

# **Humanitarian Governance in Colonial New Zealand (1833 - 1872)**

by

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This dissertation is dedicated to my mother, Dr. Marsha Cook Woodbury,  
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## **LIST OF ABBREVIATIONS**

AJHR	Appendix to the Journal of the New Zealand House of Representatives
ANZ	Archives New Zealand
APS	Aborigines' Protection Society
CMS	Church Missionary Society
GBPP	Parliamentary Papers of Great Britain
NZC	New Zealand Company
TNA	The National Archives [UK]



# New Zealand



## ABSTRACT

“Humanitarian Governance in Colonial New Zealand” focuses on a landmark intervention, Britain’s 1840 annexation of New Zealand, to show how officials, settlers, and indigenous Māori implemented a transnational discourse of humanitarian care within the colony. Invoking favorable impressions of Māori capacity for “civilization,” British proponents of colonization in the 1830s and 1840s advocated planned settlement and an intentional approach to managing indigenous peoples. New Zealand constituted an early experiment in humanitarian governance – defined as the administration of human collectivities in the name of a higher moral principle – as a solution to the grim consequences European settlement entailed for aboriginal populations.

Uncertainty surrounding the terms of annexation, competition between a private company and the British government, and the colonial state’s lack of military power relative to Māori slowed early efforts at implementing policies of humanitarian governance. The dissertation examines several areas of government action – land reserved for Māori, the administration of health and education, and programs promoting legal assimilation – to show how colonial officials initially deployed humanitarian governance as the only viable means of assimilating Māori into the colonial state. With the arrival of more colonists in the 1850s and London’s devolution of authority over Māori affairs to New Zealand, humanitarian governance became more assertive. Instead of seeking Māori participation, settlers prioritized the individualization of communal lands and accelerated the legal assimilation of Māori communities.

A hardening of racial attitudes toward indigenous peoples throughout the British Empire, and a decade of intermittent warfare in the 1860s, reframed practices of governance. If in the 1840s agents of empire implemented ideas of humanitarian governance as an experiment in colonization and a way of encouraging Māori engagement with the colonial state, by the 1870s the government conceptualized humanitarian governance as a way to limit Māori autonomy and justify interventions in the name of progress.

## Prologue: Edward Gibbon Wakefield and the New Zealand Company

In June 1836, Edward Gibbon Wakefield, a noted advocate of British colonization, spent four days testifying before the British Parliament's Select Committee on Colonial Lands. At forty-years-old with "fair complexion, fine skin, and fine intellectual forehead," Wakefield's notability derived from a scandalous personal life, a campaign against capital punishment, and from writings regarding Britain's overseas settlements.<sup>1</sup> His Letter from Sydney, published in 1829 as he finished a prison sentence for abducting the fifteen-year-old heiress Ellen Turner, adopted the voice of an Australian settler arguing for colonial emigration as a solution to Britain's overpopulation and Australia's demand for labor.<sup>2</sup> Four years later, the two volumes of England and America compared the sources of wealth and civilization in each country.<sup>3</sup> Instead of the chaos of unregulated migration, Wakefield promoted reproducing British social, political, and economic models as the key to colonial success. Contrasting what he characterized as the prevailing view of colonies as "fit only for the residence of convicts, labourers, mechanics, and desperate or needy men," Wakefield instead argued colonies could extend British influence through organized settlement while simultaneously resolving demographic pressures at home.<sup>4</sup>

<sup>1</sup> David Moss, "Wakefield, Edward Gibbon (1796–1862)," *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2007), <http://www.oxforddnb.com/view/article/28415>.

<sup>2</sup> Edward Gibbon Wakefield, *A Letter From Sydney, The Principal Town of Australasia*, ed. Robert Gourger (London: Joseph Cross, 1829).

<sup>3</sup> Edward Gibbon Wakefield, *England and America: A Comparison of the Social and Political State of Both Nations* (London: Richard Bentley, 1833). In this text Wakefield examines the impact of the frontier and the connections between economic production, development, and civilization. The resultant political economy would be a feature of Wakefield's plans.

<sup>4</sup> Edward Gibbon Wakefield, *The New British Province of South Australia*, 2nd ed. (London: C. Knight, 1835), 128.

An intentional approach at the moment of a colony's establishment, according to Wakefield, was necessary for future success. Income generated from the sale of land would subsidize the passage of landless and poor laborers from Britain. His proposals, developed in conversation with the National Colonisation Society – a group that included Jeremy Bentham and John Stuart Mill among its membership – were well-received and influenced Britain's annexation of South Australia in 1834.<sup>5</sup> Wakefield's ruminations about structuring the relationship between land and people in colonial spaces remained influential throughout the 1830s as Britain considered new ways to manage its North American colonies.<sup>6</sup> Given his expertise in colonial land management he was an especially valuable witness for the Select Committee on Colonial Lands. Charged with investigating land ownership in Britain's far-flung empire, the British Parliament asked the committee to determine best practices of land ownership in colonies to which emigrants were heading.

Wakefield's testimony before the Select Committee on Colonial Lands reiterated the importance of balancing land, labor, and capital. Referring to South Australia, he underscored regulating the supply of land as crucial to the success of any colonial venture hoping to attract British settlement. The disposal of "waste land" – that is land considered vacant and unowned – formed the "very basis of the fabric, the foundation, upon which all is to be raised" of settlement.<sup>7</sup> Controlling who could own what land was the central mechanism allowing the reproduction of British society overseas. Instead of an itinerant and spatially diffused population

<sup>5</sup> *South Australia Colonisation Act 1834* (4 & 5 Will. IV c. 95)

<sup>6</sup> Wakefield served as a private secretary to John Lambton, Earl of Durham, during the latter's trip to Canada and publication of a Report on the Affairs of North America that recommended the unification of Upper and Lower Canada with an elected representative body empowered with a wide range of prerogatives. Lord Durham was also a director of the New Zealand Company.

<sup>7</sup> GBPP, 1836 (512) Select Committee on Colonial Lands, Minutes of Evidence: E. G. Wakefield, 22 June 1836, 48.

of shepherds that characterized the older Australian colonies of Victoria and New South Wales, Wakefield's plan promised a careful balance of capitalist and laborer, land owner and tenant.

Wakefield's efforts constituted a set of "experiments designed to ensure the evils of English society would not be reproduced and to prevent the evils of frontier societies from taking root."<sup>8</sup> The key was establishing a "sufficient price" for land set high enough to preclude the easy acquisition of land by laborers and consequent dispersal of population but not so high as to discourage capitalists from investing. At the end of his testimony, when asked about Britain's future as a colonizing power, Wakefield mentioned that "[v]ery near to Australia there is a country, which all testimony concur[ed] in describing as the fittest country in the World for colonization; as the most beautiful country, with the finest climate, and the most productive soil[.]"<sup>9</sup> His pivotal role in promoting the colonization of that country, New Zealand, occupied much of his energy in the late 1830s and in the summer of 1840 it was New Zealand that again brought him before a Parliamentary Select Committee.

In February 1840 British representatives signed the Treaty of Waitangi with several dozen Māori leaders and brought New Zealand under the protection of the British Crown. Though the treaty itself was rushed in its execution, the possibility of annexing New Zealand had a longer history. Following an 1838 investigation by the House of Lords, by 1840 the British Parliament acknowledged New Zealand's suitability for colonization with potential derived from its "geographical position, the fertility of its soil, the salubrity of its climate, its rivers, its harbours, [and] its natural productions."<sup>10</sup> The treaty constituted a milestone in the establishment

<sup>8</sup> Erik Olssen, "Mr Wakefield and New Zealand as an Experiment in Post-Enlightenment Experimental Practice," *New Zealand Journal of History* 31, no. 2 (1997): 198.

<sup>9</sup> GBPP, 1836 (512) Select Committee on Colonial Lands, Minutes of Evidence: E. G. Wakefield, 27 June 1836, 108.

<sup>10</sup> GBPP, 1840 (582) Select Committee on New Zealand, Report of the Committee, 30 July 1840, vi.

of British authority and influence in the islands that had begun with the appointment of a consul in 1833 and had slowly intensified during the early 19<sup>th</sup> century.

One of the reasons for the Treaty's rushed implementation was pressure put on the British government by Wakefield's New Zealand Company. Organized in 1838 with the purpose of establishing a colony in New Zealand, the Company had begun purchasing land in New Zealand in 1839. Unsettled by this unsanctioned venture, troubled by reports of growing chaos in New Zealand, lobbied by the missionaries, and threatened by rumors of French interest in the region, the British government under the Whig administration of Viscount Melbourne authorized annexation. Charged with this task and appointed Lieutenant Governor of New Zealand for this purpose was William Hobson. Along with his secretary James Freeman and the British Resident James Busby Hobson had drafted the document at Busby's house at Waitangi. The Anglican missionary Henry Williams translated the treaty into Māori and it was signed on the February 6 1840.

The establishment of British administration in New Zealand was not universally praised. Influential missionary movements and non-signatory Māori expressed their displeasure with the proceedings at Waitangi.<sup>11</sup> Unlike other examples of colonial expansion based largely on military conquest or assumptions of terra nullius, however, advocates of annexation pointed to the contractual and joint nature of the document as marking a qualitative shift in the history of empire. Instead of relying on force, New Zealand's annexation via a treaty recognizing the rights of Māori established New Zealand as an experiment in colonial governance. Given the rushed

<sup>11</sup> Richard Boast and Richard Hill, *Raupatu: The Confiscation of Māori Land* (Wellington: Victoria University Press, 2009); Richard Boast, "The Waitangi Tribunal in the Context of New Zealand's Political Culture and Historiography," *Journal of the History of International Law* 18 (2016): 339–61. At the time of its signing the treaty was an ambiguous document and source of regret for some colonial officials, but increasingly the Treaty of Waitangi has moved to a central position in New Zealand jurisprudence as foundational legislation.

timetable for creating New Zealand as a colony, however, it was only three months after the signing of the treaty that Parliament could consider how to proceed with establishing authority in the newest part of its empire. The question before the Select Committee on New Zealand, therefore, was not if to colonize New Zealand but rather what form that colonization could take and how the formation of British government in the islands would impact Māori.

As a central figure behind the formation of the New Zealand Company, Wakefield was a key witness for the 1840 Select Committee on New Zealand.<sup>12</sup> Five days of testimony in July of that year probed the limits of his expertise and experience as an entrepreneur, economic theorist, and political lobbyist. Questions from the committee ranged widely over the relationship between land and labor, delved into cross-examination about the type of paper and ink used in official correspondence, and canvassed what entities he thought could be appropriate agents of colonial expansion.

In light of previous instances of European settlement that had destroyed indigenous American populations, the NZC proposed a new strategy of colonial administration it thought would protect Māori from a similar fate. Central to Wakefield's testimony before the committee was the Company's plan for Māori living within the Company's purchases. Having bought twenty million acres around Cook Strait in September of 1839, the Company proposed a framework that would allow Māori to live within its borders rather than be pushed away from European settlements. Intending to leave villages, burial grounds, and agricultural plots undisturbed, Wakefield's plan prioritized leaving areas of active Māori use in indigenous hands. The Company's Board of Directors also argued that their corporate beneficence would be an

<sup>12</sup> The New Zealand Company succeeded the New Zealand Association which in 1838 had failed to get a bill through Parliament that would have allowed the settlement of New Zealand. The New Zealand Company was organized that same year as a successor to the Association

enduring one. Meaningful payment was not the dozen umbrellas, hundred blankets and other assorted goods Colonel William Wakefield (brother of Edward Gibbon Wakefield) had paid to sixteen Māori signatories in exchange for the lands around Port Nicholson.<sup>13</sup> Rather, the real benefit would derive from land set aside for the benefit of those Māori. Reserves of land would establish security of tenure for indigenous peoples inhabiting the Company's settlements. The New Zealand Company's colonization plan proposed what they saw as a novel policy that would be humane in its organization and not follow the same arc as other encounters between European settlers and indigenous peoples.

Wakefield's plan applied a foundational belief in the social consequences of land ownership in colonial spaces to methods and structures of indigenous administration. Edward Gibbon Wakefield was a monogenist, thought that Māori and European were of common descent, and that the two populations shared a universal human nature and potential.<sup>14</sup> He told the committee "that if the inferior race of New Zealand can be preserved at all in contact with civilized men, it can only be by creating in civilized society a class of natives who would retain the same relative superiority of position which they had enjoyed in savage life."<sup>15</sup> That superiority would be maintained through setting aside money for elite families to enjoy "an equal position with the richer class of English settlers."<sup>16</sup> These funds were to derive from placing a tenth of the Company's twenty-million-acre purchase into a trust. Income from the rental or produce of that land, the Company's plan stated, would promote the financial security and social status of its beneficiaries.

<sup>13</sup> GBPP, 1840 (582) Select Committee on New Zealand, Appendix 15: Deed of Conveyance, September 27 1839, 159-160.

<sup>14</sup> Olssen, "Mr Wakefield and New Zealand as an Experiment in Post-Enlightenment Experimental Practice," 215.

<sup>15</sup> GBPP, 1840 (582) Select Committee on New Zealand, Minutes of Evidence: E. G. Wakefield, 13 July 1840, 25.

<sup>16</sup> GBPP, 1840 (582) Select Committee on New Zealand, Minutes of Evidence: E. G. Wakefield, 13 July 1840, 25.

The Reverend Samuel Hinds, author of a book about the colonization of New Zealand and future promoter of Anglican settlement on the South Island, testified that the New Zealand Company's plans formed a "wise and very humane regulation."<sup>17</sup> By making "natives a constituent part of the society of every colony" Hinds thought New Zealand could be exception in what was otherwise the failure of indigenous populations to be "bettered" through contact with Europeans.<sup>18</sup> Since Hinds considered Māori, like other indigenous peoples, as vulnerable to losing their land through deception or fraud, land ownership designed for the long-term viability of its beneficiaries was best structured through a trust that precluded alienation. Predicated on an understanding of Māori as vulnerable and of New Zealand as a blank slate for colonization, annexation provided an opportunity to experiment with new models of how colonization – in this case undertaken by a private company – could both develop an imperial project while aspiring to a humanitarian concern of "bettering" indigenous peoples in colonial setting.

Reserves of land, central to the Company's vision of social and economic elevation of Māori, comprised a valuable asset. Totalling 11,110 acres with an estimated value, at least on paper, of £33,390, reserves formed a significant estate. Though set aside for their benefit, the Company assessed the land as being too valuable to be trusted to Māori directly. Wakefield saw land as liable to be "parted with in grog-shops and other places ... for merely nominal sums."<sup>19</sup> Instead of Māori beneficiaries owning and managing the land directly, the Company's plan included sending a European agent to oversee the reserves as a trustee in consultation with Māori. To this end, Sir William Hutt, a director of the New Zealand Company and MP for the English city of Hull, gave evidence that this representative would work "in a manner as to be

<sup>17</sup> GBPP, 1840 (582) Select Committee on New Zealand, Minutes of Evidence: Samuel Hinds, 24 July 1840, 120; Samuel Hinds, *The Latest Official Documents Relating to New Zealand* (London: John W. Parker, 1839).

<sup>18</sup> GBPP, 1840 (582) Select Committee on New Zealand, Minutes of Evidence: Rev. S. Hinds, 24 July 1840, 120.

<sup>19</sup> GBPP, 1840 (582) Select Committee on New Zealand, Minutes of Evidence: E. G. Wakefield, 16 July 1840, 25.



made most beneficial to the natives for whom it was reserved.”<sup>20</sup> The task of implementation fell to Edmund Storr Halswell, a magistrate of Middlesex and Fellow of the Royal Society, who in addition to his role as a land commissioner received the extra duties of being a protector of aborigines tasked with, in the first instance, ensuring settlers did not occupy land reserved for Māori.

The contradictions and possible conflicts of interest stemming from Halswell’s position as both an employee of the New Zealand Company and responsible for safeguarding Māori claims concerned the committee chair and Liberal MP Robert Vernon-Smith. Though intrigued by the powers and authority of the protector, the MPs questioned what they saw conflict of interest between Halswell’s loyalties to the Company or to Māori welfare. William Hutt testified that he was optimistic about Māori agreeing to the Company’s proposals and expressed “no doubt that the natives would acquiesce without ceremony in a proposition which carried on the face of it an intention obviously beneficial to themselves.”<sup>21</sup> The difficulties of officials charged with acquiring and populating land while simultaneously being mindful of the circumstances of indigenous peoples occupying the land was remarked upon at the time and would continue to vex others occupying similar roles in the following decades. Debate about how to proceed with New Zealand’s colonization serves as a reminder that the colonial state and colonizing institutions were not “automatically unified by coherent vision of their own power and the nature of the communities they ruled over.”<sup>22</sup>

William Hutt further allayed the committee’s concerns by presenting Halswell’s responsibilities as akin to those held by protectors in the Australian colonies. Those officers were

<sup>20</sup> GBPP, 1840 (582) Select Committee on New Zealand, Minutes of Evidence: W. Hutt, 24 July 1840, 128.

<sup>21</sup> GBPP, 1840 (582) Select Committee on New Zealand, Minutes of Evidence: W. Hutt, 24 July 1840, 128.

<sup>22</sup> Tony Ballantyne, “The Changing Shape of the Modern British Empire and Its Historiography,” *Historical Journal* 53, no. 2 (2010): 439.

tasked with preventing encroachment on indigenous property, facilitating education and conversion to Christianity, and acting as a channel of communication between the government and Aborigines.<sup>23</sup> The New Zealand Company anticipated aboriginal protection would be an internal affair and operate without any special legal powers derived from the state.<sup>24</sup> Even as it couched justifications for its success in the larger history of British overseas expansion, the Company was also protective of its prerogatives and vision for the colonial future. Planned settlement, the Company argued, would benefit Britain, individual settlers, and mark a new chapter in the relationship between colonizers and colonized.

Critical of the British government for failing to establish a government in New Zealand, thereby delaying the rule of law and the necessary infrastructure with which to establish a trust for Māori, in July 1840 the Company's own plans for Māori protection remained far from fully established.<sup>25</sup> Wakefield's testimony mentioned that the Company would work with the leadership of the Aborigines' Protection Society "for the purpose of devising some proper trusts."<sup>26</sup> Once established, however, the New Zealand Company saw its role as a trustee and protector ensuring the success and assimilation of Māori into a new, planned, and stable society. The Company wanted the rule of law to validate and secure title to its purchases but within the larger guarantee of rights the NZC saw limited potential for direct interference in the administration of Māori. The extent and intensity of British among agents of humanitarian governance – the imperial parliament, the New Zealand Company, and the local government –

<sup>23</sup> GBPP, 1840 (582) Select Committee on New Zealand, Minutes of Evidence: W. Hutt, 24 July 1840, 128. Protectors were assigned to South Australia in 1836, Port Phillip (Victoria) in 1837, and Western Australia in 1839. Alan Lester and Fae Dussart, *Colonization and the Origins of Humanitarian Governance* (Cambridge: Cambridge University Press, 2014), 107.

<sup>24</sup> GBPP, 1840 (582) Select Committee on New Zealand, Minutes of Evidence: W. Hutt, 24 July 1840, 128.

<sup>25</sup> GBPP, 1840 (582) Select Committee on New Zealand, Minutes of Evidence: E. G. Wakefield, 16 July 1840, 25.

<sup>26</sup> GBPP, 1840 (582) Select Committee on New Zealand, Minutes of Evidence: E. G. Wakefield, 16 July 1840, 33.

would also become a recurring problem in the development and implementation of the administration of Māori.

Wakefield's Parliamentary interlocutors were of mixed opinion about growing British involvement in New Zealand. Some joined representatives from the Wesleyan Missionary Society and Church Missionary Society in objecting to sovereignty being invested in the British Crown.<sup>27</sup> Other concerns stemmed from the form and cost of colonization and skepticism regarding the capacity of the New Zealand Company to pursue its advertised goals. Among these points of divergence, however, the Select Committee shared Wakefield's anxiety about the unplanned, chaotic, and violent state of affairs he perceived in the South Pacific. Any colonial project, the committee wrote in its report, would be difficult amidst a "state of lawlessness and wrecklessness [sic], boundary disputes, overlapping claims, absence of survey, paucity of property and inheritance laws" that they saw in New Zealand.<sup>28</sup>

A perceived lack of order in New Zealand, in the eyes of some British observers, largely derived from the absence of any government with enough authority to compel adherence to the law. Compounding the lack of any legal apparatus were, the committee reported, more serious "evils ... caused by the profligate and reckless conduct of some of the whites, who have sown among the aborigines the seeds of vice and misery."<sup>29</sup> In particular, the haphazard and unregulated sale of Māori land to Europeans "materially increased ... the difficulty of civilizing and preserving that interesting race."<sup>30</sup> New Zealand, therefore, was both an emerging crisis of unregulated space and an opportunity to establish administrative mechanisms to mitigate what

<sup>27</sup> GBPP, 1840 (582) Select Committee on New Zealand, Appendix 21: Statement of the Committee of the Church Missionary Society, 29 November 1839, 165-173; Appendix 24: Extract of Instructions of the Wesleyan Missionary Committee, September 1839, 182-183.

<sup>28</sup> GBPP, 1840 (582) Select Committee on New Zealand, Report of the Committee, 30 July 1840, vii.

<sup>29</sup> GBPP, 1840 (582) Select Committee on New Zealand, Report of the Committee, 30 July 1840, vii.

<sup>30</sup> GBPP, 1840 (582) Select Committee on New Zealand, Report of the Committee, 30 July 1840, viii.

parliamentarians saw as the grim consequences European contact had for the islands' indigenous inhabitants. New Zealand, therefore, constituted a humanitarian crisis that required intervention.<sup>31</sup> The conceptualization of imperialism as an emancipatory project based on the establishment of law and order nevertheless resulted in the widespread dispossession of indigenous tangata whenua as new European arrivals sought to transform the islands of Polynesian Aotearoa into European New Zealand.<sup>32</sup>

Arguments that intervention was justified by British colonization stemming the consequences of “evil” behavior by Europeans had to be weighed against a reluctance to trespass on Māori sovereignty. A key concern of the committee was the larger mechanism of colonial government in New Zealand with attention paid to the creation of suitable laws, the integration of Māori into and under British laws, and concern about whether those laws would be beneficial for Māori. Significantly, however, the question was not if Māori wanted to adopt the proposed institutions but rather how to mitigate the introduction of British legal traditions. Humanitarian governance, therefore, retained an imposing quality that likened it to other forms of colonial administration. Balancing the maintenance of existing social hierarchies while implementing systems of administration, like a legal code and legible patterns of land ownership, allowed for the creation of a liberal economic order in New Zealand. The project of bringing order to New Zealand was deeply imbued with both emancipatory and coercive potential.

After weighing the banes of abrogating Māori sovereignty against the boons of establishing European order and spreading Christianity, the committee decided to endorse the New Zealand Company's plan for a system of reserves as one of “high importance to the

<sup>31</sup> Peter Adams, *Fatal Necessity: British Intervention in New Zealand, 1830-1847* (Auckland: Auckland University Press, 1977), 87–89, 106–9.

