguous statements from the Crown that it will not tolerate racism. We need these opening shots even though they may be symbolic" (Smith, 2021).

A recent example of this in practice is the Broadcasting Standards Authority's proclamation that the use of te reo in broadcasting "is not in breach of broadcasting standards", and that it will no longer hear complaints about this in future (Radio New Zealand, 2021c):

> This includes having open and frank discussions about racism and white supremacy in society because overarchingly, this is a white person problem (Ngata, 2021).
>
> White supremacist institutions and related knowledge systems and groups must be outlawed. They inject poison into the community. What happened to the Muslim community in Christchurch in 2019 was shameful. The terrorist who committed over 50 murders incubated his act within our country (Halkyard-Harawira, 2021).

This also includes exploring the development of an Indigenous Rights Commission to monitor the implementation of the Declaration and obligations under Te Tiriti. Furthermore, in the interim, the Human Rights Act should enshrine Te Tiriti, and the latter be updated to include more modern definitions of racism and white supremacy.

Educate to liberate

"Education is critical in reframing and repositioning justice. Racism should not have a 200-year free run" (Halkyard-Harawira, 2021). Truth forums, in the way Tina Ngata described, are important in realising this, and the teaching of history must be informed by Māori perspectives. Such histories must lay bare the impacts of colonisation, racism, and white supremacy upon iwi and hapū:

> This would include having an independent, sufficiently resourced Māori Education Authority to support Kaupapa Māori schooling. This is critical as Kaupapa Māori student numbers in Te Tai Tokerau are to double over the next decade. This is about investing wisely in our tamariki so they don't end up in prisons or intolerant of each other (Halkyard-Harawira, 2021).

Direct action

Direct action to respond to and challenge colonisation, racism, and white supremacy are important in the assertion of tino rangatiratanga, as Ihumātao and internationally, the Dakota Access Pipeline, have shown (see Smithsonian Institution, 2018; Meador, 2016). So long as the settler-colonial status quo remains, this will continue to be an effective method of resistance:

> We try and influence the political system, and if that doesn't work, then [our recourse is to] direct action – which has been a key form of resistance and tino rangatiratanga. Parliament is a Pākehā institution. There is a lack of implementation of Te Tiriti in the law, and when those laws fail us, those institutions of white supremacy, then our last hope is to band together and jump on this platform and try to resist (Snelgar, 2021). Constitutional recommendations

The following secondary recommendations could be further explored and developed within the National Action Plan Against Racism Plan. See Appendix One for the full list.

The government consider the following actions:

- Reform central and local government legislation, systems, and policies to include recognition of Te Tiriti o Waitangi (Te Tiriti) and to eliminate racism.
- Government provides more support for whānau to navigate and engage with central and local government and its systems (including education, health, employment, and justice) to achieve equality of outcomes for Māori.
- Reform and strengthen the Human Rights Act to give full effect to Te Tiriti.
- Support the Human Rights Commission to become Tiriti-based and hold a stronger mandate to uphold Te Tiriti, Māori human and Indigenous rights, and the United Nations Declaration on the Rights of Indigenous Peoples, to eliminate and report authentically and fully on racism.
- Explore the establishment of a new Māori Education Authority to deliver kaupapa Māori education and support traditional ways of learning for Māori.
- Review the unilaterally forced "full and final" Treaty Settlements policy as inflicting continuing injustice on tangata whenua Māori.
- Review and reform central and local government legislation and policies to return dispossessed land to iwi, hapū and whānau and improve the way that whenua Māori owners can access, develop and live on their land.

Conclusion

This report describes how colonisation, racism, and white supremacy have contributed to injustices and inequities for tangata whenua, across every facet of life, including in land and housing, education, health, criminal justice, and overall wellbeing.

Maranga Mai! finds tangata whenua are subjected to daily racism in almost every environment. This has resulted in tangata whenua suffering institutional, interpersonal and internalised racism in their own country for more than 180 years - racism which continues today.

Tino rangatiratanga for Māori has been disrupted since the signing of Te Tiriti o Waitangi (Te Tiriti). Colonisation, racism, and white supremacy have caused poorer life and wellbeing outcomes for tangata whenua. These experiences have severely impeded the ability of Māori to sustain themselves on their own land in thriving communities with iwi, hapū and whānau flourishing in a te ao Māori environment.

The way forward for Aotearoa is through the government committing to constitutional reform and co-governance by giving full effect to Te Tiriti and restoring tino rangatiratanga for Māori. The government should also reject the Doctrine of Discovery. This reform is one of the primary steps to eliminate racism against Māori to address what is a serious human and Indigenous rights issue. The establishment of a Truth, Reconciliation and Justice Commission for Māori could provide the springboard for constitutional transformation to occur and bring tangata whenua and tangata tiriti to a new position of understanding about our shared history.

Maranga Mai! urges the government to take bold moves and equally robust actions to address racism in Aotearoa. As stated in the Stop Institutional Racism's *Briefing Paper on the development of a National Action Plan*: "While racism is embedded in Aotearoa it is also unacceptable and entirely preventable" (STIR & NZPHA, 2021).

Commit to constitutional transformation

In response to the ongoing harm and violence caused by Aotearoa's history of colonisation and racism, *Maranga Mai!* urges the government and Ministry of Justice to explore and commit to constitutional transformation and co-governance. Honouring and recognising Te Tiriti, in accordance with the spirit it was signed, and He Whakaputanga o Te Rangatiratanga o Nu Tireni | Declaration of Independence (He Whakaputanga), as Aotearoa's founding documents would be a huge step forward.

These documents are "fundamentally relevant because they express the right for Māori to make decisions for Māori that is the very essence of tino rangatiratanga" (Independent Working Group on Constitutional Transformation, 2018).

It is also recommended that the government reject, condemn, and remove the Doctrine of Discovery and other racist doctrines from the laws and constitution of Aotearoa.

The recommendations of *Maranga Mai!* support the goal of realising tino rangatiratanga for tangata whenua and kāwanatanga for the Crown and all New Zealanders. Transformation of the constitution is required, with incremental steps taken in the short to medium term to strengthen tino rangatiratanga, and for the government to become honourable kāwanatanga as envisaged in Te Tiriti o Waitangi in 1840. This rebalancing of power will support the achievement of the true vision of Te Tiriti.

Reform of central and local government systems is also needed to reduce and eliminate institutional racism which cause inequities and inequalities for Māori in outcomes. This reform should uphold and align these systems with Te Tiriti o Waitangi, by following the foundational work and recommendations set out in *Matike Mai Aotearoa* and *He Puapua* reports.

This work must be done in partnership with tino rangatiratanga partners who hold the mandate of iwi, hapū and whānau.

Truth, Reconciliation and Justice Commission

Addressing racism needs to start with an acknowledgement of the truth of racism in Aotearoa, reconciliation with Māori, coupled with an independent examination of how the government, the law, its systems, and policies contribute toward racism. As outlined in its recommendations, this report proposes a three-year, time bound, Tiriti-based Truth, Reconciliation and Justice Commission which uses similar principles to the Canadian Commission (see chapter 8). It should be grounded in tikanga and kawa and be separate from the Waitangi Tribunal claims process.

Realise tino rangatiratanga

As constitutional transformation will take time, and so within existing constitutional arrangements, the following steps could be explored, including options to advance Te Tiriti and eliminate racism against Māori.

The government should recognise tino rangatiratanga as a pre-existing and ongoing form of authority and as an Indigenous peoples' right under Te Tiriti and the UNDRIP (2007). Both Tiriti partners will need to embrace this change.

> **Within the Matike Mai framework, this is work that can be carried out within the tino rangatiratanga sphere and kāwanatanga sphere, so that justice and fairness prevail in the shared relational sphere in which society as a whole is constituted (STIR & NZPHA, 2021. p. 14).**

With urgency, the government appoints a full time, permanent Indigenous Rights Commissioner to uphold Māori and Indigenous human rights. This would fill the vacant Commissioner role within Te Kāhui Tika Tangata | the Human Rights Commission (the Commission). The Chief Commissioner has advocated for this role to be appointed since 2019. The Commission is currently undergoing a journey to become Tiriti-based.

The establishment of an Indigenous Rights Commission is also recommended for exploration by the government, with a key function of advancing the NAPAR; developing and delivering a decolonisation and anti-racism strategy to assist the further elimination of racism in central and local government and civil society; and supporting the Truth, Reconciliation and Justice Commission.

The National Action Plan Against Racism (NAPAR) should include actions to restore te reo me ona tikanga in Aotearoa and support whānau to uphold and practice their culture and te reo, realise tino rangatiratanga and thrive in te ao Māori and other environments.

Maranga Mai! recommends that the government, with tino rangatiratanga partners, set up or appoint Tiriti-based independent body/s and a process, to uphold Te Tiriti and Māori human and Indigenous rights and eliminate racism in Aotearoa. This would include leading the Truth, Reconciliation and Justice process and the NAPAR.

Finally, it will require equally bold actions to address and eliminate racism in Aotearoa, and in doing so, vastly improve outcomes and reduce inequities for tangata whenua. This is necessary and long overdue.

Identified issues and next steps

Maranga Mai! identified many other pressing issues, and possible solutions, in documenting how Māori have experienced colonisation, racism and white supremacy in Aotearoa. These are summarised as secondary recommendations at the end of the relevant chapters and in Appendix One, as further steps that could be taken to address racism and the inequities and inequalities that Māori face.

These include comprehensive actions to eliminate institutional racism in education, health and the criminal justice sectors; strengthening the Human Rights Act and human and Indigenous rights of Māori; developing a new Decolonisation and Anti-Racist Strategy and reviewing and reforming Māori land and rates for the benefit of Māori owners.

Each of these steps are integral and necessary to eliminate racism in Aotearoa and all must be developed with tino rangatiratanga partners.

Heed the call of *Maranga Mai!*

Neither He Whakaputanga nor Te Tiriti granted full sovereign power to the Queen, the Crown, or the colonial settler government in Aotearoa. Rather the Crown received authority from Te Tiriti to govern its British citizens. The British used the Doctrine of Discovery as the initial basis for settling and claiming Aotearoa. The Treaty of Waitangi (English version) also enabled settlers to enter the country in large numbers and the Crown then subjugated Māori through warfare, unjust legislation, and the alienation of Māori land. This is the basis of the Crown's governance of Aotearoa.

The cumulative effect has been the wholesale undermining of tino rangatiratanga and self-determination for Māori. Law, policy, and white-dominated structures limit the freedom for Māori to design and shape their destinies as they see fit. Colonisation intended "that Māori were not to have agency over their destiny" (Ngata, 2021).

The insights and kōrero of *Maranga Mai!* emphasise the need for constitutional transformation in Aotearoa, in nurturing the vision laid out in Te Tiriti o Waitangi over 182 years ago, and in restoring self-determination for Māori.

The vision of tangata whenua is one where they have the rights, freedoms and rangatiratanga as exercised by their tīpuna at the time Te Tiriti o Waitangi was signed. This is an Aotearoa where tangata whenua govern themselves and the Crown govern tangata tiriti.

