

Anne Salmond

Where Will the Bellbird Sing?

Te Tiriti o Waitangi and ‘Race’

Abstract

This article investigates deep philosophical differences between the complex relational networks that underpin te Tiriti o Waitangi as originally written, debated and signed by the rangatira of various hapū and British officials in New Zealand in 1840, and the canonical re-framing of the Treaty as a binary ‘partnership between races’, or ‘between the Crown and the Maori race’, in the 1987 ‘Lands’ case judgment by the Court of Appeal, at the height of the neo-liberal revolution in New Zealand.

After exploring comparative analyses of the colonial origins and uses of the idea of ‘race’, and the risks associated with binary framings of citizenship by race, ethnicity or religion in contemporary nation states, the article asks whether relational thinking and institutions – including tikanga and marae – might not offer more promising ways of understanding and honouring te Tiriti o Waitangi, and fostering cross-cultural experiments in Aotearoa New Zealand.

Keywords relational philosophy, Treaty of Waitangi, cross-cultural relations, race, colonialism and citizenship

Dame Anne Salmond is a distinguished professor of anthropology at the University of Auckland.

In Aotearoa New Zealand there are marae (ceremonial meeting places) in most parts of the country. Some marae are unassuming – a small, simple hall, set in a rural paddock, with a dining room beside it. Other marae are magnificent, with carved and painted meeting houses, large dining halls and other facilities.

When they arrive at a hui (gathering), groups of manuhiri (guests) gather outside the entrance of the marae until they are called in by local women, who stand in front of their meeting house, summoning up ancestors and their visitors with karanga (calls of welcome). When the visiting kuia (senior women) reply, calls echo back and forth across the marae ātea, the meeting ground, as the visitors move forward. Both sides join in the tangi, weeping for those who have died since their last meeting. Afterwards the guests sit on benches that face the meeting house, while their hosts sit on benches in the porch or beside their ancestral whare (meeting house).

After a local orator stands to greet the manuhiri, his people sing a waiata (song). In some tribal areas all the local orators

speak before their visitors, while in others, local and visiting orators alternate. Once the whaikōrero (speeches) are over, the visitors place their koha (gift) to the hosts on the marae ātea and join them in the hongi, pressing noses and mingling their breath before sharing a meal together.

In the rhythms of the hui, ancestors and descendants, hosts and visitors, men and women, orators and singers join in ceremonial exchanges. The kawa (ritual protocol) alternately sets them apart and brings them together, forging new relationships and renewing old ones in reciprocal exchanges.

Hobson opened the meeting by speaking in English to the assembled settlers and then the rangatira (chiefs), with the missionary Henry Williams translating, and read the Treaty in English, and then Williams read te Tiriti in Māori.

When I reflect upon the signing of te Tiriti o Waitangi in 1840, I think of these kinds of gatherings. Prophetically enough, on that occasion, the British resident’s house at Waitangi served as the meeting house, and the Treaty was discussed on the lawn in front, with the lieutenant governor-designate, William Hobson, and key European officials and missionaries sitting in a tent on a dais.

Hobson opened the meeting by speaking in English to the assembled settlers and then the rangatira (chiefs), with the missionary Henry Williams translating, and read the Treaty in English, and then Williams read te Tiriti in Māori. As the rangatira of the assembled hapū stood in turn to speak, they strode up and down in front of the dais, expressing their fears and hopes about te Tiriti, and telling the kāwana (governor) what they thought about it.

Te Tiriti o Waitangi itself was a similar kind of hybrid – translated into Māori

from an English draft by Henry Williams and his son, and using terms some of which were transliterated from English into Māori, but written to appeal to a Māori audience, as best as they knew how.

Te Tiriti o Waitangi

My own engagement with te Tiriti o Waitangi began in 1992, when I was asked by the Waitangi Tribunal to give evidence on Māori understandings of the Treaty in 1840 for the Muriwhenua land claim. For this exercise I worked closely with Dr Merimeri Penfold and Dr Cleve Barlow, friends and colleagues from Māori Studies

and both fluent speakers of northern Māori (Salmond, 1992).

Merimeri was a brilliant translator, and Cleve was an historical linguist and specialist in tikanga who had created a concordance of te Paipera Tapu, the Bible, and other early texts in te reo. We worked through te Tiriti line by line, discussing the meanings of key words, with Cleve producing printouts of their occurrences in a range of early Māori texts, including te Paipera.

During my early training as an anthropologist, I had worked with knowledgeable elders and specialised in linguistics, especially sociolinguistics and historical semantics – how language and social life interact to shape our understandings of the world. I was fascinated by early manuscripts and ancestral tikanga, including those on marae (Salmond, 1975), and in 1992 had recently published *Two Worlds: first meetings between Maori and Europeans*

(Salmond, 1991b) on early contact history in Aotearoa New Zealand.

One of the first things that Merimeri, Cleve and I noticed about te Tiriti was the way it was expressed as a series of tuku, or gift exchanges (Salmond, 1991a; Mutu, 1992). These begin in the preamble to te Tiriti, in which Queen Victoria, out of her caring concern (‘mahara atawai’) for the rangatira and the hapū of New Zealand, has sent (tukua) a rangatira as a mediator to the indigenous persons of New Zealand (‘hei kai wakarite ki nga Tangata maori o Nu Tirani’), and gives (tuku) William Hobson as a governor for all of those parts of New Zealand that will be given (tukua) to the Queen now and in the future.

In ture (article) 1, the rangatira absolutely give (‘tuku rawa atu’) to the Queen forever all the ‘Kawanatanga’ of their lands. In ture 2, the Queen ratifies and agrees with the rangatira, the hapū and all the people of New Zealand to the tino rangatiratanga of their lands, dwelling places and all of their taonga, while the rangatira give (tuku) to the Queen the hokonga (trade) of those parts of the land where the person attached to the land is willing.

In ture 3, in exchange for the agreement to the kāwanatanga of the Queen, the Queen promises to look after all the indigenous inhabitants of New Zealand, and gives (tukua) to them all the tikanga (customary practices, right and proper ways of doing things) exactly equal with those she gives to her subjects, the inhabitants of England. The rhythm of alternating exchanges in the text is reminiscent of those seen on the marae.

From the speeches delivered at Waitangi and elsewhere in Northland in 1840, it is clear that the rangatira were deeply concerned about the nature of the relationships proposed in te Tiriti between themselves, their hapū, tangata māori (ordinary persons), and the manuhiri – the governor and the incoming settlers. By that time, many Māori had travelled to Britain or to British colonies, including New South Wales and Norfolk Island, met governors and monarchs, and witnessed the social arrangements in those places – the treatment of Aboriginal people and convicts, and the use of soldiers and prisons to uphold government authority, for instance.

During that same period, the introduction of muskets had led to battles and migrations that disrupted life in many parts of the country. Māori were also under acute pressure from unruly sailors, the land sharks and new settlers who cheated them and wanted to buy their land, and the missionaries, who were intent on changing their tikanga.

These experiences filled many of the rangatira with doubts about signing te Tiriti. As Te Kēmara, the local rangatira (a matakite or visionary tohunga), said in his opening speech at Waitangi:

Were all to be on an Equality, then perhaps Kemera would say yes – but for the Govr to be up and Kemera down! Govr high – up, up, up and Kemera, down, low, small, – a worm – a crawler! This is mine to thee, o Governor! My land is gone – gone – all gone, – the inheritances of my ancestors, fathers, relatives, all gone, stolen, – gone, with the Missionaries No, no, no – I say go back, – go back Govr. – we do not want you here – and Kemera says to thee Go back.

When the Hokianga rangatira Tāmami Wāka Nene spoke, after castigating those who had sold their land he said to Hobson:

Yes – it is good – straight – remain – dont go away – *Heed not what Ngapuhi say – you stay – our friend & father O Governor.* You must be our father! You must not allow us to become slaves! You must preserve our customs, and never permit our lands to be wrested from us!

The last manuhiri to speak at Waitangi was Nene's elder brother, Patuone, a recent Church Missionary Society convert. He 'spoke at length in favour of Mr. Hobson, and explained, by bringing his two index fingers side by side, that they would be perfectly equal, and that each chief would be similarly equal with Mr. Hobson.' He concluded, 'What shall I say? This is to thee, o Govenor. Sit – stay – you and the Missionaries.' In his final speech, Te Kēmara responded by saying:

'Let us all be alike then remain, but the Govenor up, Te Kemera down – no, no,' and here he ran up to Hobson, crossing

his wrists as though handcuffed – no doubt as a riposte to Patuone's gesture – and asked: 'Shall I be like this? Like this? Eh! Say! Like this?' He then caught hold of the Govr.'s hand, *shaking it lustily & roaring out*, 'How d'ye do' – then again, & again and again – the whole assembly being convulsed with laughter.¹

According to eyewitness accounts of the hui at Waitangi, the rangatira had to be persuaded that their mana and tikanga would be upheld before they signed te

arrived at the same conclusion. As he wrote in a footnote: "Kawanatanga". There could be no possibility of the Maori signatories having any understanding of government in the sense of "sovereignty": ie, any understanding on the basis of experience or cultural precedent' (Kawharu, 1989, note 6).³ Nevertheless, in 1992 this conclusion was not altogether welcome, and our evidence was quietly shelved by the Waitangi Tribunal.

Seventeen years later, in 2009, when I was asked by the Tribunal to revisit this evidence for Te Paparahi o te Raki claim,

... uncertainty raised by the [2014 Waitangi Tribunal's] conclusion over the legitimacy of current governance arrangements that ideas about 'partnership', along with notions of 'Māori sovereignty', 'co-governance' and other constitutional framings, gained new impetus.

Tiriti. That was borne out by our linguistic research, which involved a close examination of texts in te reo from the early contact period, including He Whakapūtanga, the Declaration of Independence. From that evidence, we concluded that in ture 1 of te Tiriti in 1840, kāwanatanga meant governorship, not 'sovereignty' (in the sense of overarching authority),² and that when they signed te Tiriti the rangatira did not cede sovereignty to Queen Victoria. Rather, as stated in the preamble, they agreed that the Queen could send a governor to New Zealand to act as a 'kai wakarite' (mediator) and bring peace (rongo) and tranquillity (atanoho) to indigenous and European persons living without law ('e noho ture kore ana').

Recently, upon returning to Sir Hugh Kawharu's classic 1989 translation of te Tiriti into English, it was fascinating to find that this eminent anthropologist had

which focused on te Tiriti, Cleve had died and Merimeri was not well. Fortunately, I was able to discuss our original findings with Dr Mānuka Hēnare, Hōne Sadler, Dr Patu Hohepa (now Sir Patu) and other close colleagues at the University of Auckland (Salmond, 2010). These discussions only strengthened the conclusion that in 1840, the rangatira had not ceded sovereignty to Queen Victoria.

In Te Paparahi o te Raki claim, the debate centred upon the relationship between ture 1, the absolute gift forever by the rangatira to the Queen of all of the governorship of their lands, and ture 2, the Queen's agreement with the rangatira, the hapū and 'nga tangata katoa o Nu Tirani' (all the inhabitants of New Zealand) to the tino rangatiratanga of their lands, dwelling places and all of their taonga. Ture 3, the Queen's promise to protect 'nga tangata maori katoa o Nu Tirani' (all the indigenous

inhabitants of New Zealand) and to give to them ‘nga tikanga katoa rite tahi’ (all the tikanga exactly equal) with those of her subjects, the inhabitants of England, was barely mentioned.

As we all know, in the final, 800-page report of that claim (Waitangi Tribunal, 2014), a brilliant work of historical scholarship, the Tribunal agreed with the claimants, concluding that in 1840 the rangatira did not cede sovereignty to the British Crown. In response, the attorney-general, Christopher Finlayson, stated: ‘There is no question that the Crown has sovereignty in New Zealand. This report doesn’t change that fact’ (quoted in Kenny, 2014).

In light of the fact that there were two texts of the Treaty of Waitangi, one in Māori and one in English, Cooke declared that ‘the principles of the Treaty are to be applied, not the literal words’ ...

It is perhaps because of the uncertainty raised by the Tribunal’s conclusion over the legitimacy of current governance arrangements that ideas about ‘partnership’, along with notions of ‘Māori sovereignty’, ‘co-governance’ and other constitutional framings, gained new impetus.

In 2010, when the New Zealand government finally supported the United Nations Declaration on the Rights of Indigenous Peoples, the prime minister, John Key, acknowledged that Māori have special status as tangata whenua, with an interest in all policy and legislative matters; affirmed New Zealand’s commitment to the common objectives of the declaration and the Treaty of Waitangi; and reaffirmed the legal and constitutional frameworks that underpin New Zealand’s legal system, noting that those existing frameworks define the bounds of New Zealand’s engagement with the declaration.

When Māori scholars responded to the declaration with reports including Matike Mai (Mutu and Jackson, 2016) and

He Puapua (Charters et al., 2019), constitutional questions about the relative status of Māori and non-Māori citizens were again hotly debated in Aotearoa New Zealand. This reignited my interest in te Tiriti.

Given the claims that were being made about ‘partnership’ and ‘co-governance’, I also went back and, for the first time, read the judgment in the 1987 ‘Lands’ case, in which the New Zealand Māori Council challenged the New Zealand government to act in keeping with ‘the principles of the Treaty of Waitangi’ when partially privatising many public assets, including land. It was startling to find the text of this

canonical judgment riddled with references to ‘race’. Indeed, in the ‘Lands’ judgment, the Treaty of Waitangi itself is defined as a ‘partnership between races’, or ‘between the Crown and the Maori race’. Yet I couldn’t recall any reference to ‘race’ – or anything like it – in the text of te Tiriti.

The 1987 ‘Lands’ case

The ‘Lands’ case (*New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641) took place at the height of the neo-liberal experiment in New Zealand. With the 1986 State-Owned Enterprises Act, the fourth Labour government had decided to transfer about 10 million hectares of land and other assets owned by the Crown to state-owned enterprises (SOEs), government departments that were being corporatised and restructured as commercial enterprises. According to section 9 of the Act, in this transfer the Crown was not permitted to act ‘in a manner that is inconsistent with the principles of the Treaty of Waitangi’.

Fearing that once these ‘assets’ had been handed over to SOEs, they would no longer be available for Treaty settlements, the New Zealand Māori Council sought to test this provision in court. The Court of Appeal upheld their claim, ruling that before any transfer of Crown lands and assets (including Crown forestry and farming operations, airline and railways, telecommunications, postal and power networks) took place, it had to be tested for consistency with ‘the principles of the Treaty’.⁴

According to Sir Robin Cooke (later Lord Cooke of Thorndon), at that time president of the Court of Appeal, ‘this case is perhaps as important for the future of our country as any that has come before a New Zealand court’ (*New Zealand Maori Council v Attorney-General*, at 651). After issuing their joint decision, therefore, each of the judges delivered their own judgment. Of these judgments, Cooke’s has been the most influential. In light of the fact that there were two texts of the Treaty of Waitangi, one in Māori and one in English, Cooke declared that ‘the principles of the Treaty are to be applied, not the literal words’ (ibid., at 662). Since te Tiriti in 1840 could not take into account the demands of a ‘relatively sophisticated’ contemporary society, he argued, it was ‘the spirit’ of the Treaty that mattered, not ‘the differences between the texts and the shades of meaning’ (ibid., at 663).