<sup>32</sup> Tangata whenua: people of the land; Aotearoa: land of the long white cloud

interests of humanity, and one well deserving of the sanction of Parliament.”<sup>33</sup> The incorporation of new administrative frameworks for engaging indigenous peoples, in the eyes of the directors of the New Zealand Company and British parliamentarians, marked a shift in the history of empire. Not simply mercantile, evangelist, or based on conquest, Wakefield and his contemporaries considered might be possible to incorporate indigenous peoples in a manner that would not result in their destruction or dispossession.

Māori input into the Company’s plan, however, was neither solicited nor encouraged. The NZC’s proposal contained interwoven strands of “emancipation, amelioration, conciliation, protection and development” that nevertheless resulted in dispossession and was based on a premise that anticipated the sublimation of that population to introduced social, political, and economic systems.<sup>34</sup> While the form of administration proposed by the New Zealand Company eschewed overt violence of military conquest, by virtue of their aspiration to integrate and direct an indigenous future these spaces nevertheless worked to direct and control the terms on which Māori interacted with Europeans. Efforts to administer an empire humanely and debates about how to implement “humanitarian governance” in a colonial space formed a pressing issue for colonial administrators who sought out ways of reforming administrative practices throughout the empire.

<sup>33</sup> GBPP, 1840 (582) Select Committee on New Zealand, Report of the Committee, 30 July 1840, x.

<sup>34</sup> Lester and Dussart, *Colonization and the Origins of Humanitarian Governance*, 17.

## **Introduction: Humanitarian Governance in New Zealand (1830 - 1872)**

In broad terms, humanitarian governance describes how local, national, and international organizations translate moral imperative into administrative action. The concept is currently salient in analyses of Euro-American interventions aimed at promoting the quality of human life and appears frequently in development-related periodicals.<sup>1</sup> To render the wide range of actions undertaken by NGOs, national governments, and global entities like the UN more wieldy, scholarship on humanitarianism divides humanitarian actions into two categories.<sup>2</sup>

The first, termed “emergency” or relief humanitarianism, describes short-term efforts focused on alleviating individual suffering during a period of crisis. An example of this type is the work of the ICRC in delivering aid following a natural disaster. The second category encompasses sustained activity geared toward ameliorating underlying causes of suffering. With a long-term perspective focused on creating or enhancing institutional or social capacities, such interventions are referred to as developmental, progressive, or “alchemical” humanitarianism. Undertakings like the peace-building efforts in the Balkans following the breakup of Yugoslavia in the early 1990s characterize this category of intervention which feature systemic and long-term approaches to social ills. Despite differences in organization, strategy, and temporal scope,

<sup>1</sup> For example, Polly Pallister-Wilkins, “Personal Protective Equipment in the Humanitarian Governance of Ebola,” *Third World Quarterly* 37, no. 3 (2016): 507–23.

<sup>2</sup> Michael Barnett, *Empire of Humanity: A History of Humanitarianism* (Ithaca, N.Y.: Cornell University Press, 2011), 37–41. Michael Barnett, “Humanitarian Governance,” *Annual Review of Political Science* 16, no. 1 (2013): 379–98.

both emergency and developmental humanitarianism engage questions of humanitarian governance. Governance, even when practiced by non-state actors, requires identifying a population as being in a precarious position, making a decision to intervene that is based on a set of priorities, and evaluating success against a rubric designed by the organization undertaking the action.

An ethical commitment directed toward those perceived as “in need” is foundational to ethical frameworks found around the globe. Humanitarian governance forms one manifestation of a universal social impulse to help or assist. The anthropologist and sociologist Didier Fassin uses the term “humanitarian reason” to describe how a vocabulary of suffering, compassion, and assistance can instill a sense of responsibility to protect.<sup>3</sup> This responsibility, in turn, motivates organized efforts to ameliorate the suffering of communities deemed precarious by virtue of displacement, disease, environmental catastrophe, or other hardship. Humanitarian governance, therefore, is one way of addressing social precarity.

Inseparable from the act of relieving suffering, however, ameliorative efforts that follow a donor–practitioner–recipient model also create a power imbalance. Donors who inform humanitarian practitioners of what aid to provide recipients, for example, establish an authoritative relationship and set of priorities that can, at times, be a literal question of life and death. The provision of assistance as being simultaneously an acknowledgement of inequality, since relief is made without the expectation of reciprocity, and an act that recognizes of solidarity, because humanitarianism derives its moral power from compassion and a sense of a common experience, makes for an uneasy balancing act at the core of humanitarian activity.<sup>4</sup>

<sup>3</sup> Didier Fassin, *Humanitarian Reason: A Moral History of the Present*, trans. Rachel Gomme (Berkeley: University of California Press, 2012), 1–17.

<sup>4</sup> Simon Reid-Henry, “Humanitarianism as Liberal Diagnostic: Humanitarian Reason and the Political Rationalities of the Liberal Will-to-Care,” *Transactions of the Institute of British Geographers* 39, no. 3 (2014): 420.

Reflecting on these contradictions built into humanitarian practice, Fassin characterizes humanitarianism's conventional donor–practitioner–recipient structure as a “relation of domination and a relation of assistance” that is “constitutive of all humanitarian government.”<sup>5</sup> Recipients, by virtue of experiencing crisis or being poorly-situated to participate in defining parameters of actions taken on their behalf, are frequently excluded from defining the stakes of intervention even as practitioners and donors are conventionally depicted as apolitical and independent. Describing the process by why practitioners and donors conceptualize those in need as “sentimental humanity,” Lynn Festa argues that the structural narrative of suffering often leaves little room for those experiencing suffering articulate their own perspectives. The unequal relationship between donor and recipient also creates the risk that the recipients of assistance are stripped of any agency once in receipt of any aid.<sup>6</sup>

Humanitarian governance derives its potency for enacting social change from the intersection of authority, power, and legitimacy. Governments, whether through their ability to regulate, coerce, or invoke the public good, have a strong capacity to carry out humanitarian programs. The authority wielded by the state or state-like actors, however, can deepen the divide between (state) donor and (citizen) recipient, especially if interventions are sanctioned by legislative authority and lack a means of redress. Like other organizations, governments deploy humanitarian reason to legitimate decisions and actions as being for a “greater good.” Compounding the power of governmental authority – or the authority of NGOs acting as territorial authorities – is the state's frequent role as a provider of welfare, its responsibility for regulating public life, and its capacity to turn to the military or civil defense apparatus to deliver

<sup>5</sup> Fassin, *Humanitarian Reason*, 1–17.

<sup>6</sup> Lynn Festa, “Humanity without Feathers,” *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 1, no. 1 (2010): 3–27.



aid in emergency situations. Coercive power can also be deployed to enforce a humanitarian agenda.<sup>7</sup> What sets humanitarian governance by the state apart from other forms of humanitarian administration is the state's developed capacity for intervention and its maintenance of a monopoly of force. The "governance of governments" has significant capacity to bring about, and maintain change.

While humanitarian governance draws from a broader social and political milieu of ethics, authority, concepts of rights and obligation, and can be practiced by a range of actors, it is the fusion of official decision-making and humanitarianism that has the strongest salience for this project. Examining this overlap, Michael Barnett has argued that "although humanitarian governance operates in the name of the victims of the world, governance is about rule, and rule is about power."<sup>8</sup> Studying the paradoxes built into the overlap between state-citizen and donor-recipient relationships engages concepts of how the state understood its role, and conversely was interpreted, as a humanitarian agent.

The self-consciously humanitarian annexation of New Zealand established a relationship of domination and assistance. This colonial relationship was predicated on ameliorating the impact of British settlement in the colony while nevertheless transforming indigenous landscapes, economies, and patterns of landholding to fit British notions of progress. Intertwined throughout the paternalism expressed by the European settler community toward indigenous tangata whenua who lived in New Zealand was a second paternalist relationship between an imperial metropole in London and a far-flung colony in New Zealand.

<sup>7</sup> Jane Samson, *Imperial Benevolence: Making British Authority in the Pacific Islands* (Honolulu: University of Hawai'i Press, 1998).

<sup>8</sup> Barnett, "Humanitarian Governance," 382.

## Historical Genealogies of Humanitarian Governance

A series of military interventions by western governments during the 1990s and 2000s – in the Balkans, Somalia, Iraq, and Sierra Leone – spurred interest in understanding how states frame political action in humanitarian terms.<sup>9</sup> In the early 2000s, United States politicians also couched national security concerns in humanitarian language to justify invasions of Afghanistan and Iraq.<sup>10</sup> Thousands of lives and over a decade later, US and allied soldiers remain in both countries further testing the relationship between strategic goals and a claims to be acting in the interests of humanity. Debate preceding, concurrent with, and following these interventions raises questions regarding connections between politics and humanitarianism and discussion of whether a florescence of humanitarian intervention is a mask for more conventional state action or instead reflects a heightened degree of international cooperation characteristic of the post-Cold War world.<sup>11</sup>

While humanitarian interventions in the form of military invasions constitute a particularly drastic category of action, research into connections between political decision-making and humanitarianism focus on the presence of moral suasion, structural confinement, coercion, and international law to understand the varying ways in which humanitarian sentiment infuses and shapes government policy.<sup>12</sup> Among the first scholars to place post-Cold War interventions in their historical context, Brendan Simms and D.J.B. Trimm proposed the

<sup>9</sup> Gary Bass, *Freedom's Battle: The Origins of Humanitarian Intervention* (New York: Alfred Knopf, 2008).

<sup>10</sup> Matthew Jamison, "Humanitarian Intervention Since 1990" in Brendan Simms and D. J. B. Trimm, *Humanitarian Intervention: A History* (Cambridge (UK): Cambridge University Press, 2011), 373–80.

<sup>11</sup> Bass, *Freedom's Battle*; Simms and Trimm, *Humanitarian Intervention*. Michael Ignatieff considers the Bosnian interventions in the early 1990s as constituting the beginning of humanitarian intervention in Michael Ignatieff, *Empire Lite: Nation-Building in Bosnia, Kosovo, Afghanistan* (London: Vintage, 2003).

<sup>12</sup> Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge: Cambridge University Press, 2004); John Galbraith, "The Humanitarian Impulse to Imperialism," in *British Imperialism: Gold, God Glory*, ed. Robin Winks (Hinsdale (IL): Dryden Press, 1963), 71–74.

seventeenth century, particularly the emergence of a state system following the Treaty of Westphalia, as the originating moment for using humanitarianism to justify territorial transgression.<sup>13</sup> In the case of New Zealand, the extension of humanitarian attention to a new colonial space took the form of a treaty and efforts to extinguish indigenous sovereignty adopted a language of protection.<sup>14</sup> Forms of “social management” that arrived with colonial governments who sought to control and structure indigenous communities even if their origins were understood as benevolent within contemporary moral rubrics.<sup>15</sup>

The last quarter of the 18<sup>th</sup> century marked a qualitative shift, at least in western Europe, about assessing the plight of distant strangers and the obligations to take action on behalf of those strangers.<sup>16</sup> In earlier centuries, Anglo-American humanitarians had not necessarily imagined their charitable obligations extended far beyond an immediate community.<sup>17</sup> A long tradition of founding almshouses, schools, and hospitals testifies to rich histories of philanthropy, but these efforts were largely parochial, independent from state power, and focused on ameliorating local poverty, illiteracy, or unemployment. Toward the end of the 1700s, groups emerged within Europe that were organized across a wide scale of humanitarian action from assisting stranded sailors to proposing abolition of the slave trade. What set these movements

<sup>13</sup> Simms and Trim, *Humanitarian Intervention: A History* (Cambridge: Cambridge University Press, 2011), 3.

<sup>14</sup> Peter Adams, *Fatal Necessity: British Intervention in New Zealand, 1830-1847* (Auckland: Auckland University Press, 1977).

<sup>15</sup> Penelope Edmonds and Anna Johnston, “Empire, Humanitarianism and Violence in the Colonies,” *Journal of Colonialism and Colonial History* 17, no. 1 (2016), <https://doi.org/10.1353/cch.2016.0013>.

<sup>16</sup> Boyd Hilton, *The Age of Atonement: The Influence of Evangelicalism on Social and Economic Thought, 1795-1865* (Oxford: Clarendon Press, 1988); Thomas Laqueur, “Bodies, Details, and the Humanitarian Narrative,” in *The New Cultural History*, ed. Lynn Hunt (Berkeley (CA): University of California Press, 1989), 176–204; Karen Halttunen, “Humanitarianism and the Pornography of Pain in Anglo-American Culture,” *American Historical Review* 100, no. 2 (1995): 303–34; Lynn Hunt, *Inventing Human Rights: A History* (New York: W.W. Norton & Co., 2007). The late-18<sup>th</sup> century is prominent date in the history of humanitarianism and human rights though the ideas of course have historical antecedents including the Spanish colonies in the 16<sup>th</sup> century with Bartolomeo de las Casas’s *Apologetic History of the Indies*.

<sup>17</sup> Amanda Moynz, “Saving the Lives of Strangers: Humane Societies and the Cosmopolitan Provision of Charitable Aid,” *Journal of the Early Republic* 29, no. 4 (2009): 607–40.

apart was their generous remit rather than a specific religious, linguistic, or national community remits.<sup>18</sup> Claims to a larger, even universal, shared humanity sparked a new scale of moral action that argued on behalf of humanity and could be linked to a sense of national pride, status, or redemption.<sup>19</sup>

Central among these humanitarian movements was the campaign against slavery.<sup>20</sup> From its emergence in the 1780s, the anti-slavery movement succeeded with Britain's abolition of the trade in 1807 and gradual emancipation from 1833. The organized and sustained moral outrage that propelled abolitionism drew from a trans-Atlantic evangelical religious awakening and a broader sentiment of emotional connection and responsibility between European, American, and African. Covalent with perceptions of moral suffering was what Thomas Haskell has argued was an emergent sense of popular participation and complicity in slavery derived from involvement in networks of capitalist purchase and exchange.<sup>21</sup> Anti-slavery campaigners asked Britons to recognize slavery as morally bankrupt, promoted the institutional prohibition of servitude, and established organizational and strategic models for organizations that took up causes like ending convict transportation Australia, improving the working conditions of sailors, and regulating the use of child labor.<sup>22</sup> By being an organized campaign targeting the welfare of a group manifestly different than those in Britain, the campaign against slavery provided a rallying cry for constant

<sup>18</sup> Caroline Shaw, *Britannia's Embrace: Modern Humanitarianism and the Imperial Origins of Refugee Relief* (Oxford: Oxford University Press, 2015).

<sup>19</sup> Christopher Brown, *Moral Capital: Foundations of British Abolitionism* (Chapel Hill: University of North Carolina Press, 2006).

<sup>20</sup> Andrew Porter, "Trusteeship, Anti-Slavery, and Humanitarianism," ed. Andrew Porter, vol. 3, *Oxford History of the British Empire* (Oxford: Oxford University Press, 1999), 201–6.

<sup>21</sup> Thomas Haskell, "Capitalism and the Origins of the Humanitarian Sensibility, Part 1," *The American Historical Review* 90, no. 2 (1985): 339–61; Thomas Haskell, "Capitalism and the Origins of the Humanitarian Sensibility, Part 2," *The American Historical Review* 90, no. 3 (1985): 547–66.

<sup>22</sup> John Ritchie, "Towards Ending an Unclean Thing: The Molesworth Committee and the Abolition of Transportation to New South Wales, 1837-40," *Historical Studies (Melbourne)* 17, no. 67 (1976): 144–64. Adam Hochschild, *Bury the Chains: Prophets and Rebels in the Fight to Free an Empire's Slaves* (Boston: Houghton Mifflin, 2005), 352.

vigilance, an inspiration for subsequent efforts, and a yardstick against which the methods and successes of other humanitarian causes in the empire might be compared.<sup>23</sup>

If abolitionism established a pattern for organizing around a cause and lobbying government for effecting policy change, the campaign to end slavery showed how humanitarian concern also operated from within government and drew upon political discourses about the role and purpose of empire.<sup>24</sup> Following the successes of abolitionism, some Britons adopted a sense that their empire was one of liberty, itself a force for moral good in the world that reframed the exercise of power as a force promoting liberal, though not democratic, ideals.<sup>25</sup> Claims that British imperialism was an emancipatory project and based on the extension of liberty, however, coexisted with its possession of, and repression of, a growing colonial empire.<sup>26</sup>

Connections between empire and the promotion of economic liberalism has also garnered interest as a facet of humanitarian governance that promoted efficiency, production and order as a beneficial result of “the doctrine of moral competence that markets were deemed to promote.”<sup>27</sup> Referring to the education of African-Americans in the United States, Katharyne Mitchell has demonstrated how ideas about the protection and management of colonized populations also impacted the governance of internal populations through “underlying

<sup>23</sup> Richard Huzzey, *Freedom Burning: Anti-Slavery and Empire in Victorian Britain* (Ithaca: Cornell University Press, 2012).

<sup>24</sup> Catherine Hall, *Civilising Subjects: Metropole and Colony in the English Imagination, 1830-1867* (Chicago: University of Chicago Press, 2002); Amanda Moinz, *From Empire to Humanity: The American Revolution and the Origins of Humanitarianism* (Oxford: Oxford University Press, 2016).

<sup>25</sup> Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton: Princeton University Press, 2006); Andrew Sartori, *Liberalism in Empire: An Alternative History* (Oakland: University of California Press, 2014).

<sup>26</sup> Among the most prominent conservative interpretations of British imperialism as a progressive force is Niall Ferguson, *Empire: How Britain Made the Modern World* (New York: Penguin, 2003). Within Australian historiography's History Wars, Keith Windshuttle's writing is among the best known for positing a case for empire's virtues.

<sup>27</sup> Reid-Henry, “Humanitarianism as Liberal Diagnostic: Humanitarian Reason and the Political Rationalities of the Liberal Will-to-Care,” 425–28.

rationalities of a ‘progressive imperial agenda’ connecting African-American enfranchisement and connection to national development and imperial aspirations.”<sup>28</sup> Humanitarian principles could also frame liberal political economic models as “part of the disciplinary apparatus of governance.”<sup>29</sup> Humanitarian governance, therefore, was not immune to the flights of imperial fancy that envisioned the reordering of colonial society.

Sandwiched between historiographical attention focused on anti-slavery and drawing from the large expansion of humanitarian institutions and actions following WWII, the century following Britain’s abolition of slavery in 1833 has been characterized as a lull between two humanitarian high points. Now emerging from the historiographical wilderness, interest in the history of humanitarianism and its intersection with empire is burgeoning. Michelle Tusan notes it was during this period when empire and humanitarianism became linked in a “concrete” way.<sup>30</sup> Paralleling the uneven qualities of British control, instances of humanitarian governance spanned the spectrum of formal legal interventions, informal pressure, military cooperation, and naval patrols.

Outlining historical connections, Skinner and Lester posited that “historians of empire that they could usefully consider the history of humanitarianism as a fundamental component of imperial relations and a way of bridging trans-imperial, international and transnational approaches.”<sup>31</sup> Barnett also has pointed out the slippage between peace-building and state

<sup>28</sup> Katharyne Mitchell, “Education, Race and Empire: A Genealogy of Humanitarian Governance in the United States,” *Transactions of the Institute of British Geographers* 42, no. 3 (2017): 349–62.

<sup>29</sup> Rob Skinner and Alan Lester, “Humanitarianism and Empire: New Research Agendas,” *Journal of Imperial and Commonwealth History* 40, no. 5 (2012): 734.

<sup>30</sup> Michelle Tusan, “Crimes Against Humanity: Human Rights, the Armenian Genocide and the British Empire,” *American Historical Review* 119, no. 1 (2014): 101; Kevin Grant, *A Civilized Savagery* (New York: Routledge, 2005); Alan Lester and Fae Dussart, *Colonization and the Origins of Humanitarian Governance* (Cambridge: Cambridge University Press, 2014); Edmonds and Johnston, “Empire, Humanitarianism and Violence in the Colonies.”

<sup>31</sup> Skinner and Lester, “Humanitarianism and Empire,” 731.

building arguing that “humanitarianism and imperialism have been bound together in a series of mutually constituting histories, which the ideas and practices associated with imperial politics and administration have both been shaped by and have in themselves informed developing notions of humanitarianism.”<sup>32</sup> Interest in humanitarianism and empire reveals the complex relationship between these two processes and that no simple demarcation can be made between humanitarian opposition to empire and imperial neglect of humanitarianism.

The dramatic territorial expansion of European empires in the 19<sup>th</sup> century intensified global connections and established colonial relationships that brought distance and difference into view. The management of extended political communities entailed serious consideration of how to administer new peoples and territories.<sup>33</sup> Protection of indigenous peoples in the British Empire during this period was only one way in which humanitarianism became “organized and part of governance, connected the immanent to the transcendent, and directed at those in other lands.”<sup>34</sup> Humanitarian organization and expertise, as Tahlia Sasson demonstrates for the Interwar period, formed part of British claims to global moral authority and “humanitarian ethics became part of a project of global governance.”<sup>35</sup> Administering to crisis, proposing systemic metrics of relieving the suffering of distant strangers, and establishing a framework for international human rights connected humanitarianism, governance, and empire.<sup>36</sup>

<sup>32</sup> Skinner and Lester, 731.

<sup>33</sup> Skinner and Lester, 732.

<sup>34</sup> Barnett, *Empire of Humanity*, 21.

<sup>35</sup> Tahlia Sasson, “From Empire to Humanity: The Russian Famine and the Imperial Origins of International Humanitarianism,” *Journal of British Studies* 55, no. 3 (2016): 521.

<sup>36</sup> Michelle Tusan, *Smyrna’s Ashes: Humanitarianism, Genocide, and the Birth of the Middle East* (Berkeley: University of California Press, 2012).

Capitalizing on the successes of abolition, the 1830s and 1840s are often characterized as the peak of humanitarian influence in British government.<sup>37</sup> One of the causes inspired by the successes of abolitionism was an effort to ameliorate the treatment of indigenous peoples throughout Britain's empire. Like concern about corruption stemming from Britain's territories in South Asia, the perception that other the colonies could also be a source of concern for the metropole warranted investigation.<sup>38</sup> In 1837, the efforts of Anna Gurney and Thomas Fowell Buxton on this question deployed formal politics and drew from personal networks to implement and organize multi-year Parliamentary investigation into the circumstances of indigenous peoples in areas of British settlement.<sup>39</sup> Though far from universally successful, the committee's report was significant in that British policy could present "moral influence a substitute for military force, and protection a substitute for government."<sup>40</sup> The treatment of indigenous peoples formed part of larger debates about the relationship between metropole and colony on the question of who should govern though settlers often enjoyed metropolitan standards of justice and rights that were denied to aboriginal peoples.<sup>41</sup> The moment of the 1830s and 1840s, contextualized by favorable British perceptions of Māori, and alight with discussions about land

<sup>37</sup> Stuart Ward, "Imperial Identities Abroad," in *The British Empire: Themes and Perspectives*, ed. Sarah Stockwell (Oxford: Blackwell Publishing, 2008), 224. The positive assessments of humanitarian influence claimed by the humanitarians themselves not, however, mean the universal and unquestioned ascendancy of humanitarian thought.

