

Bushwhacking towards Tiriti-based justice:

2014 Joan Cook Memorial Essay

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As a compatriot of feisty feminist the late Joan Cook I am pleased to have this opportunity in this annual memorial essay to reflect on the *State of the Pākehā Nation* under her name. *May the beer be cold where she is and the debate robust.*

The first of my ancestors came to this country in the 1830s; others followed in subsequent decades. On my maternal line my family are descendants of the non-conformists Albertlanders¹ and others came via the Australian goldfields in Ballarat where they were missionaries. On my paternal lines we are English and Waipu-Scottish² via the double migration from Canada - having survived the Highland clearances. Further back we can trace our ancestry to the Normans, Vikings, Saxons and Romans and at that point it all unravels a bit. These are my Pākehā (settler) credentials.

Upon arrival in New Zealand, we bushwhacked virgin forest into arable farmland to grow cows and apples. We primarily settled on Ngātiwai land and developed relationships with local Māori over time through living side by side; competing on sports fields and being weaved together through love and marriage, which for our family has led to a generation of Māori grandchildren. Our family's migration and settlement stories speak of the enduring pioneering themes of escaping persecution, endurance, stamina, adventure, optimism and hope for a better future, sprinkled with cultural arrogance and hard physical work.

From this consistently sports-mad ancestry I have inherited an enduring commitment to fair play and understanding of the importance of integrity. It is these drivers which have drawn me into caring about Te Tiriti o Waitangi³ and the state of race relations in this country and that have ultimately made me an (anti-racism) treaty worker. I wish to live in way that honours the treaty commitments made on behalf of my ancestors.

This essay is entitled bushwhacking for Tiriti based justice in honour of my reclaimed pioneering ancestors and as a metaphor for the complicated ongoing processes of clearing and reclearing paths in pursuit of justice. It seems with changing racial and political climates we (Pākehā) are prone to lose sight of the tika (correct) thing to do. We tend to forget the promises made on our behalf and for middle and upper class Pākehā through inheritance laws and practices we have inter-generationally compounded the alienation of Māori land. To me the end goal of our contemporary bushwhacking is the honouring of Te Tiriti o

¹ Albertland (now known as Port Albert) is an area out from Wellsford (North of Auckland) which was the site of the last organised immigration from Britain in 1862 (Henry & Henry, 2003).

² Waipu-Scottish refers to group of people that undertook a double migration from the highlands of Scotland (1820s) to St Ann's in Nova Scotia, Canada to finally settle in Waipu New Zealand (1850s).

³ Te Tiriti o Waitangi refers to the Māori text of the Treaty of Waitangi signed by Captain Hobson and the majority of Māori signatories. Te Tiriti granted the British the right to kāwanatanga (govern), reaffirmed Māori tino rangatiratanga (absolute sovereignty) and guaranteed Māori ōritetanga (equity) with British subjects.

Waitangi⁴ and the restoration of hapū (sub-tribe) sovereignty as a platform for harmonious race relations. A plethora of Waitangi Tribunal reports in recent decades confirm the ongoing and consistent failure of the New Zealand government to uphold their treaty obligations on our behalf.

These ongoing contemporary breaches of Te Tiriti set the overall tone for race relations in New Zealand. As a New Year's resolution for my nephews, for my niece, for my god daughter I call for the end of Te Tiriti breaches by the current and all future New Zealand governments as irreversible line in the sand - a place to move forward from.

In considering the state of the Pākehā nation in 2014 I wish to explore three domains of interest i) constitutional transformation, ii) globalisation and free trade and iii) institutional racism. I propose these three sites are where Pākehā can most usefully bushwhack at this time to enhance Tiriti based justice. Other key developments in 2013 worth noting but not discussed in this essay are the governments' ongoing war on the poor that continues to disproportionately target Māori. Likewise the selling of state owned assets which thereby eliminates the possibilities of those assets being utilised as part of the Waitangi settlement processes.