In their judgments, Cooke and the other judges, in addressing the statutory language of section 9, effectively cast the ‘principles of the Treaty of Waitangi’ as implying ‘a partnership between races’ (or between ‘Pakeha and Maori’ or between ‘the Crown and the Maori race’) (ibid., at 664, 667, 714), one that ‘creates responsibilities analogous to fiduciary duties’ and ‘requires the Pakeha and Maori Treaty partners to act towards each other reasonably and in the utmost good faith’ in order to find a ‘true path to progress for both races’ (ibid., at 642, 664). Here, the population of Aotearoa New Zealand is divided into two ‘races’, ‘Pakeha and Maori’, and the Treaty of Waitangi is defined as a partnership between them, or between ‘the Crown and the Maori race’.⁵

In many ways, this judgment has achieved canonical status, particularly in official circles. There are many aspects of

the 'Lands' judgment that I found surprising, however, and in certain respects discordant with the readings of te Tiriti that we presented to the Waitangi Tribunal in 1992 and 2010. This impelled me to revisit the text of te Tiriti, including some clauses that were not explored in detail in our evidence to the Muriwhenua or Te Paparahi o te Raki inquiries.

Fortunately for me I'm a scholar, not a politician nor a judge, and don't have the task of reaching a determination on these matters. This is not a matter of 'laying down the law', but simply of raising questions for wider discussion.

The first thing that surprised me about the 'Lands' judgment was its heavy reliance on the English draft of the Treaty of Waitangi, along with various translations of te Tiriti into English

Although the English draft was read out at Waitangi, it was te Tiriti, the Māori text, translated from the English draft, that was debated in Māori and signed by rangatira and British officials almost everywhere around the country. Legally, one would expect te Tiriti to be regarded as the most authoritative version of the agreements reached in 1840 between the rangatira and Queen Victoria.

Instead of reading te Tiriti in the original, however, the judges relied on an array of translations into English. In Europe it would be unthinkable to embark upon the legal interpretation of a significant constitutional document (in French, say, or German) without a sophisticated grasp of its language and historic context. In New Zealand, gaps in linguistic and cultural competence have led to a heavy reliance on the English draft rather than the Māori text of te Tiriti in Treaty jurisprudence and scholarship.⁶ This means that, despite their best intentions, judges and scholars alike have often taken for granted 'Western' framings of the world, rather than the 1840 Māori understandings that underpin the agreements in te Tiriti.

The second surprising feature was the judges' decision to depart from the actual text of the Treaty

As a non-lawyer, I had thought that in legal agreements, the actual words used in the text would be all-important. When Sir Robin

declared that 'the principles of the Treaty are to be applied, not the literal words', it seemed that a different standard was being applied to te Tiriti.⁷ This was reinforced by Cooke's claim that since te Tiriti in 1840 could not take into account the demands of a 'relatively sophisticated' contemporary society, it was 'the spirit' of the Treaty mattered, not 'the differences between the texts and the shades of meaning'.

The third surprise was to find major discrepancies between the 1987 'Lands' case judgment and the original text of te Tiriti

This unshackling of Treaty jurisprudence from the text of the original agreement allowed legal interpretations that significantly depart from the terms of te Tiriti, including its parties and other key provisions.⁸ In many ways, these

concerned about how the introduction of a governor to New Zealand might affect ancestral tikanga and their own mana. They were very resistant to the idea of any top-down relationship with Hobson, or, for that matter, with any of the new arrivals.

In the preamble, William Hobson states that 'the Queen wishes the Kawanatanga (Governorship) to be established to avoid harm to the indigenous and the European person living without law' ('Na ko te Kuini e hiahia ana kia wakarite te Kawanatanga kia kua ai nga kino e puta mai ki te tangata maori ki te Pakeha e noho ture kore ana'). This is 'because many of her people have already settled in this land, or are coming' ('na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei').

While describing the governor as a

[Māori] were very resistant to the idea of any top-down relationship with Hobson, or, for that matter, with any of the new arrivals.

discrepancies overlap with the main concerns expressed by the rangatira during the debates at Waitangi and elsewhere in 1840 – about the protection of their mana, the preservation of their ancestral tikanga, and the care of their ancestral lands.

In the 'Lands' judgments, in relation to these key concerns, the judges came down repeatedly on the side of the English draft of the Treaty; and in one area they introduced an idea which is mentioned neither in the English draft nor in te Tiriti itself, that of a 'partnership between races', or 'Pakeha and Maori' or 'the Crown and the Maori race'.

In the preamble and ture 1: kawanatanga compared with 'sovereignty' in the English draft and in the 'Lands' judgment

As we have seen, at Waitangi and elsewhere, the rangatira discussed whether or not to accept William Hobson as a kawana or governor. They were familiar with governors from Port Jackson, Norfolk Island and from the Bible, and were

rangatira, the preamble introduces the concept of 'kai whakarite', a term used in early Māori translations of the Bible as a translation equivalent for 'judge' (e.g., Kai Whakarite – Judges: Barlow, 1990, p.85) (tetahi Rangatira – hei kai whakarite ki nga Tangata maori; a Rangatira – lit. one who makes things alike or equal, to the indigenous inhabitants of New Zealand).

The role of 'kai whakarite' as a mediator in inter-hapū disputes had become familiar in the North as a role that the missionaries might usefully play, and the term 'kai whakarite' was used by William Williams in an 1832 translation of an official letter to describe the role of the newly-arrived British resident, James Busby, as a facilitator and mediator in Māori-European exchanges (Orange, 1987, pp.13, 16 – see appendix 1; see also Biggs, 1989). The syntax of the phrase 'ki nga Tangata maori o Nu Tirani' suggests that this kai whakarite role was to be played not so much with hapū as collectivities, as with their members as individual persons.

This was not unlike the role of some senior rangatira, who dedicated themselves to peacemaking. As the artist Augustus Earle observed in 1832:

I became acquainted with a few venerable men of truly noble and praiseworthy characters; such as would do honour to any country. They had passed their whole lives in travelling from one chieftain's residence to another, for the purpose of endeavouring to explain away insults, to offer apologies, and to strive by every means in their power to establish peace between those about to plunge their country into the horrors of war. (Earle, 1832, pp.141–2)

At the same time, the role of the governor in bringing peace (rongo) and undisturbed occupation (atanoho) was linked with the

certain guarantees. (*New Zealand Maori Council v Attorney-General*, at 673)

It seems clear, however, that 'kawanatanga' or governorship (with a governor as a mediator, one who makes things equal) is not the same thing as 'sovereignty'. On the one hand, te Tiriti forged alliances between the various rangatira and their hapū and Queen Victoria, the sovereign herself, and her heirs and successors, and theirs. For many years, Māori leaders faced with breaches of te Tiriti travelled to England to ask Queen Victoria or her descendants to intercede on their behalf, precisely for this reason. In 1995, when Queen Elizabeth II signed the Waikato-Tainui deed of settlement, with its apologies for past breaches of te Tiriti, she was acknowledging the promises made by her ancestor.

Whakapapa, ... is based on an all-inclusive set of kin networks, in which Ranginui and Papa-tuānuku are the source of all living beings, ...

bringing of law (ture), and kāwanatanga was to extend across 'all the parts of this land and the islands' ('ki nga wahikatoa o te wenua nei me nga motu'). This differs from some interpretations, which suggest that kāwanatanga would apply only to Europeans. It seems clear that the governor's mediating role involved both indigenous people and the incoming settlers, and was intended to deliver justice and equality and settle disputes between them.

According to the 'Lands' judgment, on the other hand, 'Maori' were understood to have ceded sovereignty to 'the Crown': the Treaty was

a solemn compact between 2 identified parties, the Crown and the Maori, through which the colonisation of New Zealand was to become possible. For its part the Crown sought legitimacy from the indigenous people for its acquisition of sovereignty and in return it gave

On the other, the concept of sovereignty itself was foreign to te ao Māori. It derives from ancient Western top-down framings: for instance, the Great Chain of Being, a cosmic hierarchy dating back to the ancient Greeks (Lovejoy, 1936).⁹ In mediaeval times, God sat at the top of the Great Chain, followed by archangels and angels, a divine sovereign (the origin of 'sovereignty'), the ranks of the aristocracy and commoners – with men over women and children and 'civilised' people over 'barbarians' and 'savages' – sentient and non-sentient animals, insects, plants and rocks. Here, every link in the lower ranks of the Great Chain of Being was subservient to those higher up, owing them obedience, service and tribute. This provided a God-given mandate for an array of exploitative relations, from ranked classes to sexism, slavery, racism, imperialism and human 'dominion' over the earth and all other life forms.

In British society in 1840, the 'sovereign' was much higher in the chain of command than a governor. Today, this kind of top-down model is echoed in the chain of command in many organisations, including government departments and other bureaucracies, educational institutions, corporations and the armed forces.

Whakapapa, by way of contrast, is based on an all-inclusive set of kin networks, in which Ranginui and Papa-tuānuku are the source of all living beings, including tāngata or human beings, and relationships are animated by exchange. It is neither anthropocentric, nor racist, nor sexist, seeking an always fragile equilibrium among different kinds of forces, beings, groups and persons.

It is also relatively egalitarian. While mana (ancestral power) flows more directly to those in the senior lines of descent (tuakana), this is balanced by the need for rangatira to uphold the interests of their kin groups, and the reciprocal exchanges that animate the whakapapa networks.

In Europe at the same time, ideas such as 'the web of life' in the Enlightenment, in which the idea of balance was also significant, were closely linked with the emergence of ecological thinking, the emancipation of slaves, commoners and women, and indigenous rights (see, for instance, Reill, 2005). These resonate quite closely with the complex networks of whakapapa. Such relational framings also informed the debates over the Treaty in Britain, the instructions given by Lord Normanby to Hobson, and the assurances given to the rangatira during the debates at Waitangi.¹⁰

It seems that most of the rangatira accepted those assurances, and their unreserved gift in ture 1 to Queen Victoria forever of all the 'Kawanatanga' of their lands was a major step, taken in the hope of rongo (peace) and atanoho (tranquil living). Still, top-down social arrangements remained dominant in Britain at that time, and the rangatira were right to be concerned about their status relative to the governor and Europeans.

In ture 2, 'tino rangatiratanga' and 'taonga' compared with 'possession of ... properties' in the English draft and in the 'Lands' judgment
In ture 2, the Queen's agreement with the rangatira, the hapū and all the

inhabitants of New Zealand to uphold the ‘tino rangatiratanga’ or the absolute chieftainship of their lands, dwelling places and all their taonga was no doubt intended as a reassurance to each of the rangatira in response to their concerns about their mana, and that of their hapū, ancestral tikanga and territories.

In 1850, Te Arawa rangatira Te Rangikāheke wrote an account of ‘rangatiratanga’ for Sir George Grey in which he explained this idea by listing the attributes of a rangatira – expertise in agriculture, warfare, building canoes, houses and food stores, hospitality and diplomacy; and senior descent, which linked them directly with the atua (powerful ancestors), the source of their mana and tapu.¹¹ In the English draft of ture 2, however, ‘tino rangatiratanga’ was expressed as ‘the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties’, a very different matter. Likewise in the ‘Lands’ case, the question of the ‘possession’ of lands and other ‘properties’ was central.

As we have seen, the ‘Lands’ case arose in the context of the proposed transfer of 10 million hectares of land, among other ‘assets’, to the newly created state-owned enterprises. This happened at the height of the neo-liberal revolution in New Zealand, with its emphasis on the commodification of ‘the commons’ and the corporatisation of public life.

In many ways, the 1980s shift towards ‘privatisation’ realised an old colonial ambition. In the Great Chain of Being, Papa-tūanuku, the earth, lies at the bottom of the cosmic hierarchy, just as ‘savages’ are the lowest of human links in the Great Chain. In 1838 Reverend Samuel Hinds, an advocate for the New Zealand Company, wrote in support of its ambitions to colonise the country:

Civilized man is the guardian of the savage. God and nature appoint that it should be so; and if civilized man deprives the savage of his real or supposed inheritance, by disposing of it to those who will cultivate it and settle in it, this not only raises the value of the land disposed of, but of the land which remains.

It [also] teaches them to make their property more and more valuable, and to assume a sovereignty over their portion of the earth, in some other sense than that in which the lion and tiger are sovereigns of their jungles, and the buffalo of his pasture grounds. (Hinds, 1838, p.12)

By this time in Britain, the emphasis on ‘possession’ and the idea of ‘private property’ as the foundation of ‘civilised’ societies was built into legal as well as everyday framings. As William Blackstone, for instance, wrote in his famous *Commentaries on the Laws of England*, in a state of ‘savagery’ there was no private property: ‘All was common among them, and everyone took from the

nōna places the relationship with land in the same category as relationships with family members. This link is based on ancestry, kinship and active association, not ‘ownership’ as private possession.

Later, the Native Land Court, with its use of surveyors, maps of ‘blocks’ and lists of owners, cut across whakapapa, transforming land into a commodity and overlapping whakapapa networks into ‘tribes’ and ‘sub-tribes’ with bounded territories and ‘blocks of land’ with ‘lists of owners’, a process referred to as ‘cutting up the land’.

Given the intimacy of links with kin group territories, rangatira might refer to the land as their own body. As a group of Taranaki rangatira wrote to Donald

... Rēnata Kawepū remarked ... in 1863, ‘Sir, our land is a rangatira, but now it is being enslaved, inasmuch as it is being sold for money. In the old days it was not sold.’

public stock to his own use such things as his immediate necessities required’. As populations increased, animals were domesticated, houses were built and fields were cultivated, the idea of private property emerged – ‘that sole and despotic dominion which one man claims and exercises of the external things of the world, in total exclusion of the right of any other individual in the universe’ (Blackstone, 1765–9, vol.1, pp.39, 47). Here the structural parallel between ‘sovereignty’ for societies and ‘private property’ for individuals is apparent.

In ture 2, in return for the Queen’s agreement to the ‘tino rangatiratanga’ of the various rangatira, their hapū and all the inhabitants of New Zealand, the rangatira gave the Queen the right to hoko (barter, buy and sell) ‘those parts of the land where the person attached to the land is willing’ (‘ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te wenua’). Even then, the use of the possessive pronoun

McLean in 1850, protesting at the government’s attempts to force the purchase of their ancestral territories: ‘I myself have the say for my land, and it is right to say that my land is my own. It is not as if you can divide up my stomach, that is, the middle of the land.’¹² The land itself, in which the bones of forebears and the afterbirth of children were buried, was understood as an ancestor, with its own tapu and mana. As Rēnata Kawepū remarked to the superintendent of Hawke’s Bay in 1863, ‘Sir, our land is a rangatira, but now it is being enslaved, inasmuch as it is being sold for money. In the old days it was not sold.’¹³

Indeed, in He Whakaputanga, the Declaration of Independence, New Zealand itself was described as ‘he wenua rangatira’, a chiefly land. It is possible, then, that the ture 2 promise of ‘te tino rangatiratanga o o ratou wenua’ refers to the rangatiratanga (chieftainship) of the ancestral territories and taonga themselves, as well as the people.

In his translation of te Tiriti into English, Sir Hugh Kawharu also picked up on this point, translating ‘tino rangatiratanga’ in his footnotes as ‘trusteeship’, not ‘possession’, and noting that “‘taonga’ refers to all dimensions of a tribal group’s estate, material and non-material – heirlooms and wahi tapu (sacred places), ancestral lore and whakapapa (genealogies), etc’ (Kawharu, 1989, notes 1, 8). As Sir Hugh suggests, the idea of ‘trusteeship’ (the ‘public trust’ doctrine, for instance) seems closer to ancestral relationships with rivers, mountains and other taonga than ideas of ‘property’ and ‘ownership’¹⁴ – although it does not capture the interwoven tapu (ancestral power) and mana of the land, people and their ancestral taonga.