<sup>38</sup> Zoë Laidlaw, "Investigating Empire: Humanitarians, Reform and the Commission of Eastern Inquiry," *Journal of Imperial and Commonwealth History* 40, no. 5 (2012): 749–68.

<sup>39</sup> Elizabeth Elbourne, "The Sin of the Settler: The 1835-36 Select Committee on Aborigines and Debates over Virtue and Conquest in the Early Nineteenth-Century British White Settler Empire," *Journal of Colonialism and Colonial History* 4, no. 3 (2003), <https://doi.org/10.1353/cch.2004.0003>; GBPP, 1837 (425) Report from the Select Committee on Aborigines (British Settlements).

<sup>40</sup> C. H. Wake, "George Clarke and the Government of the Maoris: 1840-45," *Historical Studies: Australia and New Zealand* 10, no. 9 (1962): 342.

<sup>41</sup> Caroline Elkins and Susan Pedersen, eds., *Settler Colonialism in the Twentieth Century* (New York: Routledge, 2005), 12; Frederick Cooper and Ann Laura Stoler, eds., *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley: University of California Press, 1997); Martin Daunton and Rick Halpern, eds., *Empire and Others: British Encounters with Indigenous Peoples, 1600-1850* (Philadelphia: University of Pennsylvania Press, 1999); Jane Burbank and Frederick Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton, N.J.: Princeton University Press, 2010), 289.



use, suffrage, and labor, provides important context for New Zealand's annexation as during a period in which "reform" was in the air.

If the abolition, reconsideration of working conditions, and annexation of territory by treaty illustrated how humanitarian governance could be linked to ideas of progress and reformist ideology, the middle decades of the nineteenth century would test the limits of that potential as it applied to the indigenous peoples of the settler empire. The broad influence of humanitarianism in government was sorely tested by revolts, uprisings, and perceptions of a lack of progress by the non-white peoples of the empire.<sup>42</sup> The second half of the nineteenth century has been characterized as an era of shaken confidence in realizing sweeping transformations for indigenous peoples and a hardening of racial attitudes featuring skepticism about the feasibility of social change.<sup>43</sup> The moment of the mid-nineteenth century, then, is one that featured an intersection of possibilities that was open to communities of people connected by the empire and receptive to practices of reform and improvement. The case of New Zealand brought together an indigenous people held in high esteem by their European interlocutors as "brighter and whiter" than other indigenous peoples with a moment of serious consideration within Britain about what form colonization might take.<sup>44</sup>

<sup>42</sup> Kenton Storey, "Colonial Humanitarian? Thomas Gore Browne and the Taranaki War, 1860–61," *Journal of British Studies* 53, no. 1 (2014): 111–35. In the case of New Zealand points to the continuing salience of humanitarian language by both proponents and opponents of military action thereby complicating narratives of a rapid decline in the perceived utility of such language.

<sup>43</sup> Andrew Bank, "Losing Faith in the Civilizing Mission: The Premature Decline of Humanitarian Liberalism at the Cape, 1840–60," in *Empire and Others: British Encounters with Indigenous Peoples, 1600–1850*, ed. Martin Daunton and Rick Halpern (Philadelphia: University of Pennsylvania Press, 1999), 364–83; Porter, "Trusteeship, Anti-Slavery, and Humanitarianism," 209; James Heartfield, *The Aborigines' Protection Society: Humanitarian Imperialism in Australia, New Zealand, Fiji, Canada, South Africa, and the Congo, 1836–1909* (New York: Columbia University Press, 2011).

<sup>44</sup> James Belich, *Making Peoples: A History of the New Zealanders, from Polynesian Settlement to the End of the Nineteenth Century* (Honolulu: University of Hawai'i Press, 1996), 124–25; Hall, *Civilising Subjects*, 434–41; Leonard Bell, *Colonial Constructs: European Images of Maori, 1840–1914* (Carlton: Melbourne University Press, 1992).

## Humanitarian Governance and the British World

The decades following the defeat and exile of Napoleon formed an accelerated moment of the era of European emigration James Belich has termed the “settler revolution.”<sup>45</sup> In the British case, hundreds of thousands of emigrants set out for farms, gold fields, and military posts throughout Canada, Australia, South Africa, and New Zealand. Revolutionary due to radical demographic, economic, and legal changes wrought by the new arrivals and the intensity and speed with which indigenous peoples confronted new political and economic systems, by mid-century the United Kingdom and the settler colonies formed part of an integrated market, a common legal and political culture, and geographically dispersed networks of kith and kin.<sup>46</sup>

Zones of demographic transformation formed part of what has been termed the “British World.” Articulated in the late 19<sup>th</sup> century, the idea of a British World as a unit of analysis was reinvigorated as a concept in the 1970s.<sup>47</sup> Endeavors to look beyond national historiographies, instead focusing on connections between and among the Atlantic archipelago and overseas components of the British World, can account for the ways in which the expansion of Britain and

<sup>45</sup> James Belich, *Replenishing the Earth: The Settler Revolution and the Rise of the Anglo-World, 1783-1939* (Oxford: Oxford University Press, 2009). The overlap between visions of moral improvement and far-flung colonial spaces also extended outside the British sphere through a shared sense of a universal mission of bringing religious, economic, and political improvement to the far corners of the world despite internal disagreement about methods, Mark Bassin, *Imperial Visions: Nationalist Imagination and Geographical Expansion in the Russian Far East, 1840-1865* (Cambridge: Cambridge University Press, 1999).

<sup>46</sup> Carl Bridge and Kent Fedorowich, eds., *The British World: Diaspora, Culture, and Identity* (London: Frank Cass, 2003); Phillip Buckner and R. Douglas Francis, eds., *Rediscovering the British World* (Calgary: University of Calgary Press, 2005); Duncan Bell, *The Idea of Greater Britain: Empire and the Future of World Order, 1860-1900* (Princeton: Princeton University Press, 2007).

<sup>47</sup> Articulated by C. W. Dilke in *Greater Britain* (1868) and John Seeley in his *The Expansion of England* (1883), J. G. A. Pocock, “British History: A Plea for a New Subject,” *Journal of Modern History* 47, no. 4 (1975): 601–21; John Darwin, *The Empire Project: The Rise and Fall of the British World-System, 1830-1970* (Cambridge: Cambridge University Press, 2009); James Vernon, “The History of Britain Is Dead; Long Live a Global History of Britain,” *History Australia* 13, no. 1 (2016): 19–34. The British Isles and self-governing white dominions encompass the British World and a diffused web of commercial success constituting part of a wider “world system.” Darwin, *The Empire Project*.

the peopling and building of a trans-oceanic British World connected communities, products, and perceptions in ways that transplanted British society overseas. Following a key precept of the interconnectedness demonstrated by new imperial history's attention to how the empire influenced Britain highlights ways in which networked imperial spaces reveal the empire's "complicated and contradictory genealogy" of circulation and mobility.<sup>48</sup>

The connected zones of the British World, following this model, guided the flow of information, goods, and people through channels based on political or personal affinity and provided one way of making sense of, and finding the familiar within, a geographically expansive polity.<sup>49</sup> Imperial networks, or "webs" reflecting a high degree of interconnection, served as conduits for discussions of the humanitarian governance of that empire.<sup>50</sup> Reports from humanitarians, official correspondence from civil servants, and personal communication between families, circulated alongside newspapers to link colonies with each other and the British Isles. The role of "paper and the printing press in enabling and sustaining the operation of British humanitarianism as a truly global moral and political formation" reminds us that connections and

<sup>48</sup> Damon Salesa, *Racial Crossings: Race, Inter-marriage, and the Victorian British Empire* (Oxford: Oxford University Press, 2011), 8–9; Simon Potter and Jonathan Saha, "Global History, Imperial History and Connected Histories of Empire," *Journal of Colonialism and Colonial History* 16, no. 1 (2015), <https://doi.org/10.1353/cch.2015.0009>.

<sup>49</sup> These circuits have been conceptualized in both the abstract flows of information, deeply personal and intimate connections of family, and professional circulation of colonial administrators. Duncan Bell, "Dissolving Distance: Technology, Space, and Empire in British Political Thought, 1770-1900," *Journal of Modern History* 77, no. 3 (September 2005): 523–62; Adele Perry, *Colonial Relations: The Connolly-Douglas Family and the Nineteenth-Century Imperial World* (Cambridge: Cambridge University Press, 2015); David Lambert and Alan Lester, *Colonial Lives Across the British Empire: Imperial Careering in the Long Nineteenth Century* (Cambridge: Cambridge University Press, 2006).

<sup>50</sup> Zoë Laidlaw, *Colonial Connections, 1815-45: Patronage, the Information Revolution and Colonial Government* (Manchester: Manchester University Press, 2005), 27–30; Tony Ballantyne, *Webs of Empire: Locating New Zealand's Colonial Past* (Wellington: Bridget Williams Books, 2012); Zoë Laidlaw, "Breaking Britannia's Bounds? Law, Settlers, and Space in Britain's Imperial Historiography," *The Historical Journal* 55, no. 3 (2012): 807–30.

flows of information were material.<sup>51</sup> Among pages of correspondence, readers learned about the dispossession of indigenous peoples in settler colonial spaces and could consequently conceptualize the operations and impacts of a global process.<sup>52</sup>

Especially prominent in reporting settler treatment of indigenous peoples in European empires were missionaries and missionary societies who could rely on confessional networks for information.<sup>53</sup> The significance of religious networks and missionary societies entangled sensibilities about a Christian empire with political and organizational relationships.<sup>54</sup> Despite its distance from Britain, debates about New Zealand as a site of British colonization and experiment in humanitarian governance did not transpire in an information vacuum as administrators, settlers, and Māori forged global ties and situated themselves as participants.

Creating the British World was also a process of imagining and reshaping local environments as migrant communities sought to render landscapes “productive” or recreate the political ecology of England, Scotland, Wales, or Ireland.<sup>55</sup> Within the context of a settler empire, the movement of peoples, plants, and animals forged what Alfred Crosby termed “Neo-Europes” in zones of demographic transformation.<sup>56</sup> New Zealand’s landscape, along with

<sup>51</sup> Salesa, *Racial Crossings*; Tony Ballantyne, “Moving Texts and ‘Humane Sentiment’: Materiality, Mobility and the Emotions of Imperial Humanitarianism,” *Journal of Colonialism and Colonial History* 17, no. 1 (2016), <https://doi.org/10.1353/cch.2016.0000>.

<sup>52</sup> Alan Lester, *Imperial Networks: Creating Identities in Nineteenth-Century South Africa and Britain* (London: Routledge, 2001); Alan Lester, “British Settler Discourse and the Circuits of Empire,” *History Workshop Journal* 54, no. 1 (2002): 24–48.

<sup>53</sup> Andrew Porter, “An Overview 1700-1914,” in *Missions and Empire*, ed. Norman Etherington (Oxford: Oxford University Press, 2008); J. P. Daughton, *An Empire Divided: Religion, Republicanism, and the Making of French Colonialism, 1880-1914* (New York: Oxford University Press, 2006); Tony Ballantyne, “Humanitarian Narratives: Knowledge and the Politics of Mission and Empire,” *Social Sciences and Missions* 24, no. 2–3 (2011): 233–64.

<sup>54</sup> Hilary Carey, *God’s Empire: Religion and Colonialism in the British World, c.1801-1908* (Cambridge: Cambridge University Press, 2011).

<sup>55</sup> Thomas Dunlap, *Nature and the English Diaspora: Environment and History in the United States, Canada, Australia, and New Zealand* (Cambridge: Cambridge University Press, 1999).

<sup>56</sup> Alfred Crosby, *Ecological Imperialism: The Biological Expansion of Europe, 900-1900* (Cambridge: Cambridge University Press, 1986).

Canada, South Africa, the United States, and Australia formed part of the “Great Land Rush” of alienating lands inhabited by non-European peoples.<sup>57</sup> The contested ownership and legal history thereof has a rich historiography especially in New Zealand where land ownership became a central component of the late 20<sup>th</sup> century claims for redress through the Waitangi Tribunal.<sup>58</sup> In New Zealand and elsewhere in the British World, land-holding was also connected to the extension of political and economic rights as a way to consolidate the successes of a model of liberal economic ideas. The idea of individual tenure held an emancipatory vision and transforming native title into Crown-derived title was understood as endowing the holders with liberty (and an entitlement to vote) within colonial political economy.<sup>59</sup>

Often described in Biblical terminology, British methods of pastoral production and crop management, as much as direct human impacts and wrangling over legal ownership, could reshape colonial landscapes.<sup>60</sup> Botanical and geographical knowledge also contributed to the progress of developing trade, part of a larger process of “Christianity and Civilization.”<sup>61</sup> Plants and animals, as much as people, capital, commodities, information, and ideas, worked together to

<sup>57</sup> John C. Weaver, *The Great Land Rush and the Making of the Modern World, 1650-1900* (Montreal: McGill-Queen’s University Press, 2003).

<sup>58</sup> Stuart Banner, “Conquest by Contract: Wealth Transfer and Land Market Structure in Colonial New Zealand,” *Law & Society Review* 34, no. 1 (2000): 47–96; Mark Hickford, “Decidedly the Most Interesting Savages on the Globe: An Approach to the Intellectual History of Maori Property Rights, 1837-53,” *History of Political Thought* 27 (2006): 122–67; Stuart Banner, *Possessing the Pacific: Land, Settlers, and Indigenous People from Australia to Alaska* (Cambridge: Harvard University Press, 2007); Mark Hickford, *Lords of the Land: Indigenous Property Rights and the Jurisprudence of Empire* (Oxford: Oxford University Press, 2011).

<sup>59</sup> Hickford, *Lords of the Land*, 283.

<sup>60</sup> James Beattie and John Stenhouse, “Empire, Environment and Religion: God and the Natural World in Nineteenth-Century New Zealand,” *Environment and History* 13, no. 4 (November 1, 2007): 413; Eric Pawson and Tom Brooking, *Seeds of Empire: The Environmental Transformation of New Zealand* (New York: I. B. Tauris, 2011); Tony Ballantyne, “Genesis 1:28 and the Languages of Colonial Improvement in Victorian New Zealand,” *Victorian Review* 37, no. 2 (2011): 9–13; Rebecca Woods, *The Herds Shot Round the World: Native Breeds and the British Empire 1800-1900* (Chapel Hill: University of North Carolina Press, 2017); Maura Capps, “Fleets of Fodder: The Ecological Orchestration of Agrarian Improvement in New South Wales and the Cape of Good Hope, 1780–1830,” *Journal of British Studies* 56, no. 3 (2017): 532–56.

<sup>61</sup> Richard Drayton, *Nature’s Government: Science, Imperial Britain, and the “Improvement” of the World* (New Haven: Yale University Press, 2000), 201.

make the British World something that was recognizable to European eyes, fund development and fuel the operation of empire.<sup>62</sup> The ways in which settler governments sought to structure space, encourage constellations of plants and animals to occupy that space, and direct which human entities controlled that that space was, and continues to be, a central question of governance.

Imperial structures are premised on inequality. Difference could be used to create, cement, or capitalize upon imbalances existing within colonies, between colony and metropolis, and between empires “and while empires certainly did not create difference they thrived on the politics of difference associated with race, ethnicity, gender, class, sexuality, and religion.”<sup>63</sup> The flows of information, officials, and people through the webs of empire were no different as power connected divergent and uneven spaces of authority and impacted perceptions of humanitarianism. While the mid-19<sup>th</sup> century saw the development of humanitarian infrastructure in Europe, most prominently the Red Cross movement, the Great Land Rush and settler boom resulted in expropriation of land by European empires. The contradictions posed by an emergence humanitarian organizations within Europe on the one hand with the florescence of colonial conquest and control outside of Europe on the other contrasts a focus on the relief of individual suffering as arising from Eurocentric origins while a “political desire to change the world arose out of their colonial encounters and activities.”<sup>64</sup> Instructions to govern colonial sites humanely, like those proposed by the Select Committee on New Zealand, transpired alongside

<sup>62</sup> Tony Ballantyne, “The Changing Shape of the Modern British Empire and Its Historiography,” *Historical Journal* 53, no. 2 (2010): 442; William Beinart and Lotte Hughes, *Environment and Empire* (Oxford: Oxford University Press, 2007); James Beattie, “Recent Themes in the Environmental History of the British Empire,” *History Compass* 10, no. 2 (2012): 129–39.

<sup>63</sup> Catherine Hall and Sonya Rose, *At Home With the Empire: Metropolitan Culture and the Imperial World* (Cambridge: Cambridge University Press, 2006), 18–19.

<sup>64</sup> Skinner and Lester, “Humanitarianism and Empire,” 730.

the annexation and dispossession of indigenous peoples in New Zealand, Australia, South Africa, and Canada.<sup>65</sup> Mark Duffield, Alan Lester, and Fae Dussart characterize the dissonance between processes of expansion and humanitarianism as a paradox in need of explanation because empires established an “ambivalent foundation” to subsequent registers of humanitarian action.<sup>66</sup>

Complicating the implementation of humanitarian governance throughout the British Empire was settler advocacy about self-government. The 1830s marked a transition period from the efforts at autocratic control to an acknowledgement of the growing importance of colonial self-government, at least for settler colonies.<sup>67</sup> Just as notions of good government could be translated from Britain to the empire, so too might settler societies adopt a model of responsible and effective government that balanced settler representation with notions of effective imperial power based on statistical evidence and rationalized administration.<sup>68</sup> Negotiations between the metropole, local government, settlers, and indigenous communities constitute, for Caroline Elkins and Susan Pedersen an “ideal type” for settler colonialism that “derived in response to the challenges presented by the reality of encountering indigenous peoples with highly differentiated political, cultural, and social structures.”<sup>69</sup>

Questions of efficient administration and economic production were also of interest in movement to repeal Britain’s Corn Laws and Navigation Acts in the 1840s. A disavowal of mercantilism formed part of considering colonization’s benefits and what the social, economic,

<sup>65</sup> Porter, “Trusteeship, Anti-Slavery, and Humanitarianism,” 207–9.

<sup>66</sup> Lester and Dussart, *Colonization and the Origins of Humanitarian Governance*, 1; Mark Duffield, *Development, Security, and Unending War: Governing the World of Peoples* (Cambridge: Polity, 2007).

<sup>67</sup> John Ward, *Colonial Self-Government: The British Experience, 1789-1856* (Cambridge: Cambridge University Press, 1976).

<sup>68</sup> Laidlaw, *Colonial Connections*.

<sup>69</sup> Elkins and Pedersen, *Settler Colonialism in the Twentieth Century*, 4; Annie Coombes, ed., *Rethinking Settler Colonialism: History and Memory in Australia, Aotearoa New Zealand and South Africa* (Manchester (UK): Manchester University Press, 2006), 3; Lester and Dussart, *Colonization and the Origins of Humanitarian Governance*.

and political purposes and forms of colonization should be. Reflecting a new interest of how the empire should be administered and by whom, advocates of indigenous peoples organized inquiries as territories in Australia, western North America, and southern Africa came under British administration. The degree of self-governance societies should hold raised questions about the relationship between the metropole and settler populations overseas and questions about the latter's capacity to independently and objectively administer to aboriginal communities.

Ideas about colonial management, the efficacy of protection, and the role of empire became increasingly influential within Britain as they intersected with and helped to reformulate, British discourses of class, ethnic, and gender differences.<sup>70</sup> Caroline Shaw has shown the ways in which the identification of an oppressed community conceptualized as independent, industrious, and oppressed was “part and parcel of [activists’ and public commentators’] aspirations to reform their own polity” or carve out a position for themselves.<sup>71</sup> Humanitarian organization, communication, and action formed a thread connecting Britain to its expanding global empire or a foil against which Britain could be compared as Britain underwent its own period of social and political turmoil.<sup>72</sup>

As Catherine Hall and Sonya Rose note, moments of crisis or contention the empire could become a central preoccupation in Britain that informed, if not always through material

<sup>70</sup> Antoinette Burton, *Burdens of History: British Feminists, Indian Women, and Imperial Culture, 1865-1915* (Chapel Hill: University of North Carolina, 1994); Antoinette Burton, “New Narratives of Imperial Politics in the Nineteenth Century,” in *At Home With the Empire: Metropolitan Culture and the Imperial World*, ed. Catherine Hall and Sonya Rose (Cambridge (UK): Cambridge University Press, 2006); Catherine Hall, “Culture and Identity in Imperial Britain,” in *The British Empire: Themes and Perspectives*, ed. Sarah Stockwell (Oxford: Blackwell Publishing, 2008), 199–217.

<sup>71</sup> Shaw, *Britannia's Embrace*, 5.

<sup>72</sup> A impulse for reform was not always revolutionary. The Great Reform Act of 1832 still left the vast majority of Britons without the vote. Llewellyn Woodward, *The Age of Reform 1815-1870*, 2nd ed. (Oxford: Oxford University Press, 1962).



ways, understandings of the world and its people. The personal connections between Britain and New Zealand made what was transpiring in the colony especially relevant as a place where authority and rights were debated and the developing notions of New Zealand as a place where “better Britain” could be built by “better Britons.”<sup>73</sup> Engagement with the processes of humanitarianism and adding a thread to the new imperial history that situates the ways in which empire impacted those at home.

Historiographical work has brought attention to the extension of global empire as tied into the advancement of an ideal of a reforming political regime that, during the first half of the 19<sup>th</sup> century, meant humanitarian ideas formed an “intrinsic aspect of [British colonial] governmentality.”<sup>74</sup> Proposals for planned settlement like those advocated by Wakefield represented an attempt to institute those ideals in practice. Intentional settlement like that proposed by the New Zealand Company constituted an attempt to “regulate and order colonial societies in humane ways which were different again, and which were expressed in broad temporal succession, as projects of emancipation, amelioration, conciliation, protection and development.”<sup>75</sup> The articulation and development of humanitarian governance in early colonial New Zealand constitutes the central line of questioning in this dissertation and traces the ways in which humanitarian governance balanced the tension of dispossession and social advancement. Interest in understanding how humanitarianism operated in imperial spaces approach the topic as a way of understanding the operation of empire as a global system.<sup>76</sup> Imperial power, however, was imagined, formulated, and resisted through multiple sites and in forms that included

<sup>73</sup> Ballantyne, “The Changing Shape of the Modern British Empire”; Felicity Barnes, *New Zealand’s London: A Colony and Its Metropolis* (Auckland: Auckland University Press, 2012).

<sup>74</sup> Lester and Dussart, *Colonization and the Origins of Humanitarian Governance*, 5.

<sup>75</sup> Lester and Dussart, 17.

<sup>76</sup> Skinner and Lester, “Humanitarianism and Empire.”

indigenous peoples. With revived interest in the histories of Britain's settler colonies, it is important not to presume colonial governments were uncontested in implementing their plans "empires are defined by power, but the modalities of power are crafted, limited, formed, and reformed through the very relations power seeks to harness."<sup>77</sup>

### **New Zealand as a Site of Humanitarian Governance**

In the early 19<sup>th</sup> century, New Zealand occupied a positive status within Britain's colonial imagination. Visited by European ships from the 17<sup>th</sup> century, sustained contact between Māori and Pākehā intensified after surveying work by British explorers Cook (1769-1770, 1773, 1777) and Vancouver (1791). Though visitors tended to gloss over distinctions among Māori based on perceived similarities in language, kinds of food, and communal housing, many European arrivals viewed the islands' indigenous peoples favorably. Referring to the light skin color, stratified social organization, martial capacity, and settled agricultural practices of indigenous New Zealanders, British observers thought Māori had potential to be the "Britons of the South Seas."<sup>78</sup> The islands' geographic and climactic similarities to the British Isles and the successes of Anglican missionaries also set New Zealand apart from contemporary areas of settler expansion in Australia, southern Africa, and British Columbia.