Constitutional transformation

In 2013 thanks to the Māori party's 2008 coalition agreement (National Party & Māori Party, 2008) we commenced a potentially powerful conversation about the future of New Zealand's constitutional arrangements. With over 5000 submissions received, many New Zealanders felt moved, equipped and motivated to contribute to this discussion. This degree of engagement speaks positively of levels of political literacy, which have in part been fostered by the tireless education work of Treaty workers over recent decades.

In the review report it was heartening to see the importance and centrality of Te Tiriti o Waitangi within our constitutional arrangements being clearly affirmed (Constitutional Advisory Panel, 2013). I welcome the Advisory Panel's recommendation for a longer and deeper conversation about how we govern the people, land and resources of Aotearoa and that that conversation be informed by an education strategy to strengthen (Pākehā) New Zealanders understanding about the detail and significance of Te Tiriti o Waitangi.

Reviewing our constitutional arrangements is a rare, once in a lifetime opportunity. Given the active misinformation being circulated through the consultation period by well-resourced conservative activists this debate deserves a stronger base-line understanding of colonial history. Ours is often a history that we shy away from teaching in classrooms and is rarely seen in mainstream media – thank goodness for independent Māori media!

Specifically we need to get our (Pākehā) heads around the significance of He Whakaputanga o Te Rangatiratanga o Nu Tireni (the 1835 Declaration of Independence) (Huygens, Murphy, & Healy, 2012). It is time we understood that Te Tiriti is not a treaty of cession signed after Māori were defeated at war, rather a peacetime agreement between sovereign nations. It is time we understood that hapū signed the Te Reo Māori (Māori language) text of Te Tiriti o Waitangi as did Hobson and these are the words that according to international law and the

⁴ Te Tiriti o Waitangi refers to the Māori text of the Treaty of Waitangi signed by Captain Hobson and the majority of Māori signatories. Te Tiriti granted the British the right to kāwanatanga (govern), reaffirmed Māori tino rangatiratanga (absolute sovereignty) and guaranteed Māori ōritetanga (equity) with British subjects.

principle of contra proferentem⁵ matter (Te Puni Kōkiri, 2002). It is time that the multiplicity of principles of the Treaty of Waitangi, made up by the Crown without their treaty partner are relegated to their appropriate place in history - a useful tool whose time has passed (Hayward, 1997).

At a deeper level the current constitutional discussion is a chance for Pākehā to reconsider what relationship we want with the indigenous people of this land. Social statistics produced regularly by the government (Ministry of Social Development, 2010) expose the systemic failure of our current arrangements and institutions to address the needs of many Māori families. The fact one in four children in this country live in poverty I suspect is unacceptable to most New Zealanders (Expert Advisory Group on Solutions to Child Poverty, 2012). I believe within this country we have enough resources to feed, clothe, shelter everybody and provide essential healthcare. The challenge facing us is how to share those resources so that we are providing a robust safety net for everyone.

Just as the myth of the flat earth was debunked it is timely that Pākehā let go of the pervasive myth that all New Zealanders start life with the same chances. This viewpoint ignores the well documented presence of structural discrimination among our institutions and the complexities of the legacies of colonisation (Human Rights Commission, 2011). A growing pool of researchers continue to expose powerful evidence of the impact of inter-generational trauma within indigenous communities as a result of colonial policies and practices of colonisation and assimilation (Reid, Taylor-Moore, & Varona, 2013). It makes sense that when genocide and other atrocities occur, as they have in New Zealand, the consequences are far reaching; and spill beyond those that experienced/witnessed it first-hand. This pain needs to be acknowledged if it is ever going to heal.