Rangatiratanga and kāwanatanga would exercise mana and authority within their spheres of influence, with a joint space for debating matters of mutual concern. The principles of reconciliation would underpin this vision, and be articulated through an anti-racist agenda, and direct action in response to racism and white supremacy. Together, these actions reiterate the call, *Maranga Mai!*

Appendix One

Tangata whenua secondary recommendations to elminate racism: summary

This report sets out recommendations for the development of the National Action Plan Against Racism (NAPAR). The main recommendations are on pages 18-20.

Appendix One sets out secondary recommendations that could be further developed for action by the government and Ministry of Justice, with tino rangatiratanga partners, to eliminate racism and reduce inequities and inequalities in Aotearoa for Māori.

Central and local government reform

Institutional racism against Māori is present in central and local government legislation, systems, and policies. These should be comprehensively reviewed and reformed to give full effect to Te Tiriti o Waitangi (Te Tiriti) and eliminate racism.

The government provides more support for whānau to navigate and engage with central and local government and its systems (including education, health, employment, and justice) to achieve desired outcomes for Māori.

Strengthening human and Indigenous rights

The government strengthens the Human Rights Act 1993 to be fully Tiriti-based, including co-governance, reflecting Te Tiriti within the commissioners' roles, and new institutional arrangements.

Decolonisation and anti-racism strategies should be comprehensive and implemented across central and local government and key sectors including housing, employment, work and income, health, education, and criminal justice, thus improving Māori outcomes and reducing inequalities and inequities.

International Indigenous rights and reporting

Tangata whenua share the experience of colonisation and racism with other Indigenous peoples around the world. There has been a lack of acknowledgement and action taken by successive governments on this issue. Settlers have comfortably forgotten or dismissed Aotearoa's racist history, and racism today, which prevents progress from being made to address this profound issue.

As a step toward fully upholding Te Tiriti o Waitangi in Aotearoa the government could take bold steps to implement its Action Plan (currently in development) for the United Nations Declaration of the Rights of Indigenous People's.

The NAPAR includes actions to support tangata whenua to increase their international understanding of racism and oppression for Indigenous peoples and progress those rights. Tangata whenua see the need for reciprocal sharing of their knowledge, experiences, and solutions to improve Indigenous rights through indigenous, United Nations, and International and Transnational Civil Society forums. As a baseline, the government provides adequate resources and support for tangata whenua to enable their valuable contribution toward monitoring, reporting and appearing at United Nations forums on human and Indigenous rights.

Māori education, decolonisation and racism

The colonial education system has been fundamental in undermining Māori self-determination, dismantling Māori culture and te reo, and Māori society, and marginalising the mental health and wellbeing of Māori.

Education, decolonisation and re-indigenisation be activated to move Aotearoa towards becoming racism-free and changing racist thoughts and beliefs.

There is a lack of awareness around decolonisation and racism across society, government institutions and systems, and formal education settings. Racism is a learned behaviour, and all New Zealanders need to be educated on the topic. This suggestion builds on the recent changes to the education system where, for the first time, the authentic colonial history of Aotearoa will be taught in the core curriculum of our schools.

The NAPAR to include a Tiriti-based review of education to identify the changes needed to strengthen tino rangatiratanga, enable decolonisation, and for tangata whenua to regain mana motuhake over the education of its tamariki and kaupapa Māori education systems.

A Māori Education Authority is created to address educational inequities for Māori. It should strengthen education and systems for Māori under tino rangatiratanga authority. With the Ministry of Education, the Authority develops a curriculum to educate New Zealanders about racism, colonisation, and decolonisation, including tino rangatiratanga and kāwanatanga trained educators.

Racism and Māori health

There is clear evidence of the repugnant effects of colonisation, racism, and white supremacy upon Māori within the health system.

Following the Waitangi Tribunal, Hauora Report (2019 Wai 2575), in 2021, the government appointed a national Māori Health Authority | Te Mana Hauora

Māori (the Authority) which came into effect in 2022. The Human Rights Commission welcomes the government's decision to establish an independent Māori Health Authority. The new Authority seeks to "enhance Māori rangatiratanga over hauora Māori and ensure greater influence over the entire health system". It will work with Māori in partnership, to ensure their health needs are met and reflected in the priorities and plans of the health system, including kaupapa Māori models and the application of mātauranga Māori in the system.

The Commission made a comprehensive submission to the Pae Ora Bill highlighting recommendations aimed at giving greater effect to Te Tiriti o Waitangi. The submission included supporting tino rangatiratanga, the rights of tangata whenua to self-determination, and the right to the highest attainable standard of health care; and to strengthen equality of access to all health services to reduce health inequities. These recommendations stand. The submission can be read on parliament.nz. In addition, this report makes further suggestions to support the new Authority to give full effect to Te Tiriti and to reduce inequities and improve health outcomes for Māori.

Racism in the police and criminal justice

This report challenges Aotearoa acknowledge there is racism embedded in the police and criminal justice system resulting in Māori having the second highest rates of incarceration in the world. One in every 142 Māori are incarcerated, compared to one in every 808 non-Māori. The effect of racism is even stronger for wāhine who make up two thirds of the female prison population.

Rangatira Māori did not sign Te Tiriti in 1840 with the vision that large numbers of their descendants, men, women and young people would not kōrero te reo, become impoverished, be dehumanised by racism, rejected by their country and incarcerated.

Ahi Kaa and the Tangata Whenua Caucus of the National Anti-Racism Taskforce (2020-2022) are aware the late Dr Moana Jackson was leading a team of researchers to update his original comprehensive report, *He Whaipaanga Hou – A New Perspective* into the criminal justice system's bias against Māori.

In anticipation of this report being published, there are a number of recommendations on criminal justice, including reform of the justice system to reflect Te Tiriti and abolishing prisons by 2040; establishing a Mana Ōrite partnership so Māori and Crown agencies share in governance and decision-making at all levels of the justice sector; applying kaupapa Māori approaches; and that the government prioritise investment in community-led transformative justice.

Maranga Mai! encourages New Zealanders to understand that the high incarceration rate of Māori is related to the deprivation of Māori, caused by colonisation and racism, and that it is time to discuss and envision an Aotearoa free of prisons and to focus on creating 'by Māori for Māori' solutions.

Māori owned whenua

The alienation of Māori-owned whenua and the accompanying Crown war, land confiscation and unjust legislation over the past 182 years has forced Māori into poverty and despair creating the comprehensive inequalities and inequities that Māori face in all domains of life.

Government is encouraged to acknowledge its role in the intergenerational trauma affecting tangata whenua through centuries of Crown oppression, including deliberate land dispossession. The 'full and final' Treaty Settlements policy of successive governments should be revisited to ensure it properly incorporates Te Tiriti o Waitangi. Among the issues needing to be addressed include: how governments have imposed the Treaty settlements process on tangata whenua and the coercive and divisive tactics used against iwi; the agenda to diminish and extinguish Māori rights; and how the process further colonised and controlled iwi by pushing 'full and final settlements' on iwi. Treaty settlements have resulted in less than two percent of the value of lands, that were taken from Māori, returned. This redress is supposedly full and final compensation for all the harm caused by the Crown.

A review of central and local government legislation and policies is urgently needed to improve the way that Māori whenua owners can access, develop, and live on their own land, and realise the return of dispossessed land to iwi, hapū and whānau. Restoring tino rangatiratanga for Māori whenua owners, and reviewing the rating system, are among some of the first steps that government could take. This review is long overdue and is urgent.

Table of secondary recommendations

Within existing Constitutional Arrangements (for government with tino rangatiratanga partners)	1. **In recognition that constitutional transformation will take time and within existing constitutional arrangements, the government with tino rangatiratanga partners, could take the following steps to advance Te Tiriti o Waitangi (Te Tiriti) and eliminate racism against tangata whenua. This includes the government considering the following actions:** i. Reform central and local government legislation, systems, and policies to recognise Te Tiriti and to eliminate racism. ii. Government provides more support for whānau to navigate and engage with central and local government and its systems (including education, health, employment, and justice) to achieve equality of outcomes for Māori. iii. Reform and strengthen the Human Rights Act to give full effect to Te Tiriti. iv. Support the Human Rights Commission to become Tiriti-based and hold a stronger mandate to uphold Te Tiriti, Māori human and Indigenous rights and the United Nation Declaration on the Rights of Indigenous Peoples (UNDRIP) and eliminate and report authentically and fully on racism. v. Explore the establishment of a new Māori Education Authority to deliver kaupapa Māori education and support traditional ways of learning for Māori. vi. Review the unilaterally forced 'full and final' Treaty Settlements policy which inflicts continuing injustice on tangata whenua Māori. vii. Review and reform central and local government legislation and policies to return dispossessed land to iwi, hapū and whānau and improve the way that whenua Māori owners can access, develop and live on their land.
Amend the New Zealand Human Rights Act (1993) (for government, Human Rights Commission with tino rangatiratanga partners)	2. **The government with tino rangatiratanga partners, supported by the Ministry of Justice, the Human Rights Commission, and an Indigenous Rights Commissioner, amend the New Zealand Human Rights Act 1993 (refer to Appendix Two). This includes the government considering the following actions:** i. Give full effect to Te Tiriti o Waitangi (te reo Māori text) throughout the Human Rights Act 1993. This includes all institutional arrangements for the Commission. ii. Include via preambulatory paragraphs definitions of racism, institutional racism, and white supremacy within the Act. iii. Add a primary function of the Commission to promote and protect the Indigenous and Māori human rights of tangata whenua under Te Tiriti and the UNDRIP.

Te Tiriti o Waitangi Decolonisation and Anti-Racism Strategy, Framework and Index (for central and local government with tino rangatiratanga partners)	**3. The Ministry of Justice, the Indigenous Rights Commissioner, and the Human Rights Commission, with tino rangatiratanga partners, develop and implement a new Te Tiriti o Waitangi Decolonisation and Anti-Racism Strategy and Framework across all central and local government ministries, departments, offices, and agencies. This includes the government considering the following actions:** i. Decolonise central and local government and key sectors, including housing, education, health, justice, employment, and work and income to realise tino rangatiratanga for Māori. ii. Set policies, goals and priorities to eliminate racism across central and local government, and across key sectors, thus improving Māori outcomes. iii. Strengthen legislation and other standards to regulate, reduce and eliminate racism and white supremacy in all its forms across the government and society. iv. Support agencies to establish authentic partnerships with tangata whenua. **4. Develop and embed a Tiriti o Waitangi Anti-Racism Strategy which includes a Tiriti o Waitangi Decolonisation and Anti-Racism Index as follows:** i. Include an assessment of the current state of all government agencies' performance to determine whether each body is fit for purpose to eliminate racism and uphold Te Tiriti and Indigenous rights. ii. Include an assessment of the medium to long-term impacts of current and proposed government legislation and policies on tangata whenua. iii. Report on the progress of decolonisation and anti-racism strategy goals in government agency annual reports.
Māori Education Authority (for government with tino rangatiratanga partners)	**5. Recognising that despite recent decades of new initiatives - inequities and unequal outcomes for Māori in education persist - the government, with tino rangatiratanga partners, explores the establishment of a stand-alone Māori Education Authority. This includes the government considering the following actions:** i. A Tiriti-based legislative and policy review of education to identify the changes needed to strengthen tino rangatiratanga and enable tangata whenua to regain mana motuhake over the education of tamariki and Māori education systems. ii. Strengthening kaupapa Māori education and supporting traditional wananga education for Māori. iii. Transforming the English medium sector to achieve equal outcomes for Māori learners. iv. Advising, guiding, and monitoring the Ministry of Education in the priority development and implementation of a sector-wide Tiriti-based anti-racism curriculum.