Compounding British concern about New Zealand's future was the use of weapons as a trade good. The flood of guns radically altered Māori warfare as first coastal hapu and eventually the majority of Māori groups gained access to gunpowder technology. The Musket Wars, a series

<sup>77</sup> Julian Go, *Patterns of Empire: The British and American Empires, 1688 to the Present* (New York: Cambridge University Press, 2011), 27.

<sup>78</sup> Michael King, *The Penguin History of New Zealand* (Auckland: Penguin Books, 2003), 241; Donald Denoon, *The Cambridge History of the Pacific Islanders* (Cambridge: Cambridge University Press, 1997), 164–65.

of intermittent conflicts from 1800s through the 1840s, reshaped the colony's indigenous political boundaries and demographic distribution.<sup>79</sup> The violence and chaos Europeans perceived in New Zealand ran counter to impressions of its people and landscapes as full of potential. A reputation as a wild frontier also undermined possibilities for effective governance in New Zealand. Reports of physical violence, moral debasement, and lawlessness characterized European actions in New Zealand with perpetrators largely beyond the reach of consular officers.<sup>80</sup>

New Zealand's perilous mix of violence, lawlessness, and moral corruption led the Aborigines' Protection Society to characterize the islands as a "theater of dangers" in its annual report. The APS argued that territorial annexation would be a humanitarian gesture by bringing order and stability to a wild frontier.<sup>81</sup> Leaving New Zealand in an unregulated state was no longer morally justifiable. Assessing how to protect indigenous rights, therefore, focused on the vulnerability of Māori persons as economic agents and ensuring that Māori would benefit from being under European protection. Through a utilitarian calculus, the loss of sovereignty would be balanced by the implementation of the rule of law and the regulation of labor and land. The dire picture painted by advocates of intervention, however, should be contextualized with the relative isolation that many Māori, especially inland Māori, had from Europeans in the decades before 1840.<sup>82</sup> The crisis European observers perceived, therefore, was far from universal but an understanding of its perilousness was widely proclaimed back in Britain.<sup>83</sup> For their part,

<sup>79</sup> Angela Ballara, *Taua: "Musket Wars", "Land Wars", or Tikanga?: Warfare in Māori Society in the Early Nineteenth Century* (Auckland: Penguin Books, 2003); Ron Crosby, *The Musket Wars: A History of Inter-Iwi Conflict, 1806-45* (Auckland: Libro International, 2012).

<sup>80</sup> Paul Moon, *A Savage Country: The Untold Story of New Zealand in the 1820s* (Auckland: Penguin Books, 2012).

<sup>81</sup> Aborigines Protection Society, *First Annual Report* (London: W. Ball, 1838), 21.

<sup>82</sup> Owens, "New Zealand before Annexation," 442.

<sup>83</sup> Storey, "Colonial Humanitarian? Thomas Gore Browne and the Taranaki War, 1860-61," 116.

colonists believed that Great Britain controlled local affairs in spite of its great distance and perceptions of the Colonial Office's inefficiency.<sup>84</sup>

Debate about what form of administration would be appropriate for New Zealand took two sides. One perspective conceptualized protecting Māori through establishing British rule in the islands and integrating Māori into a well-regulated and lawful colonial society. The other was a perspective shared by many in the missionary community who advocated protecting Māori from Pākehā through mediated contact and limited exposure.<sup>85</sup> In an era confident in the elevating power of British law and in light of the 1837 Select Committee on Indigenous Peoples, annexation could be couched in the language of protection, progress, and reform.

What precipitated a general crisis of governance and the annexation of New Zealand was the departure of the New Zealand Company ship *Tory* and its arrival in New Zealand in August of 1839. Large-scale land purchases entered into by William Wakefield and the Company's enlistment of hundreds of prospective settlers had the potential to create a de facto British colony in New Zealand without the requisite legal apparatus. In January 1840, spurred by the actions of the New Zealand Company, Governor Bourke of New South Wales extended the borders of that colony to include the islands of New Zealand. Four days later William Hobson set sail from Sydney with a commission appointing him as New Zealand's lieutenant governor. To consolidate British authority in the islands Hobson drafted a treaty, hastily translated into Māori by two resident missionaries, and signed by about forty Māori chiefs at Waitangi on February 6, 1840. If Hobson and British officers saw the Treaty as offering protection, missionaries

<sup>84</sup> Kenton Storey, *Settler Anxiety at the Outposts of Empire: Colonial Relations, Humanitarian Discourses, and the Imperial Press* (Vancouver: UBC Press, 2016), 14.

<sup>85</sup> Storey, "Colonial Humanitarian? Thomas Gore Browne and the Taranaki War, 1860–61," 114.

interpreted it as a “covenant” between the Queen and Māori, while Māori leadership saw it offering shared rank and power with the new colonial administration.<sup>86</sup>

New Zealand’s 1840 annexation and the Treaty of Waitangi established a strong humanitarian narrative at the moment of the colony’s foundation. The importance of the treaty document itself, largely dismissed for much of the 19<sup>th</sup> and early 20<sup>th</sup> centuries, only achieved more sustained historical attention as part of the Waitangi Tribunal process in the 1970s.<sup>87</sup> Since the 1970s, the Treaty of Waitangi as a legal and foundational text has been the subject of renewed historical, legal, and cultural interest.<sup>88</sup> Though the treaty facilitated the “exploitative transfer of land from Māori to settler ... it also acknowledged a different constitution of sovereignty” and the process of achieving that acknowledgement has been the source of much debate.<sup>89</sup> The nineteenth-century government’s general refusal to recognize Māori entitlement over their lands on either an individual or collective level, however, abrogated treaty rights.<sup>90</sup> A disjuncture between the goals of humanitarian governance – signified by the Treaty and an earnest efforts to mitigate the negative impact of settler colonization in New Zealand – and the actual practices of colonial administration is generative for considering where a discursive framing of colonial governance as humanitarian nevertheless brought about the same qualities of dispossession characteristic of other settler spaces.

<sup>86</sup> Mein Smith, *A Concise History of New Zealand*, 43–46.

<sup>87</sup> James Belich, “Colonization and History in New Zealand,” in *Historiography*, vol. 5, 5 vols., Oxford History of the British Empire (Oxford: Oxford University Press, 1999), 182–93.

<sup>88</sup> Richard Boast, “The Waitangi Tribunal in the Context of New Zealand’s Political Culture and Historiography,” *Journal of the History of International Law* 18 (2016): 340; Alan Ward, *An Unsettled History: Treaty Claims in New Zealand Today* (Wellington: Bridget Williams Books, 1999).

<sup>89</sup> Terry Austrin and John Farnsworth, “Assembling Histories: J. G. A. Pocock, Aotearoa/New Zealand and the British World,” *History Compass* 7, no. 5 (2009): 1292.

<sup>90</sup> Ann Parsonson, “The Fate of Maori Land Rights in Early Colonial New Zealand: The Limits of the Treaty of Waitangi and the Doctrine of Aboriginal Title,” in *Law, History, Colonialism: The Reach of Empire*, ed. Diane Kirkby and Catharine Coleborne (Manchester: Manchester University Press, 2001), 173–89.

Shortcomings in humanitarian governance were well understood during the early decades of New Zealand's colonial administration. One governor in the 1860s noted a shortage of staff and resources with the observation that "the Government is, and always has been, unable to perform its duty, for want of a sufficient number of agents so trained and qualified for the service required of them."<sup>91</sup> The lean budget of a colonial administration, therefore, limited the extent of humanitarian governance in the colony and entailed the uneven deployment of its resources. One goal of this dissertation is to understand how a shortage of resources impacted various initiatives in education, territorial administration, legal assimilation, and health practices.

The context of New Zealand as a site of "benign" relations between settlers and indigenous peoples also worked to establish the colony as having a distinct identity characterized by racial equality and cooperation that was separate from the brutality that characterized Australian settlement or military conquests in South Asia.<sup>92</sup> Both contemporaries and later scholars pointed to Waitangi as evidence that the extension of formal empire could indeed transpire with good intentions and a spirit of humanitarianism.<sup>93</sup> The nearly three decades of war that followed Waitangi, however, and the contested presence of the Treaty within contemporary New Zealand politics suggests that the legacy of that ostensibly humanitarian document are still debated and that the structure of humanitarian administration were either ineffective or abandoned in the decades following formal annexation. Paternalism's combination of care and control adopted a variety of forms.<sup>94</sup>

<sup>91</sup> Appendix to the Journal of the House of Representatives, 1861, "Further Papers Relative to Native Affairs," Session 1, E-03a, Memorandum by Governor Gore Browne, 25 May 1861, 4.

<sup>92</sup> Belich, "Colonization and History in New Zealand"; Giselle Byrnes, "Reframing New Zealand History," in *The New Oxford History of New Zealand*, ed. Giselle Byrnes (Oxford: Oxford University Press, 2009), 1–18.

<sup>93</sup> Daunton and Halpern, *Empire and Others*; James Belich, *Paradise Reforged: A History of the New Zealanders from the 1880s to the Year 2000* (Honolulu: University of Hawai'i Press, 2002).

<sup>94</sup> Michael Barnett, *Paternalism Beyond Borders* (Cambridge: Cambridge University Press, 2017).

Conversations about the shape and purpose of colonial governance in New Zealand drew upon writing about the suffering of Māori and that annexation worked to alleviate the chaos of a vacuum of power. That an awareness of suffering contributed to New Zealand's annexation and the resulting loss of indigenous self-government demonstrates how a humanitarian narrative could be used to justify a paternalist approach to a population deemed to be in a state of danger.<sup>95</sup> There is, however, less work demonstrating how colonial administrators developed practices and policies of humanitarian governance. Much scholarship on humanitarianism and empire has prioritized the rich connections between colonial spaces with a resulting "tendency to gloss over the historical, political, and spiritual specificities" of a particular place.<sup>96</sup> What did humanitarian governance look like on the ground as government officials, settlers, and tangata whenua charted the formation and practice of this new experience?

A history of practices of humanitarian governance in the years following New Zealand's incorporation into the British Empire also reveals how the islands' history is one of a negotiated order between Māori and the colonial government.<sup>97</sup> Examining humanitarian governance as part of colonial administration in New Zealand demonstrates how political discourses and practices became stabilized in a particular time and place.<sup>98</sup> New Zealand, therefore, was one site among others – but due to its geography and anthropology a unique one – in which the British World was extended, reassembled and narrated through multiple histories of settlement.<sup>99</sup> Unlike archetypal spaces of settler colonialism predicated on erasure and elimination of the indigenous

<sup>95</sup> Ballantyne, "Moving Texts and 'Humane Sentiment': Materiality, Mobility and the Emotions of Imperial Humanitarianism."

<sup>96</sup> Edmonds and Johnston, "Empire, Humanitarianism and Violence in the Colonies."

<sup>97</sup> J. G. A. Pocock, *The Discovery of Islands: Essays in British History* (Cambridge: Cambridge University Press, 2005); Hickford, *Lords of the Land*.

<sup>98</sup> A. L. Strauss, *Negotiations: Varieties, Contexts, Processes, and Social Order* (San Francisco: Jossey-Bass, 1978); Angela Wanhalla, "My Piece of Land at Taieri.," *New Zealand Journal of History* 41, no. 1 (2007): 45–61.

<sup>99</sup> Austrin and Farnsworth, "Assembling Histories," 1287.

and its replacement with the culture of the settler, the relationship of the New Zealand state with Māori is “central in a way which is quite different from any of the other principal settler colonies (Australia, Canada, the United States, Uruguay, Argentina and Brazil).”<sup>100</sup> This distinction makes the consideration of humanitarian governance in New Zealand useful for understanding how the empire’s “rule of difference” developed in a setting that was part of the settler boom but also retained a robust indigenous presence.

Protection as a project of humanitarian governance was not limited to New Zealand. In what became British Columbia and the Australian colony of Victoria, Protectors of Aborigines became part of the government in the 1840s.<sup>101</sup> Elsewhere in the empire, Protectors of Slaves operated in Mauritius and the West Indies.<sup>102</sup> In West Africa, anxieties about the efficacy of humanitarian government also extended to concern about the failure of the humane management of apprentices in Sierra Leone, thereby calling into question the colony’s status as “a bastion of post slavery humanitarian governance.”<sup>103</sup> What connected projects of improvement and elevation in Africa, the Americas, and New Zealand was a sense of reform, that the persons targeted by programs of protection and humanitarian governance were rational, and that that attention to health, education, and spiritual care of indigenous communities would encourage their path to “civilization.”<sup>104</sup> When “placed under proper moral and religious training, and left,

<sup>100</sup> Boast, “The Waitangi Tribunal in the Context of New Zealand’s Political Culture and Historiography,” 345; Ralph Johnson, “The Trust Administration of Maori Reserves, 1840-1913,” Rangahaua Whanui (Wellington: Waitangi Tribunal, 1993).

<sup>101</sup> Cole Harris, *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia* (Vancouver: UBC Press, 2002); Lynette Russell and Leigh Boucher, eds., *Settler Colonial Governance in Nineteenth-Century Victoria* (Canberra: ANU Press, 2015).

<sup>102</sup> Lester and Dussart, *Colonization and the Origins of Humanitarian Governance*.

<sup>103</sup> Maeve Ryan, “A Moral Millstone?: British Humanitarian Governance and the Policy of Liberated African Apprenticeship, 1808–1848,” *Slavery & Abolition* 37, no. 2 (2016): 399–422.

<sup>104</sup> Paul Moon, “The Influence of ‘Benthamite’ Philosophies on British Colonial Policy on New Zealand in the Era of the Treaty of Waitangi,” *Journal of Imperial and Commonwealth History* 43, no. 3 (2014): 374.



under the protection of the laws, to provide for their own maintenance and support,” indigenous peoples could achieve the degree economic self-sufficiency seen as a key component of liberal ideology.<sup>105</sup>

In addition to the context of a Treaty, optimistic assessments of its indigenous people and geography further established New Zealand as a particularly favorable sight for experiments in colonial administration.<sup>106</sup> Though the early efforts of the New Zealand Company and colonial government failed to achieve their intended purpose, their plans represent a serious effort to “reform” practices of colonial administration even if the reality of Māori-settler relations never reached the ambitious heights advocates of planned settlement had hoped for.<sup>107</sup> Wakefield’s plan stemmed from a premise “that men and women, through reason and moral sentiment, could successfully diagnose what was wrong in society and remedy the evils.”<sup>108</sup> If humanitarian governance in other areas of the British Empire focused on the treatment of emancipated slaves, nomadic indigenous peoples, and porous borders, the insular geography and dense Māori populations meant a more sustained engagement between indigenous and immigrant communities. Despite favorable assessments of Māori intelligence and capacity for acquiring European customs, humanitarian governance contained elements of violence, assertions of colonial power, and the management of racialized difference.<sup>109</sup>

This project is an effort to situate humanitarian governance in New Zealand during the first decades of British administration within larger frameworks of imperial knowledge,

<sup>105</sup> Paul Tennant, *Aboriginal Peoples and Politics: The Indian Land Question in British Columbia, 1849-1989* (Vancouver: UBC Press, 1990), 29.

<sup>106</sup> Alan Ward, *A Show of Justice: Racial “Amalgamation” in Nineteenth Century New Zealand* (Oxford: Oxford University Press, 1973).

<sup>107</sup> Salesa, *Racial Crossings*, 43.

<sup>108</sup> Erik Olssen, “Mr Wakefield and New Zealand as an Experiment in Post-Enlightenment Experimental Practice,” *New Zealand Journal of History* 31, no. 2 (1997): 198.

<sup>109</sup> Salesa, *Racial Crossings*, 53.

circulation of expertise about indigenous peoples, ideas concerning the management of settler populations, and ideas about cultural, economic, and political change. Efforts of the New Zealand Company and the colonial government to develop a program of humanitarian governance can easily be dismissed as either a Machiavellian project or a naive exercise doomed to failure from its inception. This dismissal, however, overlooks the ways in which the implementation of policy drew from loftier goals even if the pragmatic administration of empire bore only a piecemeal resemblance to original plans for humanitarian governance.<sup>110</sup> A quick dismissal of humanitarian governance removes one possibility for understanding the exercise of power framed along moral lines rather than “realpolitik.”

In an era before the “project of whiteness” became more concrete in the early 20<sup>th</sup> century, ideas of racial change and assimilation allowed a more expansive idea of imperial citizenship and participation in colonial societies.<sup>111</sup> Humanitarian governance in New Zealand shifted from the early conception of establishing infrastructures and systems that would support a system to one that adopted a stronger and more narrowly defined idea of progress and development. The failure of the colonial state to make room for a liberal idea of Māori subjecthood influenced the forms and nature of humanitarian governance’s goals. The dissertation proposes this consideration of New Zealand as a site of humanitarian governance and tracing the intertwined threads of what interventions were thought feasible, meaningful, and appropriate for a changing colonial context.

That an inflated imperial hubris was punctured and reformed by realities on ground is not a new story, but New Zealand is a unique case given the initially favorable outlook towards

<sup>110</sup> Ballantyne, “Moving Texts and ‘Humane Sentiment’: Materiality, Mobility and the Emotions of Imperial Humanitarianism.”

<sup>111</sup> Marilyn Lake and Henry Reynolds, *Drawing the Global Colour Line: White Men’s Countries and the International Challenge of Racial Equality* (Cambridge: Cambridge University Press, 2008).

European racial amalgamation with Maori and perceived geographic similarities between New Zealand and the United Kingdom. The assumed compatibility of aboriginal people and the familiarity of local landscapes allowed colonial theorists and governments to formulate plans for the colony's future that were inconceivable in other imperial settings. New Zealand was the laboratory in which a new and better Britain could be built and colonial laws constituted a central means through which government officials sought to realize their visions of the future.

## **Chapter 1: A Theatre of Dangers Theories of Humanitarian Governance and Māori Protection (1833 - 1840)**

In May of 1838, the membership of the Aborigines' Protection Society assembled at Exeter Hall in central London to celebrate the organization's first anniversary. Gathered in the same building that had hosted meetings of the Anti-Slavery Society, the crowd unanimously affirmed the APS's vigilant advocacy of indigenous peoples. For the Society, "a new and better era" had dawned, one that marked a departure from what had been the "derogatory" effect of colonization; henceforth Britain's colonial policy would promote the "progress of civilization."<sup>1</sup> Self-consciously positioning itself at the vanguard of a broadened understanding of humanitarian action, the APS saw its mission as alerting Britain to colonization's negative impact on indigenous peoples.

The Society argued that if colonization was to reflect positively on Britain's national character, any expansion must proceed in a planned and purposeful manner, which protected aboriginal populations. Establishing colonies in places like New Zealand, southern Africa, and North America could be delegated to rogue adventurers or private companies. Such an important undertaking must not, in the eyes of the APS, be left open to chance. Instead, the Society advocated that the British government had a moral obligation to mitigate the impact of European colonization. A combination of legal protections and the vigilance of concerned individuals was essential to secure the future success of aboriginal people.

<sup>1</sup> Aborigines' Protection Society, *First Annual Report of the Aborigines' Protection Society* (London: P. White and Son, 1838), 6.

New Zealand figured prominently in the Society's catalogue of colonial ills. Among the APS's concerns was widespread and unpunished physical violence, lawlessness resulting from the absence of legal infrastructure, and the unsavory influence that whalers, sailors, and escaped prisoners could have on Māori. These conditions created a "theatre of dangers which no friend to the Aborigines can overlook, and no Minister of the British Crown ... safely dispute [sic]."<sup>2</sup> Depredations by visiting ships, criminal behavior fostered by runaway Australian convicts, and the unchecked ravages of introduced diseases made New Zealand emblematic of the dangers the Society attributed to unregulated colonization. Resolutions passed at the moment of the Society's first anniversary urged the British public and a committee of the British Parliament then considering New Zealand to act quickly. The APS's hope was that Māori would not become another example of an indigenous people destroyed through contact with Europeans.

The APS formed one facet of a larger groundswell of social and political reform within Britain.<sup>3</sup> Alongside colonial questions, the Great Reform Act of 1832 had – albeit in a very narrow fashion – broadened suffrage in the United Kingdom, the abolition of slavery the following year had confirmed the connection between Britishness and freedom, and the 1833 Factory Act had posed the first in a series of laws regulating child labor in industry. In the colonies, Thomas McCauley's 1835 "Minute on Indian Education" advocated the educational potential of British subjects in South Asia. As a response to rebellions in Upper and Lower Canada in 1837 and 1838, the Durham Report of 1839 considered the balance of authority between the imperial government in the United Kingdom and the administration of colonies with substantial populations of European immigrants. The report's findings accelerated pressure to

<sup>2</sup> Aborigines' Protection Society, 21.

<sup>3</sup> Catherine Hall, "Culture and Identity in Imperial Britain," in *The British Empire: Themes and Perspectives*, ed. Sarah Stockwell (Oxford: Blackwell Publishing, 2008), 203; Llewellyn Woodward, *The Age of Reform 1815-1870*, 2nd ed. (Oxford: Oxford University Press, 1962).

devolve legislative power from London to local capitals in Canada and, over the following century, to other areas of white settlement in Australasia and southern Africa. The unsteady transition from slavery to emancipation revealed that “the problem of freedom” was long, difficult, and uncertain.<sup>4</sup> Like the legacy of slavery, debate regarding the forms that imperial legal, social, and labor networks should take invoked questions about the nature of ethical obligation, about the atonement for past wrongs, and about how to secure a better future.

As part of reforming the role of government and reimagining the purpose of empire, during the 1830s the relationship between Britain and its colonies received widespread attention from politicians, public intellectuals, and academics.<sup>5</sup> Charged with negotiating these relationships, and located at the nexus of colonial reform, governance, and concern for indigenous peoples was Britain’s Colonial Office. This government department, whose remit included the administration of the United Kingdom’s overseas territories, was strongly influenced by principles of humanitarian action during the 1830s.<sup>6</sup> Shaping interpretations of humanitarian action as they applied to colonial settings were free-trade economics, a confidence in the ability of indigenous peoples to adopt European customs and languages, and a strong faith in the moral benefits of Christianity.<sup>7</sup>

A close relationship between humanitarianism, imperial rationales, and government practice allowed Britons in the 1830s to frame colonization as having positive effects. By protecting indigenous peoples against the disruption caused by European arrivals, imperial

<sup>4</sup> Thomas Holt, *The Problem of Freedom* (Baltimore: Johns Hopkins University Press, 1992).

<sup>5</sup> Zoë Laidlaw, *Colonial Connections, 1815-45: Patronage, the Information Revolution and Colonial Government* (Manchester: Manchester University Press, 2005), 6.