It is also interesting to note that ture 2 of te Tiriti is non-racial. Here, Queen

The transfer of land from government departments to newly formed SOEs in the 1980s was part of this process, along with other shifts towards privatisation. As Alex Frame has observed,

The commodification of the ‘common heritage’ has provoked novel claims [to the Waitangi Tribunal] and awakened dormant ones ... Claims to water flows, electricity dams, airwaves, forests, flora and fauna, fish quota, geothermal resources, seabed, foreshore, minerals, have followed the tendency to treat these resources, previously viewed as common property, as commodities for sale to private purchasers. Not surprisingly, the Māori reaction has been: if it is property, then it is our property! (Frame, 1999, p.234)¹⁵

have to fight, is the inclination and the pressure to become a business. (Kruger, 2017)

What we’ve done is ... declared war on certain beliefs that human beings have adopted, such as that land is no longer Mother Earth, it’s property ... There is this view that nature is a helpless damsel. That reinforces the idea of property. We own it and it depends on us. No, it’s the other way around. (Warne, 2018)

So, giving Te Urewera a legal personality is not a new thing. It’s an old belief, isn’t it, that comes from you and I, and it talks about our whakapapa to the land, our kinship to the land. Something that I believe many, many New Zealanders are proud of, and aware of, and easily grasp – that philosophy and that belief. (Kruger, 2017)¹⁷

... [the] binary distinction between ‘Pākehā’ and ‘Māori’ – along with its linked counterparts ‘civilised’ vs ‘savage’, ... ‘science’ vs ‘superstition’, ‘Kiwi’ vs ‘iwi’ – lies at the heart of race-based thinking in Aotearoa New Zealand.

Victoria promises ‘te tino rangatiratanga’ of their lands, dwelling places and treasures not just to the various rangatira and hapū, but to ‘all the inhabitants of New Zealand’. With the introduction of a cash economy, however, along with land, timber, flax, root crops, fish and services, including sex, were being sold for money, while guns, ammunition, iron tools, clothing and other goods were purchased from European traders. Over time, as capitalist framings took over from the idea of waterways, mountains, forests, fisheries and the ocean as rangatira themselves with their own lives and tapu and mana, the ture 2 promise to uphold the tino rangatiratanga of these taonga was transformed into a promise of their possession as property, in keeping with the English draft of the Treaty.

When iwi were nominated as ‘post-settlement governance entities’ after the ‘Lands’ case to receive Treaty settlements, with requirements to observe commercial conventions, neo-liberal principles were carried into the heart of whakapapa.¹⁶

In their Treaty settlements, some iwi have tackled these ideas head on. In Te Urewera Act 2014, for example, Tūhoe declared the centrality of whakapapa while asserting their ancestral territory, Te Urewera, to be a living being in its own right. As Tamati Kruger, their chief negotiator, explains:

My iwi is a kinship organisation ... We are not a corporation and we are not a business ... our nature as an iwi is not business. That is one of the enemies we

‘Nga tangata’ in ture 2 and ture 3 of te Tiriti, compared with the idea of a partnership between ‘two races’ in the ‘Lands’ judgment
Like ‘property’, the idea of ‘race’ is a colonial construct, along with its binary framing. Surprisingly, there is no precedent for the idea of ‘race’ in the English draft of te Tiriti, let alone in te Tiriti itself. The idea of a ‘partnership between races’ or between ‘Pakeha and Maori’ was a radical reformulation.

Like many other New Zealanders (including the judges, I suspect), I’m so used to this kind of race-based framing that upon reading the judgment for the first time, I almost took it for granted. Yet this binary distinction between ‘Pakeha’ and ‘Māori’ – along with its linked counterparts ‘civilised’ vs ‘savage’, ‘settler’ vs ‘native’, ‘white’ vs ‘black’, ‘the West’ vs ‘the rest’, ‘science’ vs ‘superstition’, ‘Kiwi’ vs ‘iwi’ – lies at the heart of race-based thinking in Aotearoa New Zealand.

Such binary oppositions are deeply embedded in Western habits of mind, with an ancient history in Europe. From the mid-17th century, when Rene Descartes split mind (*res cogitans*) and matter (*res extensa*), subject and object, culture and nature, people and environment, asymmetrical binaries became ubiquitous (mind over matter, people over environment, civilised people over ‘the

wilderness' and 'savages', etc.).¹⁸ 'Cartesian dualism' led to the partitioning of an objective reality subject to human inspection, with different 'fields' abstracted and separated out from each other and organised into gridded arrays – the origins of silo thinking.

This included the gridding of space and time through instrumental calculation (in cartography, for instance); the division of human knowledge into the different disciplines; the hierarchical sorting of life forms into different genera and species through taxonomy,¹⁹ and of human populations into different groups through censuses and racial theory (see discussion in Salmond, 2017, pp.316–50). In his gridded version of the living world, for example, the Swedish naturalist Carl Linnaeus divided humans into four different 'varieties', now recognised as one of the origins of 'scientific racism' (Linnean Society of London, n.d.; see also Hoquet, 2014).

The emergence of the idea of 'race' during the Enlightenment, along with various racial taxonomies, has been well documented (for instance, Marks, 2008). As the American Association of Biological Anthropologists remarks, this concept is now regarded as scientifically invalid and ideologically loaded:

[T]he Western concept of race must be understood as a classification system that emerged from, and in support of, European colonialism, oppression, and discrimination. It thus does not have its roots in biological reality, but in policies of discrimination ... The belief in races as a natural aspect of human biology and the institutional and structural inequities (racism) that have emerged in tandem with such beliefs in European colonial contexts are among the most damaging elements in human societies ... Race does not capture [migration] histories or the patterns of human biological variation that have emerged as a result ... It does, however, reflect the legacy of racist ideologies. (American Association of Biological Anthropologists, 2019)

The idea of a Pākehā 'race' in the 'Lands' judgment, for instance, covers a history of diverse groups (including 'African', 'Asian', 'Pacific' and 'European') mixing, merging

and migrating around the world, while a radical division between 'Pākehā' and 'Māori' 'races' cuts across intricate exchanges of whakapapa over time.

Such racial polarities are almost invariably asymmetrical, with one side 'superior' and 'dominant' over the other: 'white' > 'black', 'settler' > 'native', 'Pākehā' > 'Māori'.²⁰ This may lead to a view of 'emancipation' in which the 'superior' and 'inferior' values are simply reversed: 'black' > 'white', 'native' > 'settler', 'Māori' > 'Pākehā'. At the same time, the binary opposition itself is ready to spring back to its original asymmetry in a more extreme

It should also be noted that in 1840, 'tangata maori' enjoyed a high degree of autonomy. According to Frederick Maning, an early settler in Hokianga:

The natives are so self-possessed, opinionated, and republican, that the chiefs have at ordinary times but little control over them, except in very rare cases, where the chief happens to possess a singular vigour of character, or some other unusual advantage, to enable him to keep them under. (Maning, 1863, p.37)

The settlers arriving from Britain and elsewhere were also impatient of restraint, sometimes to the point of lawlessness, ...

form ('white supremacy', for instance), a dynamic process that the anthropologist Gregory Bateson has called 'schismogenesis' (Bateson, 1935).²¹

While the 'Lands' case judgment speaks of 'a partnership between races', there are no racial dichotomies in te Tiriti. It speaks of rangatira or chiefly leaders; hapū, or ancestral kin groups; and ngā tāngata in the plural – human beings in their personal capacities, unmarked by gender, race or ethnicity, unless by a qualifier.

- In ture 2, for instance, 'tino rangatiratanga' is ratified not just for rangatira and hapū, but for 'nga tangata katoa o Nu Tirani' – all the inhabitants of New Zealand.
- The promise of absolute equality in ture 3 refers to 'nga tangata maori katoa o Nu Tirani' and 'nga tangata o Ingarani' – all the indigenous inhabitants of New Zealand and the inhabitants of England as persons.
- In the text of te Tiriti, 'nga tangata maori o Nu Tirani' in ture 3 refers to the 'maori' or normal, ordinary, indigenous inhabitants of New Zealand in their personal capacities, rather than to a collectivity (e.g., te iwi Māori).

In 1857, Francis Dart Fenton observed:

No system of government that the world ever saw can be more democratic than that of the Maoris. The chief alone has no power. The whole tribe deliberate on every subject, not only politically on such as are of public interest, but even judicially they hold their 'komitis' on every private quarrel. In ordinary times the vox populi determines every matter, both internal and external. No individual enjoys influence or exercises power, unless it originates with the mass and is expressly or tacitly conferred by them. (Fenton, 1860, p.11)

Even in war, as the missionary Henry Williams noted, 'it was their usual way for each party to go where they liked, that everyone was his own chief. Without any one to direct, not only does each tribe act distinct from the other, but each individual has the same liberty' (Carleton, 1874, p.111).

As Te Rangikaheke explained to Grey, this independence of spirit arose from living links with ancestors, the source of a person's tapu and mana, which had to be protected: 'A

person does not forget, they think of it all the time, their tapu. They do not forget the good things they have; they think their most important possession is their tapu.²² Thus, while whakapapa linked each tangata or person with all other living beings, it also imbued them with tapu and mana (except for taurekareka or mōkai – slaves, war captives – whose links with their ancestors had been thwarted), giving them considerable autonomy in their personal affairs.

The settlers arriving from Britain and elsewhere were also impatient of restraint, sometimes to the point of lawlessness, having often fled prejudice, poverty, loss of land and the violent repression of ancestral languages and cultures (in the

land). In ture 2, they and their rangatira, along with all the inhabitants of New Zealand, are promised te tino rangatiratanga of their lands, dwelling places and all their ancestral treasures.

At the same time, as Pita Tipene explained to the Waitangi Tribunal, the power of the rangatira is tightly constrained by hapū members. ‘A rangatira is a person who weaves people together. The rangatira is not above the hapū. The rangatira must listen to the hapū, in accordance with tikanga. If they do not listen they will be cast aside’ (Waitangi Tribunal, 2015, p.27). Whakahihī – raising oneself above others – is not admired in te ao Māori.

Iwi were alliances of hapū, and often

‘Confederation of the Chiefs of the United Tribes of New Zealand’ as a precursor to a system of indirect rule (O’Malley, 2011). This led to He Whakaputanga o te Rangatiratanga o Nu Tirani (the Declaration of Independence of New Zealand) in 1835, signed by a number of rangatira, mainly from the North, in defiance of a perceived threat of French intervention.

In many ways, te Tiriti was the next step in this process, aiming to acquire sovereignty by creating a collectivity of rangatira and hapū who had signed te Tiriti. When Sir Robin Cooke defined te Tiriti as a ‘partnership between races’, between ‘the Crown and the Maori race’ or between ‘Pakeha and Maori’, this was another stage in this long process of aggregation. Rather than locating the relationships in local landscapes, where hapū and other New Zealanders live together, these were abstracted to the level of the state, splitting ‘the Crown’ from the ‘Maori race’.

These binary dichotomies do not reflect the multiplicity of parties in the text of te Tiriti, however, which brought together the rangatira, the hapū, the Queen and ‘nga tangata katoa o Nu Tirani’ in ture 2, and ‘nga tangata maori katoa o Nu Tirani’ and ‘nga tangata o Ingarani’ in ture 3, in a complex matrix of relationships, with an expectation of reciprocity and balance among them. Te Tiriti is thus a multilateral network of alliances involving the Queen, the various hapū and their rangatira, ‘nga tangata maori’ and the incoming settlers, rather than a bilateral agreement.

Nor does a racialised dichotomy reflect the complexity of contemporary ‘Pākehā’ (non-Māori?) and ‘Māori’ populations, with their intricate diversity and overlapping whakapapa, or the need for balance in these relationships as well. Rather, this rewriting of te Tiriti reinforces a sharp-edged racial polarity between ‘Pākehā’ and ‘Māori’ that emerged during the course of the colonial process in New Zealand.

After more than 40 years of Treaty settlements, acute disparities between Māori and other citizens remain. During the neo-liberal reforms of the 1980s, many Māori families suffered disproportionately, reinforcing intergenerational disparities in

While some politicians describe the Treaty of Waitangi as ‘separatist’, ‘divisive’, ‘racist’ and incompatible with democracy, they should not blame te Tiriti, but look closer to home.

case of the Highland Scots²³ and Irish, for example) in their homelands.

After many years spent in Northland, Henry Williams and his son Edward were acutely aware of these dynamics, and the need to gain the support of kin group members for the Treaty, not just of the rangatira. This no doubt explains the emphasis in the text of te Tiriti on the tino rangatiratanga of ‘nga tangata katoa o Nu Tirani’ (all the inhabitants of New Zealand), and the promise of absolute equality for ‘nga tangata maori’ (ordinary, indigenous persons) and ‘nga tangata o Ingarani’ (English persons, the settlers), and their tikanga.

‘Hapū’ are the largest collectivities mentioned in te Tiriti, and again these are not equivalent to ‘races’. Hapū were the main political and economic communities in te ao Māori in 1840, with their diverse territories and tikanga. Whakapapa bound them to particular ancestral landscapes, giving them tūrangawaewae (a place to stand in the world) and making them tāngata whenua (literally, people of the

episodic (in war, for example).²⁴ Although iwi (‘tribes’) are not mentioned in te Tiriti, they have been required to act as the definitive unit in Treaty settlements. This requirement has often been highly divisive, sometimes overriding te tino rangatiratanga of hapū.

Efforts to aggregate Māori into larger units for governance purposes in parallel with European social structures have had a long colonial history. On 8 October 1823, for instance, when the missionary Samuel Marsden talked with the leading northern rangatira Hongi Hika, he urged him to make himself a king and put an end to the inter-tribal wars that were raging. Hongi replied that the other rangatira would never agree to this, and ‘that when he was at war he was feared and respected, but when he returned home they would not hearken to anything he might say’ (Marsden, 1932, p.118).

As Vincent O’Malley has observed, the first British resident, James Busby, found this participatory, egalitarian approach frustrating, and tried to set up a

health, justice, education, housing and employment arising from colonisation. While some politicians describe the Treaty of Waitangi as 'separatist', 'divisive', 'racist' and incompatible with democracy, they should not blame te Tiriti, but look closer to home.

Colonial ideas of 'race', with their taken-for-granted hierarchies, translate into persistent inequalities in life chances. As Te Rarawa political theorist Dominic O'Sullivan has pointed out, the idea of a 'partnership between the Crown and the Maori race' separates Māori from the Crown, rather than trying to work out how 'kawanatanga' might best respect the tino rangatiratanga of hapū and 'nga tangata maori' as fully equal citizens, with their tikanga – as guaranteed under ture 2 and 3 of te Tiriti (O'Sullivan, 2020, pp.17, 227; see also O'Sullivan, 2017).

The fourth surprise was to discover a fundamental difference between the text of ture 3 and the English draft of article 3, one that flatly contradicts the idea of a 'partnership between races' in the 'Lands' judgment

In 1831, when the northern rangatira wrote to Queen Victoria's predecessor, William IV, they asked him to become their friend and kaitiaki (guardian from the ancestral realm) for 'these islands': 'Ka inoi ai kia meinga koe hei hoa mo matou hei kai tiaki i enei motu.'²⁵ In ture 3 of te Tiriti, the Queen's promise of care was extended to all the indigenous inhabitants of New Zealand.