(Continued) **Māori Education Authority (for government with tino rangatiratanga partners)**	v. Advising, guiding and monitoring the Ministry of Education and Tertiary Education sector, and public schools to develop and implement training programmes for all teachers and educators to understand Māori perspectives of colonisation, racism, white supremacy and the impacts on Māori.
Māori Health Authority (for government, the Māori Health Authority with tino rangatiratanga partners)	**6. Following the Waitangi Tribunal, *Hauora Report* (2019 Wai 2575) the government established a new national Māori Health Authority | Te Mana Hauora Māori Authority on 1 July 2022. The Commission made comprehensive recommendations to the Pae Ora Bill and stands behind its recommendations. The submission can be read on parliament.nz and includes the government consider the following.** **7. The new Māori Health Authority is properly funded and resourced and gives full effect to Te Tiriti o Waitangi and tino rangatiratanga.** **8. The principle of equity, which requires the Crown to achieve equitable health outcomes for Māori, must apply in all health legislation, policy documents and action plans. This includes:** i. The health care system legislative framework (New Zealand Public Health and Disability Act 2000) be reviewed to robustly recognise Te Tiriti. ii. Give full effect to Te Tiriti in all documents of the health policy framework including He Korowai Oranga (Māori Health Strategy), New Zealand Health Strategy, New Zealand Disability Strategy, and Primary Health Care Strategy, and action plans, to explicitly state the requirement to provide equitable outcomes for Māori health and wellbeing. iii. Led by the Māori Health Authority, the health system moves away from the 'protection, partnership and participation' model towards tino rangatiratanga 'by Māori for Māori' approaches that provide for self-determination and mana motuhake in the design, delivery, and monitoring of primary health care. iv. That health providers understand Māori health outcomes, how to achieve Māori health equity and support hauora Māori models of care and understand the impacts of colonisation and institutional racism on the health and wellbeing of Māori. v. Equitable funding must support underfunded Māori health providers and support kaupapa Māori health services. **9. Stronger Māori Heath Authority-led monitoring systems be established to properly monitor quantitative and qualitative data on Māori health including reporting by regional health bodies, integrated alongside external Māori-led reviews.**

The Criminal Justice System (for Government, the Ministry of Justice with tino rangatiratanga partners)	**10. Rangatira Māori did not sign Te Tiriti in 1840 with the vision that large numbers of their descendants, men, women and young people would not kōrero te reo, become impoverished, be dehumanised by racism, rejected by their country and incarcerated. In anticipation of an updated *He Whaipaanga Hou* (2022) report being published, envisaging a criminal justice system free of racism, the government should consider the following actions:** i. With tino rangatiratanga partners, government develop and implement a comprehensive reform of Aotearoa's justice system with the goal of abolishing prisons by 2040. ii. Review legislation relating to the justice system process, including the Sentencing Act (2002), Bail Act (2000), Criminal Procedure Act (2011) and all legislation relating to care and protection and ensure it reflects Te Tiriti, te ao Māori, and tikanga Māori approaches to justice. iii. The Government establish a Mana Ōrite justice partnership under which Māori and Crown agencies share governance and decision-making at all levels of the justice sector. Tikanga and te ao Māori values to be central to the operation of the justice system. iv. A kaupapa Māori-based evaluation of the current youth, specialist and therapeutic courts across Aotearoa is completed. Key learnings and principles from kaupapa models are embedded across the mainstream court process. More specialist courts focused on rangatahi, sexual violence, alcohol and other drug treatment, and family violence courts are established. **11. Institutional racism is challenged within the justice system with more diverse recruitment and effective training in the justice system, as well as anti-racism school programmes and media campaigns.** **12. Applying 'by Māori for Māori', the government prioritise investment in community-led transformative justice, including:** i. Transferring power and resources to Māori communities to design and develop Māori-led responses to offending, and rangatahi and whānau well-being. ii. Review section 27 of the Sentencing Act 2002, to direct cultural reports for all Māori before the courts. iii. Establish more Te Pae Oranga, iwi and community panels, to enable more cases to be heard. Invest in kaupapa Māori Legal Units within each Community Law Centre, to support access to justice in Māori communities.
The Treaty Settlements policy and Waitangi Tribunal (for government with tino rangatiratanga partners)	**13. In recognition that the Crown undermined tino rangatiratanga and dispossessed Māori tribes of land and resources through law, violence and war and continued to do so through unjust legislation for more than 182 years, the government could consider the following actions:**

(Continued) **The Treaty Settlements policy and Waitangi Tribunal (for government with tino rangatiratanga partners)**	i. Review the 'full and final' Treaty Settlements policy because that process was forced on tangata whenua and has returned less than one per cent of land that belonged to Māori whenua owners. ii. Investigate pathways to return and restore land to iwi, hapū and whānau. iii. Empower the anti-racism mandate of the Waitangi Tribunal, by strengthening the levers to ensure that the recommendations of the Tribunal to the Crown and local government are taken seriously and actioned. iv. Hear claims and make recommendations for the return of private land under the control of the Crown and local government which the Crown and/or local government is considering 'freeing up' for sale and development. v. Recognise the Waitangi Tribunal as a Te Tiriti constitutional body.
Māori Land and Rates (for government, local government, Ministry of Māori Development and the Māori Trustee, with tino rangatiratanga partners)	**14. The government recognises that for 182 years, legislation and policy forced Māori to pay rates on Māori land (while local government under-serviced that land), Māori rates were diverted to develop non-Māori land, Māori access to funds and infrastructure to develop Māori land was blocked, and the practices of the Native/Māori Land Court and Māori land rates resulted in material hardship for Māori and mass urban migration, accordingly the government could consider the following actions:** i. Support the restoration of tino rangatiratanga so Māori whenua owners have control over their land and review the rates system for Māori land. ii. Amend the Whenua Māori Rating Amendment Bill to direct local government to strike out all rates currently owing on Māori land and, if rates are collected in future, these rates are returned to benefit Māori whenua owners. iii. Develop easier pathways to return dispossessed land to iwi, hapū and whānau. This includes recognition of Māori land tenure, collective stewardship, collective self-determination, and collective sustainable self-sufficiency. **15. The Minister of Local Government establishes an independent body, with tino rangatiratanga partners (supported by the Māori Trustee) to take urgent action to review the way Māori whenua is rated so the benefits are returned directly to the owners. The government could consider the following actions:** i. Review and reassess rates on Māori land to reflect the owners' access to their land, and/or any obstructed use and development of their land. ii. Undertake surveys to confirm the correct boundaries of Māori land blocks. iii. Determine the infrastructure, such as roading, commensurate with Pākehā land and settlements, required to develop the land and where necessary provide the infrastructure and remedies for this at no cost to the owners.

Te Tiriti Whenua Māori Authority	**16. In recognition of more than a century of legislation that made it impossible for whenua Māori owners to develop or exercise rangatiratanga over their land, the government consider reviewing the Māori Trustee Office to transform the way it operates for the benefit of Māori, the government could consider the following actions.** **17. Set up a new Te Tiriti Whenua Māori Authority to:** i. Use the information gathered by the Māori Trustee, to undertake a comprehensive engagement with Māori owners to canvass their views on how their land is developed and administered. ii. Assist whenua Māori owners to put into effect appropriate administration for their land blocks, such as, through rūnanga, owner-led whānau incorporations or other structures consistent with Article Two Rangatiratanga under Te Tiriti. iii. Assist and train owners to complete whenua development plans. iv. Provide ongoing training, financial and legal advice, alongside planning, surveying, and support to owners who wish to manage, and/or sustainably use their land for papakāinga and/or agricultural enterprise. v. Provide comprehensive and up-to-date ecological development and agricultural advice. vi. Meet the legal and other costs associated with developing Māori land to provide the requisite infrastructure to implement completed plans. vii. Assist communities towards pathways to return dispossessed lands to iwi, hapū and whānau.
Te Tumu Paeroa | The Māori Trustee	**18. The Ministry of Justice and the Minister of Māori Development in the short term consider directing the Māori Trustee to take the following actions:** i. Update its records of owners and trustees in a timely manner. ii. With local government, conduct comprehensive surveys and assessments of the state of all Māori land blocks under its trusteeship, including the infrastructure to service the land blocks and the state of the structures on the land. iii. Provide market valuations on all Māori land blocks in its trusteeship. iv. Develop situation reports and assessments and share these with the owners.

Appendix Two

Chronology of racist acts, legislation, and events from contact to the end of the twentieth century

This timeline outlines the watershed events, actions, and legislation that introduced, strengthened, and entrenched colonisation, racism and white supremacy in Aotearoa, to the detriment of Māori. This is not an exhaustive list. Whereas many people have listed legislation that breach Te Tiriti o Waitangi guarantees, this section combines key legislation with events, actions, or responses that make up the colonial experience.

Our other intention is to depict how everything within the colonial experience was entwined with nothing happening in isolation. This means iwi (still) deal with several crises at the same time, on different fronts. This is often forgotten when publications refer to isolated events (eg, looking only at Te Tiriti, or only at events in education).

1436-1833: Aotearoa is still an independent Māori/iwi nation. Iwi are trading with Europe, Australia, and America and providing supplies to settlers; mission schools are established; new diseases take hold

1436 to 1454

The Doctrine of Discovery bestows on Europeans the right to seek and capture others and enslave them and take all non-white, non-Christian lands and resources. Europeans believed that they were superior over all who are non-white and non-Christian (Ngata, T. 2019)

Contact

1769: James Cook arrives in Aotearoa. Voyages ,like Cook's, transplant "imperial domination, white supremacy and racism in its many forms" (Moewaka Barnes and McCreanor, 2019, p. 20). Māori were considered less-than-human, and their lands and resources freely open for colonial exploitation (Aikman, 2019; Mills, 2011; Wolfe, 2016, 2011, 2006).

By the late 1830s, Māori had experienced decades of trading with foreign countries.

Justice

1814: Britain appoints Thomas Kendall as Resident Magistrate to control unruly settlers (Barrington and Beaglehole 1974).

Education

1816: First Mission School opened by Thomas Kendall (the Resident Magistrate of 1814) 'to "civilise" and "deculturate" Māori, through conversion to Christianity (ACORD, 1986, p. 1). Missionaries learn te reo Māori, translate the Bible into Māori, and teach in Māori (Barrington and Beaglehole 1974).

Land

1817: Kendall admits he cannot control European settlers. (Hill 1986: 37).

1818: Settlers start the musket wars which last 15 years. They end in 1833 when iwi acquire muskets. Rangatira allow settlers to stay for trading purposes. (Belich 1986).

Health

Pre-contact Māori population is 100,000. (Lange 1999).

Māori life expectancy was longer than 18th-century Europeans (Pool, I. 2011 in Reid, J. et al, 2017: 33). Māori were a robust, healthy people and had no experience of epidemics or viral diseases. The pre-contact Māori population was growing on average by 0.5% per annum (Pool cited in Lange 1999:7).

1820: new diseases - influenza and measles epidemics sweep through kāinga (Lange, 1999).