<sup>6</sup> Rob Skinner and Alan Lester, “Humanitarianism and Empire: New Research Agendas,” *Journal of Imperial and Commonwealth History* 40, no. 5 (2012): 733–55; John Cell, *British Colonial Administration in the Mid-Nineteenth Century: The Policy-Making Process* (New Haven: Yale University Press, 1970), 3–44.

<sup>7</sup> Cole Harris, *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia* (Vancouver: UBC Press, 2002), 3.

control could be described as a boon even if colonization meant extinguishing indigenous sovereignty and placing aboriginal populations in a position of dependence.<sup>8</sup> In common with their counterparts in other sites of European empire, humanitarians in New Zealand deployed “grammars of difference” to categorize the cast of characters in colonial spaces as either victims or victimizers, as morally sound or ethically dubious, and as agents of positive change or enablers of injustice.<sup>9</sup> Identifying indigenous peoples as distant, needy, and helpless others required describing aboriginal populations as passive entities requiring external protection. Interventions undertaken to provide that protection, even if those interventions infringed upon sovereignty, could then be considered legitimate. Even when undertaken with humanitarian intent, however, colonization limited the degrees of freedom and autonomy for those populations under its rule.<sup>10</sup> A humanitarian logic for establishing and maintaining colonial rule eschewed overt violence towards indigenous people but, like other imperial modalities sites of humanitarian empire, it nevertheless created and consolidated hierarchies of difference.

Within Britain there was no ready agreement about what a successful humanitarian intervention in New Zealand should take, nor was there consensus about how to organize a colonial administration promoting humanitarian policies. Ideas drew from a range of political, economic, and social factors with combinations thereof informing proposals for Māori protection. Optimism about the potential of indigenous populations, confidence in government action as a tool for social change and improvement, and the amenability of the Colonial Office to humanitarian influence meant that the 1830s was a particularly fertile moment for developing

<sup>8</sup> Alan Lester and Fae Dussart, *Colonization and the Origins of Humanitarian Governance* (Cambridge: Cambridge University Press, 2014), 3.

<sup>9</sup> Frederick Cooper and Ann Laura Stoler, eds., *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley: University of California Press, 1997).

<sup>10</sup> Ann Stoler, “On Degrees of Imperial Sovereignty,” *Public Culture* 18, no. 1 (2006): 134.

ideas and concepts of humanitarian empire. Once implemented, concepts of humanitarian governance became part of existing tangled relationships between indigenous peoples, elements of British society and government interested in international affairs, and the structures and limitations of colonial rule. The process of translating humanitarian ideal into administrative practice was rarely straightforward.

This chapter examines how competing ideas about the form and purpose of humanitarian governance shaped proposals for Britain's colonization of New Zealand. To do so, the chapter refers to three examples of how humanitarians, colonial entrepreneurs, and government administrators advocated a range of interventions, assimilations, exclusions, or isolations with regard to Māori. Plans put forward by each group reflected their understanding of the relationship between land, labor, and government policy in colonial spaces. An intentional and purposeful arrangement thereof reveals what each constituency thought British intervention was supposed to accomplish for indigenous peoples. During the late 1830s, as conversations about intervening in New Zealand gathered steam, these plans were invoked to justify a case for or against an increased British presence, while also proposing a slate of policy interventions geared toward protecting Māori.

The chapter first introduces the specificities of New Zealand as a site of humanitarian intervention and identifies social, political, and economic aspects of Māori society that were of concern in the 1830s. A second section contextualizes ideas of how Britain's epistemic community interested in colonization drew from, and reacted to concepts of imperial governance, humanitarian action, and establishing British settlements overseas. The final piece examines how three distinct but overlapping entities — a government committee, a private corporation, and a lobbying group — each deployed a vision of British humanitarian governance in New Zealand.



## New Zealand 1791-1840

European ships first arrived in New Zealand's waters in 1642. Sustained contact between indigenous Māori and Pākehā arrivals, however, did not occur until after visits by the British explorer James Cook in the 1760s and 1770s and George Vancouver in 1791.<sup>11</sup> The establishment of a convict settlement at Sydney in 1788 further developed British interests in the southwest Pacific and contributed to a growing volume of maritime traffic. Early connections between New Zealand and the wider world centered on the marine industries of sealing and whaling, victualling ships, and growing provisions for the penal colonies of New South Wales.

Māori laborers, mostly Ngāpuhi living at the Bay of Islands in the north of the North Island, formed part of European encounters from their earliest moments. It was through service on a British ship that the first recorded Māori visitor to the United Kingdom, a Ngāpuhi man named Moehanga, reached London in 1806. Māori expertise was also requested through official channels. In 1798 Lachlan Macquarie, the Governor of New South Wales, paid two Māori living in the Bay of Islands to come to Norfolk Island to teach Australian convicts how to make New Zealand flax into linen.<sup>12</sup> Upon arrival, the men were unable to be of much assistance since the preparing of flax in Māori society was largely done by women. Their recruitment, however, signaled government interest in developing New Zealand's terrestrial resources with the aid of indigenous expertise and labor. During an initial period of contact from the 1790s to the 1820s, Māori largely determined the extent of their engagement with European arrivals and whether to contribute their labor or sell provisions and supplies to a wider Pacific World. Māori inhabiting

<sup>11</sup> Pākehā - A term for a person who is not of Māori descent, the first record of the word in English usage is from 1817.

<sup>12</sup> New Zealand flax (*Phormium tenax*), or harakeke, is not related to its European linen flax namesake (*Linum usitatissimum*) but has similar uses as a source of fibers for rope and cloth making.

the islands' interior could largely remain aloof from direct contact with the largely British, European, and American arrivals.

In addition to providing commercial contacts and opportunities, European influence in the islands also included Christianity. In 1814, the Reverend Samuel Marsden, then Colonial Chaplain of New South Wales, organized the first Christian service in New Zealand and purchased land for a mission station at Rangihoua in the Bay of Islands. Marsden's mission formed the nucleus of the first permanent European settlement in New Zealand. Evangelization was not immediately successful. The first recorded baptism did not take place until 1825 with momentum only gaining pace later that decade.<sup>13</sup> Despite a slow start, by the 1830s, missionaries played an important role in the printing of Māori-language books and had gained influence with indigenous authorities.<sup>14</sup> Other Protestant evangelists, mostly Methodists, arrived during the 1820s. Three Catholic missionaries led by Jean Baptiste François Pompallier began their work in 1838. By 1840, roughly 170 Anglicans and 70 Methodist missionaries and their families, all concentrated in the north of the North Island, tended to the spiritual welfare of Māori communities. In the 1830s and 1840s, the circulation of missionary reports and personnel between the South Pacific and Europe also constituted a central conduit for transmitting information, while missionary testimonies formed a common means of publicizing awareness of New Zealand amongst the British public.<sup>15</sup>

An official presence in New Zealand emerged slowly. During the 1810s, reports that visiting ships were abducting Māori for service as sailors caused Governor Macquarie to appoint

<sup>13</sup> Harrison Wright, *New Zealand, 1769-1840, Early Years of Western Contact* (Cambridge: Harvard University Press, 1959), 43.

<sup>14</sup> Tony Ballantyne, *Entanglements of Empire: Missionaries, Maori, and the Question of the Body* (Durham: Duke University Press, 2014).

<sup>15</sup> Andrew Porter, "An Overview 1700-1914," in *Missions and Empire*, ed. Norman Etherington (Oxford: Oxford University Press, 2008), 50.

a justice of the peace in New Zealand. Macquarie appointed Thomas Kendall, then working at Marsden's mission at Rangihoua, to the office. A further proclamation in November 1814 forbade the removal of any native from New Zealand without the express permission of the local chief and a signed contract approved by Kendall. Despite these measures, stories of violence and depravity continued to circulate through imperial networks. Many in the United Kingdom, Australia, and New Zealand asked what was to be done to curb the dangers and violence of the islands and what mechanisms might prevent the destruction of and collapse of Māori populations.

Increased British legal authority in New Zealand, however, took another decade to arrive. A Parliamentary act extended the authority of New South Wales courts to all British subjects in New Zealand in the 1820s, but the court's ability to enforce any rulings remained difficult given the transitory and international nature of maritime commerce. Māori, not being subjects of the Queen, remained outside the reach of British justice, but Europeans who violated the law could theoretically be arraigned by Australian authorities. Extending British authority to the islands and waters of New Zealand reflected British government's feeling of ambiguity about wanting to extend Britain's legal reach and punish crimes committed against Māori while also expressing apprehension at the prospect of British authority transgressing Maori sovereignty.

Contact between Europeans and Māori was widespread throughout coastal New Zealand, but during the 1830s, the north of New Zealand, centered on the Bay of Islands' natural harbors, remained the hub of sustained Māori-European encounter and exchange. Some Europeans, called Pākehā-Māori, adopted local customs and lived as guests of Māori notables. Early in the 19<sup>th</sup> century, their presence could provide prestige and commercial contacts for a hapu, while for the Pākehā-Maori, the protection of a local chief offered security and status. Like the tales of

beachcombers shipwrecked in the Pacific and who made homes among island communities, Pākehā-Māori perspectives appeared mainly as curiosities to the British public through being republished as exotic accounts of the South Seas. Their voices rarely made it into official discourse.<sup>16</sup>

During the first third of the 19<sup>th</sup> century, contacts between Māori and Europeans increased as populations of escaped convicts, runaway sailors, and other European arrivals grew. By the 1830s, the violent actions of Europeans, abductions of Māori, and violence between Māori communities established New Zealand's reputation as a lawless place. Missionaries struggling to establish godly communities and whalers living outside of recognized legal jurisdictions did not often see eye to eye. Nor did they share a common vision or plan for what the future of New Zealand would be. Missionaries understood the scope of their work as redeeming souls and insulating Māori from the wicked ways of European sailors and escaped convicts.

Perhaps no place more symbolized the struggle between order and chaos like Kororāreka, a port and victualling station in the Bay of Islands. From 1833, the settlement's role as a commercial entrepôt established its importance for the first British Resident, James Busby, a Scottish-born viticulturist who had spent time in New South Wales and written reports for the Colonial Office about New Zealand. Busby, who took up his post in May 1833, was the first representative of British law and governance in the islands and acknowledged he was fighting an uphill battle. Kororāreka, with a population of several hundred, was known as the "Hellhole of

<sup>16</sup> Trevor. Bentley, *Pakeha Maori: The Extraordinary Story of the Europeans Who Lived as Maori in Early New Zealand* (Auckland: Penguin, 1999); Gordon. Ell and Sarah. Ell, *Explorers, Whalers and Tattooed Sailors* (Auckland: Random House, 2008).

the Pacific”; Busby had little infrastructure at his command to enforce order.<sup>17</sup> The absence of any monopoly of power – with a visiting ship’s crew or group of Māori equally capable of starting a fracas – contributed to Charles Darwin characterizing the port during his 1835 visit as “addicted to drunkenness and all kinds of vice.”<sup>18</sup> Successful merchants traded kauri gum, wheat, and timber with the settlement at Sydney while, closer to home, Māori sold provisions to visiting ships and provided the flax that Governor Macquarie had so eagerly desired. In exchange, Māori acquired manufactured goods, especially guns.

An increased supply of guns intensified an ongoing series of violent conflicts between iwi and hapu across the length and breadth of New Zealand. Known as the Musket Wars, the period of New Zealand’s history from 1807 (though rapidly intensifying from 1818) through the early 1840s led to a significant reorganization of indigenous political geography.<sup>19</sup> The destruction and displacement caused by this process led a growing number of settlers to see New Zealand as in state of perfect anarchy. One British observer remarked in 1837 that Māori energies were directed not toward the “improvement of his country, [rather] he has hitherto fought and prayed for the extirpation, or at least, subjugation of his fellow countrymen.”<sup>20</sup> Though this violence remained largely internal to Māori communities, Europeans became involved through providing supplies or coastal transport. Lawlessness, to advocates of colonization, was intolerable given the preeminence of New Zealand as a site of colonization

<sup>17</sup> Parliamentary Papers of Great Britain [GBPP], 1837 (425) *Report from the Select Committee on Aborigines (British Settlement)*, Report of the Committee, 26 June 1837, 15. In April of 1834 there were 29 vessels in Kororāreka’s harbor

<sup>18</sup> Wright, *New Zealand, 1769-1840, Early Years of Western Contact*, 31. Quoting “Darwin, ‘Journal’ in FitzRoy, *Narrative*, III, 500.”

<sup>19</sup> Angela Ballara, *Taua: “Musket Wars”, “Land Wars”, or Tikanga?: Warfare in Māori Society in the Early Nineteenth Century* (Auckland: Penguin Books, 2003); Ron Crosby, *The Musket Wars: A History of Inter-Iwi Conflict, 1806-45* (Auckland: Libro International, 2012).

<sup>20</sup> Joel Samuel Polack, *New Zealand: Being a Narrative of Travels and Adventures During a Residence in That Country Between the Years 1831 and 1837* (London: Richard Bentley, 1838), 321.

avored in terms of both landscape and the perceived amenability of its indigenous people to adopt European forms of civilization.

A positive estimation of Māori capacity for British civilization, the violence and lawlessness of the Musket Wars, and the threat moral degradation caused by whalers and sealers created an uncomfortable feeling for those Britons who felt it was part of their country's national character to act as a global moral force. The insular geography of New Zealand and sustained contact between Māori and Europeans meant that European observers could gain a sense of the scale of destruction, demographic decline, and dispossession accompanying inter-iwi violence. By the late 1830s, the chaos in New Zealand motivated parliamentary inquiries. The theater of dangers seen by the Aborigines' Protection Society was, therefore, not only populated by threats external to New Zealand. Dangers also stemmed from the internal and effective adoption of European weapons by Māori to accomplish destructive ends. This combination of hazards contributed to an understanding of New Zealand as a place particularly fraught with peril.

Māori also recognized the cost of this increasingly bloody conflict and the destructive impact that warfare entailed for indigenous communities. Partly resulting from the violent encounters of the Musket Wars, in 1833, thirteen chiefs living at the Bay of Islands sent a petition to King William IV asking to be put under the protection of the British Crown. Though the request was declined because the British did not wish to usurp Māori sovereignty, there was growing recognition in London and Sydney that New Zealand was suffering from an absence of law and order. It was this recognition that prompted the British government to send James Busby to Kororāreka. His instructions were to do everything within his power so that Europeans would not "excite the Natives to revenge their injuries by an indiscriminate slaughter of every British

subject within their reach.”<sup>21</sup> The question of sovereignty within New Zealand was a vexed one for British officials in the 1830s, who were cognizant of the formidable martial capability of local Ngāpuhi, and who therefore mulled over a range of possibilities for establishing some degree of protection.<sup>22</sup>

If politicians, concerned individuals, and humanitarian groups understood some type of British intervention in New Zealand as becoming increasingly urgent by the late 1830s, proposals for protecting Māori spanned a range of possibilities. Among the options were insulating Māori from contact with Europeans to ensure they did not become unwitting sailors on foreign ships or sell their land through dubious contracts. Others advocated trusting missionary communities to mediate contact between Māori and less virtuous arrivals. Concern for Māori prioritized the violability of their persons as economic agents, their liberty as political actors, and concern for their moral well-being.

Given that Britain’s capacity for enforcing order in New Zealand was weak, underpinning these concerns was a lack of legal and juridical infrastructure. Māori were simultaneously seen as capable of incredible violence - thus in need of regulation – and yet were vulnerable to being swindled through an ignorance of legal language about contracts. The position of Māori as both victims and victimizers contained contradictory elements, but British officials and observers interpreted the lack of any legal and political infrastructure as creating harm.

<sup>21</sup> Sir Richard Bourke to James Busby, 13 April 1833 in H. Hanson Turton, *An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand* (Wellington: George Didsbury, 1893), Section A: Province of Auckland, 2-5.

<sup>22</sup> Robert Grant, “New Zealand ‘Naturally’: Ernst Dieffenbach, Environmental Determinism and the Mid Nineteenth-Century British Colonization of New Zealand,” *New Zealand Journal of History* 37, no. 1 (2003): 26; P. G. McHugh, “A Pretty Gov[ernment]!: The ‘Confederation of United Tribes’ and Britain’s Quest for Imperial Order in the New Zealand Islands during the 1830s,” in *Legal Pluralism and Empires, 1500-1850*, ed. Richard J. Ross and Lauren Benton (New York: NYU Press, 2013), 233–58.

Interest in humanitarian principles as they applied to governance, a confidence in an ability to mitigate the negative impact of colonization, and a heightened perception of the moral obligations of Britain's global empire contextualized debate about New Zealand as a site of colonial interest in the 1830s. New Zealand's verdant landscape and archipelagic qualities sparked British imaginations with observers frequently likening the climate and topography to places in the British Isles.<sup>23</sup> The high regard in which many observers held Polynesians as "noble savages" made the islands a particularly promising canvas on which to project ideas about the proper relationship between indigenous peoples and empire.

### **Humanitarianism, Empire, and Indigenous Peoples**

The epistemic community of the early 19<sup>th</sup> century interested in Britain's evolving relationship with New Zealand wanted to ameliorate the negative impacts of European contact. While confident in the virtues and superiority of European civilization, those concerned with New Zealand's future thought settler colonization need not inextricably result in the destruction of indigenous peoples. By adopting lessons learned from previous colonial ventures, limiting the capacity of colonists to disrupt indigenous peoples, and proposing forms of imperial expansion that protected aboriginal interests, many held that colonization could benefit Māori. Including Māori within colonial society, rather than considering them inextricably alien to it, proponents of

<sup>23</sup> An 1841 account likened the lush verdure of New Zealand to Britain's "woods in the month of May, or rather, I should say, like a gentleman's park in that month." Richard Hodgskin, *A Narrative of Eight Months' Sojourn in New Zealand, with a Description of the Habits, Customs, and Character of the Islanders* (Coleraine, 1841), 3, 23. Enthusiasm for New Zealand as a fertile land was frequently misleadingly optimistic and built on a long history of fantasy as applied to the islands of the Pacific. Bernard Smith, *European Vision and the South Pacific* (New Haven: Yale University Press, 1985). In his official account of Captain James Cook's voyages to New Zealand John Hawkesworth promoted the idea of the islands as uninhabited and fertile. Eric Pawson and Tom Brooking, *Seeds of Empire: The Environmental Transformation of New Zealand* (New York: I. B. Tauris, 2011), 15; Thomas Dunlap, *Nature and the English Diaspora: Environment and History in the United States, Canada, Australia, and New Zealand* (Cambridge: Cambridge University Press, 1999).



colonization believed that Māori could avoid the negative outcomes that European empire had entailed for the indigenous populations of North America and Australia. Apart from a sense that the status quo in New Zealand was untenable, in the years before New Zealand became a formal colony in 1840, there was little unity across proposals for what form intervention might take.

Proponents of intervention overlooked the deep dissonance between the loss of sovereignty, on one hand, and notions of economic and moral progress that accompanied ideas of humanitarian empire. They believed in the interdependence of the colony's moral and economic success, suggesting that modifications to one would have a cascading effect and mutually reinforcing influence on the other.<sup>24</sup> With the added impetus of Christian evangelism, proposals for New Zealand's future engaged three central tensions. First was the relationship between the imperial center and the colonial periphery and the delegation of responsibility to agents charged with negotiating that relationship. Second, the degree to which intervention would isolate Māori from, amalgamate Māori within, or adapt Māori to, a larger settler colonial society. A third question concerned the spatial and legal forms through which the first two tensions could be best resolved. The importance of land to these questions was especially important in the context of proposals advocating the transfer of large numbers of Europeans from Britain to New Zealand. Establishing exclusive control over land lies at the heart of settler colonization. Despite an intentional approach to colonization, New Zealand's settlement did not spare indigenous landholding.

New Zealand's annexation and the discussion of the terms of British engagement with the islands emerged during a time of reflection about the United Kingdom's role in the world. Having outlawed the slave trade in 1807, abolished slavery in 1833, and ended the transportation

<sup>24</sup> Harris, *Making Native Space*, 9.

of convicts to New South Wales by 1840, the 1830s marked a crucial moment in Britain's humanitarian history. This humanitarian inheritance fostered a positive moral valence for developing new chapters in Britain's expanded imperial activities. The successes of the anti-slavery movement drew its strength from networks of engaged citizens and politicians. In light of what they perceived as Britain's leadership in world affairs, these people continued to organize and agitate on behalf of causes throughout the empire, including legal reform, the standardization of criminal punishment, and the protection of aborigines.<sup>25</sup>

Many of those active in the anti-slavery movement, like the evangelical reformer Thomas Fowell Buxton and the Gurneys, a noted family of Quakers, took up the cause of aboriginal rights in the 1830s.<sup>26</sup> Networks of interest and calls for humanitarian interventions in settler colonies, therefore, flowed through religious and familial channels, which were frequently connected with events occurring in both colonial spaces and within the British Isles.<sup>27</sup> Family networks and individual personalities lost some of their power and influence across the 1830s, as colonial administrations become more bureaucratic and systematized. Still, familial and corporate connections remained key avenues of communication, connecting discussions about protecting the empire's indigenous peoples with humanitarian causes resonant within British circles.<sup>28</sup>

<sup>25</sup> Lisa Ford, "Anti-Slavery and the Reconstitution of Empire," *Australian Historical Studies* 45, no. 1 (2014): 77–79.

<sup>26</sup> Martin Daunton and Rick Halpern, eds., "Introduction: British Identities, Indigenous Peoples and the Empire," in *Empire and Others: British Encounters with Indigenous Peoples, 1600-1850* (Philadelphia: University of Pennsylvania Press, 1999), 2; Zoë Laidlaw, "'Aunt Anna's Report': The Buxton Women and the Aborigines Select Committee, 1835–37," *The Journal of Imperial and Commonwealth History* 32, no. 2 (2004): 2–3.

<sup>27</sup> Elizabeth Elbourne, "The Bannisters and Their Colonial World," in *Within and Without: Canadian History as Transnational History*, ed. Karen Dubinsky, Adele Perry, and Henry Yu (Toronto: University of Toronto Press, 2015), 61–107. Saxe Bannister wrote about South Africa, the Stephens family was active in Parliament, and the Quaker Backhouse brothers reported to friends and family from Australia.

<sup>28</sup> Laidlaw, *Colonial Connections*, 4–8.