In ture 3, the Queen promised to 'tiaki' (take care of) 'nga tangata maori katoa o Nu Tirani' (all the ordinary, normal, indigenous inhabitants of New Zealand), and give (tuku) to them 'nga tikanga katoa rite tahi' (tikanga, all the right ways of doing things, exactly equal) 'ki ana mea, nga tangata o Ingarani' (with those she gives to her subjects, the inhabitants of England). Again, this promise was made to them as tāngata or persons, not as a collectivity (say, 'te iwi Māori'). The phrase 'rite tahi' indicates that in relation to the Queen's subjects, precise equality would be maintained, and not just for the ordinary inhabitants of New Zealand, but for their tikanga as well.²⁶ As 'kai whakarite ki nga Tangata maori' (mediator, one who makes

things equal for indigenous persons), the governor had a key role in this regard. This was a final reassurance to the rangatira and ordinary Māori that their personal mana, tapu and their ancestral tikanga alike would be protected under te Tiriti.²⁷

The Queen's gift is thus not at all the same thing as the 'rights and privileges of British subjects' promised in the English draft of the Treaty, as Sir Hugh Kawharu has pointed out:

There is, however, a more profound problem about 'tikanga'. There is a real sense here of the Queen 'protecting' (ie, allowing the preservation of) the Māori

the 21st century, the Crown is also Māori. If the nation is to move forward, this reality must be grasped. (Waitangi Tribunal, 2010, p.51)

Furthermore, the key promises made by the Queen of 'tino rangatiratanga' to hapū and 'nga tangata katoa o Nu Tirani' (all the inhabitants of New Zealand) in ture 2 and of 'nga tikanga katoa rite tahi' (exactly equal tikanga) to 'nga tangata maori katoa o Nu Tirani' (all the indigenous inhabitants of New Zealand) in relation to 'nga tangata o Ingarani' (the inhabitants of England) in ture 3 were made to hapū as kin groups and to tāngata as persons distinguished by

[ture 3] promise to deliver justice and equality in human dignity and everyday living – a promise that has not been delivered for many tāngata Māori.

people's tikanga (ie, customs) since no Māori could have had any understanding whatever of British tikanga (ie, rights and duties of British subjects). (Kawharu, 1989, note 11)

Nor is it anything like the 'partnership between races' or between 'the Crown and the Maori race' laid out in the 'Lands' case judgment. Indeed, the very idea of 'race', with its static, top-down taxonomies, is antithetical to the promise of relationships based on 'belonging together differently' (Maaka and Fleras, 2005, cited in O'Sullivan, 2020, p.14). As Justice Sir Joe Williams has noted, while the 'partnership between the Crown and the Maori race' described in the 'Lands' judgment implicitly assumes that 'the Crown' is Pākehā in contradistinction to Māori (O'Sullivan, 2019), this assumption is clearly mistaken:

Fundamentally, there is a need for a mindset shift away from the pervasive assumption that the Crown is Pākehā [non-Māori], English-speaking, and distinct from Māori rather than representative of them. Increasingly, in

their countries of origin, not to different 'races'.

In 1840, it seems clear, the concepts of 'race' and 'tribe' had not yet been normalised in New Zealand. Rather, identity focused upon hapū – kin groups defined by whakapapa, whenua and active engagement – or one's country of origin (Nu Tirani, Ingarani).

Like whakapapa, then, the ture 3 'nga tikanga katoa rite tahi' promise to indigenous tāngata as persons in relation to the Queen's subjects is inclusive and non-racial.²⁸ It is a promise to deliver justice and equality in human dignity and everyday living – a promise that has not been delivered for many tāngata Māori. This resonates closely with article 1 of the United Nations Universal Declaration of Human Rights: 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.'²⁹

At the same time, ture 3 gives a guarantee of cultural equality, promising that tikanga Māori will be protected and play a major role in everyday life, in

reciprocal exchange with the tikanga of the incoming settlers.

The question then has to be asked: if the ‘Lands’ idea of a partnership between Māori and Pākehā as ‘races’, or between ‘the Crown and the Maori race’, has achieved canonical status, is it heading towards the realisation of the promises of te Tiriti? Or, in some respects at least, does it uphold old colonial ideas, including those of ‘sovereignty’, ‘property’ and ‘race’?³⁰

Comparative, tikanga- and race-based approaches to te Tiriti

Comparative approaches

The promises exchanged in te Tiriti o Waitangi have generated a very large literature, both in scholarly accounts and in reports from the Waitangi Tribunal.

... The alternative is cultural homogeneity, which automatically prevents Māori from *being* Māori when participating in public decision-making ...

These focus on inter-group relations, in 1840 and over many generations since.

For New Zealand scholars it is almost impossible to detach from contemporary debates about te Tiriti, since these are passionately felt, with many practical implications for our small, intimately interconnected society, and for those who engage in these exchanges.³¹ For that reason, it is illuminating to explore comparative studies from other societies.

Eric Schwimmer, for instance, a Dutch-born scholar who came to New Zealand as a teenager and worked in the 1950s as an editor for *Te Ao Hou* before pursuing a distinguished career in anthropology in French Canada, has written penetrating analyses of inter-group relationships in Canada, Spain (with the Basque) and New Zealand. According to Schwimmer, in these engagements, indigenous groups alternately work with majority institutions and their representatives when relationships are relatively positive, and

withdraw when an acute sense of injustice is felt and ‘negative reciprocity’ prevails (Schwimmer, 1972). In his later work Schwimmer also emphasises the multiplicity of perspectives (or ‘voices’) within indigenous groups, the need to maintain openness and inclusion, and the challenges faced by those who act as mediators between the wider society and indigenous peoples³² (Schwimmer, 2004, p.249; see also Gagné, 2009, pp.38–9).

More recently, a Québécois scholar from Canada, Natacha Gagné, who works in Tahiti and New Caledonia as well as Canada, has drawn on Schwimmer’s work on ‘boundary maintenance’ by indigenous groups in response to unequal power relations and assimilative pressures, reflecting upon how different colonial histories affect the participation of

indigenous peoples in the life of the wider society, and different patterns of withdrawal and engagement. According to Gagné, during her research in New Zealand at the time of the foreshore and seabed controversy:

The role of the legal system, of the state, and of the country’s colonial history, are all ... eminently political and produce effects that prevent the establishment of a dialogue between the minority and the majority populations. The symbolic competition then emphasizes differences, which, in turn, re-emphasize ethnic separatism. So dialogue appears increasingly impossible and this has the effect of paralysing the political sphere. (Gagné, 2009, p.49)

In a comparative study of 11 societies, McCoy and Somer describe how this distancing can occur. In a process they call ‘pernicious polarisation’,

Leaders and supporters alike describe their own and opposing political groups in black and white terms as good and evil. They ascribe nefarious, often immoral, intentions and demonstrate prejudice and bias against those in the opposing camp³³ ...

In polarizing settings, people who hold moderate opinions and maintain interests and identities that cut across the dividing line are increasingly ostracized, diminishing any chance of dialogue between opposing groups.³⁴ (McCoy and Somer, 2019, pp.244, 246)

They warn that ‘pre-existing binary narratives of group belonging and citizenship make polarization more devastating when it occurs’ (ibid., p.263; see also Le Bas, 2018), and suggest that ensuring equality of participation in democratic processes is vital.

Dominic O’Sullivan, a Te Rarawa political scientist at present working in Australia, addresses this challenge. According to O’Sullivan, in a ‘bicultural’ relationship, Māori are always the junior partner; and a definition of te Tiriti as a ‘partnership between the Crown and the Maori race’ excludes Māori from full citizenship, since it separates them from the Crown (O’Sullivan, 2007, 2020, 2022).³⁵ For O’Sullivan, the aim of ‘kāwanatanga’ in a liberal democracy should be to uphold human equality, including ancestral legacies: ‘For Māori, human equality means that citizenship must be attentive to the claims of culture and responsive to colonial context ... The alternative is cultural homogeneity, which automatically prevents Māori from *being* Māori when participating in public decision-making’ (O’Sullivan, 2022, p.2). This reading echoes the preamble and ture 3 of te Tiriti, with the Queen’s promise that indigenous persons and their tikanga would be absolutely equal with the incoming settlers, and the role of ‘Kāwanatanga’ in that regard.

In some ways O’Sullivan’s vision echoes the dynamics of the marae, with its alternating rhythms of separation and engagement:

[R]ather than thinking about political relationships as an ‘us’ and ‘them’ binary, policymaking can be recast as a site of both respectful inclusion and

respectful difference ... [T]his ... is not a discussion of race or about the rights of minorities but rather one about the nature of political communities, their different and common spheres of influence and their interrelationships. (ibid., pp.3–4)

He defines rangatiratanga as ‘a people’s authority over its own affairs, an authority that is not subservient or subject to the control of others’, and notes that ‘some [local government] functions could be more justly carried out by iwi, hapū, marae or other Maori political communities’ (ibid., pp.1–2). Since hapū and marae predate te Tiriti, O’Sullivan notes, they exist as political communities in their own right, with their own tikanga and mana. A truly democratic society requires ‘parity of esteem’ for indigenous institutions such as hapū and marae and for ancestral thinking within democratic decision making. In such a democracy, ‘we do not make decisions until we understand each other’ (ibid., p.15; O’Sullivan, 2020, p.47).³⁶

In *Neither Settler nor Native*, a recent book on postcolonial nationalism around the world, the Ugandan political theorist Mahmood Mamdani (Mamdani, 2020) casts new light on such challenges, offering a comparative inquiry into the way in which categories such as ‘settlers’ and ‘natives’, ‘races’ and ‘tribes’ were created as part of the colonisation process, engendering nation states with ‘permanent minorities’. After independence, many former colonies have violently fractured along these fault lines.³⁷ In writing elsewhere about the Hutu and the Tutsi in Rwanda, for instance, Mamdani observes: ‘The minority fears democracy. The majority fears justice. The minority fears that democracy is a mask for finishing an unfinished genocide. The majority fears the demand for justice is a minority ploy to usurp power forever’ (Mamdani, 1998).

In South Africa, on the other hand, the Truth and Reconciliation Commission, which arose from the Promotion of National Unity and Reconciliation Act 1995, aimed at unifying and reconciling different groups in South Africa in a ‘non-racial’ democracy in the wake of apartheid. Given the ardent anti-apartheid protests in New Zealand in 1981, it is surprising that

just a few years later the Court of Appeal could rewrite te Tiriti as a ‘partnership between races’.

In his powerful work, Mamdani argues that decolonisation requires moving beyond colonial categories such as ‘race’ and ‘tribe’ with their destructive potential: ‘My project is to tell a new story that historicises political identities. I take us back to the colonisation process, so as to historicise the categories of race and tribe on which [postcolonial] nationalism is based.’ He adds: ‘Decolonising the political does not require that we pretend that we are all the same, far from it. It requires that we stop accepting that our differences should define who benefits from the state, and who is marginalised by it’ (Mamdani, 2020, p.23).³⁸

... the challenge of te Tiriti is ontological, a clash between different ways of being in the world.

In *On the Other Side of Sorrow: nature and people in the Scottish Highlands*, James Hunter takes us back even further in the colonial process, arguing that in Great Britain, links between racism and colonial control were forged in Scotland and Ireland before being exported to the imperial outposts. According to Hunter,

The British variety of imperialism, even the very vocabulary of this country’s particular brand of racism and colonialism, owes a good deal to the political requirement to impose its will on Scottish Highlanders – or if not on Highlanders, then on the Irish.

Defined as ‘barbarians’ and ‘savages’, the Highlanders were ‘void of all religion and humanity’, ‘wild and barbarous beyond expression’, ‘bare-arsed banditti’ who deserved only to be ‘absolutely reduced’ (Hunter, 1995, pp.19–39). In the process, the Gaelic language was to be ‘abolished and removed’ as ‘one of the chief and principal causes of barbarity and incivility’, the history of the Highlanders replaced by

English history, the lands of the clans confiscated by the Crown or taken by rapacious landlords, including their own clan chiefs, and resistance brutally suppressed in battles such as Culloden and in the Highland Clearances (Calloway, 2008).

In his work *White People, Indians, and Highlanders*, Colin Calloway adds a further twist to this analysis, noting that in Great Britain, Scottish Highlanders and North American Indians alike were regarded as ‘savages’, ‘tribes in the sense of the Latin term *tribus*, “barbarians on the border of the Empire”’. In North America, however, while some Highlanders showed a close affinity with Indian communities, others participated in military assaults and the seizure of their lands (ibid.), relationships

that were later echoed in colonial New Zealand.

Like Mahmood Mamdani, Australian scholar Simone Bignall explores alternatives to antagonism and conflict in achieving ‘a just mediation between diverse worlds’, a state she calls ‘ex-colonialism’ (Bignall, 2014). Perhaps in the end this might reflect the rhythm of exchanges on the marae, in which different groups alternately stand apart, reaching out towards each other through exchanges of karanga and whaikōrero, and coming together in moments when it is possible to say ‘kua ea’ (it has been balanced, required, reconciled).

Tikanga-based approaches and co-governance

It is quite right for us to say what we think; it is right for us to speak; let the tongue of every one be free to speak; but what of it? what will be the end? our sayings will sink to the bottom like a stone, but your sayings will float light, like the wood of the whau-tree, and

always remain to be seen; am I telling lies? (Mohi Tawhai in the Hokianga debate over te Tiriti, 1840)³⁹

At its deepest, the challenge of te Tiriti is ontological, a clash between different ways of being in the world.⁴⁰ In writing about te Tiriti o Waitangi, Pā Henare Tate from Hokianga places te Tiriti firmly within te ao Māori, and fundamental values that explain why, in Te Paparahi o te Raki claim, the claimants so often described te Tiriti as a kawenata (covenant), a sacred agreement:

Te wa, the journey of life, is filled with opportunities to address the tapu of our fellow-travellers ...

There are three ways of addressing tapu: through tika (justice), pono

(people of the house). They share their hosts' hospitality, protection and mana ...

A hundred and fifty years ago the Treaty of Waitangi provided Pakeha with the opportunity to become tangata whenua, and to share the mana of the Māori. Like visitors to a marae, the newcomers were seen as manuhiri. The treaty was a vehicle by which the designation of manuhiri could be lifted. However, though the document was signed, the treaty was not implemented. Tika and pono were violated, and aroha fled ...

Without acknowledgement and encounter, injustice will never be truly resolved. Like a whale, it will disappear for a time, only to surface again seeking the pure oxygen of tika, pono and aroha ...

... whakapapa has many advantages, tracing lineages from ultimate origins alongside other life forms through human histories involving migrations, settlement and alliances.

(integrity, or faithfulness to tika) and aroha (love) ...

The process of welcoming visitors on to a marae is another well-known way of addressing tapu. Visitors (manuhiri) are under tapu in the form of a prohibition as they approach a marae. They have their own tapu, or dignity, of course, but in this context they are foreigners, an unknown quantity. Who can tell whether they are friend or foe?

The kuia calls her greeting. In some situations a warrior issues a fiery challenge and lays down the wero, dart. The visitors respond according to the protocol of the marae with korero (speech) and waiata (song), after which the hongī (embrace) lifts the tapu, erasing the status of 'manuhiri' and making the visitors one with the tangata whenua – the people whose turangawaewae (identity) is at that marae. The visitors are now hunga kainga

I believe that Pakeha have not enjoyed the mana of tangata whenua because of treaty violations. The result is a generation of New Zealanders that is still looking for its roots and hungering for a deeper relationship with the land.