1835-1840: He Whakaputanga,Te Tiriti o Waitangi, broken agreements, Crown decisions and law over Māori land, Māori literacy rates exceed those of children in England

Rangatiratanga

1835: He Whakaputanga – Declaration of Independence is signed – asserting the mana, rangatiratanga, and independence of the Rangatira who signed it, supported by a commitment to unify in the face of foreign threat, and to ensure that no foreign law or government could be imposed on them. (Waitangi Tribunal: 2014: 202).

February 1840: Te Tiriti o Waitangi is drafted and signed and the rangatiratanga of iwi Māori over their lands and people is again affirmed. Tauiwi, through the queen, are allowed to govern themselves (Kāwanatanga). **Iwi do not cede sovereignty to the Crown** Waitangi Tribunal (2014). The Crown has no intention of honouring Te Tiriti.

Land and Police

In **1839**, Hobson stops private land sales to speculators and colonists and tells colonists that Rangatira did not understand He Whakaputanga. He Whakaputanga is called 'silly' and a failed experiment (Waitangi Tribunal: 2014: 340).

January 1840: private purchases of land direct from Māori are deemed to be invalid after January (Waitangi Tribunal: 2014: 340). There is some question as to whether the Crown was protecting Māori interests by doing this (ie, so that Māori kept enough land for themselves) or if the Crown was motivated to profit from pre-emption (Waitangi Tribunal: 2014: 435). Nevertheless, in **September 1840** government officials successfully negotiated with **Ngāti Whātua Ōrākei** for the transfer of around 3500 acres of land, which today covers the central city area of Auckland. Over the next two years, Ngāti Whātua Ōrākei transferred a further 29,000 acres to facilitate European settlement on the Tamaki isthmus. In return they received around £640 plus other goods. **Before 1845, the Crown profited** from its sales of some of this land **by £68,865**. The Crown also failed to set aside the promised 10% of land for a reserve (Deed of Settlement Between the Crown and Ngāti Whātua Ōrākei, 2011).

April 1840: Troops arrive and put down a 'threatening' Māori crowd in the town of Kororāreka "The use of coercive force in the process of acquiring New Zealand... was now explicit" (Hill, 1986: 91).

1840: The Māori population declines to 70,000-90,000 (Lange, 1999).

Education

1838: Literacy of Māori tamariki is extremely high. British MP Tawell tells the House of Lords that Māori are "as intelligent as any children ... anywhere, and ... their power of acquisition ... greater than our own" (Barrington & Beaglehole 1974: 22).

1841-1850: Sovereignty wars begin, Māori population declines due to the disaster in Māori health, the settler population explodes bringing with it ceaseless demands for land, schools are an assimilation tool, te reo Māori is officially excluded from schools, Ngāi Tahu begins its land claim.

Land

Following the signing of Te Tiriti, the immigrant **settler population explodes and make incessant demands for land.** Large-scale European settlement begins.

Hobson's 1839 actions are legitimised by the **Land Claims Ordinance 1841** giving the Crown pre-emption over Māori land at the expense of tino rangatiratanga. All "unappropriated" or "waste land", other than that required for the "necessary occupation of the aboriginal inhabitants of the said Colony" was deemed Crown land.

1845: Commissioner of Lands investigated validity of land purchases before 1840. Many recommendations were never acted upon eg, Wellington was an invalid purchase, but not returned to iwi and no compensation.

1846: The British armed constabulary is established and uses a paramilitary style of surveillance, partly for the purposes of intimidating Māori (Hill, 1986).

Rangatiratanga

1843: the Wairau Battle when the local magistrate attempts to claim land at Wairau by trying to arrest Te Rauparaha, firing breaks out and the settlers are routed (Belich 1988: 304).

1845: the sovereignty (land) wars begin. The cause of the wars was white supremacist ideology i.e., the British would not accept parity with or inferiority to Māori (Belich 1988: 304). The first battle is between the Crown and Ngāpuhi; British attempt to 'punish' Hone Heke. The British are defeated (Belich, 1988: 29).

1849: Ngāi Tahu begins its land claim concerning the Crown's methods of in purchasing Ngāi Tahu lands. Ngāi Tahu seeks the 10% reserve of their ancestral land promised by the Crown (Te Rūnanga o Ngāi Tahu, 2021).

Education

Native Trust Ordinance 1844 introduces the policy of assimilation in schools (Māori are to learn to 'be European'). **Education Ordinance, 1847** orders that schools are to teach in English and children are to learn 'industrial' skills. Boarding schools are built to remove children from kāinga, but Māori are to provide the land. There is particular emphasis on saving 'half-caste' children from **"the degradation of being brought up as Maoris"** (Barrington & Beaglehole 1974: 39-51).

Health

The health and population of Māori deteriorates rapidly due to new diseases which ravage kāinga and lead to an **unprecedented disaster in Māori health** (Lange, 1999).

1851-1899: New Zealand Constitution Act; Māori seats in parliament; rangatiratanga movements, further dispossession of land, 'the Treaty is a nullity', peaceful resistance to land confiscation in Taranaki, detention of Māori prisoners; the Public Works Act.

Politics

1852: New Zealand Constitution Act passed by British Parliament. The New Zealand Parliament is established without iwi representation, because voting was restricted to men who owned land in single title. Since Māori held land communally, they could not vote. S71 of the Act allowed for self-governing Māori districts, but that section was not implemented (Ministry for Culture and Heritage, 2016c).

The Māori Representation Act 1867 created four Māori seats in New Zealand's Parliament which were seen as a way to reduce settler concerns about Māori vs Pākehā majority. The **Māori seats** limited the Māori vote and ensured that a Pākehā majority was entrenched in every other seat. On a per capita basis, Māori should have had 16 seats. (Ministry for Culture and Heritage, 2016c).

1896-1975: only so-called 'half-castes' (people with one Māori and one European parent) were allowed to choose which seats they wished to vote in (Ministry for Culture and Heritage, 2018).

1877: Chief Justice Prendergast dismissed the case of Ngāti Toa chief *Wi Parata v Bishop of Wellington*. He argued that there was no such thing as legal Māori title to land and infamously dismissed the **Treaty of Waitangi** as **'a simple nullity'** because a treaty with **'simple barbarians'** lacked legal validity.

Rangatiratanga

1858: Kīngitanga: King Pōtatau Te Wherowhero is installed as the Māori king. Following colonisation, the kīngitanga, emerged to protect Māori land ownership and Māori constitutional autonomy. The movement halted land sales. It was taken far more seriously in 1860 when some of its members joined Taranaki iwi in resisting the military force used to complete a highly disputed Waitara land purchase. In, **1863 Governor Grey vowed to destroy King Pōtatau Tāwhiao, who had succeeded his father**. Invasion was attempted but the kīngitanga was not defeated. For twenty years following the final battle in April 1864 at Ōrākau, the king ruled an independent sovereign state in the centre of the North Island. **There were no colonial police or military and no courts, roads, surveyors or schools. Europeans ventured into the King Country (Rohe Pōtae) at their own risk**. The Waikato was subjected to severe retributive policies following the wars (Belgrave, 2018).

1860: Kohimarama: rangatira meet to discuss the Covenant of Kohimarama as well as the Treaty of Waitangi. The final Kohimarama parliament was in 1889. (Keane, 2012).

1860s: Tūhoe peace compact: Tūhoe's council of chiefs closes access to its lands and marks their tribal boundaries.

1871: The Repudiation movement developed within Ngāti Kahungunu in Hawke's Bay rejected land sales it considered unjust. It met from 1871.

1872: The sovereignty wars, which began in 1845, end. Despite a much-reduced Māori population, Māori regularly defeat forces much larger than their own and win two of the four major wars. This is partly due to the bunker and trench warfare that Māori had invented which settlers had never seen before (later used in World

War I and II) (Belich, 1986). Taking land for public works continue after the wars finish (Waitangi Tribunal 2010).

1892: Kotahitanga Parliamentary movement. The various movements came together at Waitangi as the Pāremata Māori, or Māori Parliament. A structure was agreed to, including national elections. The parliament was to have a lower house (Whare o Raro) and upper house (Whare Ariki). (Keane, 2012). Kotahitanga leaders demand powers of the Native Land Court go to tribal councils – this was not done (Waitangi Tribunal 2010).

Ngāi Tahu continues pursuing the claim it initiated in 1849.

Te-Whiti-o-Rongomai of Parihaka leads peaceful resistance to land confiscation in Taranaki (Scott, 1984).

1896: Urewera District Native Reserve Act provided local self-government over 656,000 acres

Land

1858: Beginning of land wars in Taranaki after the government attempted to force the sale of land at Waitara. In **1861**, martial law is declared in Taranaki in response to the disputed Waitara block purchase. In 1928 the Sim report found that when mana whenua "were driven from the land, their pas destroyed, their houses set fire to, and their cultivations laid waste they were not rebels, and they had not committed any crime" (Sim Report cited in Waitangi Tribunal, 1985, p14 (WAI 8) **The Native Land Act 1862 empowers the Governor to take up to 5% of Māori land** for roading, without compensation. (Marr, C 1997, p63) **By 1863**, the **Crown owned 99% of Ngāi Tahu tribal lands** (Reid, J., Rout, M., Tau, T.M., Smith, C., 2017).

The New Zealand Settlements Act 1863 enabled "land of any rebellious tribe" to be taken as punishment resulting in the confiscation of 3 million acres. Following the invasion of the Waikato, the **Suppression of Rebellion Act 1863** was to suppress rebellion and punish those responsible - (Waitangi Tribunal, 2009: 295). The Act suspended the right to a trial before sentencing (habeas corpus) and Military Courts were set up for that purpose. Legislation and policing began to focus on the violent suppression of Māori resistance and 'uprisings' (Hill, 2012). In Auckland, **Ihumātao** had been confiscated under the pretence of rebellion which was a complete fabrication "not only were the inhabitants attacked, their homes and property destroyed, and their cattle and horses stolen, but then they were punished by confiscation of their lands for a rebellion that never took place" (Waitangi Tribunal 1985, p18). This land was sold to settler families to farm.

1864: The Native Reserves Act put all remaining reserves under government control available for lease to Europeans at very low rentals. The **Native Lands Act 1865** sets up the Native Land Court to determine land ownership and individualise Māori land title (only 10 owners could be named on land blocks) and free up land for settlers. The Act required **Native Land Court hearings aimed to colonise the bulk of the land in the North Island and to detribalise** and amalgamate Māori into the Crown's systems. If iwi owners didn't appear at Court their land was automatically taken off them and incurred them costs. By 1865, around two-thirds of the entire land area of New Zealand had been alienated from Māori (Taonui 2012). The Native Lands Act set up a separate Crown right to take a certain percentage of Māori land without compensation. The provisions were developed separately for Māori land and **from 1865 in particular, their application became discriminatory. Normal protections were abandoned because it was claimed that the state of Māori title made them too difficult to apply**. Takings were also commonly made in settlers' interests while Māori needs were often ignored (Marr, C 1997). By 1874, 10 million acres of land were alienated from iwi ownership.

1870s - governments continued to **confer land-taking powers on local authorities**, and little effort was made to require those authorities to have regard for Māori interests. Governments were typically dismissive of Māori concerns based on the Treaty (Marr, C 1997).