Personal connections were also important within the government and bureaucracy. Within the relatively small staff of Britain's Colonial Office – numbering about three-dozen individuals in two houses on Downing Street near the Prime Minister's residence – the influence and cross-pollination between colonial reform and humanitarian action were strong. Charles Grant, who became colonial secretary in 1835, was the son of a noted evangelist of the same name who as Chairman of the East India Company had pursued both evangelization and government reform in South Asia. James Stephen, the Colonial Office's indefatigable Permanent Undersecretary of State for the Colonies from 1836 to 1847, had served on the board of the Church Missionary Society and was married to a daughter of a leading member of the Clapham Sect. The flurry of conversation, both official and popular, in the late 1830s about the future of New Zealand transpired during a period of intense debate about the structure and form of governance and within an environment that featured imbricated networks of communication and information sharing through personal, political, and official ties.<sup>29</sup>

In addition to providing familial and confessional networks experienced in anti-slavery activism, humanitarian organizations in the 1830s also inherited from the anti-slavery movement a slate of methods and concepts useful for thinking about the relationship between indigenous peoples and colonial administration. They called for committees of enquiry, visited members of Parliament and government ministers, and published documents in periodicals and newspapers about indigenous issues built upon the methods of abolitionist organizers. Based on precedents from earlier in the 19<sup>th</sup> century, advocates for humanitarian governance in New Zealand had antecedents on which to base their claims that it was the responsibility of government to protect a

<sup>29</sup> Julie Evans et al., *Equal Subjects, Unequal Rights: Indigenous Peoples in British Settler Colonies, 1830-1910* (Manchester: Manchester University Press, 2003), 28.; A.G.L. Shaw, "Sir James Stephen (1789-1859)," in *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004), Accessed March 21, 2018. doi: <https://doi.org/10.1093/ref:odnb/26374>.

group of people considered vulnerable. These antecedents provided examples for how humanitarian governance in New Zealand might look and what form intervention might take.<sup>30</sup>

Debate about humanitarian governance transpiring in 1830s drew upon discussions about government's responsibility to protect vulnerable populations, reflection about the nature of imperial expansion, and an interest in the situation of the empire's indigenous people. An intentional approach to colonization would be a new form of colonization that eschewed the away from the chaos and uncertainty of earlier North American settlement. The North American context was prone to violent clashes between indigenous and settler populations, who occupied a porous and expansive frontier. In a series of lectures given from 1839-184, Herman Merivale, the University of Oxford's Professor of Political Economy, summarized the grim history of colonization in North America and around the world. Merivale's analysis of the history of colonization saw possible outcomes for Māori as either being killed, enslaved, insulated from contact with Europeans, or amalgamated with a settler population. He favored the last, amalgamation, as the only acceptable course of action for a civilized society.<sup>31</sup>

Planned colonization, Merivale noted, engaged questions of political economy by considering the relationship between capital, labor, and land, and the ways in which ownership of land shaped social relationships in settler societies.<sup>32</sup> One of the most audible practitioners of planned settlement in the 1830s was Edward Gibbon Wakefield. Wakefield's model of colonization revolved around the idea of "sufficient price" for land. This price, low enough to encourage investment by capitalists but high enough to defer its acquisition by laborers, would

<sup>30</sup> Andrew Porter, "Trusteeship, Anti-Slavery, and Humanitarianism," ed. Andrew Porter, vol. 3, *Oxford History of the British Empire* (Oxford: Oxford University Press, 1999), 198–207; Lester and Dussart, *Colonization and the Origins of Humanitarian Governance*, 10.

<sup>31</sup> Herman Merivale, *Lectures on Colonization and Colonies*, vol. 2 (London: Longman, Orme, Brown, Green, and Longman, 1841), 179.

<sup>32</sup> Harris, *Making Native Space*, 5.

ensure a supply of labor, provide investment in a colonial setting, and preserve an English model of social order overseas.

Wakefield's theories were first applied in the new settlement of South Australia. Established in 1834, the colony's administrative policies sought to balance the ratio of land to labor in a manner that encouraged immigration and economic growth. South Australian officials also endorsed religious freedom and established the rights of the aboriginal population to continue to occupy land. Although it was not an immediate success, many voices in Britain praised the South Australian example, the first non-convict settlement on the continent, as a significant endeavor in planned settlement.<sup>33</sup> Colonial reformers like Merivale and Wakefield expressed a confidence that the bane of European imperialism - the lawless chaos of a wild frontier - could be regulated and structured in a way to make colonization beneficial for settler, indigenous, and metropolitan communities.

Humanitarians who applied ideas of systematic colonization to the islands of New Zealand largely overlooked the possible unwillingness of Māori to accommodate settler communities. New Zealand was also not a blank slate from a non-native perspective. European beachcombers, squatters, and agriculturalists were scattered across New Zealand by the 1830s. They had, in many instances, purchased land from local hapu.<sup>34</sup> From the beginning of sustained imperial interest in New Zealand, planning for the islands' colonization overlooked existing complexities. Patterns of indigenous land ownership and decades of land sales to Europeans,

<sup>33</sup> Process of moral improvement and economic growth/transformation were also occurring in the United Kingdom which was going through a process of revisiting its relationship toward property rights and debate about the rights of landlord and tenant, collective ownership or individual development that stemmed from some of the same ideological questions about production and appropriate use of a landscape discussed in the colonies with Chartism and Owenism. Daunton and Halpern, "Empire and Others," 6.

<sup>34</sup> John C. Weaver, "Frontiers into Assets: The Social Construction of Property in New Zealand, 1840-65," *The Journal of Imperial and Commonwealth History* 27, no. 3 (1999): 17-54; Katherine Smits, "John Stuart Mill on the Antipodes: Settler Violence against Indigenous Peoples and the Legitimacy of Colonial Rule," *Australian Journal of Politics & History* 54, no. 1 (2008): 1-15.

which had transpired without a documentary record legible to English laws, further complicated the development of land tenure in New Zealand. Māori, as colonial administrators would soon find out, eschewed the role of grateful and docile recipients of humanitarian intervention.

The moment of New Zealand's colonization – and the character and form of that colonization – was one receptive to ideas of how government could act within humanitarian principles. This unique receptivity resulted from the confluence of liberal ideas of domestic political economy promoting an ideal of independent and self-sufficient membership, an understanding of the relationship between government and governed as based on the success of utilitarian models of planned settlement and rational administration, and the success of humanitarian movements in the first third of the 19<sup>th</sup> century.<sup>35</sup> Joint action by a range of colonial actors from overlapping imperial networks, including missionaries, travelers, and naval officers. These diverse parties “facilitated shared discourse on the nature of and prospects for peoples” while spanning the range of opinions about how to effectively and efficiently apply colonialism's perceived benefits while mitigating the ills of settler empire.<sup>36</sup> A combination of reform-mindedness, imperial expansion, and humanitarian sentiment influenced ideas of colonial governance as they pertained to both British and indigenous populations of the empire. The afterglow of abolitionism, the lingering salience of humanitarian sentiment within Parliament, and the favorable reception of humanitarian concern within the colonial office staff marked the decade as an auspicious one for considering new projects and principles of colonial governance.

<sup>35</sup> Elizabeth Elbourne, “The Sin of the Settler: The 1835-36 Select Committee on Aborigines and Debates over Virtue and Conquest in the Early Nineteenth-Century British White Settler Empire,” *Journal of Colonialism and Colonial History* 4, no. 3 (2003), <https://doi.org/10.1353/cch.2004.0003>.

<sup>36</sup> Skinner and Lester, “Humanitarianism and Empire,” 734.

## **Humanitarian Interventions**

To explain the competing visions for New Zealand's colonial future and how proposals about structuring protective regimes reflected diverse approaches to humanitarian governance, the remainder of the chapter turns to three perspectives: an official Select Committee of the British Parliament, a plan set out by the New Zealand Company promoting planned settlement of the kind favored by Wakefield, and the humanitarian organization of the Aborigines' Protection Society, whose report began this chapter. These three entities shared an understanding that the state of affairs in New Zealand as it existed in the late 1830s was untenable. Each organization drew from similar currents and understandings of Britain's imperial role. Their differences reveal how varieties of protection and humanitarian governance transformed from theoretical understanding to proposed practice. Each reflected upon the role of governance as a force for moral improvement and the ways in which that governance could be applied to protect New Zealand's indigenous peoples. Their impressions and arguments influenced what became the official policy of the colonial government in New Zealand following the colony's formal annexation in 1840 and established the groundwork for how humanitarian governance developed from a theory, to an idea, to an official policy.

### *The Select Committee on Aborigines*

Following reports of violent clashes between colonists and indigenous peoples, particularly between Xhosa and European settlers on the eastern border of the Cape Colony, in 1835, the British Parliament began a formal inquiry into colonization's impact on the empire's aboriginal populations. Tasked with investigating the state of native affairs throughout British territories and recommending what measures would best prevent future conflict, the Select

Committee on Aboriginal Peoples (British Settlements) had a remit to “secure to [indigenous peoples] the due observance of Justice, and the protection of their Rights; to promote the spread of Civilization among them, and lead them to the peaceful and voluntary reception of the Christian Religion.”<sup>37</sup> This mandate guided the committee’s work across two parliamentary sessions during which they heard testimony from forty-six witnesses - including clergymen, soldiers, and politicians - with experience from American, African, and Australian contexts.

The committee’s fifteen members were strongly influenced by humanitarian sentiment. Witness testimony also reflected a conviction that Britain’s role as a guarantor of liberties should stretch, albeit unevenly, to all the corners of its global empire. Chairing the committee was Thomas Fowell Buxton, who had, earlier in the decade, played a central role drafting legislation that ended slavery. Other members of the committee included William Gladstone, future Prime Minister, and Sir George Grey, cousin of a future governor of New Zealand and himself a future Secretary of State for Colonies. Largely supportive of the type of humanitarian causes promoted by Buxton, witness testimony portrayed colonization as perilous to Britain’s moral standing as an “enlightened and Christian” nation.<sup>38</sup> Compounding negative outcomes for indigenous peoples was the corresponding corrupting influence of colonization on settlers, who often resorted to violence against indigenous people.<sup>39</sup> British settlement, in the opinion of the Select Committee, almost invariably had negative economic, political, and social ramifications for both indigenous peoples and the European migrants who oppressed them.

<sup>37</sup> GBPP, 1837 (425) *Report from the Select Committee on Aborigines (British Settlement)*, Report of the Committee, 26 June 1837, 3.

<sup>38</sup> Elbourne, “The Sin of the Settler.”; GBPP, 1837 (425) *Report from the Select Committee on Aborigines (British Settlement)*, Report of the Committee, 26 June 1837, 3-4.

<sup>39</sup> This fear echoed eighteenth-century concerns about the challenges Britain’s growing presence in South Asia posed for the administration of justice. Nicholas Dirks, *The Scandal of Empire: India and the Creation of Imperial Britain* (Cambridge: Harvard University Press, 2006).



To inform its report, published in the summer of 1837, the committee gathered material from an imperial network of humanitarian interests. Though weighed in favor of accounts sent from southern Africa, witnesses included Shah Wundais, a member of “the Grape Island part of the Chippeway Indians,” Henry William Macauley who had lived in Sierra Leone for seven years as a merchant and commissary judge charged with suppressing the slave trade, and John Henry Pelley, chairman of the Hudson’s Bay Company.<sup>40</sup> Witnesses shared a common goal of encouraging indigenous peoples to become Anglophone Christians. The final report owed much to the efforts of Thomas Fowell Buxton’s family, also participants in anti-slavery work, who played a role in drafting and circulating the report. Buxton’s sister-in-law, Anna Gurney, wrote and edited substantial portions of the final document. Though her membership in the minority privileged her entry to elite circles, Gurney’s contributions reveal the broader framework of intellectual and political production accompanying humanitarian action in the years following abolition. The involvement of family members and dispersed networks of informants is a reminder that humanitarian concern operated both across and beyond official political structures.<sup>41</sup>

In its findings, the Select Committee referred to a broad chronology of precedents, ranging from Charles II’s Council of Foreign Plantations (convened in 1670) to a 1834 address from the House of Commons to William IV, which re-iterated “the duty of acting upon the principles of justice and humanity in the intercourse and relations of this country with the native inhabitants of its colonial settlements, of affording them protection of their civil rights.”<sup>42</sup>

<sup>40</sup> GBPP, 1837 (425) *Report from the Select Committee on Aborigines (British Settlement)*, Report of the Committee, 26 June 1837, 28, 32, 68.

<sup>41</sup> Laidlaw, ““Aunt Anna’s Report,”” 3.

<sup>42</sup> GBPP, 1837 (425) *Report from the Select Committee on Aborigines (British Settlement)*, Report of the Committee, 26 June 1837, 4.

Evidence from Buxton's global network of missionary contacts and witness testimony demonstrated that despite its nearly two-century history, the trajectory of settler colonization contained few success stories.<sup>43</sup> Presenting a lengthy catalogue of injustices, the report stressed the need to atone for this grim precedent. Britain had a moral imperative to ensure that future instances of colonization did not repeat the mistakes of earlier eras.<sup>44</sup>

New Zealand and other islands in the Pacific, like Tahiti, shared in this history of negative impact of European contact on indigenous peoples. The committee's report saw the unregulated European presence throughout much of the region, particularly the physical and moral threat represented by escaped convicts, as an impediment to the development of indigenous peoples. European contact had also created a demand for a curiosity trade in shrunken Māori heads taken as war prizes, had brought about instances of sexual violence or abduction, and had encouraged wasteful expenditure on alcohol. Additionally, the Select Committee's report observed further systemic harm through the usurpation of territory and property, a noticeable demographic decline, and increased destruction wrought by firearms.<sup>45</sup> A negative assessment of Māori futures marked a change from Cook's portrayals of a robust pre-contact population and raised the question of whether New Zealand's indigenous people would be able to survive unregulated violence.

In the eyes of the committee, the mobility and fluidity of the region's maritime traffic made the South Seas particularly vulnerable to negative moral influences. An abundance of islands and the resultant disaggregated form of indigenous governance provided numerous

<sup>43</sup> Ralph Crane, Anna Johnston, and C. Vijayasree, eds., *Empire Calling: Administering Colonial Australia and India* (Bengaluru: Foundation Books, 2013), 8.

<sup>44</sup> Laidlaw, "'Aunt Anna's Report,'" 1.

<sup>45</sup> GBPP, 1837 (425) *Report from the Select Committee on Aborigines (British Settlement)*, Report of the Committee, 26 June 1837, 4.

opportunities for ship's captains to abduct, steal, or kill. The Committee's findings highlighted instances where Europeans had either aided Māori in internal struggles or, in the case of the ship *Elizabeth*, were complicit in the abduction and transportation of Māori for purposes of conflict and war.<sup>46</sup> The degrading impact of violence not only left individuals and local communities vulnerable but, according to the committee, discredited Europeans in the eyes of Māori, thereby impeding the latter's conversion to Christianity. If Māori, esteemed by Britons as a robust, independent, and martial people, found it difficult to resist European expansion, the committee apprehended that there was little hope for the empire's other indigenous peoples unless the government created policies designed to safeguard their interests.

In the absence of protection, the transformation of Māori society, economy, and religious practice into European forms would be impossible. The Select Committee's report reveals an understanding of Māori as capable of achieving civilization but also vulnerable to deleterious outside influences. Based on the evidence regarding exposure to European civilization, Māori seemed to lack the institutional capacity to assimilate into a British settler society without running an unacceptable risk of being defrauded, pauperized, or killed. The tension between recognizing Māori as having the potential to become like Britons, yet deeming them incapable of achieving those civilizational metrics by themselves, formed the kernel of a humanitarian perspective that placed the imperial government in a position of trusteeship.

This perspective explains how the Select Committee could be both adamantly humanitarian and also unopposed to imperial expansion. The committee did, however, assert that if colonization was to proceed, European control needed to preserve the rights of those who were brought under its administration. Concerns about labor practices also informed the report's

<sup>46</sup> GBPP, 1837 (425) *Report from the Select Committee on Aborigines (British Settlement)*, Report of the Committee, 26 June 1837, 16-17.

emphasis that British policy should not tolerate any “scheme which implies violence or fraud[,] that it will not longer subject itself to the guild of conniving oppression [i.e. slavery], and that it will take upon itself the task of defending those who are too weak and too ignorant to defend themselves.”<sup>47</sup> The specter of slavery would not be allowed to return in the guise of British colonization. Colonization, therefore, could be a boon for indigenous peoples if British administration secured Māori rights over person, property, and contract threatened by the absence of legal institutions and infrastructures.

The committee’s report expressed an understanding of rights and humanitarian action as a type of trusteeship. The legitimacy of this trusteeship derived from what the committee articulated as Britain’s ability both to confer upon native New Zealanders the benefit of Christian civilization and to provide structures protection them from European “encroachments” on the other.<sup>48</sup> The power imbalance between Māori and European created a disparity that called upon the British people as “a new and irresistible appeal to our compassionate protection.”<sup>49</sup> Consequently, the committee’s recommendations for humanitarian intervention in New Zealand took two forms, one a set of recommendations advocating for the limitation and structuring of European power and the other a focus on means and mechanisms for elevating Māori.

Humanitarian intervention, as conceptualized by the Committee, required weighing the impact of transgressing the sovereignty of New Zealanders on the one hand against the protective apparatus that British rule could provide on the other. The committee thought that settler populations were, at best, unsuited or, at worst, incapable of balancing their interests with those of the indigenous population. By virtue of “having either disputes to adjust with the native tribes,

<sup>47</sup> GBPP, 1837 (425) *Report from the Select Committee on Aborigines (British Settlement)*, Report of the Committee, 26 June 1837, 76.

<sup>48</sup> *Ibid.*, 3.

<sup>49</sup> *Ibid.*, 2.

or claims to urge against them, the representative body is virtually a party, and therefore ought not to be the judge in such controversies.”<sup>50</sup> As a consequence, the committee recommended that control over indigenous affairs should remain in the hands of the colonial executive. A governor appointed by London could administer the colony without an immediate personal interest and with the benefit of expertise gained in other colonial settings. The combination of reporting to the imperial government rather than to the government of the colony, along with a more detached perspective, would allow an appointed governor to mediate between settler and indigenous interests.

The Select Committee’s recommendations also included a slate of proposals regulating the political economy of a colony. To protect against labor abuses, they suggested limiting the length of labor contracts to twelve months, ensuring that contracts would be signed in the presence of a government officer. Other policies advocated for stronger regulation of the alienation and annexation of new territories, underscored the necessity of providing education to aboriginal peoples, and advocated the appointment of consular agents with visiting naval ships, who could authorize the immediate infliction of punishment, “especially of the punishment of removal from the island.”<sup>51</sup> The committee was also skeptical of treaties, as such agreements had often acted as “apologies for disputes” rather than any “securities for peace.”<sup>52</sup> The committee’s interventions focused on establishing a legal apparatus within a British settlement that would insulate aboriginal populations from being defrauded, would provide a counterweight to the acquisitive impulses of local European populations, and also provide a means through which violations of the law could be punished. Established governance, rather than “the most degrading

<sup>50</sup> GBPP, 1837 (425) *Report from the Select Committee on Aborigines (British Settlement)*, Report of the Committee, 26 June 1837, 77.

<sup>51</sup> *Ibid.*, 85.

<sup>52</sup> *Ibid.*, 78-80.

and intolerable of all forms of tyranny, that, namely, of brigands triumphing, by mere audacity, over every restraint of morality and law” would ensure the success of the empire’s indigenous peoples.<sup>53</sup>

The Select Committee expressed confidence not only in the potential of Māori but also that the rights that needed to be preserved formed part of the “righteous and the profitable laws of justice.”<sup>54</sup> The committee’s report “native inhabitants of any land have an incontrovertible right to their own soil: a plain and sacred right” was not one universally shared by Europeans already living in New Zealand.<sup>55</sup> The future envisioned by the committee was one that would establish the legal structures and institutions through which rights could be asserted and affirmed. Only after structures of humanitarian governance were in place could Māori be able to take full advantage of the fruits of European civilization along the Christian lines favored by the committee.

The committee deemed that it was irresponsible of Britain to leave New Zealand to a state of nature as the runaway convicts, sailors, whalers, and traders “frequently act in the most reckless and immoral manner when at a distance from the restraints of justice.”<sup>56</sup> The absence of governance allowed all kinds of villainous acts, murder, and abduction, for which the remedy was a system of reliable, responsible government.

After presenting a decidedly negative view of the political and social conditions prevailing in New Zealand and outlining their recommendations, the committee stopped short of advocating annexation. Not prepared to countenance the annexation of a people about whom

<sup>53</sup> GBPP, 1837 (425) *Report from the Select Committee on Aborigines (British Settlement)*, Report of the Committee, 26 June 1837, 85.

<sup>54</sup> *Ibid.*, 4.

<sup>55</sup> *Ibid.*, 5.

<sup>56</sup> *Ibid.*, 14.

they felt they still knew little, the Select Committee deprecated any further plan to interfere with the internal affairs of New Zealand and the South Sea Islands.<sup>57</sup> The committee's attempts to protect aboriginal populations and to establish protocols to ensure cooperation between indigenous and immigrant – the moral dilemma at the center of humanitarian governance in a settler-colonial context – vested authority in the Crown but remained silent about how the Crown would acquire land for emigrating British settlers.<sup>58</sup>

One of the committee's recommendations that was adopted in New Zealand was a system of government-appointed protectors of aborigines. These officers represented a concrete effort toward the "institutionalization of humanitarian ideas directly within the apparatus of the state" and the implementation of protectorates, first in South Australia and Honduras, and later, in New Zealand, which formed "the only specific governmental attempt to render colonization humane from the very start."<sup>59</sup> Protectors formed part of the New Zealand Company's plan to annex the islands, but the Select Committee's articulation of New Zealand as a place of moral, political, and economic hazard was not universally accepted. One voice of opposition, articulated most clearly by the New Zealand Company, proposed a different form of intervention. Instead of isolation or carefully administered regulation, the New Zealand Company proposed a system of native reserves, protectors of aborigines, and Māori participation in the colonial economy as forms of protection.

<sup>57</sup> GBPP, 1837 (425) *Report from the Select Committee on Aborigines (British Settlement)*, Report of the Committee, 26 June 1837, 86.

<sup>58</sup> Elizabeth Elbourne, "Indigenous Peoples and Imperial Networks in the Early 19th Century: The Politics of Knowledge," in *Rediscovering the British World*, ed. Phillip Buckner and R. Douglas Francis (Calgary: University of Calgary Press, 2005), 60; Harris, *Making Native Space*, 10.

<sup>59</sup> Skinner and Lester, "Humanitarianism and Empire," 734.

### *The New Zealand Company*

Though the Select Committee's report declined to individually name any entities threatening aboriginal populations, members may well have been thinking of the New Zealand Association when they prevaricated about extending Britain's rule in the South Pacific. Organized in 1837, though inheriting most of its leadership from an earlier organization called the New Zealand Company established in 1825, the New Zealand Association was one of several European entities investigating establishing a colonial presence in the islands.<sup>60</sup> After failing to gain Parliamentary sanction for their plan to begin a settlement, the New Zealand Association disbanded and reformed as a joint-stock enterprise called the New Zealand Colonialization Company. The company took shape over the summer of 1838 with the goal of purchasing land and establishing a British settlement in New Zealand. The publications of the Association and the Company reflected a shared understanding of Māori as capable economic actors whose future and security would be assured through mediated participation in the colonial economy.<sup>61</sup>

Edward Gibbon Wakefield, the company's leading intellectual light, endorsed an understanding of colonial political economy based on a "sufficient price" for land and the reproduction of English social hierarchies overseas. The central theory of what was known as Wakefieldian colonization postulated that the distribution of land in colonial settings needed to be restricted in such a way as to ensure that settlers were not too widely dispersed. While "capitalists" could immediately purchase land, those of modest means would emigrate as laborers for the capitalist class and only slowly build up enough savings to allow them to become landholders. Proceeds from the sale of land would underwrite costs of poor emigrants to the

<sup>60</sup> Peter Tremewan, *French Akaroa: An Attempt to Colonise Southern New Zealand* (Christchurch: University of Canterbury Press, 1990); Peter Adams, *Fatal Necessity: British Intervention in New Zealand, 1830-1847* (Auckland: Auckland University Press, 1977), 252.