The answer is in the tapu of the treaty. Address the tapu that has been violated, and mana will be set free to be the mantle under which all may become tangata whenua. (Tate, 1990)⁴¹

In a recent article, Te Kawehau Hoskins and Alison Jones engage in a dialogue that explores the limits of binary thinking and the complexity of relationality in a (post?) colonial settler society. Like Pā Tate, Te Kawehau turns to the pōwhiri, the ritual of welcome on the marae, to discuss the different kinds of engagement that can happen, and the need to remain true to ancestral ethics in contemporary relationships (Hoskins and Jones, 2020).

As O'Sullivan, Carwyn Jones (e.g., Jones, 2014, 2016), Mamari Stephens and many others have argued, such ways of thinking have the potential to generate approaches to te Tiriti that are tika (just, even-handed and fair) and pono (true, faithful, with integrity), and conducted with aroha (fellow feeling, generosity of spirit).

While Mamari Stephens discusses a Māori *demos*, a fair description of decision making in ancestral kin groups (Stephens, 2013, p.822), Carwyn Jones describes five key values that underpin tikanga:

- whanaungatanga – 'the centrality of relationships to Māori life';
- manaakitanga (and kaitiakitanga) – 'nurturing relationships, looking after people, and being very careful how others are treated', and an ethic of guardianship;
- mana – 'the importance of spiritually sanctioned authority and the limits on Māori leadership';
- tapu/noa – 'respect for the spiritual character of all things'; and
- utu – 'the principle of balance and reciprocity'.

As he notes, 'As a whole, these values/institutions reflect the importance of recognising and reinforcing the interconnectedness of all living things and maintaining balance within communities' (Jones, 2014, p.190). In this respect, Jones' analysis resonates with the suggestions made by Dominic O'Sullivan.

Such tikanga-based approaches typically engage with te Tiriti through te reo rather than English translations, and through a whakapapa rather than a racial lens. They are enmeshed with ancestral landscapes, and draw upon ancestral ideas and values as well as contemporary experience to reflect upon the future.

In ancestral times, rangatira usually led by persuasion, respecting the tapu and mana of others. Where the balance was upset through attacks on tapu and mana, including insults, violence or failures in generosity, conflict almost invariably followed, both within and among whānau and hapū, although some disputes could be settled by diplomacy to redress the imbalance and restore mana to all parties – a state described by the term 'ea' (required, balanced).

Tikanga-based approaches to te Tiriti are thus focused on relationships among

different parties, and these keep on evolving. When the star navigators set off in their voyaging canoes from Hawaiki, they brought their atua (ancestor gods) and whakapapa with them, establishing new kin networks in a new land. Over time, they became tangata whenua (land people), with their own territories, marked by ancestral rivers and mountains. Many generations later, when new groups of people began to arrive, some had children with tangata whenua, entering the whakapapa and bringing their lineages with them. These include persons described as 'Pākehā', 'Asian' or 'Pacific Islanders' in contemporary census tabulations.

In whakapapa, where racial categories do not exist, these complexities are handled with admirable simplicity. Human tīpuna (ancestors) are all described as tāngata, persons with their own origins and ancestral heritages. Here, difference is not a problem but a creative possibility, generating new forms of life. As time passes, non-indigenous incomers may even have whānau named after them – the Manuel/Manuera whānau, the Stirlings, the Jacksons, the O'Regan whānau, and so on.

As an alternative to the concept of 'race', whakapapa has many advantages, tracing lineages from ultimate origins alongside other life forms through human histories involving migrations, settlement and alliances.⁴² It deploys ramifying kin networks, rather than binary oppositions, and is non-racial, constituting identities and groups through relationships based on descent, kinship, affiliation and places of origin, rather than racial polarities. Whānau-like structures have also sprung up in the wake of internal migrations, including urban marae, kapa haka groups, waka ama clubs, kōhanga reo and the like (see Metge, 1995).

Whakapapa-based structures are thus flexible and adaptive. When people stand to speak, they often claim their ancestors on different taha or 'sides', including those from Scotland or Ireland, Europe, the Pacific or elsewhere. Individuals may identify with the kin group of either parent or any grandparent, and kin groups define themselves by reference to an apical ancestor. Such choices, however, have to be backed up by practical engagement with particular whānau, hapū and marae.

Since the Waitangi Tribunal was established in 1975, with knowledgeable elders deeply involved in its proceedings and hearings often held on marae, its judgments have been shaped by these ways of thinking.⁴³ By and large, the Tribunal's reports stay close to the promises of te Tiriti, often involving agreements with particular hapū and iwi to settle historic grievances over ancestral lands, forests, rivers and mountains. This is also true of much Treaty jurisprudence, which calls upon the testimony of kaumātua and wānanga experts (see Palmer, 2008, pp.105–20).

Co-governance arrangements, for instance in relation to Te Urewera and the Whanganui River, typically arise from a tikanga-based approach to te Tiriti. These arise from specific claims to the Waitangi

tangata katoa o Nu Tirani' (all the inhabitants of New Zealand) of te tino rangatiratanga of their lands, dwelling places and all of their taonga, seeks to ensure that the tapu and mana of these ancestral relationships, and of these places themselves, are respected.

As O'Sullivan has noted, whānau and hapū, with their marae, predate and exist independently of government, but in relationship with it and with other New Zealanders. Under te Tiriti, the Queen promises that te tino rangatiratanga of their ancestral territories and taonga will be upheld and honoured. These kin communities have their own resources, often augmented by Treaty settlements, and diverse ancestral tikanga. Many marae – including urban marae – already deliver education, justice and health services (as

... whānau and hapū, with their marae, predate and exist independently of government, but in relationship with it and with other New Zealanders.

Tribunal and may recognise the life and identity of ancestral places in their own right, along with the existential relationships of hapū with their ancestral territories, rivers, forests, mountains and harbours, in relation to other citizens who inhabit and visit these places.

In such agreements, relevant parties are characterised as working together to enhance the mana and well-being of these ancestral places and their inhabitants for future generations. Such reciprocal, localised and long-term arrangements are widely accepted, although they are often asymmetrical in practice. They need to be further strengthened, based on genuine collaboration among all parties, and resourced to achieve the desired outcomes.

This also applies to arrangements for the governance of waterways, the ocean and the land at the local or regional level, where whānau, hapū and iwi have long-standing relationships with ancestral landscapes and seascapes. Ture 2, with its promise to the rangatira, the hapū and 'nga

we have seen during the Covid-19 pandemic), often to great effect, in different ways in different rohe (ancestral districts).

As many have recently argued, there is nothing particularly threatening about these kinds of arrangements, which are already operating successfully in many parts of Aotearoa New Zealand. As O'Sullivan suggests and Tamati Kruger insists (e.g., Kruger quoted in Warne, 2018), a tikanga-based approach to te Tiriti would begin by recognising and strengthening indigenous communities in their own terms, from the flax roots upwards, rather than the 'top-down' binary colonial structures typical of 'race-based' approaches.⁴⁴

As for ture 3 of te Tiriti, the Queen's gift to 'nga tangata maori katoa o Nu Tirani' (all the indigenous inhabitants of New Zealand) of 'nga tikanga katoa rite tahi' (all the tikanga exactly equal) with those of the incoming settlers underpins cross-cultural experiments in the delivery of governance, education, the media, justice, housing, health and the like, and in relations with the living world. This

includes kōhanga reo, kura kaupapa, whare wānanga, hau ora, Māori television and radio stations and many other such innovations, as well as the use of te reo and tikanga in 'mainstream' services.

Again, although these experiments provoke controversy at times, they are usually not 'racially' exclusive, and are clearly based on the ture 2 promise to uphold te tino rangatiratanga of ancestral taonga, as well as the ture 3 promise of 'nga tikanga katoa rite tahi', absolutely equal tikanga. They also hold great promise for tackling otherwise intractable social and environmental dilemmas.

Nor does a relational approach have to draw solely on tikanga Maori; there are relational ways of thinking in 'the West' as well, from ideas about the 'web of life' and socio-ecology to complexity theory. My own Gaelic-speaking ancestors in the

along with practical projects that aim to foster thriving whānau, hapū, communities and landscapes at the flax roots and grassroots, rather than top-down policies and structures in which the lives of ordinary people and the whenua seem almost irrelevant (see Spoonley and Dickie, forthcoming).

Race-based approaches and parallel governance

An understanding of the past can help us to appreciate how far the values embodied in our present way of life, and our present ways of thinking about those values, reflect a series of choices made at different times between different possible worlds. This awareness can help to liberate us from the grip of any one hegemonal account of those values and how they should be

that separates 'Māori' and 'Pakehā', 'iwi' and 'Kiwi', and creates, as Mamdani would describe it, 'the Maori race' as a 'permanent minority' in relation to 'Pakehā' and 'the Crown' (Mamdani, 2020; Le Bas, 2018).

Because the idea of a 'partnership between the Crown and the Maori race' begins at the national level, it may generate top-down parallel governance structures in which the population is institutionally split into two distinct 'races', with sharp boundaries between them.⁴⁵ This framing is sometimes reflected in the idea of te Tiriti as a 'bridge', as though Aotearoa New Zealand was split in half, with the Treaty as a span across the chasm.⁴⁶ This is fundamentally different from the image of te Tiriti as a marae, a meeting place where kin groups come together to negotiate and renew the tapu and mana of their relationships, as explained by Pā Tate, for example.

In a top-down racial dichotomy, kin groups and their tikanga and ancestral landscapes are often marginalised in the creation of a 'them and us' relationship between 'the Maori race' and 'the Crown', as O'Sullivan notes, echoing the state of separation described by Schwimmer and Gagné. In these parallel structures, the complex, interwoven living networks of whakapapa with its reciprocal exchanges are replaced by a siloed, bounded hierarchy of kin groups, on the model of biological taxonomy.

The aggregation of kin groups – from whānau and hapū, to iwi, to 'the Maori race' – often leads to the diversion of resources and decision making from the kin groups themselves to overarching hierarchical bureaucracies framed along Western lines, and those qualified to serve in them.⁴⁷ Radical inequities may thus be accentuated, frustrating the ture 3 'nga tikanga katoa rite tahi' promise to 'nga tangata maori katoa o Nu Tirani', all the ordinary, indigenous inhabitants of New Zealand. If this bipolar dynamic becomes too insistent, nation states can fracture, as Mamdani and Le Bas have shown (Mamdani, 2020; see also Vogt, 2018).

Here, 'the Crown' is also racialised. When te Tiriti is expressed as a 'partnership between the Crown and the Maori race', or 'between Pakeha and Maori', the Crown is implicitly understood to be 'Pakehā', and non-Māori are spoken of as 'the Crown's people'. These bi-racial polarities are highly artificial, and quite unlike the non-racial,

In a top-down racial dichotomy, kin groups and their tikanga and ancestral landscapes are often marginalised in the creation of a 'them and us' relationship between 'the Maori race' and 'the Crown' ...

western isles of Scotland, for instance, had a fascination with genealogy and ancestral bonds with land and sea that resonate closely with whakapapa (Hunter, 1995). Concepts such as justice, truth and equality also have much in common with notions such as tika, pono and 'nga tikanga katoa rite tahi' in guiding right ways of living.

As te reo and the stories of our country's histories are taught in schools, with their rich interweaving of strands from the Pacific and Europe, Asia, the Americas and Africa, new ways of understanding the past and living together with each other and the wider world will emerge from those exchanges among rising generations.

Dialogue that aims to achieve mutual understanding and consensus, as on the marae, will also be vital (e.g., new approaches to participatory democracy),

interpreted and understood. Equipped with a broader sense of possibility, we can stand back from the intellectual commitments we have inherited, and ask ourselves in a new spirit of enquiry, what we should think of them. (Cambridge historian Quentin Skinner, quoted in Palmer, 2008, p.32)

As the comparative studies indicate, race-based approaches work very differently, with vertical approaches that tend to split communities rather than binding them together. In Aotearoa New Zealand, where the 'Lands' case framing of te Tiriti as a 'partnership between races' or between 'the Crown and the Maori race' has achieved canonical (or 'hegemonic') status, political relationships may be cast in a static 'us and them' bi-racial dichotomy

multilateral exchanges of te Tiriti.⁴⁸ In *He Puapua*, for instance (Charters et al., 2019), a report written for the New Zealand government which focuses on the United Nations Declaration on the Rights of Indigenous Peoples (see Salmond, 2022), ‘the Crown’ (or ‘kāwanatanga karauna’) is split from ‘Māori’ (or ‘rangatiratanga Māori’), with a ‘relational space’ between them, a literal reflection of the ‘Lands’ case rewriting of te Tiriti as a ‘partnership between the Crown and the Maori race’.⁴⁹

At the same time, the ‘relational space’ in *He Puapua* is dominated by bureaucratic transactions between ‘the Crown’ and ‘Māori’, and relationships with other New Zealanders are barely mentioned. In a democracy in which constitutional change relies on majority support, this is surprising. It is also very different from the kinds of relationships outlined in te Tiriti, described as gift exchanges among a multiplicity of equals, based on reciprocity and balance.

Some of the parallel structures in *He Puapua* are adapted from top-down colonial models – for instance, parallel Parliaments served by parallel bureaucracies. This is based on a racial polarity that assumes that while Crown or ‘kāwanatanga karauna’ structures will be ‘bicultural’, the Māori or ‘rangatiratanga’ structures will be staffed by and serve ‘Māori’ alone. These structures are hierarchical, highly abstract and curiously empty. It is as though, in the relationship between ‘the Crown’ and ‘the Maori race’, all other citizens disappear. As Dominic O’Sullivan has observed: ‘As this involves Maori structures working “in parallel” with Pakeha ones, bicultural distributivism inevitably envisages a Maori copying of Pakeha bureaucracy, rather than the restoration of Maori social and political structures’ (O’Sullivan, 2007, ms, p.20).

Nor does *He Puapua* discuss how instituting such a structural dichotomy at the national level might work in practice, and its impact on relationships among individual citizens, families and communities, including whānau, hapū and iwi, or on social cohesion. Given the emphasis on relationships among tāngata or ordinary people in te Tiriti, and the centrality of whakapapa in te ao Māori, this is also surprising.⁵⁰ Unlike ‘race’, whakapapa is a relational rather than a ‘biological’ or taxonomic framing, although this may be

changing. In early colonial times, for instance, Europeans often lived with or married into kin groups which gained access to European weapons, goods, skills and networks in return. If the relationship was close, they were regarded as whānau, attitudes that have survived into recent times (see Hohepa, 1999).⁵¹

At the personal level, too, the Western idea of ‘race’ is problematic. After 200 years of cohabitation in Aotearoa New Zealand, a demographic approach that describes ‘Maori and non-Maori populations’ as if they run ‘on separate parallel train tracks’ is difficult to sustain (Chapple, 2000).

The gridding of persons into separate, sharp-edged silos in ‘racial’ categories and ‘identity politics’ echoes the fragmentation of the world in neo-liberal ways of thinking.⁵² This is very different from whakapapa, with

whaler after whom Stirling Point at Bluff is named. In the same way, when answering census questions, many New Zealanders tick multiple ‘ethnic’ boxes, indicating the complexity of identity in contemporary Aotearoa New Zealand.