1851-1899: Cont. further dispossession of land, Māori tamariki are educated to be an underclass, corporal punishment in schools for speaking Māori, iwi forced into material hardship, Māori health and population decline, Old Age Pension reviewed to reduce number of eligible Māori.

Land

1872: Taking land for public works began during the sovereignty (land) wars. The Crown stops consulting Māori and begins to acquire land for roads compulsorily (Waitangi Tribunal 2010).

Māori Prisoners Act 1880 made it legal for Māori to be held without charge or trial (Scott, 1984). All Natives "committed for and waiting trial … shall be deemed to have been lawfully arrested and to be in lawful custody and may be lawfully detained [and] no Court, Judge, Justices of the Peace or other person shall … discharge, bail, or liberate the said Natives" (The Māori Prisoners Act, 1880 cited in Scott, D 1984:64

1881: 1500-armed constabulary invade and destroy Parihaka. In the process, some Māori women are raped. Te Whiti and Tohu are detained without charge or trial under the Māori Prisoners Act passed the previous year (Scott, 1984). Some of the land that is confiscated is given to members of the constabulary (Shaw 2021).

Indemnity Act 1882 deemed hui at Parihaka to be illegal. Any person who damages or takes property to prevent iwi from meeting at Parihaka, was deemed to have done so legally. The Act "gave immunity from prosecution for anyone who had committed an 'unexpected act' on the West Coast of Taranaki. [Torture, rape, and beheadings were] forgiven" (Taonui, 2021).

Native Lands Rating Act 1882 introduced **rates on Māori land** which were rated at **up to 300% of equivalent European land** (Taonui 2012b)

Native Land Purchase and Acquisition Act 1893 is enacted to make 'idle' Māori land available for settlement. Government could deem land owned by Māori to be suitable for settlement, paying only five shillings an acre for it. The market rate at the time was £30. This land was 'idle' due to legislation that made it impossible to raise loans to develop Māori land (banks would not loan on communally owned land)

The Public Works Act 1894 allows authorities to take 'native lands', but it's not clear what that means. Responsibility for applying to the Native Land Court for compensation now **lies with the taking authority**, not with the owners thus rendering Māori powerless if they are never compensated (Ward, A. 1997).

The Advances to Settlers Act 1894 provided low interest loans to settlers for land purchase and development; owners of iwi descent were excluded from access to government development finance until the 1930s.

Validation of Invalid Land Sales Act 1894 made some past land deals, which were illegal, legal.

Education

Native Schools Act, 1858; the Native Schools Act, 1867 & 1871. These Acts established a national system of non-denominational primary schools so long as the hapū provide the land, half the cost of the buildings and 25% of the teacher's salary (Barrington & Beaglehole 1974; Treaty Resource Centre (2019).

The use of te reo Māori was eliminated from Native Schools and the **English only policy** was rigorously enforced with corporal punishment. Many traumatised tamariki went on to experience identity alienation. (Reid, J. et al, 2017). Many Māori parents encourage only the English language to protect their tamariki from punishment.

Schools teach a labour-based curriculum, **…to prepare Māori for a future as a labouring underclass** [creating the] British brown proletariat" (Walker, 2016: 23)

Health

As land moved swiftly and illegitimately into Crown and settler ownership, Māori kāinga shrunk, access to resources like water became difficult, and Māori sources of food disappeared or were severely limited. Iwi are

experiencing material hardship and malnutrition was widespread (Reid, J. et al, 2017: 33). Māori succumbed to ongoing disease while land court sittings became conduits of disease due to the need for iwi to relocate to townships and stay, sometimes for months, and mix with people carrying infectious diseases (Taonui, 2012).

By **1860**, the European population equalled the Māori population. By the end of the 19th century, the Māori population declined to 40,000 and the Pākehā population was 15 times larger than Māori (Lange 1999: 18).

Welfare

Old Age Pensions Act 1898. This is a world first and seen as the foundation of the Welfare State in New Zealand. A small means-tested pension is available to elderly people with few assets who were 'of good moral character'. **Māori landowners were disqualified automatically. The Act was later amended to make applications more testing**. Proof of age (65) was required, which disadvantaged most Māori because their births had not been registered. **If Māori were eligible for the pension, they received less than Pākehā. Chinese, Indian, Syrian, Singhalese and Lebanese were specifically excluded** (Ministry for Culture and Heritage, 2020).

1900–1930: Public Works legislation to take Māori land continues; rates on Māori land; Māori MPs attempt to stop land taking; police assault on Maungapōhatu; the Ngata-Stout Commission; the Sim Commission, World War I.

Land

By the early 20th century about 2 million hectares of land remained in Māori ownership. Māori leaders repeatedly petitioned Parliament to take action to protect Māori from landlessness, and to make better use of Māori land regarded as unoccupied and unproductive. (Waitangi Tribunal 2010, Whaanga, Mere. 2012)

Māori resistance within Kāwanatanga

Māori Land Administration Act 1900 (aka the Taihoa Policy) James Carroll, Native Minister from 1899, tried to slow the rate of Māori land loss. He established a Māori Land Administration Department and several **Māori Land Councils** empowered to recognise specific areas of Māori land as papakāinga blocks, which could never be sold. The aim was to ensure **Māori communities retain sufficient land**, it promoted leasing rather than sales of Māori land (Waitangi Tribunal, 2010). Councils were partly elected which meant it was possible for Māori majority on the Councils. **The new policy successfully reduced the flow of Māori land available for sale but because of its success, the councils were abolished in 1905**. (Waitangi Tribunal 2010 Wai 863).

1907: The Ngata-Stout Commission - provided a report on the state of Māori landholdings across the country. The Commission recommends that Crown purchasing of Māori land should stop, alienation by direct negotiation between owners and private individuals be prohibited, further alienation of Māori land should be controlled by land boards (with preference for leasing), and that Māori be trained and assisted to develop their own agricultural enterprise (Waitangi Tribunal, 2010). **The Crown's response was the Native Lands Act 1909 and its amendment of 1913 which incorporated precisely none of the Commission's recommendations**. (Waitangi Tribunal, 2010).

Pākehā Legislation

Public Works Act 1903 expands the definition of 'public works to include road frontages, forest plantations, and recreation grounds (Waitangi Tribunal, 2010).

Māori Land Settlement Act 1905 replaced Māori Land Councils with seven Māori Land Boards (there were no iwi representatives on the boards). If owners were in arrears with their rates, … the Crown could compulsorily vest their lands in the land boards. Land that was considered 'surplus' (not required or suitable for occupation by its owners) could also be compulsorily vested. Land boards administered the lands on behalf of the owners and could lease out blocks for up to 50 years (Whaanga, M. 2012). This was the precursor of

the **Māori Trustee** who still has decision-making power on leasing arrangements.

In 1907 the Tohunga Suppression Act is passed which outlawed the spiritual and educational role of Māori tohunga or spiritual healers. It was also aimed to **suppress Rua Kēnana** who challenged government authority by convincing his people to remove their children from the debilitating influences of European schools. This Act made Māori healing illegal for 55 years.

Public Works Act 1908 authorised the taking of land for public works. **Pākehā had rights to object and were entitled to compensation, but neither applied in the case of Māori land** (until 1974) (Waitangi Tribunal, 2010).

Public Works Act 1909 'tidies up' the definition of 'native land' and defines it as land held by natives under their customs and usage (Waitangi Tribunal, 2010).

Native Land Act 1909 (and its amendment of 1913) **makes the purchase of Māori land easier** for both Crown and private purchasers. Over 800,000 more hectares, almost all in the North Island, were sold in the following 14 years (Waitangi Tribunal, 2010).

Rates on Māori land: The myth quickly arose that Māori did not pay rates on Māori land. In reality, those that could pay, did pay. Some Māori however were not told their traditional lands would be taxed so were not aware they now owed tax while others were living in material hardship, as a result of land-taking, and simply did not have the money to pay. Those that could not pay their rates, had land taken as punishment. The rates Māori did pay did not go toward development of infrastructure for their land but rather went to development of the settler state (Reid et al, 2017). **Local government was hostile to Māori interests eg, for decades the Pukekohe Council rejected the sale of land for Māori housing** (Bartholomew, 2020) **and did not consider Māori to be entitled to infrastructural services**.

1914: World War I begins. In **1916**, while Māori were fighting for the Crown, the government ordered a **police assault on Rua Kēnana's settlement at Maungapōhatu**. In the frenzy, Rua's son, Toko, was killed (and likely murdered) and the village was plundered (Binney, 2009).

In **1926 the Sim Commission** report (contained in Vol 29 of the Appendix to the Journal of the House of Representatives) was the result of an investigation into land confiscations in the 19th century which found that **the land confiscations were largely unjust**. The Commission's findings were not acted on (Ministry for Culture and Heritage, 2020).

Public Works Act 1928 sets the public works framework for the next half-century. It continues the principles and policies developed in previous Acts; **the separate and discriminatory provisions for Māori land are little changed**. Māori customary land provisions are especially discriminatory. **There is no provision for offering land back once it is no longer needed**. Public works are defined very widely (Waitangi Tribunal, 2010).

By **1930**, the remaining **4.4 million hectares of Māori land** had been **halved** as successive governments and legislation fragmented Māori land so Pākehā could acquire land for farming. This worsened the economic situation for Māori who were about to be thrown into the Great Depression (Ministry for Culture and Heritage, 2020).

1900-1930: Cont. Māori hospitals for Māori; influenza pandemic; war; welfare; an appeal to the League of Nations; and our hidden segregationist policy

Health and Welfare

Medical care for Māori was almost non-existent at the beginning of the 20th century. Most Pākehā hospitals did not want to admit Māori patients. In so doing, hospitals were neglecting their legal duties of care to Māori. Legally, everyone was entitled to free treatment in the institution run by their district. If patients could not afford to pay fees, and most Māori patients couldn't, they should have received free health

care (as Pākehā did under the same circumstances). Very often, however, this is not what happened (Lange, 1999: 233-234).

Manaakitanga within Kāwanatanga

1904: Māori Hospitals for Māori Patients. Pōmare campaigns for Māori hospitals and plans a network of cottage hospitals, staffed by Māori. Pākehā politicians voice their support. In 1904, the first hospital was ready to open but **government funding was delayed and eventually never came. None were built**. (Lange, R. 1999).

Welfare

1911 saw the introduction of a targeted widows' pension for poor mothers of 'good character' (Baker and Du Plessis, 2011). **From 1926 Māori received 25% less than the full rate for old-age and widows' pensions**. Discrimination by the pensions department continued into the 1940s (Spoonley, 2018).

1918 Influenza pandemic

At the end of World War I, Māori soldiers along with their whānau were thrown into the influenza pandemic which famously kills 50 million people worldwide. **About 2,500 Māori people died**. This is a death rate **8-10 times the rate of Pākehā, and one of the highest rates in the world**. Many tamariki were orphaned and many adults of childbearing age died. The Māori population declines. **Travel restrictions were imposed on Māori** entering built up areas and even Māori members of parliament had to apply for permission to travel (Williams, 2001, in Came, 2012).

Long exposure to disease and ongoing ill health, the poor economic situation, and the lack of knowledge about the causes and spread of illness eventually became the predominant causes of Māori morbidity and mortality. Infant mortality was high and at birth Māori life expectancy was in the mid-20s – less than half that for non-Māori. (Lange, R. 1999).