<sup>61</sup> Rebecca Durrer, "Propagating the New Zealand Ideal," *The Social Science Journal* 43, no. 1 (2006): 173–83.



colonies. Wakefield intended for his system to make colonies financially independent while achieving a social purpose by managing the ratio of land and labor in a way that ensured colonial proprietors would have access to affordable labor. The NZC thought that in New Zealand, unlike in Wakefield's settlement in South Australia, Māori could join immigrant British settlers as a possible source of labor. The indigenous aristocracy might be potential allies in establishing the company's vision of what colonial society could be.

In 1838, the New Zealand Association, the Company's predecessor, had sought Parliamentary sanction for its colonizing efforts. Leading this effort in the House of Commons was Francis Baring, MP for Portsmouth and scion of the eponymous merchant banking family. Baring would later join the board of directors of the New Zealand Company. The proposal stipulated "that all persons of the native race ... shall, without any condition of naturalization or otherwise, be entitled to and enjoy all the rights, privileges, exemptions and immunities of British subjects therein."<sup>62</sup> The Association's governing documents also called for system of Native Protectors, who would oversee interactions and commercial transaction between European colonists and Māori, though the terms of protection were only cursorily discussed. In a vote on 20 June 1838, the bill was defeated by a vote of 92 to 32. William Gladstone summarized the negative view of the House of Commons with the observation that while it was well and good to speak of extending the rights of British subjects to Māori, the structures proposed by the Association for enforcing rights were thin, giving too much leeway to the

<sup>62</sup> GBPP 1837-38 (443) *A Bill for the Provisional Government of British Settlements in the Islands of New Zealand*, Article 12, 1 June 1838, 6.

Association.<sup>63</sup> Furthermore, annexation was, in Gladstone's mind, the prerogative of the government and should not be exercised by a capitalist enterprise.

Despite the negative vote, a majority of parliamentarians agreed with the need for more robust government structures in New Zealand than those provided by local missionaries-qua-magistrates, the efforts of the British Resident in the Bay of Islands, or the passing crews of the Royal Navy. The vague details in the plan put forward by the New Zealand Association about what form protection would take were compounded by a lack of "evidence that the chiefs of New Zealand had parted with any of their rights of sovereignty."<sup>64</sup> Parliamentarians were hesitant about transgressing territorial rights and endorsing a rushed and unwelcomed extension of British authority. In 1838, Parliament, like the Select Committee on Aborigines, which had wrapped up its work the previous year, remained unwilling to sanction efforts to make New Zealand into an official colony. This finding was based on an assessment of Māori as capable of exercising their individual liberties and their sovereign rights over their territory.

It was this negative vote, denying a charter to the New Zealand Association, that caused the NZA to reform as the New Zealand Company. Undeterred by the absence of a charter, in August of 1839, the NZC dispatched a ship, the *Tory*, to New Zealand under the command of Colonel William Wakefield. The Company argued that their land purchases were akin to those made by mission societies, who had acquired land in the Bay of Islands without government sanction. Colonel Wakefield, a younger brother of Edward Gibbon Wakefield, sailed to New Zealand with instructions to purchase thousands of acres of land around the Cook Strait. That the company's venture was not affirmatively sanctioned by the British government did not deter the

<sup>63</sup> United Kingdom, *Hansard Parliamentary Debates*, 3<sup>rd</sup> Series, Volume 43, Vict. 1, Column 874, House of Commons, June 20 1838.

<sup>64</sup> *Ibid.*

NZC; they intended to purchase land from Māori and establish a colony concurrently with efforts to legitimize their venture.

In Wakefieldian fashion, there was an unsanctioned underlying theory about how the colony would develop. The NZC proposed that commissioners acting on the company's behalf would purchase land from Māori and upon the cession of sovereignty would convert the lands into British territory "to be governed by British law, making, however, exceptional regulations, in favour of the natives, to protect them from their own ignorance and to promote their moral and social improvement."<sup>65</sup> If the British Parliament was reticent to impinge upon Māori sovereignty, the directors of the NZC described their own goal as bringing order to the islands. By establishing British law, with slight modifications, they would create the required framework for improving Māori society.

The directors conceptualized Māori as independent agents capable of signing contracts and understanding the sale and transfer of land but also as in a position of dependence because they were unaccustomed to European legal formalities. A limited understanding of European governance meant that Māori, in the eyes of the NZC, could not be fully autonomous agents within the Company's vision of colonial society.<sup>66</sup> The Company recognized Māori interest in the land by offering to purchase it rather than simply take it, as had been the case with the British occupation of Australia. Having legitimized the acquisition of land through purchase, the Company anticipated serving as a custodian over land reserved for Māori while encouraging indigenous adoption of European customs. Thus, the flexible approach of the NZC vis-à-vis the rights of Māori allowed the company to profess an adherence to the law while setting the

<sup>65</sup> New Zealand Company, "First Report of the Directors," in *Supplementary Information Relative to New Zealand* (London: J. W. Parker, 1840), 165.

<sup>66</sup> New Zealand Company, 165.

groundwork for a paternalist approach to humanitarian governance with Māori positioned as the beneficiaries of corporate largess.

Wakefield took pains to persuade the Colonial Office and the newly formed Aborigines' Protection Society that a positive relationship would develop between Māori and settlers. The NZC undertaking would not replicate the grim precedents of Australian settlement.<sup>67</sup> Invoking the long history of British humanitarianism, the NZC expressed confidence that their plan for colonization would “shield the natives effectually against injury and wrong, [but] it remained in the power of any foreign state to pursue a contrary policy.”<sup>68</sup> In this context, the foreign threat was France. The Company used the specter of a Catholic colony finding a foothold in New Zealand to create anxiety about political and sectarian challenges to British interests in the southwest Pacific.<sup>69</sup> The Company proposed that administrative infrastructure would not only protect Māori from harm but also would establish and consolidate a British presence in the area.

The centerpiece of the NZC's proposals for Māori protection was a system of reserves designated for the benefit of Māori who sold land to the Company. One-tenth of the land the Company surveyed for settlement was to be set aside as native reserves “in trust for the future benefit of the chief families of the ceding tribes.”<sup>70</sup> Like the Company's scheme for European settlers, the reserve system was to serve simultaneous social and economic purposes. The Company's prospectus conceptualized these “Native Tenths” as accruing value by being in the vicinity of European settlements. With time, proximity to European towns would not only render the land more economically valuable but, by being interspersed with settler allotments, was also

<sup>67</sup> Smits, “John Stuart Mill on the Antipodes,” 46; Adams, *Fatal Necessity*.

<sup>68</sup> New Zealand Company, “Supplementary Information Relative to New Zealand,” 181.

<sup>69</sup> New Zealand Company, 181.

<sup>70</sup> GBPP, 1844 (556) *Report from the Select Committee on New Zealand*, Instructions from the Directors of the Company to Edmund Halswell, 10 October 1840, Appendix 668.

geared toward the social improvement of a Māori elite who would spend time occupying some of the reserve lots as residents. This plan ran counter to the Parliamentary committee's vision for indigenous protection, which saw most commercial contact between indigenous and settler communities as deleterious. Instead, the Company's proposals opened the door to integration, at least by a local elite whom the company perceived as able to mediate the impact of European colonization.

The principal danger that colonization posed to indigenous peoples, the directors wrote, was that of "finding themselves entirely without landed property, and therefore without consideration, in the midst of a society where, through immigration and settlement, land has become a valuable property."<sup>71</sup> With the assistance of Nayti, a Ngāti Awa who had lived in the UK for a number of years and was now travelling with the Company, Colonel Wakefield was instructed to present European settlement as a net boon for Māori living where purchases were made. When negotiating purchase offers Nayti and Wakefield were to emphasize that since land set aside for the sellers' benefit would increase in value with further arrivals. In contrast to the "common practice as to Indian reserves in North America, whereby settlement is impeded, and the savages are encouraged to continue savage, living apart from the civilized community" Māori living in proximity to Company settlements would benefit from proximity into colonial society.<sup>72</sup>

Securing land to Māori would preserve not only their population base and potential as a labor supply, but, by limiting the reserves to elite Māori families, would compel the bulk of Māori to work as laborers rather than benefitting from the proceeds of land located within the settlements. Rights in land, assigned to chiefly strata, would ensure the continuation of a graded social hierarchy. Having "property in land intermixed with the property of civilized and

<sup>71</sup> New Zealand Company, "Supplementary Information Relative to New Zealand," 119.

<sup>72</sup> New Zealand Company, 120.

industrious settlers,” claimed the NZC, “... [traditional authorities] will thus possess the means, and an essential means, of preserving in the midst of a civilized community, the same degree of relative consideration and superiority as they now enjoy in their own tribe.”<sup>73</sup> Humanitarian governance, in the eyes of the Company, required the maintenance of indigenous hierarchies. These would preserve the social and economic gradations that Wakefield so carefully planned for European settlers.

The New Zealand Company thought that Māori were capable of decision-making. This capacity included the ability to give up sovereignty. The NZC could justify the extension and establishment of British law in New Zealand as a humanitarian measure by ensuring that elite Māori maintained possession of increasingly valuable property. Economic security would ensure the continuation of social gradations while facilitating the assimilation of Māori, at least elite Māori, into a Wakefieldian society. Though the NZC affirmed the property rights of Māori in their communication with the Colonial Office, London-based bureaucrats remained wary of the legitimacy of Company purchases throughout much of the 1840s.<sup>74</sup> Reserves, however, became part of non-NZC humanitarian governance in the years following New Zealand’s annexation.

### *The Aborigines’ Protection Society*

In the aftermath of the Select Committee Report, a group of concerned individuals met to organize advocacy on behalf of the indigenous peoples of the world. The members of the Aborigines Protection Society understood that they stood at a moment of great importance in colonial history. New Zealand, in particular, held a central place in the attention of the British

<sup>73</sup> New Zealand Company, 120–21.

<sup>74</sup> Mark Hickford, “‘Vague Native Rights to Land’: British Imperial Policy on Native Title and Custom in New Zealand, 1837–53,” *The Journal of Imperial and Commonwealth History* 38, no. 2 (2010): 196.

public.<sup>75</sup> By raising awareness of the challenges faced of indigenous peoples, the APS saw itself following in the footsteps of a longer humanitarian tradition established by Britain's 1807 outlawing of the slave trade and the subsequent abolition of slavery in 1833.

Modelling its actions on the successes of the anti-slavery movement, the APS not only organized political pressure within Britain but also gathered information from a globally-dispersed network of correspondents. Unlike the anti-slavery campaigns that pre-dated the foundation of the APS, the Society was never a mass movement. Membership rolls never exceeded several hundred. Those who did join were mostly middle-class professionals and others involved in commerce and industry. As opposed to some other organizations, which benefited from aristocratic patronage, the APS could only draw upon one or two minor peers, a few bishops, and a number of baronets, former military officers, and knights.<sup>76</sup> Its subscribers were either Nonconformist or evangelical Anglican and from a political perspective, the organization tended to favor the Liberal Party.<sup>77</sup> Throughout the lifetime of the APS, general policy favored the possession of property as a guarantee of native rights and freedoms.<sup>78</sup> The real agency of the Society, however, was vested in the office of Secretary, who was responsible for scheduling meetings, organizing correspondence, and supervising the APS's network of contributors. Akin to the broad remit of anti-slavery organizing, the APS envisioned an expansive geographic scope to their activities. From the banks of the "Orinoco and the Amazon" to "the frozen dwellings of Labrador to the palmy banks of the Indus," the Society advocated intervention in support of all indigenous people displaced, disadvantaged, or degraded by colonial encounters.<sup>79</sup>

<sup>75</sup> Aborigines' Protection Society, *First Annual Report of the Aborigines' Protection Society*, 5, 20.

<sup>76</sup> Charles Swaisland, "The Aborigines Protection Society, 1837-1909," *Slavery & Abolition* 21, no. 2 (2000): 266.

<sup>77</sup> Swaisland, 266.

<sup>78</sup> Porter, "Trusteeship, Anti-Slavery, and Humanitarianism," 216.

<sup>79</sup> Aborigines' Protection Society, *First Annual Report of the Aborigines' Protection Society*, 10.

The Society used the occasion of its first anniversary in 1837 to appeal to British humanitarian sentiment and to make their case to the British Parliament for why Britain's status among nations depended on protecting Māori from the physical violence and moral degradation of British interlocutors. Thomas Fowell Buxton, who had chaired of the Select Committee on Aborigines, served as the Society's first chairman. The APS's vision of rights and protection focused on insulating Māori from the corrupting influence of Europeans. Missionaries, by virtue of strong moral character, formed the Society's favored vectors for communicating with Māori. The large number of British subjects already in New Zealand made moot the question of whether or not to intervene. For the APS, New Zealand "demand[ed] some legislative interference in the way of countrol [sic]."<sup>80</sup> The continuing violence and growing European presence on the islands required the establishment of law and order or "a new race of buccaneers will appear in the southern ocean, under whose oppressions the natives will sink, while they will make war on the commerce of mankind at large."<sup>81</sup> The evils that would result from the status quo, according to the APS, justified intervention and the transgression of Māori sovereignty.

The APS, aware of the paradox of annexation as a form of protection, hoped that Great Britain would never "exert her power to destroy the political rights of these comparatively feeble and defenseless people."<sup>82</sup> In the case of New Zealand, however, the APS felt that non-interference had gone on too long. Establishing humanitarian governance was, by 1838, an "imperative necessity."<sup>83</sup> The APS understood that Intervention was still a transgression of sovereignty; in this case, it was also the lesser of two evils. Their first annual report observed that it would "not be friendship to the Aborigines to leave them a prey to the unprincipled and

<sup>80</sup> Aborigines' Protection Society, 20.

<sup>81</sup> Aborigines' Protection Society, 21.

<sup>82</sup> Aborigines' Protection Society, 21.

<sup>83</sup> Aborigines' Protection Society, 21.



lawless, under the plea of the injustice that might be done them.”<sup>84</sup> That this urgency was motivated by the violent treatment of indigenous peoples at the hands of British subjects reflected poorly on the United Kingdom’s claim to be a force of moral authority. The progress of Māori along the scales of civilization, however, could only develop within a secure framework provided by European government. Pointing to Canada and South Africa as evidence that “with fair means of culture [indigenous peoples] can attain a rank of equality with the other races,” the APS was confident that intervention, undertaken by missionary societies and other like-minded entities attuned to moral questions, would result in the preservation, conversion, and progress of New Zealand’s indigenous peoples.<sup>85</sup>

Like the Select Committee, the APS was not anti-colonial. Instead, the grim precedent of settler colonization and the competitive and enterprising spirit that the Society saw at the center of planned colonization “cannot but effect the speedy deterioration, diminution, and final destruction of the Aborigines.”<sup>86</sup> The paradox of enhancing a people’s liberty by controlling and assimilating them to European patterns did not seem to bother the APS in its early years. By 1840, however, the British government’s decision to annex New Zealand meant that it was no longer possible to leave colonization to missionary societies. After the Treaty of Waitangi, the question the APS had to consider was how to lobby for the creation and implementation of policies and practices of colonial governance that protected Māori from the evils associated with European settlement.

<sup>84</sup> Aborigines’ Protection Society, 20-21.

<sup>85</sup> Aborigines’ Protection Society, *First Annual Report of the Aborigines’ Protection Society*, 26–27., The society mentions names like Peter Jones, John Sunday, Andrew Stoffels, Jan Tzatzoe, Waterboer, and many others were names familiar to the British public.

<sup>86</sup> Aborigines’ Protection Society, 22.

## **Conclusion: Humanitarian Governance in New Zealand**

Debate about the form and nature of the relationship between a colonial state and indigenous peoples intermingled with a perception of crisis in New Zealand. This debate contributed to recognition that the status quo in New Zealand was no longer tenable. While the Select Committee advocated for further planning and information gathering, and while the Aborigines' Protection Society echoed the moral imperative of colonial responsibility, it was the New Zealand Company's dispatch of the *Tory* that brought the question of New Zealand's annexation to a head.

The unsanctioned colonization efforts by the New Zealand Company spurred the British government into action. Marking a shift from a previous policy of non-interference, and in opposition to the arguments of the APS to limit European contact to a morally-sound few, the British government hurried to establish a colonial administration in New Zealand. With the signing of the Treaty of Waitangi in 1840, the new colonial government had to quickly develop policies that balanced isolation (the prevention of any contact between settlers and indigenous peoples), insulation (the slow or mediated process of cultural exchange), and assimilation into European society.

Partly because the NZC had presented the government with what was largely a done deal and partly because the Company had developed proposals for their colonial undertaking, a Parliamentary committee that convened in 1840 to discuss New Zealand adopted a model of indigenous protection "similar to that adopted by the New Zealand Company, [since it] would be attended with the most beneficial effects to the native race in New Zealand, and affords the best

prospect of securing to them the benefits of civilization.”<sup>87</sup> What Parliament found favorable in the Company’s plan was the creation of a class of elite Māori who, through obtaining access to reserved land, “would not only be preserved from degradation themselves, but also be able to shield the inferior order of natives from wrong and oppression. The experiment of reserving lands for the native chiefs under proper regulations, may justly be regarded as one of high importance to the interests of humanity, and one well deserving of the sanction of Parliament.”<sup>88</sup> While the vision outlined by the New Zealand Company of Māori rights secured through land tenure under the trusteeship of European colonists appealed to the reform-minded Wakefieldians, the competing ideas of humanitarian governance played out differently on the ground.

Conversations about the future of New Zealand’s indigenous peoples during the 1830s featured a range of perspectives about how to protect Māori, about the forms that protection would take, and about the ethical calculus of intervening on humanitarian grounds. A long history of British interactions with indigenous peoples provided an often-grim portrait of the consequences that European settlement had on native populations. In the 1830s, politicians, humanitarians, and corporate directors hoped they could forge a new type of relationship between colonial government and colonized peoples. In addition to British examples, contemporaries looked to the United States and referred to the policies of William Penn and the later Proclamation Line of 1763 as evidence of earlier efforts to establish a geographic separation between settler and indigenous populations.<sup>89</sup> In the early 19<sup>th</sup> century, the United States was also grappling with its own ideas of how to accommodate or exclude native populations within

<sup>87</sup> GBPP 1840 (582) *Report from the Select Committee on New Zealand*, Report of the Select Committee, 30 July 1840, ix-x.

<sup>88</sup> *Ibid.*, ix-x.

<sup>89</sup> Michael Hechter, *Internal Colonialism: The Celtic Fringe in British National Development* (New Brunswick: Transaction Publishers, 1999).

the boundaries of an emerging state, though American commentators saw the expanses of territory to the west of the Mississippi as a large frontier, something that the insular characteristics of New Zealand's geography precluded.<sup>90</sup>

One aspect of protection established at the moment of colonization derived from an understanding that Māori would eventually become part of the British colonial society and would therefore lose their identity as an indigenous people. William Brown, a member of New Zealand's Legislative Council in the 1840s, characterized Māori as having moral and intellectual "capacities ... [that] eminently fit them for amalgamating easily, at no distant period, with their civilized brethren[.]"<sup>91</sup>In the late 1830s, it was possible to envision Māori assimilating into the colonial state. Improvement and cultural adaption, however, were defined on terms favorable to the British colonists, which posited racial amalgamation as the metric for what constituted civilized society. The proposals for humanitarian governance that developed out of this approach encouraged policies, structures, and laws encouraging Māori adoption of European habits and patterns of resource production and distribution,

Using Māori labor to accelerate the colony's economic development formed another element of humanitarian governance. The anticipation that Maori could become part of a wider settler society was founded upon the idea that they had the moral and intellectual capacities to become Christian, but the temporality of that assimilation remained open to question.<sup>92</sup> Economic considerations joined moral considerations in favoring the idea of Māori working alongside immigrant European workers in order to present a possible short-cut to New Zealand's development as an agricultural economy. One account testified to Māori's industrious work ethic

<sup>90</sup> James Ronda, "'We Have a Country': Race, Geography, and the Invention of Indian Territory," *Journal of the Early Republic* 19, no. 4 (1999): 739–55.

<sup>91</sup> William Brown, *New Zealand and Its Aborigines* (London: J & D.A. Darling, 1841), 109.

<sup>92</sup> New Zealand Association, *The British Colonization of New Zealand* (London: J. W. Parker, 1837), 27.

and willingness to work for less remuneration than settlers, two important considerations for a nascent colonial state.<sup>93</sup> Investing Māori in the material success of the colonial state would not only provide an economic boost but would also be a boon to security and internal order.

<sup>93</sup> Hodgskin, *A Narrative of Eight Months' Sojourn in New Zealand, with a Description of the Habits, Customs, and Character of the Islanders*, 25.

## **Chapter 2: An Uneasy Submission**

### **The New Zealand Company and the Protectorate of Aborigines (1840 – 1846)**

In 1846, George Clarke had served as New Zealand's Chief Protector of Aborigines for six years. Official duties had taken him across the North and South Islands, involved him in consultations about policies designed to benefit Māori, and required his mediation between and among Māori and European constituencies. As the Chief Protector, Clarke embodied humanitarian governance in New Zealand. Clarke was also the inaugural holder of his office and, as such, had the responsibility to translate theories of indigenous protection into practices of colonial administration. Clarke was to be the colony's first and only Chief Protector. A new governor, George Grey, soon dismissed the Chief Protector and incorporated the functions of the Protectorate into the executive portfolio. Clarke's dismissal marked the end of a model of indigenous protection that featured a degree of distance between agents charged with safeguarding aboriginal interests and the authority of Crown's representative in New Zealand. Though Clarke had been employed by the state, his departure heralded the beginning of a closer connection between the colonial state and practices of humanitarian governance.

Grey began his appointment during a moment of crisis in New Zealand in the aftermath of the Flagstaff War (March 1845 - January 1846). Assuming office in November 1845, the new governor faced uncertainty about what position the colonial state should take regarding Māori sovereignty. The unresolved status of many pre-treaty land claims complicated government efforts to secure title to property, and a reliance on income from land sales meant New Zealand's budget was in a precarious position. The delay in establishing title to land frustrated the

implementation of humanitarian governance in the colony as government officials, settlers, and Māori debated the form and function of official interventions.

The new governor's ability to shut down the Protectorate was promulgated both by turbulence caused by financial and administrative factors as well as the successful pillorying of Clarke and the Protectorate before an 1844 Parliamentary Select Committee in London. The fusion of both local and imperial doubts concerning the forms of humanitarian governance practiced in New Zealand, of which native reserves played a key role, created an opportunity for Governor Grey to restructure the colony's native administration. In closing the Protectorate, the governor consolidated decision-making about humanitarian governance in the hands of the colonial executive.