I hope nearly 175 years into this relationship with Māori that we (Pākehā) are mature enough to step off the well-worn colonial track of imposing mono-cultural institutions and systems, to listen to one another, and embrace real power-sharing. With this in mind I look forward to seeing what the Independent Iwi Constitutional Working Group, Aotearoa Matike Mai (<http://www.converge.org.nz/pma/iwi.htm#ao>) come up with after their extensive engagement with Māori communities across New Zealand about their constitutional aspirations. I also recommend the meticulous work of the Kāwantanga Network (1996) as an exemplar of Pākehā thinking about what a Tiriti-based constitution might look like.

To me it seems obvious at a fundamental level a Tiriti-based constitution that addresses Māori aspirations, may go some way to stopping the devastating social, cultural and economic impact of current governance arrangements on whānau (families), hapū and iwi (nation). I encourage Pākehā to contribute to this debate in an informed and constructive manner and to challenge the racism of well organised conservative activists.

In considering constitutional transformation I encourage you to consider the following strategic questions:

⁵ Contra proferentem is a legal doctrine that can be applied to bilingual treaties, which dictates that in cases of ambiguity, a treaty is to be interpreted against the party drafting it.

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- What would it take for you and your family to be ready for a treaty based constitution?
- What would you like your relationship to be with local hapū?
- What are you prepared to do to contribute to this change?

Threat of globalisation and free trade

International trade has long been a part of economic life for both Māori and Pākehā. However in recent decades neo-liberal advocates have single-mindedly and passionately pursued a path of making planet earth a single market. Within this environment some multi-nationals have grown so vast that they have budgets and infrastructure larger than some countries (De Grauwe & Camerman, 2003). The dream of a single market place is enabled through free trade agreements which aim to maximise economic growth, opportunity and profit and minimise nation state intervention.

The World Trade Organisation has responsibilities to supervise the implementation of free trade agreements. They can approve trade sanctions if domestic laws are not compatible with trade agreements. Domestic legislation around minimum employment conditions, protecting the environment and indigenous land claims are seen in this context as potential barriers to free trade and can and have been considered negotiable terms within agreements.

In New Zealand, trade agreements are negotiated by the government, approved by Cabinet, and then endorsed.⁶ This process is then formalised by being tabled in parliament and referred to a select committee and if necessary enabling legislation implemented (Ministry of Foreign Affairs and Trade, 2009). Agreements are not generally amended because of subsequent public or select committee input.

The New Zealand government is currently negotiating a range of free trade agreements⁷ most critically the Trans-Pacific Partnership (TPP) which has been surrounded by considerable secrecy.⁸ Noam Chomsky (cited in Carter & Grim, 13 January 2014) warns that the TPP is “designed to carry forward the neoliberal project to maximise profit and domination, and to set the working people in the world in competition with one another so as to lower wages to increase insecurity”.

He Whakaputanga o Te Rangatiratanga o Nu Tireni and Te Tiriti o Waitangi embody the right of Māori to define and control what is of spiritual, social, cultural and economic significance to them. Māori as a nation and as a treaty partner currently have no significant input into trade negotiations. Jane Kelsey (2013) argues this is problematic in that trade agreements seriously compromise the Crown’s obligations and Māori rights under Te Tiriti o Waitangi and open up the possibilities of further Tiriti breaches. Free trade agreements without formal involvement of indigenous nations also undermine the newly ratified Declaration on the Rights of Indigenous Peoples (United Nations, 2007).

⁶ New Zealand has completed several trade agreements: Australia (1983), China (2008), Thailand (2005), Singapore (2001), Brunei (2005), Chile (2005), Malaysia (2009), Hong Kong (2011), Taiwan (2013).

⁷ New Zealand government is currently negotiating with United States, Peru, Vietnam, Japan, South Korea, Gulf Co-operative Council, India, Russia, Kazakhstan, and Belarus.

⁸ The Trans-Pacific Partnership is currently being negotiated between Australia, Brunei, Chile, Canada, Japan, Malaysia, Mexico, Peru, Singapore, the United States, Vietnam and New Zealand.