The ‘Pakeha race’ in the ‘Lands’ case, for instance, encompassing as it does a long history of very different groups, including ‘Pacific’, ‘Asian’ and ‘European’, mixing, merging and migrating around the world, fails to acknowledge this complexity.⁵³ At the same time, the ‘Maori race’ also extensively overlaps with these groups,⁵⁴ as Tamati Kruger has noted:

[T]he word Māori is not really a racial term, but it means beautiful, it means natural, it means ordinary, it means commonplace. And Tūhoe, we need to

Such unilateral, ‘them–us’ approaches contribute to mutual disaffection ... which threatens to upset a long-standing, non-partisan consensus around Treaty settlements.

its complex networks and mana and tapu, as Eruera Stirling has observed:

The old people told us, study your descent lines, as numerous as the hairs upon your head. When you have gathered them together as a treasure for your mind, you may wear the three plumes ‘te iho makawerau’, ‘te pare raukura’ and ‘te raukura’ on your head. The men of learning said, understand the divisions of your ancestors, so you can talk in the gatherings of the people. Hold fast to the knowledge of your kinship, and unite in the brotherhood of mankind. (Salmond, 1980, p.241)

In his own whakapapa, a diverse array of descent lines – from Scotland, from Kai Tahu and from Te Whānau-ā-Apanui – were included, honouring a myriad of ancestors, including his great-grandfather Captain William Stirling, the Scottish

find out what that means. What that means in 2017, in 2090. Now that we are a diverse and global people, we have our work cut out for us ...

[I]f I was to fill this room up with Tūhoe people, it would probably be true to say that we’ve probably married into every ethnic group that the world can offer. We will bring together all religions, languages, beliefs, traditions, customs ...

Which part of them is the Tūhoe part? How does one locate that, and how do we use that to talk with each other and find some unity and find a direction forward? These are the difficulties which I believe all iwi have. (Kruger, 2017)

A ‘split state’ approach at once cuts across the ramifying networks of whakapapa, with its different kin groups, and works against the ability of democratic institutions to deal with the diversity of understandings across and within different communities.

In the case of *He Puapua*, the framing of the Treaty of Waitangi in the ‘Lands’ case as a ‘partnership between the Crown and the Maori race’ has also shaped the consultation process, with a minister for Māori development meeting with Māori groups and individuals long before engaging with the rest of the population about its proposals.

Such unilateral, ‘them–us’ approaches contribute to mutual disaffection, as described by Gagné, which threatens to upset a long-standing, non-partisan consensus around Treaty settlements.⁵⁵ It also helps to explain why *He Puapua* and other related proposals have been so controversial. The 1987 formulation of a ‘partnership between the Crown and the Maori race’ that justifies these proceedings is based on a Western idea of ‘race’ that has a long and damaging colonial history, and is scientifically obsolete. This is not a promising foundation for new constitutional arrangements in the 21st century.

Comparative analyses also indicate the fragility of nation states structurally divided by race, ethnicity or religion. In a world beset by climate change, pandemics, conflicts and rising inequality, styles of governance based on relational networks that bind people together are increasingly vital in generating adaptive responses.

Conclusion

All of this suggests that it would be timely to move beyond the idea of ‘race’ and the 1987 ‘Lands’ case judgment, and to revisit te Tiriti in the original. Written at a time when te reo was the pre-eminent language in New Zealand, tikanga governed ancestral ways of living and whakapapa framed the world, it expresses a spirit of shared humanity that is in danger of being lost in some processes surrounding Treaty settlements. As the saying goes:

Hūtia te rito o te harakeke, kei hea te kōmako e kō? Kī mai ki au, hei aha te mea nui o te ao? Māku e kī atu, he tāngata, he tāngata, he tāngata.
If you pluck out the heart of the flax bush, where will the bellbird sing? If you ask me, what is the greatest thing in the world, I will answer, it is people, it is people, it is people.

In part, this may arise from racial dichotomies that dehumanise ‘others’; and in part from inherent challenges in the Treaty process in trying to reconcile tikanga-based values with neo-liberal values and powers.

Over time, too, the Waitangi Tribunal hearings have become immersed in legal styles of argument that are often adversarial. These oppositional habits of mind are evident in key documents such as *He Puapua*, mainly written by lawyers, that seek to outline new constitutional futures for Aotearoa New Zealand.⁵⁶

The marginalisation of ‘non-Māori’ New Zealanders from these discussions has also been unhelpful. Likewise, muddles between parallel governance and co-governance arrangements, and between race-based and tikanga-based approaches to te Tiriti, risk fracturing a broad-based non-partisan support for the Treaty and Treaty settlements that has endured since the 1970s.

This would be a great loss, because in the 21st century, the promise of ‘nga tikanga katoa rite tahi’ in ture 3 of te Tiriti offers a chance to explore tikanga Māori as well as ‘Western’ conventions in creating new ways of living in Aotearoa New Zealand. The idea of the world as a vast kin network, a ‘web of life’ where earth and sky, rivers, mountains and the ocean are more ancient and powerful than people, transcends the idea of different ‘nations’ and ‘races’, offering a real alternative to the extractive philosophies that are currently destroying living systems across the planet.

Legal systems informed by ideas of tika (just, fair, appropriate, proper) and utu (reciprocity, balance) as well as Western jurisprudence, and health systems that bring together ideas of ora (health, thriving, well-being) with the best medical insights, might deliver much more equal outcomes to tāngata (persons) and whānau (families). An education system grounded in love of learning, vigorous debate and rigorous inquiry, which draws upon the best of Western science and arts along with ideas such as pono (truth) and the insights and artistry of wānanga and mātauranga, might explore these philosophies more deeply, generating unique contributions to the wide world of knowledge.

Governance structures based on whakapapa and whanaungatanga, that

recognise the independence of hapū and marae and the mana and tapu of their existential links with ancestral places and taonga, while acknowledging the innate dignity of all tāngata and the links forged over generations with those who came later, might offer a new kind of democracy that truly honours the promises of te Tiriti.

In a democracy, as on the marae, as O’Sullivan has suggested, matters of collective interest should be decided by robust, inclusive and respectful debate. Rather than top-down decision making, ‘racially’ unilateral discussions or the toxic ‘rabbit holes’ of social media, thoughtful exchanges in which ‘we do not make decisions until we understand each other’ (O’Sullivan, 2022, p.15) are more likely to be constructive.

In our small, intimate society, it would be timely to abandon old, illusory, destructive neo-colonial ideas about ‘race’, for our own sakes as well as those of our children and grandchildren. What better place to start than by returning to the original promises of te Tiriti, and its non-racial framings, and to honour the wairua (spirit) in which they were made? What better inspiration than the idea of gift exchange (tuku) and the chiefly generosity that runs through its text? As the saying goes, ‘Nā tou rourou, nā taku rourou, ka ora ai te iwi. With your food basket and mine, the people will thrive.’

1 Quotes from Colenso, Waitangi, 5 February 1840, MS-Papers-003103, Alexander Turnbull Library. For a discussion of the events leading up to and including the northern Tiriti discussions, see Salmond, 2017, pp.55–290.

2 Note that Sir William Martin, New Zealand’s first chief justice and a fluent speaker of Māori, also translates kāwanatanga as ‘governorship’ (Martin, 1860, p.10). See also Ned Fletcher’s recent discussion of the nature of sovereignty as understood by the key British officials who drafted Hobson’s instructions, which included its coexistence with tikanga (Fletcher, 2022).

3 See also George Clarke, chief protector of aborigines, in 1845: ‘I am quite ready to admit that they had not a correct and comprehensive idea of all that was implied in ceding the sovereignty of their land; and that there was a consequent discrepancy between their intentions in the act, and our views and interpretations of it, is, I think, very probable’ (Clarke to colonial secretary, 1 July 1845, Great Britain Parliamentary Papers, 1846 (337), p.133).

4 The Court of Appeal declared ‘that the transfer of assets to State enterprises without establishing any system to consider in relation to particular assets or particular categories of assets whether such transfer would be inconsistent with the principles of the Treaty of Waitangi would be unlawful’. For a discussion of ‘the principles of the Treaty’, see Waitangi Tribunal (n.d.). Reflecting on the case years later, one of the judges, Sir Ivor Richardson, observed that, ‘The legal answer in 1987 required the orthodox application of well-settled principles governing judicial review of the exercise of statutory powers of decision by Cabinet Ministers’ (Richardson, 2008, p.17). Many thanks to Professor Mark Hickford for clarifying these points.

5 Although it must be noted that the Treaty of Waitangi Act 1975 provides a precedent for a race-based reading of te Tiriti, in 4(2A) referring to ‘the partnership between the 2 parties

- to the Treaty' (i.e., in the preamble to the Act, Queen Victoria and 'the Maori people of New Zealand'), and in section 2 defining 'Maori' as 'a person of the Maori race of New Zealand; and includes any descendant of such a person'.
- 6 As Mark Hickford has pointed out (personal communication, 2022), however, this arose because the judges were interpreting the statutory phrasing 'principles of the Treaty of Waitangi' appearing in section 9, and directed themselves to the official statutory references to the Treaty in the first schedule of the Treaty of Waitangi Act 1975, which cites the English text and then the Māori text in succession. For this reason, as Cooke noted, 'the principles of the Treaty of Waitangi are to be applied, not the literal words. As is well known, the English and Maori texts in the first schedule to the Treaty of Waitangi Act 1975 are not translations the one of the other, and do not necessarily convey precisely the same meaning' (*New Zealand Maori Council v Attorney General* [1987] 1 NZLR, at 662). Although the interpretive strategy in the 'Lands' case follows this direction and may thus be legally orthodox, the role of the English draft of te Tiriti in New Zealand law (which goes back to the adoption of the English draft as the official version of the Treaty immediately after the signing of te Tiriti) must still be questioned. For the contextual background of what became section 9, see Palmer, 2008, pp.3-94, 137-8, 400-1, and Hickford, 2019, pp.107-10.
- 7 Again, this arose because the court had been directed to the 'principles of the Treaty' in section 9 of the State-Owned Enterprises Act. Nevertheless, one would expect that the actual words of te Tiriti would be vital in interpreting its nature and intent.
- 8 'Politicians and lawyers have really confused things by talking about Treaty principles and the different meanings in Te Tiriti and the Treaty, but if everyone ... just remembered that at Waitangi and nearly everywhere else the rangatira only talked about and signed Te Tiriti, there shouldn't be any confusion' (Mutu and Jackson, 2016, p.56).
- 9 See also Mutu and Jackson, 2016, who cite the French political philosopher Jean Bodin's argument that sovereignty marked a progress from barbaric to civilised societies, and that 'proper political power could only exist once "man ... purged himself of his troubling passions" and moved up "the great chain of being ... and its hierarchical order"' (p.32).
- 10 See Fletcher, 2022 for a deeply researched assessment of these assurances, and the role of James Stephen in drafting Normanby's instructions.
- 11 Te Rangikāheke, 'Rangatiratanga', GNZMMSS 85, Auckland Public Library.
- 12 Rakorako, Ngamiro, Tikiku, Pakihautai and Arama Karaka in Whareroa to Sir Donald McLean, 6 November 1850, MS-Papers-0032-0674F-03, Alexander Turnbull Library.
- 13 Rēnata Kawepō to Governor Gore-Browne, in Caselberg, 1975, pp.91-4. For an account of the fate of some of Kawepō's land, see Te Rito, 2007.
- 14 This contradicts a key statement by the Waitangi Tribunal, which claimed that 'ownership' is the nearest legal equivalent to ancestral relationships with rivers: 'We agree with the Whanganui River Tribunal, which found in respect of that river: ... it does not matter that Maori did not think in terms of ownership in the same way as Europeans. What they possessed is equated with ownership for the purposes of English or New Zealand law' (Waitangi Tribunal, 2012, p.67). See also Parsons, Fisher and Kreae, 2021; Salmond, Brierley and Hikuroa, 2019; Salmond, 2018.
- 15 On this transformation, see also Salmond, 2007, pp.46-67; Strack, Mick and Goodwin, 2017.
- 16 'The Crown imposes a range of requirements on the rules and structures of PSGEs, and yet none of these rules addresses standards that derive from Māori legal traditions or Māori conceptions of leadership and accountability. The result is that PSGEs are based on Western ideas of governance' (Jones, 2016, pp.138-9).
- 17 See also Hutchinson, 2021, quoting the Taranaki kuia Matarena Raumati Rau Kupa (Aunt Marj), who similarly argued that tangata whenua is not a status, but a job description.
- 18 This kind of binary logic is radically different from the relational logic that underpins te Tiriti, with its complex networks. In relational logic, as T.M.S. Evens explains, it is the relations, rather than the entities linked by them, that are primary: reality is an unbounded whole, where 'boundaries [are] conceived of as thresholds rather than impervious dividers: [and] the whole denotes a global connectivity, thus rendering all things relative, and intimating infinity in both space and time ... If the whole is what is basically real, then the ultimate identity of everything that is anything rests in its connection to the whole ... It is the medial or third term [in other words, the relation] and not the things linked by it that enjoys ontological primacy' (Evens, 2015, p.10). Relational logic is reflected in ideas of 'the web of life' in the Enlightenment, and complexity theory in contemporary science. In te ao Maori, this 'global connectivity' is expressed in whakapapa, with its all-inclusive, ramifying kin networks. This is reflected in the text of te Tiriti, with its focus on relationships among the different parties, and how they are to be conducted.
- Entitative logic, on the other hand, 'cuts up the world', generating distinct units (or 'basic particulars') with the use of binary oppositions at different scales, based on the classic law of identity (i.e. identical with themselves, but separate and different from each other). Here, the entities are primary, while relations are secondary, simply links between different and distinct entities – a 'bridge' across existential divides. As Evens notes: '[When A = A], 'identity' denotes essential oneness. Clearly, since by definition the basic particular is a unity, an individual, it makes identity. Accordingly, in a reality keyed to the basic particular, everything that is anything must be an individual. In determining identity, the basic particular projects the possibility of a pure boundary, a boundary that separates but does not connect ... In other words, in this ontology, mutual exclusion or absolute dualism [eg. A] is given in the nature of the case.' Although binary logic is ubiquitous in modernity, and seductive in its simplicity, in human relations it can be dangerous, as the comparative literature attests. For further discussion of these philosophical questions, see Salmond, 2012.
- 19 From kingdom, phylum or division down to class, order, family, genus and species in hierarchical order.
- 20 For a recent analysis of the deep entanglements between ideas of 'race' and colonialism, 'settler' and 'native' and their role in a range of postcolonial states, see Mamdani, 2020.
- 21 If 'Pākehā' require 'Māori' to accept an inferior status, this deepens the schism, and vice versa, inviting mutual resentment and resistance. As Bateson observes, schismogenesis 'results in mutual hostility ... and must end in the breakdown of the system'. In tikanga, a requirement to abase oneself equates with taurekareka or mōkai (slave, war captive) status, a loss of mana that is impossible to willingly accept, while non-Māori New Zealanders react in a similar fashion. According to Bateson, only symmetry and reciprocity can break the cycle and restore balance, whereas Mamdani insists it is necessary to give up these race-based dichotomies altogether.
- 22 Te Rangikāheke, GNZMMSS 31:9, Auckland Public Library.
- 23 For an account of the experiences of the Scottish Highlanders, who were treated as 'barbarians' and 'savages', had their Gaelic language and customs suppressed and their lands taken, and many of whom were forced into exile, see, for instance, Hunter, 1995.
- 24 For a fine study of kin group dynamics through time, see Ballara, 1998.
- 25 Rangatira to William IV, 5 October 1831, CO 201/211.
- 26 While 'rite tahi' has often been translated as 'exactly the same', 'rite' is a relational concept whose semantic range centres upon equivalence and balance (see Williams, 1971: 'rite: alike, corresponding in position, balanced by an equivalent'); while 'tahi' indicates an exact balance or equivalence – thus 'exactly equal'.
- 27 This reading is in keeping with Lord Stanley's 1845 speech in relation to tikanga relating to land (or indigenous land rights) in New Zealand, quoted in Fletcher, 2022 (p.521): 'That law and that custom are well understood among the natives of the islands. By them we have agreed to be bound, and by them we must abide. These laws – these customs – and the right arising from them on the part of the Crown – we have guaranteed when we accepted the sovereignty of the islands; and be the amount at stake smaller or larger; so far as native title is proved – be the land waste or occupied – barren or enjoyed, those rights and titles the Crown of England is bound in honour to maintain; and the interpretation of the Treaty of Waitangi, with regard to these rights, is, that, except in the case of the intelligent consent of the natives, the Crown has no right to take possession of land'.
- 28 As quoted in Mutu and Jackson, 2016, p.80: 'Te Tiriti was about everyone belonging and having a place here that was equal ... to me that has always been the most important thing about it ... that we are all in this together'.
- 29 Although one might say here 'whanaungatanga' instead of 'brotherhood', since te reo is often non-specific as to gender.
- 30 For a discussion of the idea of 'sovereignty' and its relations with indigenous peoples, see Brown, 2007.
- 31 For a thoughtful exploration of these issues for local anthropologists, see Metge, 2006.
- 32 'Bi-cultural agents are heavily burdened. Hiwi Tauroa's grim picture of their conflicts, rivalries, ambitions, jealousies and financial sacrifices is probably not over-drawn.'
- 33 See, for example, the *Bassett, Brash & Hide* website in New Zealand.
- 34 In Aotearoa, this kind of polarisation often happens online, as Rangi Kemara explains: 'Following colonisation (there should always be a mandatory pause after stating those two words), we have the arrival of the mindset of the binary, a rudimentary process where opposite views are formed and extreme positions are taken on each side of any dichotomy. Combine that with the dumpster fire that is social media, and tino rangatiratanga ā tāngata is nowhere to be seen ... And if you don't see it my way, then you are cursed as kupa or abused as pōkohoua ... The dogmatic cry, "You're either for me or against me," inevitably results in fragmentation and the sulling of the other's mana ... until everyone is isolated and alone' (Kemara, 2020).
- 35 See also O'Sullivan, 2020, p.27: 'A report commissioned by the New Zealand Iwi (Tribal) Chairs Forum demonstrates how much is given away when a politics of self-determination through separation from the state is proposed. The report, *He whakairo here whakaumu mō Aotearoa*, recommended a constitutional order that maintained rigid distinctions between Maori and Crown authority which are referred to, with reference to the Treaty of Waitangi, as rangatiratanga and kāwanatanga, respectively. In the report, rangatiratanga was depicted as belonging to Maori (i.e. "us") and kāwanatanga to the Crown (i.e. "them"). Conflated with New Zealanders of Anglo-Celtic descent (i.e. Pakeha citizens) the Crown was thus given an ethnic character that made it the site of only some citizens' political authority'; see also pp.197-221.
- 36 'The political objective is to transform the postsettler states in which indigenous peoples reside such that they lose their colonial character.'
- 37 Speaking of Africa and the United States in particular, Mamdani states: 'Ethnic political communities were created by colonisers drawing lines between culturally distinct peoples and subjecting them to law said to be customary. The tribal governance that activists seek to protect reflects the politicisation of cultural identity. These are not the political communities of pre-colonial times' (p.328).
- 38 Mamdani's strategies to address postcolonial nationalism and the violence it often engenders by creating 'non-racial democracy' are reminiscent of te Tiriti: 'First, granting only one class of citizenship, and doing so on the basis of residence, rather than identity. Second, denationalising states ... in which local autonomy allows diversity to flourish. Third, to loosen the grip of nationalism by ... bolstering democracy in place of neo-liberal human rights remedies.'
- 39 'Speeches of Hokianga chiefs', encl. in Shortland to Stanley, 18 January 1845, *Great Britain Parliamentary Papers*, 1845 (108), p.10.
- 40 As Tūhourangi philosopher Carl Mika remarks, 'from a Māori vantage point, where all things are interconnected or "one" – a Māori text does not essentially connect with its English translation' (Mika, 2022; see also Salmond, 2012).
- 41 Many thanks to Vivian Hutchinson for drawing this article to my attention.
- 42 For an extended, authoritative discussion of whakapapa, see Ngata, 2021.
- 43 It is important that these balances, with highly respected elders and non-Maori citizens as well as lawyers and Treaty experts, are upheld in the membership of the Waitangi Tribunal, to ensure that these different perspectives are represented and respected. According to the Tribunal website, 'About half the members are Māori and half are Pākehā; at present it's about 14:6. For a comment about Tribunal hearings on marae, see Kawharu, 2008.
- 44 Note O'Sullivan's 2022 discussion of hapu and iwi as independent political communities. As Mark Hickford has pointed out, in the 1846 'Bill to make further provision for the government of the New Zealand Islands', 'separate political-institutional and legal areas of competence' were entertained for 'particular districts' where the 'laws, customs and usages of the aboriginal or native inhabitants of New Zealand, so far as they are not repugnant to the general principles of humanity' might be 'maintained for the government of themselves' (Hickford, 2018, p.689). The vexed challenge then, as now, is how to balance ancestral with contemporary tikanga and ideas of justice.
- 45 The former attorney-general, Chris Finlayson (interviewed on RNZ, 15 August 2022), has noted a terminological confusion between 'co-governance' and 'co-government', terms that readily slide from one to the other, despite their very different constitutional implications. 'Parallel governance' avoids that confusion.
- 46 For examples of the image of te Tiriti as a 'bridge', see statements by the prime minister, Jacinda Ardern, and the