1928 people of iwi descent only received **half the unemployment benefit available to Europeans**; this was amended in 1936.

Politics and Racism

1914-1918: World War I. Imperial policy had officially excluded Māori from fighting in Pākehā wars. That policy was still in place in 1914 but the Crown quickly changed its mind and **over two thousand Māori men served** in what became the Māori (Pioneer) Battalion. Māori enlisted (and died) in other units as well (Cleaver, P. 2018).

On returning home after World War I, Māori soldiers found that more land had been taken and that the **Pākehā servicemen they served with could get government support to buy Māori land for farming**. Māori soldiers did not get the same support that was available to Pākehā soldiers at first (Ministry for Culture and Heritage, 2020).

1920: New Zealand's colour bar/ segregation

New Zealand's predominantly white settlements begin to institute a colour bar. This colour bar becomes evident in settlements around New Zealand. **A colour bar was an unofficial but widespread policy preventing Māori from entering certain establishments, from receiving certain services, from renting accommodation, or from mixing with Pākehā in some public places**. (Bartholomew, 2020). The colour bar lasted until 1960. It is well hidden from the rest of the world and wilfully forgotten such that Aotearoa continued to be promoted as a land free of racism.

Rangatiratanga/Indigenous Rights

1920s: Rangatira visit the League of Nations in Geneva to protest about the Crown not honouring the Treaty. The arguments are rejected. One of the rangatira who travelled to Geneva remarked that: "The halls of this Palace are not yet ready to hear our voices" (Jackson, 2021c).

1931-1959: World War II; Māori War Effort Organisation; Government appropriation of Māori innovation; Integration and urbanisation highlights racism; All Black Tour of South Africa, School Cert Māori is a foreign language option

World War II: 1940-1945

Māori enlisted for WWII for many reasons; to escape poverty or to follow their whānau and friends but, in general, volunteers were also **motivated substantially by a desire to affirm the Treaty partnership and secure greater equality of status with Pākehā** (Cleaver, P, 2018). Ultimately, nearly **16,000 Māori enlisted for service** during World War II. Māori requested their own military unit and the **28th (Māori) Battalion** was formed and became one of the most highly decorated of all units in the New Zealand forces. The Victoria Cross (VC) was awarded to Te Moananui-a-Kiwa Ngārimu in 1943. Three other Māori men were recommended for a VC – Haane Manahi, Jim Matahaere, and Charlie Shelford - but did not receive one (receiving instead a DCM). It is not known why they did not receive a VC (Ministry for Culture and Heritage, 2013). The Māori veterans received widespread praise for their wartime service but returned to a country that was in many ways racially divided. **In the post-war years Māori continued to suffer from discrimination, lack of opportunities and the effects of unjust government policies** (After the War | 28 Māori Battalion (28maoribattalion.org.nz).

Rangatiratanga and Manaakitanga

At home Māori **created the Māori War Effort Organisation (MWEO)**. Coordinated by several dozen tribal executives, committees operated independently of government, rallying support, recruiting Māori into wartime, employment, fundraising, and engaging in **activities which exceeded their official brief**, such as community-based welfare work or cultural revival. Towards the end of the war, Māori leaders attempted to get the government to recognise the 'self-administration and discipline' their people had demonstrated in contributing to the war effort. In other words, they argued that **Māori could run their own affairs autonomously**, albeit within the parameters of Crown sovereignty. **Pākehā could not accept this idea or the inevitable Māori unity it encouraged** (Hill, 2009: chapter 1).

Pākehā Politics - appropriation of Māori innovation

1946, Māori Social and Economic Welfare Organisation (MSEWO) Government continued its paternalism, and the Department of Native Affairs was retained. Iwi committees who wanted official recognition, had to opt into the new system. Such committees would be incorporated into departmental structures as constituent parts of Native/Māori Affairs, their activities overseen by departmental officers. The department's new MSEWO (generally called the Māori Welfare Organisation, and from 1952, the Welfare Division). Māori were in this respect, less powerful and autonomous than they were during the war. **By 1950**, Māori leaders had signed up to the MSEWO. **Committees entered into numerous interactions with the Department of Māori Affairs, and some of them began to go beyond their official briefs**. This was tolerated as long as it met the goals of the State. **The arrangement was considered temporary because Māori were to be assimilated**. (Hill, 2009: chapter 1)

1953 The Māori Affairs Act set up the **Māori Affairs Department** to purchase land from Māori. It could compulsorily purchase Māori land valued at less than £50. If Māori couldn't or wouldn't develop land according to European standards, the Māori Trustee could lease the land at its unimproved value against owners' wishes. At the end of the lease, if the original owners wanted the land back, they had to pay for the improvements or lose the land.

Urbanisation; Racism

Te Reo Māori is still forbidden in many public places such as the Courts

Fragmentation of Māori land title meant that Māori owners faced tighter restrictions to loans that were otherwise available to Pākehā farmers. As a result, they began to move away to urban areas to seek waged labour (this

was encouraged by officials during the war as a temporary fix to labour shortages). Urbanisation killed many thriving kāinga as well as stretched or disintegrated cultural and social ties. Everything that strengthened and nurtured Māori identity was also being left behind. Within 25 years of WWII ending, 68% of Māori lived in urban areas. As a consequence, Māori and Pākehā were interacting on a more regular basis and **"with these came an upsurge of ethnocentric incidents and racist attitudes towards Māori"**. (Hill, 2009).

Until the late 1940s Māori were excluded from State Housing. Increasing Māori migration to cities after World War II eventually convinced the government to **admit Māori into State Housing in 1948, through a State Advances and Department of Māori Affairs scheme**. They were pepper potted into Pākehā neighbourhoods to promote their assimilation.

In 1949, the **racial backlash against the growing and visible Māori presence in urban spaces continued**. Racist incidents were on the rise as some urban Pākehā resisted mingling with newly-arrived Māori (Hill, 2009).

Late 1950s: government focussed on controlling and appropriating Māori energies to marginalise Māori as political players. (Hill, R. 2009).

Summer of 1958: race issues were to come to public prominence through New Zealand's rugby connections with South Africa. The All-Black team announced to tour the apartheid country excluded Māori. Prime Minister Nash refused to intervene or to put pressure on the rugby authorities. (Hill, R, S.,2009: chap 1)

Mid-1959: Māori took a prominent role in the mass protest campaign against the All-Black Tour Association. The Māori women's welfare league stated that **"our battle is a domestic one against an act of racial discrimination committed by a New Zealand sports organisation"**. (Hill, 2009).

Education

1945 School Certificate level Māori language offered in some schools but only **as a 'foreign' language option** (ACORD, 1986).

By **1950**, the rate of Māori schoolchildren able to speak Te Reo Māori had plummeted to 55%. (Waitangi Tribunal, 1986).

1931-1959: Cont; further land taking; Māori Wardens and manaakitanga; appropriation of Māori innovation; Takaparawhā | Bastion Point; the Māori Trustee

Land - Pākehā Policy and Legislation

Mid 1930s: an official view begins to crystallise that it is **'impossible' to notify or negotiate with Māori owners, and compulsory purchase is therefore 'easier'**. This led to the idea that it is more convenient to take Māori than general land (Waitangi Tribunal, 2010).

The Native Purposes Act 1943 makes it easier to offer back to Māori owners of compulsorily acquired land but **only if not needed 'for any other public purpose', and its offer back is 'expedient'**

Rangatiratanga and Manaakitanga

1949: Māori Wardens and iwi committees: By now it was becoming clear that Māori work outside of the perceived official roles to address a myriad of issues for their communities. Rather than acting like police, Māori wardens practice manaakitanga. Māori Wardens were authorised to enforce 'order and regularity' within the official committee system. They were described as policemen without the powers of policemen. **Though they worked on behalf of the State, they were not remunerated. Wardens often assumed the status of community social workers** (Hill, 2009). **Iwi committees often focussed on doing things which were state responsibilities**, but which the state had not officially prioritised: eg, installing running water for houses in the papakāinga or securing better sanitation. (Hill, 2009).

Pākehā Appropriation of Māori Innovation

On 1 June 1951, top Department of Māori Affairs officials decide it is time to **'strangle the autonomy and freedom'** which some of the Māori welfare officers had established for themselves and iwi committees. Government wanted the committees to assimilate Māori (within budget). All were now placed fully under the control of the (Pākehā) district officers (Hill, 2009). Many tribal committees were used to carry out state functions which had little to do with 'Māori welfare' eg, as enforcement agencies or collecting rates levied on Māori land by local bodies (Hill, 2009).

1952: Takaparawhā | Bastion Point, Ngāti Whātua: Government begins plans to develop the Bastion Point area and to compulsorily acquire land. Rather than assist to improve the Ngāti Whātua settlement and meeting house at the Ōkahu Bay marae, **the government destroyed them and relocated the inhabitants** (Hill, 2009; Waitangi Tribunal 1987).

1954: Te Urewera, is named a national park to be managed as Crown land by the Department of Conservation. (In 2014, Te Urewera is enshrined with all the rights, powers, duties and liabilities of a legal person under the **2014 Te Urewera Act**. As a result of the Act, Te Urewera ceases to be vested in the Crown, ceases to be Crown land, and ceases to be a national park (Ruru, 2014) (Kerr and Smith, 2014).

1954: Dick Scott publishes *Ask that Mountain: The Story of Parihaka*, Department of Māori Affairs head office staff are told to find factual errors to discredit the book (Hill, 2009).

The Māori Trustee: Large tracts of Māori-owned lands were controlled by the Māori Trustee and other official bodies. Much was on long-term lease to Pākehā farmers. The bulk of the lands had been vested in Māori Land Boards (MLBs). Māori had put their trust in them, but MLBs proved **essentially to be creatures of the Crown, operating primarily in the interests of the perceived 'public good' rather than on behalf of the Māori owners** (Hill, 2009). But the leases contained provisions for compensation to lessees for any permanent improvements they had made, and complexities of title, lack of collective access to loan capital, and other problems meant that the Māori lessors faced significant difficulties in regaining control.

1949: Crown authorises the improvement of more than a quarter of **'unproductive' Māori land**. Before Māori-owned and Māori-controlled land could receive developmental aid, owners would have to agree in advance to Dept Māori Affairs control. Māori would have to sign up to subdivision into 'economic farm units', on which lessees (usually non-Māori) would be placed and granted long-term tenure (Marr, 1997).

The Māori Purposes Act 1950 allowed the Māori Land Court to authorise the Māori Trustee to lease out any Māori lands deemed to be 'unproductive'. **1951 official enquiry** into the **MLB-vested leases found that the boards were neither adequately consulting owners about the use of the lands, nor planning for the future of the land in the event of non-renewal of leases** (Hill, 2009).

In 1952, the Māori Trustee gains greater power over Māori-owned land. In **2021 the Māori Trustee still does not require owners' approval before the it approves leases**.

1960-1970: Racism; the Hunn report and integration; isolation; deficit theory and internalised racism; psychological illness; the racial harmony myth; the discovery myth; and the Māori as savages' myth are taught in schools

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Integration; Racism

Te Reo Māori is forbidden in many public places such as the Courts.