Pākehā New Zealanders are in a unique position to challenge the government's ongoing involvement in the TPP and to insist on transparency around trade negotiations. Trade agreements are not a magical panacea for economic growth; rather they can permanently usurp long established domestic policy mores about valuing indigeneity, caring for the planet and fair working conditions.

In considering free trade I encourage you to consider the following strategic questions:

- What are you and your family prepared to give up for economic growth?
- What information do you trust in relation to free trade?
- What alternatives do we have to free trade?

Institutional racism within the public sector

Prejudice is the belief in the superiority of one group of people over another and it remains widespread within New Zealand (Human Rights Commission, 2013). Personally-mediated racism occurs when an individual has the power or influence to act on those prejudices. Institutional racism in contrast is harder to detect and occurs at a macro level. It is a pattern of differential access to material resources and power determined by race, which advantages one sector of the population while disadvantaging another (Jones, 2000). Institutional racism can manifest within policy making, funding practices and service delivery which disadvantages ethnic minorities and contributes to inequitable social outcomes.

The presence of institutional racism as enacted against Māori first came to the public's attention in the 1980s via a series of landmark reports (Berridge et al., 1984; Herewini, Wilson, & Peri, 1985; Jackson, 1988; Ministerial Advisory Committee on a Maori Perspective on Social Welfare, 1988). Through the work of the Māori Party, the Human Rights Commission (Human Rights Commission, 2011), activists in the criminal justice sector (Just Speak, 2012; Workman, 2011) and in the public health sector (Came, 2012; Came, Doole, Simpson, & Coupe, 2013) the issue of institutional racism has re-entered public discourse in recent years.

Activist scholars have revisited work from the 1980s and found compelling evidence of the ongoing existence of systemic racism within the administration of the public sector. Came's (2012) research within the public health sector has isolated ten distinct sites of racism within both policy making and funding practices.⁹ These sites of racism are also sites for potential anti-racism interventions. Came's findings suggest that a systems change approach via existing quality assurance frameworks within the public sector hold much promise for addressing institutional racism.

To permanently eradicate institutional racism requires vigilance and Pākehā to individually and collectively find the courage to proactively support anti-racism initiatives within our respective spheres of influence. If we find institutional racism abhorrent it is time to step up and speak out. As Alice Walker poignantly points out "we are the people we are waiting for" and the costs of inaction are considerable.

⁹ These sites of racism with policy making include: decision making practices, misuse of evidence, cultural and political competencies, consultation practices and use of Crown filters. Within funding practices sites of racism include historic funding allocations, mono-cultural funding frameworks, uneven access to Crown officials, inconsistent practice of Crown officials and compromised leadership (Came, 2012).

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In considering institutional racism I encourage you to consider the following strategic questions:

- How does institutional racism operate here?
- From my sphere of influence what can I do to disrupt institutional racism?
- What would strengthen my resolve to speak up and take action on this issue?

Where to from here?

My ancestors were pioneers who bushwhacked land to make pasture and orchards. If they were alive they would tell me it is important to maintain cleared land, if you became tardy it reverts back to bush with manukau and ferns sprouting forth and young saplings. Removing wayward gorse from land is extremely difficult I understand it can take up to seven years until every seed has become barren. At times Pākehā have stepped up and attempted to address our complicated colonial legacies. But in recent times we have become distracted with concerns we consider more pressing.

This Waitangi Day let's remember the legacy of our pioneering Pākehā ancestors and continue to tend to our relationship with Māori. Let's be the contemporary pioneers - honourable Pākehā, the sort that Māori thought they were signing Te Tiriti o Waitangi with. Let's do more than that and be proactive and step up and make the most of the current constitutional conversation. Let's challenge our government around their fixation with free trade agreements that expose us to all sorts of potential troubles. Let's challenge institutional racism and eradicate it once and for all. Let's fight for a society where fair play is the norm, where Māori are valued and Pākehā as a nation can be proud of the integrity we bring to our relationships with Māori.

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