- minister for Treaty relations, Kelvin Davis (Ardern, 2022; Moir, 2022).
- 47 O'Sullivan argues strongly against this kind of aggregation, proposing instead that a principle of 'subsidiarity' should 'protect against iwi being absorbed by the modern construction "Maori", hapu being absorbed by iwi, and against whanau being absorbed by hapu' (O'Sullivan, 2007, ms, p.88).
- 48 This critique of bilateral polarities is decisively prefigured by O'Sullivan (2007), especially chapter one, 'Assimilation, biculturalism and rangatiratanga', although he focuses on 'bicultural' rather than 'bi-racial' approaches.
- 49 E.g., 'The government will set up a process for the Crown to determine how it should partner with Māori in a Tiriti-based constitution' (Charters et al., 2019, p.9).
- 50 Again, Tamati Kruger offers a trenchant critique: 'After 178 years of colonisation, we are a true reflection of the Crown ourselves, and often, we create imposter tikanga by giving Māori words to Crown infrastructure and to Crown models, and then pretending its Māori all of a sudden, ... and we misinterpret terms like tangata whenua, mana whenua as new code words for "it's mine" and "I own it", when these terms do not mean that at all' (Kruger, 2018).
- 51 For recent examples, see Hapukuniha Karaka of Rangitukia, who told the Waitangi Tribunal about two sons of the local saddler, the only Pākehā in the area, who grew up speaking Māori and joined the Maori Battalion in World War Two (affidavit, Waitangi Tribunal, WAI 272), while Moana Jackson, in the 2022 documentary film Moana Jackson: portrait of a quiet revolutionary (dir. Moana Maniapoto), described how his mother insisted on registering her Pākehā friend to vote in a Ngāti Kahungunu tribal election.
- 52 For some of the challenges faced in American Indian contexts, see Jacobs, 2006.
- 53 These complexities are explored in a growing literature, including Haze, 2019; Wanhalla, 2010; Kukutai, 2007; O'Regan, 2001; Anderson, 1991.
- 54 Because of these complexities, 'racial' or 'ethnic' self-identification is highly relational, and often shifts in different contexts and over time: see Carr et al., 2022.
- 55 Responses range from anti-Māori racist comments, to Pākehā commentators being urged to 'stay in the lane', although these matters affect all New Zealanders. Like the parallel 'train tracks' in demography, the idea of race-based 'lanes' in thought and debate reifies and essentialises 'racial' divisions. See Le Bas, 2018, p.61 on the dangers of this kind of binary polarisation, and the earlier discussion in this article of 'pernicious polarisation', with its intensifying reciprocal dynamic of aggression leading to a breakdown in social relations. When this kind of critique happened in the 1980s, it led the historian Michael King to withdraw from engagement with Māori and propose that 'Pākehā' (i.e., 'European New Zealanders') were also 'indigenous', although this view was strongly contested (King, 1985). For an incisive commentary on this 'settler-native' dynamic, see Mamdani, 1998.
- 56 As many lawyers would agree, the law is dominated by binary oppositions (in court, the polarity between prosecution and defence; in styles of argument and judgments) and habits of mind.

Acknowledgements

This article was originally drafted as a discussion paper for the Law Commission, at the invitation of its president, Associate Professor Amokura Kawharu. Justice David Collins then invited me to present it to the combined judges of the Supreme Court, the Court of Appeal and the High Court in Wellington. I would like to thank the judges and colleagues across a range of disciplines for their feedback and advice on successive drafts of the article, and hope that I have done justice to their insights and wisdom. Any remaining errors are mine. Nā reira, mauria ko ōku painga, waiho ko ōku wherū – take what is good in this, and leave the rest behind.

Appendix: Te Tiriti o Waitangi, transcript from parchment

Ko Wikitoria te Kuini o Ingarani i tana mahara atawai ki nga Rangatira me nga Hapu o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga me to ratou wenua, a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kua wakaro ia he mea tika kia tukua mai tetahi Rangatira – hei kai wakarite ki nga Tangata maori o Nu Tirani – kia wakaetia e nga Rangatira maori te Kawanatanga o te Kuini ki nga wahikatoa o te Wenua nei me nga Motu – na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei.

Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga kia kaua ai nga kino e puta mai ki te tangata maori ki te Pakeha e noho ture kore ana.

Na kua pai te Kuini kia tukua a hau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo nga wahi katoa o Nu Tirani e tukua aiane, amua atu ki te Kuini, e mea atu ana ia ki nga Rangatira o te wakaminenga o nga hapu o Nu Tirani me era Rangatira atua enei ture ka korerotia nei.

Ko te tuatahi

Ko nga Rangatira o te wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu - te Kawanatanga katoa o o ratou wenua.

Ko te tuarua

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga hapu – ki nga tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te wenua – ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona.

Ko te tuatoru

Hei wakaritenga mai hoki tenei mo te wakaetanga ki te Kawanatanga o te Kuini – Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.

[signed] W. Hobson Consul & Lieutenant Governor

Na ko matou ko nga Rangatira o te Wakaminenga o nga hapu o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangatira o Nu Tirani ka kite nei i te ritenga o enei kupu, ka tangohia ka wakaetia katoatia e matou, koia ka tohungia ai o matou ingoa o matou tohu.

Ka meatia tenei ki Waitangi i te ono o nga ra o Pepueri i te tau kotahi mano, e waru rau e wa te kau o to tatou Ariki.

References

- American Association of Biological Anthropologists (2019) 'AABA statement on race and racism', <https://bioanth.org/about/position-statements/aapa-statement-race-and-racism-2019/#:~:text=Executive%20Summary%3A%20AABA%20Statement%20on,when%20referencing%20contemporary%20human%20populations>
- Anderson, A. (1991) *Race Against Time: the early Māori–Pākehā families and the development of the mixed-race population in southern New Zealand*, Dunedin: Otago University Press
- Arden, J. (2022) 'PM at Kingitanga turangawaēae: we must embrace working together', RNZ, 20 August, <https://www.nz.co.nz/news/national/473196/pm-at-kingitanga-turangawaēae-we-must-embrace-working-together>
- Ballara, A. (1998) *Iwi: the dynamics of Māori tribal organisation c.1769 to c.1945*, Wellington: Victoria University Press
- Barlow, C. (1990) *He Pukapuka Whakataki Kupu o te Paipera Tapu: a concordance of the Holy Bible*, Rotorua: Te Pihopatanga o Aotearoa
- Bateson, G. (1935) 'Culture contact and schismogenesis', *Man*, 35, pp.178–83
- Biggs, B. (1989) 'Humpty Dumpty and the Treaty of Waitangi', in H. Kawharu (ed.), *Waitangi: Maori and Pakeha perspectives of the Treaty of Waitangi*, Auckland: Oxford University Press
- Bignall, S. (2014) 'The collaborative struggle for excolonialism', *Settler Colonial Studies*, 4 (4), pp.340–56
- Blackstone, W. (1765–9) *Commentaries on the Laws of England*, Oxford: Clarendon Press
- Brown, M. (2007) 'Sovereignty's betrayals', in M. de la Cadena and O. Starn (eds), *Indigenous Experience Today*, Taylor & Francis Group, 2007
- Calloway, C. (2008) *White People, Indians, and Highlanders: tribal people and colonial encounters in Scotland and America*, Oxford: Oxford University Press
- Carleton, H. (1874) *The Life of Henry Williams, Archdeacon of Waimate*, vol.1, Auckland: Upton
- Carr, P., F. Langridge, D. Neumann, S. Paine, R. Liang, R. Taufua, J. Fidow, J. Fenaughty and T. Kingi (2022) "'Seeing" our tamariki in longitudinal studies: exploring the complexity of ethnic identification trajectories within Growing Up in New Zealand', *Journal of the Royal Society of New Zealand*, 52 (3), pp.237–53, doi: 10.1080/03036758.2022.2064518
- Caselberg, J. (ed.) (1975) *Maori is My Name: historical Maori writings in translation*, Dunedin: John McIndoe
- Chapple, S. (2000) 'Maori socio-economic disparity', *Political Science*, 52 (2), pp.101–15
- Charters, C., K. Kingdon-Debb, T. Olssen, W. Ormsby, E. Owen, J. Prior, N. Solomon and G. Williams (2019) *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*
- Earle, A. (1832) *A Narrative of a Nine Months' Residence in New Zealand in 1827: together with a journal of a residence in Tristan D'Acunha, an island situated between South America and the Cape of Good Hope*, London: Longman, Rees, Orme, Brown, Green & Longman
- Evens, T.M.S. (2015) 'Twins are birds and a whale is a fish, a mammal, a submarine', *Social Analysis*, 56 (3), pp.1–11
- Fenton, F.D. (1860) 'Report as to native affairs in the Waikato district, March 1857', *Appendices to the Journals of the House of Representatives*, E-1c
- Fletcher, N. (2022) *The English Text of the Treaty of Waitangi*, Wellington: Bridget Williams Books
- Frame, A. (1999) 'Property and the Treaty of Waitangi: a tragedy of the commodities?', in J. McLean (ed.), *Property and the Constitution*, Oxford: Hart Publishing
- Great Britain (1845) *Parliamentary Papers*, 108, p.10
- Gagné, N. (2009) 'The political dimensions of co-existence', *Anthropological Theory*, 9, pp.33–58
- Haze, K. (2019) "'Even though I am Māori sometimes I feel like a bit of a fraud": mixed-race Māori identity and the influence of legislation and legal administration c. 1850–1950', MA thesis, Victoria University of Wellington
- Hickford, M. (2018) 'Designing constitutions in Britain's mid-nineteenth century empire: indigenous territorial government in New Zealand and retrieving constitutional histories', *Journal of Imperial and Commonwealth History*, 46 (4), p.676–706
- Hickford, M. (2019) 'Quasi-constitutionality and the Treaty of Waitangi: historicity and the political', in R. Albert and J. Colón-Ríos (eds), *Quasi-Constitutionality and Constitutional Statutes: forms, functions, applications*, Abingdon: Routledge
- Hinds, S. (1838) *The Latest Official Documents Relating to New Zealand: introductory observations*, London: John W. Parker
- Hohepa, P. (1999) 'My musket, my missionary, my mana', in A. Calder, J. Lamb and B. Orr (eds), *Voyages and Beaches: Pacific encounters 1769–1840*, Honolulu: University of Hawai'i Press
- Hoquet, T. (2014) 'Biologisation of race and racialisation of the human: Bernier, Buffon, Linnaeus', in N. Bancel, T. David and D. Thomas (eds), *The Invention of Race: scientific and popular representations*, London: Routledge
- Hoskins, Te K. and A. Jones (2020) 'Māori, Pākehā, critical theory and relationality: a talk by Te Kawehau Hoskins and Alison Jones', *New Zealand Journal of Educational Studies*, 55, pp.423–9, <https://link.springer.com/article/10.1007/s40841-020-00174-0>
- Hunter, J. (1995) 'Everyone who mattered is dead and gone', in *On the Other Side of Sorrow: nature and people in the Scottish Highlands*, Edinburgh: Mainstream Publishing
- Hutchinson, V. (2021) 'The transformation of belonging: more thoughts for the ownership conversation', <https://www.taranaki.gen.nz/hca06-the-transformation-of-belonging>
- Jacobs, M. (2006) 'Resisting and reifying racialisation among urban American Indians', *Ethnic and Racial Studies*, 42 (4), pp.570–88
- Jones, C. (2014) 'A Māori constitutional tradition', *New Zealand Journal of Public and International Law*, 12 (1), pp.187–203
- Jones, C. (2016) *New Treaty, New Tradition: reconciling New Zealand and Māori law*, Vancouver: UBC Press
- Kawharu, H. (1989) 'Translation of te reo Māori text', <https://waitangitribunal.govt.nz/treaty-of-waitangi/translation-of-te-reo-maori-text/>
- Kawharu, H. (2008) 'Biculturalism and inclusion in New Zealand: the case of Orakei', *Anthropologica*, 50 (1), pp. 49–56