1960: Government officials generally agreed that a **widespread problem of discrimination did exist**, and that "the problem was probably **growing more acute**" (but they remained reluctant to draw public attention to these issues). Many Pākehā refused to concede that there were fundamental flaws in New Zealand. Integration meant that Māori were experiencing racism on a daily basis. But, rather than address racism against Māori,

the government reframes the problem as social maladjustment in the cities and then focuses attention on Māori achieving parity with Pākehā (Hill, R. 2009, Chap 5).

David Ausubel (author of The Fern and the Tiki) **describes** the **pervasive racism and discrimination against Māori** which he had encountered in New Zealand. Ausubel referred to the NZ **claims of racial harmony** as a **'national self-delusion'** (cited in Reid, J. et al, 2017:44). This infuriated Pākehā (Hill, R. 2009, Chap 5).

In 1960 the Hunn Report proposed integration and urgent proactive measures for assisting Māori to acquire parity with Pākehā but "Māori were still expected to adopt a pseudo-Pākehā identity in this period". For many Māori, living in a Pākehā environment meant accepting a view that their own culture and identity was inferior (Reid, J.et al, 2017). The Hunn report also noted the substantive socio-economic gap between Māori and Pākehā.

1968: Historian Keith Sinclair delivered a paper at the University of Cambridge (and elsewhere) entitled 'Why are Race Relations in New Zealand Better than in South Africa, South Australia, or South Dakota?' Sinclair opined in the opening sentences that "It is not intended in this paper to argue that the statement implied in the question in the title is true. Rather its correctness will be taken for granted" (1971, p. 121).

Health and Welfare

As far back as 1947 it was observed that **Māori had fewer neurotic and psychotic illness than Pākehā** because of the psychological security that came from tribal and family security (Beaglehole cited in Reid et al, 2017).

During the 1960s colonial beliefs were internalised by Māori (Hollis et al, 2011, in Reid, J et al, 2017). Urbanised Māori were isolated from their ancestral culture and excluded from the dominant culture as well as being "concentrated in poor housing, working for low wages or on welfare, and subject to across-the-board racism" (Taonui in Reid et al, 2017).

Māori psychological illness increased rapidly from the integration period of the 60s.

Education

Schools continued to discourage Māori from attaining higher education.

The history curriculum taught the myths that Aotearoa was discovered by Cook, that Māori were savages and that Māori lost the sovereignty wars. Tamariki are taught the enduring myth that "there is no country in the world where two races of different colour live together with more goodwill towards each other" (McDonald 1963 in Hill, 2009).

Histories of settler colonial violence continue to be silenced (refer 1954 example of the Dick Scott book 'Ask that Mountain', above).

Māori began to be assessed against a **deficit** model.

Land

1967: legislative attempts were still being made to vest 'uneconomic interests' in Māori land in the hands of the Māori Trustee for potential alienation" (Kukutai 2010 in Reid, J et al, 2017).

1970s: The **Working Group on Indigenous Peoples** start working on the UNDRIP; the assimilationist **Race Relations Bill**; Māori resistance to the Bill; **the Race Relations Act; CERD**; Race Relations Conciliator denies racism; Human Rights Commission established

Pākehā legislation, human rights & race relations

1970s: the Working Group on Indigenous Peoples (WGIP) begins its work towards a United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In **2007** the **UNDRIP** is completed but NZ does not sign it until 2010. As Jackson (2021) notes: The idea of a declaration of UNDRIP was first promoted by indigenous advocates in the 1970s [following] a long history of international advocacy... Māori attended all of the subsequent meetings of WGIP.

Many governments actively opposed the Declaration and often invented fatuous legal arguments to justify their opposition. They argued about whether Indigenous Peoples were actually the kind of "peoples" in whom rights might vest in international law. The governments of New Zealand, Canada, the United States and Australia regularly promoted those sorts of arguments while claiming to support the aspirations of Indigenous Peoples.

Some argued that human rights "only applied to individual rights and not the collective nature of rights as understood by Indigenous Peoples".

The costs to the indigenous people participating in the working groups were not just financial: **"Some Indigenous participants** were **'disappeared' by their governments when they returned home".**

In 2010, the [New Zealand] government finally accepted the Declaration but tried to diminish its importance by saying it was only an aspirational document. "It's disappointing and insultingly offensive that some [people] think the Declaration can just be dismissed as unimportant and divisive." (Jackson, 2021c).

Race Relations Bill 1971: The government introduced the Race Relations Bill in 1971. The aim of the original Bill was "to disestablish the Māori Affairs Department and other Māori agencies, furthering the goals of existing assimilation policies. That was how the government perceived its obligations to the UN." (Vincent O'Malley, Walley Penetito, and Bruce Stirling 2010 cited in O'Malley, V 2012).

Rangatiratanga: Submissions from Māori argue that the Bill is the Government's attempt to distract from Māori demands for legal recognition of Te Tiriti. (O'Malley, V 2012). In the Māori Council's manifesto, Pei Te Hurunui Jones argues - "The Race Relations Act (could) be a charter of human relations at least as inspiring as **the first Race Relations Bill** and **the Treaty of Waitangi**. The Māori people still seek legal recognition of that Treaty, and a comparison of its intentions with those of the Bill under review would show that the parallels are in fact close" (in O'Malley, V 2012).

Race Relations Act 1971 outlawed discrimination on the basis of race and a **Race Relations Conciliator** was **appointed** to investigate any such allegations. This Act made it "unlawful to discriminate against any person by reason of his colour, race, or ethnic or national origins".

1972: New Zealand ratified the **Convention on the Elimination of all Forms of Racial Discrimination** in (CERD). CERD 1(2) maintains state parties should pursue the end of racism through all appropriate means and without delay (STIR & NZPHA, 2021: 7).

Also in 1972, a female academic, Ruth Ross, published an article in the New Zealand Journal of History in 1972 entitled *'Te Tiriti o Waitangi: Texts and Translations'*. The Waitangi Tribunal considered that this **article "stands as probably the single most important interpretive advance on the subject in modern times"**. Ross argued "the treaty transaction was characterised by confusion and undue haste. She made the important observation that sovereignty was translated by Henry Williams in a different way from his translation of 'all sovereign power and authority' in the declaration only a few years previously. **She concluded that the Māori text was the true treaty** and that what mattered was how it had been understood here, not what the Colonial office had made of the English text(s) in London. Her rigorous empirical examination of the original documents **exposed the unquestioning acceptance of myths about the treaty** by an earlier generation of scholars. And she left her contemporaries with the uncomfortable realisation that a **reliance on what was said in the English text alone was no longer intellectually honest**" (Waitangi Tribunal, 2014, p410).

1973: the **Race Relations Conciliator** denies that racist intent exists in New Zealand: "The expression 'white racism' ... [has] been used with reference to the NZ scene. I think this is a mistake. I think there is no or little racist intent in NZ either among the citizens, or in the system, or in the way of life. I do not think a citizen can prove racial discrimination" (Guy Powles, the first Race Relations Conciliator, 1973 cited in Salient 1974: 13).

1974: MOOHR recommends the Race Relations Conciliator implement the CERD (O'Malley, 2012).

1977: The Human Rights Commission is established by the Human Rights Commission Act 1977. It is empowered to protect human rights in general accordance with United Nations Covenants and has a range of functions and powers in order to do this. That same year, the government institutes the openly racist **Dawn Raids policy on Pacific communities**.

From 1977-2000: Neither the Race Relations Conciliator (as it was called in 1977) **nor the Human Rights Commission** make submissions in support of the many iwi who have made Waitangi tribunal claims, all of which provide evidence of Tiriti and human rights breaches. Nor do they voice concern for the serious inequities between Māori and Pākehā which have been apparent for decades. This silence is no longer defensible particularly since the WHO Commission on the Social Determinants of Health has stated that racism and discrimination are among the key modifiable determinants of health and that **the outcomes of racism are manifest in the significant and enduring disparities in health, economic and social well-being between Māori and non-Māori**" (STIR & NZPHA, 2021). "Once Indigenous people become a minority within their own country, governance structures often serve to entrench the power of the colonisers" (STIR & NZPHA, 2021).

In 2001, the Commission states that its focus changed "from anti-discrimination to broader human rights" (Human Rights Commission, 2021 Human Rights Act - NZ Human Rights (hrc.co.nz)). Given that the period from 1977–2000 was replete with acts of discrimination, we believe the Commission should strengthen its focus on racism and white supremacy. From its inception, the Race Relations Conciliator (and later the Human Rights Commission) would have been within its mandate to advocate vociferously for Māori to be treated fairly and for discrimination against Māori to be eliminated. However, over its combined 50-year history, it has never offered its expert opinion, advocacy or advice on halting the systemic oppression of Māori. **Inaction in the face of need is also institutional racism**. (STIR & NZPHA, 2021).

1970s: Cont. Defining 'Māori'; Public Works land taking; the Hīkoi/Land March, Te Tiriti Rights; Waitangi Tribunal; te reo Māori on the verge of extinction

1986: The government continues to define who is Māori and who isn't, based on blood quantum

"For quite a long time a Māori was a person who was a half-blood or more, ie, at least one of his parents was a full-blooded Māori, or both were three-quarter Māori or some similar combination. Later this definition was changed to mean a person of Māori descent, that is one or other of his parents was of Māori blood. This much broader definition would include many people who would be excluded by the "half-blood or more" test. There are some Pākehā who still cling to the half-blood or more idea and who will say that "there is no such thing as a full-blooded Māori" (Government Statistician in Waitangi Tribunal, 1986:13 (Wai 11)).

Te Reo Māori is still forbidden in many public places such as the Courts. (Waitangi Tribunal, 1986).

Land and Water - Te Tiriti Rights

Public Works Takings

"There have been at least **20 major pieces of public works legislation passed in New Zealand**, as well as **numerous amendments** that often contain important new or changed provisions. In addition, there have been ... **hundreds of other Acts** that include important land taking related provisions for public purposes. Public works takings provisions have traditionally been included in general legislation such as Māori land legislation, land Acts, finance Acts, and reserves and domains Acts; legislation empowering certain authorities such as roads boards and local councils, and legislation relating to particular types of works such

as electricity, railways, scenic reserves, and roading. There have also been numerous special Acts relating to particular projects, or areas of land. Legislation such as the various town and country planning Acts have also had a significant influence on public works provisions" (Marr, 1997). **We still do not know the total amount of Māori land taken for public works purposes between 1840 and 1981**. Tracking down and collating this data should be a government priority.

Rangatiratanga

In 1975, Whina Cooper leads 5000 people on a land march from Te Hāpua to Wellington to present a 60,000-signature petition to Prime Minister Bill Rowling. The cry 'not one more acre' reverberated around the country. The raising of Māori political consciousness from this time on means that **the compulsory acquisition of Māori land is no longer tolerated. Local authorities** change their approach in response to fear of political protest. They acquire land for public works by negotiation, rather than compulsion, and Māori land is used much less.

1975: MP Matiu Rata established the **Waitangi Tribunal** through the Treaty of Waitangi Act 1975. At first the Tribunal could only hear claims about current issues. Throughout the settlement process, the Crown retains control. This process protects the Crown unitary sovereignty and therefore fails to address the substance of fundamental Māori claims of tino rangatiratanga. The Tribunal's findings are not binding on the government (Rumbles 1999 in Came, 2012).