Where Will the Bellbird Sing? Te Tiriti o Waitangi and ‘Race’

- Kemara, R. (2020) ‘Rangiratanga in the age of conspiracy’, *E-Tangata*, 23 August, <https://e-tangata.co.nz/reflections/rangiratanga-in-the-age-of-conspiracy/>
- Kenny, K. (2014) ‘Maori did not give up sovereignty: Waitangi Tribunal’, *Stuff*, 14 November, <https://www.stuff.co.nz/national/politics/63196127/maori-did-not-give-up-sovereignty-waitangi-tribunal>
- King, M. (1985) *Being Pakeha Now*, Auckland: Hodder and Stoughton
- Kruger, T. (2017) ‘Tāmāti Kruger: We are not what we should be as Tūhoe people’, *E-Tangata*, 18 November, <https://e-tangata.co.nz/identity/tamati-kruger-we-are-not-who-we-should-be-as-tuhoe-people/>
- Kruger, T. (2018) ‘Health and wellbeing for Māori’, <https://www.goodfellowunit.org/health-and-wellbeing-m%C4%81ori>
- Kukutai, T. (2007) ‘White mothers, brown children: ethnic identification of Maori-European children in New Zealand’, *Journal of Marriage and Family*, 69 (5), pp.1150–61
- Le Bas, A. (2018) ‘Can polarisation be positive?’, *American Behavioural Scientist*, 62 (1), pp.59–74
- Linnean Society of London (n.d.) ‘Linnaeus and race’, <https://www.linnean.org/learning/who-was-linnaeus/linnaeus-and-race>
- Lovejoy, C. (1936) *The Great Chain of Being: being the study of the history of an idea*, Cambridge Mass: Harvard University Press
- Mamdani, M. (1998) ‘When does a settler become a native? Reflections of the colonial roots of citizenship in Equatorial and South Africa’, inaugural lecture, University of Capetown, 13 May, <https://citizenshiprightsafrika.org/wp-content/uploads/1998/05/mamdani-1998-inaugural-lecture.pdf>
- Mamdani, M. (2020) *Neither Settler nor Native: the making and unmaking of permanent minorities*, Cambridge, Mass: Harvard University Press
- Maning, F. (1863) *Old New Zealand: a tale of the good old times*, Auckland: Robert J. Creighton and Alfred Scales
- Marks, J. (2008) ‘Race: past, present and future’, in B. Koenig, S. Soo-Jin Lee and S.S. Richardson (eds), *Revisiting Race in a Genomic Age*, New Brunswick: Rutgers University Press
- Marsden, S. (1932) ‘Observations on the introduction of the Gospel into the South Sea Islands: being my first visit to New Zealand in December 1814’, in J.R. Elder (ed.), *The Letters and Journals of Samuel Marsden, 1765–1838*, Dunedin: Coulls, Somerville, Wilkie
- Martin, W. (1860) *The Taranaki Question*, Dunedin, John McIndoe
- McCoy, J. and M. Somer (2019) ‘Towards a theory of pernicious polarisation and how it harms democracies: comparative evidence and possible remedies’, *Annals of the American Academy of Political and Social Science*, 681, pp.234–71
- Metge, J. (1995) *New Growth from Old: the whānau in the modern world*, Wellington: Victoria University Press
- Metge, J. (2006) ‘The anthropologist as citizen’, *SITES*, new series, 3 (2), pp.60–79
- Mika, C. (2022) ‘Te reo Māori and tokenism: why some things just shouldn’t be translated’, *New Zealand Herald*, 14 September, <https://www.nzherald.co.nz/kahu/the-conversation-te-reo-maori-and-tokenism-why-some-things-just-shouldnt-be-translated/XIIHWSSQ2O4FEVLAPLP5KFM2M/>
- Moir J. (2022) ‘Kelvin Davis’ blunt instruction to public servants’, Newsroom, 8 September, <https://www.newsroom.co.nz/pro/kelvin-davis-blunt-instruction-to-public-servants>
- Mutu, M. (1992) ‘Tuku whenua or land sale?’, research report for the Muriwhenua Research Committee, WAI 45, F12, Muriwhenua inquiry
- Mutu, M. and M. Jackson (2016) *He Whakaaro Here Whakaumu mō Aotearoa: the report of Matike Mai Aotearoa*, <https://nwo.org.nz/wp-content/uploads/2018/06/MatikeMaiAotearoa25Jan16.pdf>
- New Zealand Māori Council v Attorney-General* [1987] 1 NZLR 641
- Ngata, A. (2021) ‘The terminology of whakapapa’, in W. Ngata et al., *Hei Taonga mā ngā Uri Whakatipu, Treasures for the Rising Generation: the Dominion Museum Ethnological Expeditions 1919–1923*, Wellington, Te Papa Press
- O’Malley, V. (2011) ‘Manufacturing chiefly consent? James Busby and role of rangatira in the pre-colonial era’, *Journal of New Zealand Studies*, 10, pp.33–43
- O’Regan, H. (2001) *Ko Tahu, Ko Au: Kāi Tahu tribal identity*, Wellington: Horomaka Publishing
- O’Sullivan, D. (2007) *Beyond Biculturalism: the politics of an indigenous minority*, Wellington, Huia Publishers
- O’Sullivan, D. (2017) *Indigeneity: a politics of potential: Australia, Fiji and New Zealand*, Bristol: Policy Press
- O’Sullivan, D. (2019) ‘The Crown is Māori too: citizen, sovereignty and the Treaty of Waitangi’, *The Conversation*, 8 February, <https://theconversation.com/the-crown-is-maori-too-citizenship-sovereignty-and-the-treaty-of-waitangi-111168>
- O’Sullivan, D. (2020) *We Are All Here to Stay: citizenship, sovereignty, and the United Nations Declaration on the Rights of Indigenous Peoples*, Canberra: ANU Press
- O’Sullivan, D. (2022) ‘Rangiratanga, citizenship and a Crown that is “Māori too”: boldness and the future of local government’, <https://www.futureforlocalgovernment.govt.nz/assets/Uploads/Rangiratanga-Citizenship-and-a-Crown-that-is-Maori-too-Final.pdf>
- Orange, C. (1987) *The Treaty of Waitangi*, Wellington: Allen and Unwin
- Palmer, M. (2008) *The Treaty of Waitangi in New Zealand’s Law and Constitution*, Wellington: Victoria University Press
- Parsons, M., K. Fisher and R.P. Krease (2021) ‘Legal and ontological pluralism: recognising rivers as more-than-human entities’, in *Decolonising Blue Spaces in the Anthropocene*, Palgrave Macmillan, <https://link.springer.com/content/pdf/10.1007/978-3-030-61071-5.pdf>
- Reill, P. (2005) *Vitalising Nature in the Enlightenment*, Berkeley: University of California Press
- Richardson, I. (2008) ‘Deciding the case: recollections’, in J. Ruru (ed.), *In Good Faith: symposium proceedings marking the 20th anniversary of the Lands case*, Wellington: Dunedin: New Zealand Law Foundation and University of Otago
- Salmond, A. (2007) ‘Taonga Maori: encompassing rights and property in New Zealand’, in A. Henare, M. Holbraad and S. Wastell (eds), *Thinking Through Things: theorising artefacts ethnographically*, Oxford: Routledge
- Salmond, A. (1975) *Hui: a study of Maori ceremonial gatherings*, Wellington: A.H. & A.W. Reed
- Salmond, A. (1980) *Eruera: the teachings of a Maori elder*, Auckland: Oxford University Press
- Salmond, A. (1991a) ‘Likely Maori understandings of tuku and hoko’, research report for the Waitangi Tribunal, WAI 45, D17, Muriwhenua inquiry

- Salmond, A. (1991b) *Two Worlds: first meetings between Maori and Europeans, 1642–1772*, Auckland: Viking
- Salmond, A. (1992) 'Treaty transactions: Waitangi, Mangunu and Kaitaia, 1840', 30 June, WAI 45, F19, Muriwhenua inquiry
- Salmond, A. (2010) *Brief of Evidence of Distinguished Professor Dame Anne Salmond*, WAI 1040, A22
- Salmond, A. (2012) 'Ontological quarrels: indigeneity, exclusion and citizenship in a relational world', *Anthropological Theory*, 12, pp.115–41
- Salmond, A. (2017) *Tears of Rangi: experiments across worlds*, Auckland: Auckland University Press
- Salmond, A. (2018) 'Rivers as ancestors and other realities: governance of waterways in Aotearoa/New Zealand', in B. Martin, L.T. Aho and M. Humphries-Kil (eds), *ResponsAbility: law and governance for living well with the earth*, London: Routledge
- Salmond, A. (2022) 'He Puapua and a forgotten paradise', *Newsroom*, 7 July
- Salmond, A., G. Brierley and D. Hikuroa (2019) 'Let the rivers speak: thinking about waterways in Aotearoa New Zealand', *Policy Quarterly*, 15 (3), pp.45–54
- Schwimmer, E. (1972) 'Symbolic competition', *Anthropologica*, 14 (7), pp.117–55
- Schwimmer, E. (2004) 'Making a world: the Māori of Aotearoa New Zealand', in J. Calmmer, S. Poirier and E. Schwimmer (eds), *Figured Worlds: ontological obstacles in intercultural relations*, Toronto: University of Toronto Press
- Spoonley, P. and C. Dickie (forthcoming) 'If social cohesion is the answer, what was the question? Policy options for a diverse Aotearoa New Zealand', H. Terruhn and S. Cassim (eds), *Transforming the Politics of Mobility and Migration in Aotearoa New Zealand*, Anthem Press
- Stephens, M. (2013) 'A loving excavation: uncovering the constitutional culture of the Māori demos', *New Zealand Universities Law Review*, 25 (4), pp.820–43
- Strack, M. and D. Goodwin (2017) 'More than a mere shadow: the colonial agenda of recent Treaty settlements', *Waikato Law Review*, 25, pp.41–58
- Towhai, Mohi. 'Speeches of Hokianga Chiefs,' encl in Shortland to Stanley, 18 Jan 1845, GBPP 1845, 108, 10
- Tate, H. (1990) 'The unseen world', *New Zealand Geographic*, 005
- Te Rito, J. (2007) 'Whakapapa and whenua: an insider's view', *MAI Review*, 3
- Vogt, M. (2018) 'Ethnic stratification and the equilibrium of inequality: ethnic conflict in post-colonial states', *International Organisation*, 72, pp.105–37
- Waitangi Tribunal (2010) *Ko Aotearoa Tēnei*, Wai 262, chapter 5, prepublication copy
- Waitangi Tribunal (2012) *The Stage 1 Report on the National Freshwater and Geothermal Resources Claim*, WAI 2358, Wellington: Waitangi Tribunal
- Waitangi Tribunal (2014) *He Whakaputanga me Te Tiriti | The Declaration and the Treaty*, WAI 1040, <https://waitangitribunal.govt.nz/assets/Documents/Publications/WT-Part-1-Report-on-stage-1-of-the-Te-Paparahi-o-Te-Raki-inquiry.pdf>
- Waitangi Tribunal (2015) *The Ngā Puhi Mandate Inquiry Report*, WAI 2490, Wellington: Waitangi Tribunal
- Waitangi Tribunal (n.d.) *A Guide to the Principles of the Treaty of Waitangi, as expressed by the courts and the Waitangi Tribunal*
- Wanhalla, A. (2004) 'Transgressing boundaries: a history of the mixed descent families of Maitapapa, Taieri, 1830–1940', PhD Thesis, University of Canterbury
- Wanhalla, A. (2010) 'The politics of "periodical counting": race, place and identity in southern New Zealand', in T. Mar and P. Edmonds (eds), *Making Settler Colonial Space*, London: Palgrave Macmillan
- Warne, K. (2018) 'Tāmami Kruger: Down that way, glory waits', *E-Tangata*, 9 September, <https://e-tangata.co.nz/korero/tamami-kruger-down-that-way-glory-waits/>
- Williams, H.W. (1971) *A Dictionary of the Maori Language*, Wellington: Government Printer

Courses

High quality professional development courses for the public sector:



Kāpuhipuhi
Wellington Uni
Professional

**CRAFTING GREAT POLICY
ANALYSIS**

Fri 17 **FEB** & Fri 19 **MAY** 9:30am-4:30pm

**ASSESSING CYBER SECURITY
RISK FOR DECISION MAKERS**

Mon 13-Tue 14 **FEB** 9am-5:00pm

**CREATING A COMPELLING
POLICY NARRATIVE**

Fri 17 **MAR** & Fri 16 **JUN** 9:30am-4:30pm

MACHINERY OF GOVERNMENT

Thu 9 **FEB** & Thu 9 **MAR** 9am-4:30pm

**ENGAGING EFFECTIVELY WITH
YOUR STAKEHOLDERS**

Thu 9 **MAR** & Tue 6 **JUN** 9am-4:30pm

**PUBLIC POLICY
FUNDAMENTALS**

Thu 23 **MAR** & Thu 22 **JUN** 9am-4:30pm

We can customise or design programmes to suit your requirements delivered at our Wellington and Auckland teaching spaces or in-house at your place.

To register your places visit www.wellingtonuni-professional.nz or call **04 463 6556**