1976: The Waitemata Harbour Claim by Joe Hawke, Henry Matthews, Te Witi McMath and Rua Paul, which is the first claim to the Waitangi Tribunal relating to fishing rights in the Waitemata Harbour.

1978: Kaituna River Claim by six claimants on behalf of Ngāti Pikiao concerned a proposed pipeline to take the effluent directly to the Kaituna River.

1978: The National Party's manifesto says it will change the Public Works Act to allow only negotiated purchases (**but it does not**). Māori are largely powerless to control the whittling away of Māori landholdings. In Wairarapa eg, local Māori "could not even retain ownership of their own ancestral land when a road board, county council, or catchment authority ¬conceived the idea that it must be pressed into use for a road, flood channel, rubbish dump or sewage pond" (Waitangi Tribunal, 2010).

Education

1974: MOOHR recommends that the history curriculum be rewritten to present an **honest history of race relations** in New Zealand (O'Malley, 2012).

1975: The **rate of Māori children who are able to speak te reo Māori had fallen to less than 5%**. The reasons include "Social changes ... greatly reduced the contexts in which Māori speaking people can use their language; urbanisation, ... industrialisation, consolidation of rural schools and internal migration have all taken their toll." (Benton, in The Waitangi Tribunal 1986 (Wai 11))

1977: Hana Jackson submits a **petition** of 30,00 signatures to Parliament **asking for active recognition of te reo Māori**. It became the starting point for a significant revitalisation of te reo (The Waitangi Tribunal 1986 (Wai 11))

1980-1999: Many inquiries; Tribunal, and review findings outline systemic failings in the state sector on issues of critical importance to Māori – transformational change is recommended but nothing changes

Land and Water

1980s–1999: Māori focus turns to ensuring they get back land that was taken for public works (Waitangi Tribunal 2010, Wai 863) while the Labour government commenced "**...a deliberate and cynical move to redefine the Treaty**" (Hill & O'Malley, 2000, in Came, 2012).

The concept of biculturalism emerges.

Public Works Act 1981 standardises procedural requirements for Māori and general land. Encourages negotiated purchase. All acquisition of Māori land comes under the supervision of the Māori Land Court. Obligation to offer land back much stronger but authorities can still wriggle out of it. A 1982

amendment requires land to be offered back at market value or less. The Act remains in force but has been 'under review' since the early 1990s (Waitangi Tribunal, 2010:743 (Wai 863)).

1985: The Waitangi Tribunal remit is extended to hear claims going back to 1840; the Crown controls the whole process. The increase in claims following this change was huge and so was the Pākehā backlash which included concern at the amount of resources going into settlement and reconciliation processes (Spoonley, 1993; Came, 2012). **The Tribunal's findings are still not binding on the Crown and remains that way** (For example, in passing the **Foreshore Seabed Act 2004**, the Labour-led Coalition **government acted against the advice of the Tribunal**) (Waitangi Tribunal, 2004 cited in Came, 2012).

In 1986 Ngāi Tahu lodges their claim with the Waitangi Tribunal. **This claim was initiated in 1849**. It is the first large claim that the tribunal heard under its power to investigate grievances dating back to 1840. (Ngāi Tahu Claims Settlement Act 1998). By the time of the 1991 Waitangi Tribunal findings on the Ngāi Tahu claim, at least a dozen different commissions, inquiries, courts and tribunals had repeatedly established the veracity and justice of the Ngāi Tahu claim. (Te Rūnanga o Ngāi Tahu - The Settlement –https://ngaitahu.iwi.nz/ngai-tahu/the-settlement/claim-history/)

Education

In the 1980s Māori tamariki start to be measured against a deficit model to understand Māori educational performance. This discourse continues through to the early 2000s under a number of guises including the phrase 'Māori underachievement'. This more broadly fuels the belief that problems lay – and were inherent to – Māori students themselves rather than to the education system.

Te Reo Māori

Te Reo Māori is still forbidden in many public places such as the Courts. (Waitangi Tribunal, 1986)

1982: Māori parents start the first Kōhanga Reo at Waiwhetū, Lower Hutt.

1984: The **scaling system of the School Certificate Examination Board** controlled the number of students who pass. It operated so that 80 out of every 100 candidates sitting a foreign language were allowed to pass but only 38 out of every 100 candidates sitting the Māori language, were allowed to pass (Waitangi Tribunal, 1986).

1985: around the country there are 416 Kōhanga Reo with 6000 tamariki. The fee charged is $25 per week per child. However, Māori parents note that the English language education system means their children lose their fluency in te reo Māori after six months at primary school (Waitangi Tribunal, 1986)

1985: the te reo Māori claim is heard.

1986: Waitangi Tribunal findings say Māori children are not being adequately educated and alludes to institutional racism

"We think that the system is at fault and has been at fault for many years. We suspect that somewhere at some influential level in the Department, there remains an attitude—it may be in planning or in education boards, or at the level of principals or head teachers ...a vestige of the attitude expressed by a former Director of Education who wrote in the middle of the first half of this century:

".. The natural abandonment of the native tongue involves no loss on the Māori." (Waitangi Tribunal, Te Reo Māori Claim 1986, Wai 11).

Politics

After extending the Tribunal's remit back to 1840, there are **deliberate attempts to redefine the terms of Te Tiriti**.

1987: Rather than implement the Māori text of Te Tiriti, the Court of Appeal proposes 'Treaty principles' to form the basis of Crown-Māori engagement (Kelsey 1991 in Came, 2012).

1989: the Labour Government invents separate Treaty principles ie:

- government (Kāwanatanga principle)
- self-management (rangatiratanga principle)
- equality
- reasonable co-operation
- redress.

Government departments interpret the Treaty principles for their own purposes, and this carries on until the end of the 20th century. (In 2010, the Special Rapporteur observed that the Treaty's principles appear to be vulnerable to political discretion, resulting in their perpetual insecurity and instability (Anaya, 2010 in

Came, 2012).

2006: The Ministry of Health directed all district health boards to no longer make any reference to the Treaty in any policy, actions, plans or contracts, due to the government's concern about backlash from the general public.

Justice

1987: Moana Jackson releases his report on the criminal justice system *He Whaipaanga Hou*.

The well-recognised fact that Māori are overrepresented in criminal justice is directly linked to **colonisation, racism and white supremacy**. This report was pivotal in highlighting Māori experiences of institutional racism in criminal justice. As a system built on "monocultural attitudes", it actively oppressed Māori notions of justice, and continues to alienate Māori therein through an overtly Eurocentric values base. Despite decades of evidence of Māori overrepresentation in the Criminal Justice system

In 2010 the Special Rapporteur could not "help but note the extreme disadvantage in the social and economic conditions of Māori people, which are dramatically manifested in the continued and persistent high levels of incarceration of Māori individuals. These troubling conditions **undoubtedly result from the historical and ongoing denial of the human rights of Māori**, which must continue to be addressed as a matter of upmost priority" (Anaya, J. 2010:3)

In **2019**, we saw the **highest-ever number of Māori being caught in the justice pipeline** which is an effect of a history of self-determination undermined, for the dispossession of Māori lands and ways of being (Te Uepū Hāpai i te Ora, Safe and Effective Justice Advisory Group, 2019).

2005: United Nations Committee on the Elimination of Racial Discrimination determined that "... the [2004 Foreshore and Seabed] legislation appears to the Committee, on balance, to contain discriminatory aspects against ... Māori customary titles over the foreshore and seabed".

Welfare

1988: the report *Puao-Te-Ata-Tu* is released. Initially focused on state care and protection of Māori children, it states "the issues facing Māori resulted from failing systems of state provision underpinned by a broader context of colonisation, racism and structural inequity". It recommended significant changes to organisational policy, planning and service delivery.

These messages have been repeated for over three decades now: without exception, every major review focused on issues of critical importance for Māori has identified profoundly failing state sector systems, stressing an urgent need for bold transformational change. Boulton, A., Levy, M., Cvitanovic, L., (Dec 2020).

In **2020 the Waitangi Tribunal** released its findings on Oranga Tamariki (Child, Youth and Family, renamed). It acknowledged the Crown's failure to implement the recommendations of *Puao-Te-Ata-Tu*. "The Waitangi Tribunal has called on the Government to step back from intruding into Māori communities, ruling the care of Māori children by Oranga Tamariki has breached the Treaty of Waitangi".

"It is important to understand that the need for change and the process of transformation we recommend has nothing to do with separatism and everything to do with realising the Treaty promise, that two peoples may coexist harmoniously," the tribunal said. (Thomas Manch, Apr 30 2021).

In 2021, Oranga Tamariki, is again criticised:

"It is self-centred and constantly looks to itself for answers. Its current systems are weak, disconnected and unfit for the population of tamariki it serves, and there is no strategy to partner with Māori and the community" (Tukaki, M. Glavish, N., Solomon, M. and Pakura, S., 2021, p10).

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i. The report paraphrases direct quotes where this clarifies but does not change the testimony.

ii. Waitangi Tribunal, Te Paparahi o te Raki (Northland) Stage 1 Report, Wai 1040 (2014).

iii. UN International Law Commission (ILC), Vienna Convention on the Law of Treaties (1969). Signed by Aotearoa New Zealand in 1971. The Convention came into effect in 1980.

iv. The Convention formally applies to treaties that came after its endorsement by United Nation member states. However, the international community accepts that the Convention's terms as forming part of the wider body of international customary law. The International Court of Justice Statute defines customary international law in Article 38(1)(b) as "a general practice accepted as law." Many governments accept in principle the existence of customary international law, although there are differing opinions as to what rules it contains. In 1950, the International Law Commission listed the following sources as forms of evidence of customary international law: treaties, decisions of national and international courts, national legislation, opinions of national legal advisors, diplomatic correspondence, and practice of international organizations.

v. Waitangi Tribunal (1985), The Manukau Report, p. 65; see also Waitangi Tribunal (1983), Motunui-Waitara Report, p. 49.

vi. Charters, C 2009: "Do Maori Rights Racially Discriminate Against Non Maori?". VUWLawRw 34; 40(3) Victoria University of Wellington Law Review 649
https://www.austlii.edu.au/nz/journals/vuwlawrw/2009/34.html

vii. Ministerial Advisory Committee. Puao te ata tu (Day break). Wellington, New Zealand: Department of Social Welfare; 1988.

viii. The historian Keith Sinclair delivered this paper as a presentation at the University of Cambridge (and elsewhere) in 1968. Entitled 'Why are Race Relations in New Zealand Better than in South Africa, South Australia, or South Dakota?', Sinclair opines in the opening sentences that "It is not intended in this paper to argue that the statement implied in the question in the title is true. Rather its correctness will be taken for granted" (1971, p. 121).

ix. Only 10 people could be named as owners on a block of land, regardless of how big the block was. The 10-owner rule was abolished in 1873.

x. For Ngāi Tahu, nearly 100 percent of its land had been dispossessed by 1863 (Reid et al, 2017, p. 31).

xi. Ranginui Walker, Wikipedia, Nga Taumatoa, https://www.keywiki.org/Nga_Tamatoa

xii. Rider, I. 2021, Waitangi Treaty Grounds website https://www.waitangi.org.nz/learn-blog/land-march-arrives-in-wellington1975

xiii. CTU Media Release, 19 October 2007. Scoop Parliament https://www.scoop.co.nz/stories/PA0710/S00382.htm

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Human Rights Commission