This chapter begins in 1840 in the immediate aftermath of Britain's annexation and examines initial efforts at translating theories of Māori protection into policies of humanitarian governance. Reserves of land set aside for the benefit of Māori formed the main intervention of both the New Zealand Company and the British colonial government. Advocates of reserves did not see the full scope of social and economic transformations they hoped for, but in a more modest form the reserve system demonstrated how the colonial state implemented ideas of humanitarian governance in a settler colonial setting. Between 1840 and 1846, the sluggish pace of assigning responsibility for reserves, lingering administrative tension between the imperial government and the New Zealand Company, and the slow resolution of title and purchase agreements between Europeans and Māori meant that visions for what reserves could accomplish did not come to full fruition.

Accounting for this failure is particularly important as many contemporaries in Britain understood New Zealand's incorporation into the British Empire as a humanitarian experiment

unique in the annals of imperialism. Even opposition to annexation was often based on humanitarian – rather than financial or military – arguments expressing concern that the European colonization would be detrimental to Māori by transgressing indigenous sovereignty. The apprehended “fatal impact” of unregulated contact between Māori and European left open the possibility for British complicity in the destruction of a population; this outcome was no longer acceptable to a British nation that championed humanitarian causes like abolitionism and the welcoming of refugees. Intervention based on an assessment of the perilous situation faced by Māori in the late 1830s was central to Britain’s decision to colonize the islands. The transformation of the intentions, institutions, and agents charged with developing humanitarian governance illustrates shifts in how the colonial state implemented a moral obligation as administrative policy.

This chapter documents how the New Zealand Company and the British government established and organized native reserves as part of a program of humanitarian governance. Though geographically remote, New Zealand formed part of global circuits of information and knowledge production.<sup>1</sup> Alongside groups like the Aborigines’ Protection Society (APS) and missionary organizations like the Church Missionary Society (CMS), the imperial government was attuned to events in the colony with New Zealand forming the subject of multiple Parliamentary inquiries during the early 1840s. The chapter addresses how an epistemic community interested in New Zealand’s people, lands, and position within an imperial framework understood and interpreted humanitarian governance. Couched within a larger analysis of the practices of humanitarian governance in New Zealand, the chapter concludes with an account of what factors and events created the context in which it was politically viable – both

<sup>1</sup> Alan Lester, “Imperial Circuits and Networks: Geographies of the British Empire,” *History Compass* 4, no. 1 (2006): 124–41.



in the United Kingdom and in New Zealand – for Grey to disband the Protectorate as a signature institution of humanitarian governance.

Tension between imperial idealism and the consequences of colonial dispossession shaped humanitarian governance in New Zealand. By examining how officials implemented native reserves and other forms of humanitarian governance, this chapter engages changing perceptions of indigenous protection. In so doing, it is possible to unpack how policy makers conceived the role Māori people and Māori lands had in the colony's future. Imperial expansion was simultaneously a process of a hopeful imagined future and an instrument of the destructive and disruptive consequences of conquest. In addition to bringing sheep and sawmills, wheat and whalers, colonization also carried narratives of improvement and hopes for the future that were influenced by the Scottish Enlightenment, Malthus, and Mill.<sup>2</sup> Territorial growth formed a “way of moving forward in time; the ‘prospect’ [of settlement] that opens up is not just a spatial scene but a projected future of ‘development’ and ‘exploitation.’”<sup>3</sup> New Zealand, in other words, was a place where, under humanitarian governance, advocates saw the beginning of a new, hopeful chapter in the history of settler colonization.

Despite a humanitarian inflection, creating legal, programmatic and spatial aspects of colonial governance in New Zealand also established empire's rule of difference within a colonial setting.<sup>4</sup> For decades preceding colonization, there were few universal rules structuring the sale of New Zealand land to Europeans. Displacement within Māori communities following the Musket Wars had also resulted in multiple and overlapping claims to land that were in the

<sup>2</sup> Michael Cowen and Robert W. Shenton, *Doctrines of Development* (London: Routledge, 1996), 12–59.

<sup>3</sup> W.J.T. Mitchell, “Imperial Landscape,” in *Landscape and Power*, ed. W.J.T. Mitchell, 2nd ed. (Chicago: University of Chicago Press, 1994), 17.

<sup>4</sup> Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (Cambridge: Cambridge University Press, 2002).

process of resolution at the moment of the Treaty of Waitangi. Uncertainly over title, rather than the question of sovereignty itself (given the weakness of the colonial administration and its inability to exert a monopoly of violence), delayed confirming and issuing titles to land. Disagreement surrounding the accommodation of Māori custom vis-à-vis British law infused discussions about humanitarian governance during this era with an awareness that British laws and notions of contract and sale could not be immediately and uniformly imposed on Māori.

The two main actors in this chapter, the New Zealand Company and the Protectorate of Aborigines, each grappled with how to implement theories of humanitarian governance in the form of land reserved for Māori. Amidst a growing settler society that eagerly sought access to land, the NZC and the Protectorate discussed how to transform idea into practice as they simultaneously engaged with, reacted to, and justified their actions to Māori groups, settler constituencies, and the local and imperial governments. Within an arena that was already fraught with vexed questions of sovereignty, land ownership, the purpose of imperialism, and the degree to which Māori could or should become part of Britain's imperial experiment in New Zealand, implementing a reserve program faced substantial challenges.

### **The New Zealand Company and Humanitarian Governance**

The New Zealand Company, established in the 1830s by Edward Gibbon Wakefield, proposed New Zealand as a site for realizing a vision of systematic colonization. The Company's plan included a system of reserves designated for the benefit of Māori that – like its scheme for European settlers – was socially hierarchical. In a letter to Colonel William Hayward Wakefield, the Company's Principal Agent in Wellington and younger brother of Edward Gibbon Wakefield, the NZC Board of Directors outlined their rationale for establishing reserves. Their

instructions to Wakefield expressed a prediction that any money or goods conveyed to Māori as payment for land would be quickly spent with the result that, after a short time, New Zealand's indigenous people would be not only destitute but also landless. The NZC considered reserves of land, therefore, to be "far more important to the natives than anything [given] in the shape of purchase-money" in that the reserves would act as a continuing source of revenue for Māori.<sup>5</sup>

William Wakefield arrived in Port Nicholson in late 1839 and began negotiating land purchases with Te Āti Awa and Ngāti Toa. Between 1839 and 1843 the New Zealand Company made agreements with multiple Māori leaders. Transactions exchanged £45,000 in trade goods for roughly 20 million acres including the northern third of the South Island and a large section of the southern North Island.<sup>6</sup> The scale and legality of the Company's land claims was at odds with the clause of the Treaty of Waitangi stipulating that the Crown was the only entity legally authorized to alienate land. The discrepancy about who had authority to alienate land caused further confusion as the government and Company worked to ascertain the legality of purchase agreements.<sup>7</sup> Both the NZC and individual purchasers had entered into lease or sale agreements before annexation with the intention of later converting it into a fixed title, a practice that also held true on numerous colonial frontiers in North America, South Africa, and Australia.<sup>8</sup>

<sup>5</sup> Parliamentary Papers of Great Britain [GBPP] 1844 (556) *Select Committee on New Zealand*, Instructions from the Directors of the Company to William Wakefield, May 1839, Appendix 578.

<sup>6</sup> Peter Adams, *Fatal Necessity: British Intervention in New Zealand, 1830-1847* (Auckland: Auckland University Press, 1977), 177–87; Stuart Banner, *Possessing the Pacific: Land, Settlers, and Indigenous People from Australia to Alaska* (Cambridge: Harvard University Press, 2007), 65.

<sup>7</sup> Mark Hickford, "Decidedly the Most Interesting Savages on the Globe: An Approach to the Intellectual History of Maori Property Rights, 1837-53," *History of Political Thought* 27 (2006): 147–49; Banner, *Possessing the Pacific*, 47–83.

<sup>8</sup> Richard Boast, *Buying the Land, Selling the Land: Governments and Maori Land in the North Island 1865-1921* (Wellington: Victoria University Press, 2008), 23; Alan Grey, *Aotearoa & New Zealand: A Historical Geography* (Christchurch: Canterbury University Press, 1994), 174.

To facilitate land purchases, and also convince Port Nicholson Māori that the reserve system would be beneficial, the New Zealand Company's Board of Directors had instructed William Wakefield to rely upon Nayti, who, in addition to claiming to be the son of a Ngāti Toa chief, had also lived with Edward Gibbon Wakefield in London for two years and was returning to New Zealand as an interpreter with the Company's fleet.<sup>9</sup> With linguistic and cultural facilitation provided by Nayti, the Company anticipated it would be possible to convince local Māori that "that, after English emigration and settlement, a tenth of the land [held as reserves] w[ould] be far more valuable than the whole was before."<sup>10</sup> For his part, Nayti was to emphasize that reserves were not to be made in large blocks as had been the common practice in North America, but would rather be scattered throughout the European settlements. The Directors felt that isolating Māori on land far from European settlements precluded their assimilation into colonial society by allowing them to "continue savage."

Reserves were selected through the same ballot process by which settlers were allocated lots. Of the 1100 sections of one "town acre" and 100 "country acres," the NZC designated as native reserves. Drawn up in London on August 1<sup>st</sup> 1839, the lots a Company agent selected for native reserves ranged from numbers 7, 15 and 20 to the 1066, 1080, and 1086<sup>th</sup> selections.<sup>11</sup> Upon arrival in New Zealand, Company representatives did not consult with local Māori when selecting sites for reserves in Port Nicholson. Choosing reserves was left to Captain Smith, the Principal Surveyor to the New Zealand Company, who selected the town lots and many of the

<sup>9</sup> Peter Tremewan, "French Whalers and the Maori," in *Pacific Journeys: Essays in Honour of John Dunmore*, ed. Glynnis M. Cropp (Wellington: Victoria University Press, 2005), 145.

<sup>10</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Instructions from the Directors of the Company to Colonel Wakefield, May 1839, Appendix 578.

<sup>11</sup> Archives New Zealand [ANZ], Land Orders of Native Reserves, 1 August 1839, New Zealand Company [NZC] 33 2 8.

country lots. Actual surveying work, however, progressed slowly. Out of the 1100 parcels sold by the New Zealand Company, by January of 1844, only 475 sections (43%) had been surveyed and an even smaller percentage of native reserves with only 34 (7%) being platted.<sup>12</sup>

The NZC intended reserves to have a social purpose. The Company's plan suggested assigning reserves to the families of native chiefs or notables as a way of maintaining the graded social hierarchy of the indigenous population and "preserving," in the midst of the disruptive process of colonization and emigration, the "same degree of relative consideration and superiority" chiefs had enjoyed among their own people in the years before European contact. By stabilizing local social hierarchies, the Company's plan for Māori reserves paralleled their intention to reproduce an ordered vision of British society for the European colonists.<sup>13</sup>

To oversee and administer the Company's reserves, the Board of Directors appointed Edmund Halswell to be the Administrator of Native Reserves. Halswell received no additional remuneration for these obligations though he later received the additional waged office of local magistrate. His remit was to implement the Company's stated goal of "civiliz[ing] the native race by means of a deliberate plan."<sup>14</sup> While directors admitted the plan was "confessedly experimental" they argued it was still notable for being "the only systematic attempt ever made to improve a savage people through the medium of colonization."<sup>15</sup> The principal purpose of the 110 sections reserved for Port Nicholson Māori was to sustain, by establishing property in land, a

<sup>12</sup> ANZ, Land Office Papers, n.d. [1839], NZC 33 4 9. Land Office Papers. The reserves were scattered throughout the Port Nicholson District ranging from eight of 81 of the surveyed sections in the Lower Hutt, to one out of 34 in Horokiwi.

<sup>13</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Instructions from the Directors of the Company to William Wakefield, May 1839, Appendix 578.

<sup>14</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Instructions from the Directors of the Company to Edmund Halswell, 10 October 1840, Appendix 668.

<sup>15</sup> *Ibid.*, 668.

high relative position for native chiefs and for promoting moral and religious instruction of those elite families.

The Directors, however, knew very little about both the people whom the reserves were supposed to benefit and the geographical characteristics of the reserves themselves. Halswell was therefore requested to inquire into the reserves' "situation, quality, and natural circumstances" and describe their potential value in terms of agricultural production, timber, or mineral resources. Furthermore, Halswell was also supposed to gather anthropological information about local Māori

"distinguishing their ages and sexes, and the rank they hold in the tribes ... their habits, character and manner, and their capacity for instruction and civilization, observing their ability and disposition to labour, and what may be their qualifications for the possession or administration of property of any kind ... [and to] what extent native industry is carried on whether in agriculture or in the rude manufactures of the country."<sup>16</sup>

The administration of native peoples, in the Company's eyes, formed part of a larger effort to gather information about New Zealand's people, landscapes, and resources. Knowledge of Māori would aid the Company's assessment of how to developing a new colony's potential, both from an economic as well as a demographic angle.

Towards the end of 1841, Halswell submitted a report to the NZC Directors about the condition of the native reserves in Port Nicholson. His report accompanied census figures for the whole of New Zealand that estimated a total Māori population of 107,219 with 495 living in the immediate surroundings of Port Nicholson at the pas of Te Aro, Pipitea, and Kumototo.<sup>17</sup>

Though few of the reserved lots had been surveyed by the end of 1841, Halswell noted that one Māori, a man named Moturoa, was cultivating part of one reserve and that a Māori missionary,

<sup>16</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Instructions from the Directors of the Company to Edmund Halswell, 10 October 1840, Appendix 668.

<sup>17</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Edmund Halswell to the Secretary of the New Zealand Company, 11 November 1841, Appendix 670.

Thomas Davis, who lived at Pipitea pa, was building a twelve-ton vessel with which to participate in coastal trading of grain and potatoes.

Overall, however, Edward Campbell, the government surveyor, expressed the opinion, one confirmed by the colony's land commissioner William Spain, that native reserves which had been drawn by lot were generally so distant from Māori settlements, themselves not part of the reserve allotments, as to be of little value to Māori for cultivation or settlement.<sup>18</sup> The combination of a delay in surveying, remote position, and scattered distribution made immediate utilization of reserve lots difficult. Intended to appreciate in value as the Wellington settlement expanded, reserve lots were unable to provide an immediate and ready source of income either for Māori directly or indirectly through other programs of humanitarian governance.

Instead of land, Halswell observed that the great want of local Māori appeared to be medical care. He based his assessment of the poor health of Māori, who experienced a high level of pulmonary complaints, on the poorly-ventilated huts characteristic of indigenous domestic architecture.<sup>19</sup> Though both Halswell and others praised the sobriety of Port Nicholson Māori, a high rate of infant mortality, widespread tobacco use, and what was perceived as a poor diet of steeped, almost fermented maize, caused European health practitioners to worry about the long-term health of the community.<sup>20</sup> Medical efforts included providing smallpox vaccines for fifteen children at Te Aro, a process that only went forward after Halswell himself was inoculated as an example to Māori who were observing the procedure. Persuading Māori about the effectiveness

<sup>18</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Vernon Smith to the Reverend John Beecham, 11 July 1841, Appendix 294.

<sup>19</sup> "Raupo Houses Ordinance," 3 March 1842, 5 Vict., c17 (New Zealand) imposed a tax upon the use of raupo, a type of reed, as a fire-prevention measure.

<sup>20</sup> GBPP 1844 (556) *Select Committee on New Zealand*, George Clarke Jr. George Clark, 13 December 1842, Appendix 123-4.

of European medical care required some proof. In 1841 official of the New Zealand Company could not compel Māori to receive treatment. The power of visible medical treatment was persuasive. A successful amputation on a man named E Toko who had lost his lower arm in a musket accident increased the Company's standing among Māori.<sup>21</sup> Medical procedures and the clear and immediate results of successful treatment constituted a compelling reason for Māori to participate and engage with the Company.

The NZC's negative assessment of Māori physical health was tempered by the potential use of Māori labor in the colony. Though he critiqued Māori for having a short attention span and being "capricious," Halswell noted that in the two years since the establishment of the settlement at Wellington, Māori had undertaken labor worth £30,000. To best deploy the "admirable eagerness for information and improvement," he identified in a report to the NZC directors that "nothing short of breaking up the paha [sic] and locating their inhabitants in decent huts, in small villages on their own reserves, and by degrees associating them with the white population, will render them generally fit companions for any, even the lowest of the settlers."<sup>22</sup> This assessment, applied to the majority of Māori, rather than the chiefly elite, articulates a sense of protection based upon the reformation of Māori living conditions and a gradual integration into local European practices of political economy as individuals and across all classes. In the early 1840s, however, the NZC was unable to compel the demographic dispersion of Māori. Even a fire that destroyed half of the Te Aro pa did not prompt Māori to move to reserved lots.<sup>23</sup>

<sup>21</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Edmund Halswell to the Secretary of the Company, 11 November 1841, Appendix 672.

<sup>22</sup> *Ibid.*, 673.

<sup>23</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Edmund Halswell to the Secretary of the Company, 10 February 1842, Appendix 676.



Māori reticence may have also been due to disputes between William Wakefield, the colonial government, and local Māori about whether or not the initial purchase agreements made in 1840 had indeed included the sites of the three Wellington pas. Claiming that they had in fact not sold the sites of their residences, cultivations, and burial grounds, the refusal of Māori to move illustrates that they were unconvinced by the promises made by Halswell even as they adapted and engaged settler society.

If the implementation of NZC ideals for the reserves was frustrated by an uncertainty of title, limited budget, and Māori skepticism about their value and legitimacy, an equally frustrated and limited operational structure was apparent in the reserve policy of the nascent colonial government. In late 1840, Halswell had received instructions to cordially co-operate with and aid officers of the Government who were involved with “protecting the New Zealanders of the native race.”<sup>24</sup> As the Company established its system of reserve administration, so too, if belatedly, did the colonial government begin the task of establishing its own priorities and plans for native administration in areas of European settlement.

### **The Protectorate of Aborigines and Humanitarian Governance**

William Hobson, the first Governor of New Zealand, like his NZC counterpart William Wakefield, arrived with a slate of responsibilities and an agenda outlined by London. Lord Russell, the Secretary of State for the Colonies, had instructed Hobson to take seriously the findings of the 1837 Select Committee regarding colonization’s deleterious effects on aboriginal populations. Russell encouraged the colonial government to be ambitious with its operations to prevent the fatal decline of Māori populations and “leave no rational experiment for the

<sup>24</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Instructions from the Directors of the Company to Edmund Halswell, 10 October 1840, Appendix 668.

prevention of it unattempted.”<sup>25</sup> New Zealand provide a laboratory space for implementing theories of humanitarian governance.

The Colonial Office stipulated that the government’s interventions in aboriginal affairs be conducted with a spirit of ecumenical cooperation. This approach recognized the decades-long presence of Anglican, Methodist, and Catholic missionaries in New Zealand and the multiplicity of agents capable of facilitating interactions between settler and indigenous communities. In its initial form, Russell instructed Hobson to focus humanitarian interventions on religious instruction, the protection of persons and property, the enactment and enforcement of laws, and the encouragement of education, particularly that of Māori youth.<sup>26</sup> These priorities stemmed from the concern expressed by organizations like the Aborigines’ Protection Society who favored creating morally-attuned order out of the violent chaos of the 1830s.

To administer to the legal and educational progress of Māori, Lord Russell directed Hobson to establish a Protectorate of Aborigines. The office would dispense advice and also advocate in “whatever concerned more immediately the rights and interests of the natives.”<sup>27</sup> To carry out his tasks, the Protectorate would retain proper legal counsel, have access to a court of criminal justice, and be empowered with authority for summary jurisdiction for “arbitrating on all questions controverted[sic] between the native and the European settlers.”<sup>28</sup> Government infrastructure, in this case the judicial system, would mediate between communities and facilitate the success of humanitarian governance.

<sup>25</sup> GBPP 1841 Session 1 (311), *Correspondence Relative to New Zealand*, Lord Russell to Governor Hobson, 9 December 1840, 27.

<sup>26</sup> *Ibid.*, 27-28.

<sup>27</sup> *Ibid.*, 27-28.

<sup>28</sup> *Ibid.*, 27.

To fill the role of Protector of Aborigines, Governor Hobson selected George Clarke. Clarke's appointment, with a yearly wage of £450, was approved in April of 1840 and the governor informed him that his duties as Chief Protector would be analogous to some of the work he was already undertaking as a lay missionary for the CMS. Hobson also noted that the new office would require travel into the interior to negotiate land purchases and inquired whether or not that task would be consistent with his employment by a missionary society.<sup>29</sup> The local CMS committee released Clarke from his commitments to the organization and took the opportunity to express their "deep interest in the welfare of the aborigines of this land and the prosperity of Her Majesty's Government[.]"<sup>30</sup> Clarke's appointment, however, still had to be confirmed by the Colonial Secretary in London, and in a letter from the CMS Secretary to Lord Russell, Clarke's sixteen years of experience in New Zealand, and ability to speak Māori were highlighted as contributing to his competency.

The CMS hoped Clarke would be a valuable asset as the government developed "a scheme of colonization under which the existence of the Aborigines may be persevered, and their legitimate rights and highest interests may be secured and promoted."<sup>31</sup> The Colonial Secretary confirmed Clarke's appointment, but the ambiguity of his situation, as both advocate of and purchaser of land from Māori, and vulnerability to accusations of having divided loyalties to the government or the CMS would remain lingering concerns that made Clarke vulnerable to criticism from his enemies.

<sup>29</sup> The National Archives [TNA], Governor William Hobson to George Clarke, 4 April 1840, enclosed in Despatch 2177 from Dandeson Coates to Lord John Russell, CO 209/8.

<sup>30</sup> ANZ, Church Missionary Society to Governor William Hobson, 14 April 1840, Internal Affairs [IA]1 2 1840/107.

<sup>31</sup> TNA, Governor William Hobson to George Clarke, 4 April 1840, enclosed in Despatch 2177 from Dandeson Coates to Lord John Russell, CO 209/8.

The Protectorate of Aborigines, initially solely staffed by Clarke, was gradually expanded to provide for more Protectors in other areas of the North Island. George Clarke Jr., the 19-year-old son of George Clarke, was appointed in January 1842 to administer the southern North Island around Port Nicholson and site of the main NZC settlement, Henry Kemp travelled to the district north of Auckland in October of 1842, and John Campbell traveled to Taranaki in July of 1843.<sup>32</sup> These areas represented some of the densest concentrations of Māori population and all would eventually experience moments of armed violence between settler and indigenous populations.

Like efforts to implement humanitarian governance undertaken by the NZC, so too did the colonial state need to gain approval among Māori communities in order for its policies to be effective. The Protectorate's official remit called for bringing a stop to "violations of the eternal and universal laws of morality,"<sup>33</sup> which British observers often defined as cannibalism, human sacrifice, and infanticide. The duties of the protector thus covered both the role of legal advisor and that of cultural ameliorator. In 1841, Lord Russell encouraged protectors to act as "the advocate or attorney *ex officio* for the natives in all suits."<sup>34</sup> Advocacy and cultural change, however, needed to proceed carefully. Reflecting the limited coercive power of the settler state relative to Māori, the protector was urged to evaluate what customs might be overcome through instruction rather than coercion. Lacking the capacity to establish a ban on indigenous customs considered deleterious by the British government, the Protectorate had to rely on a campaign of suasion rather than compulsion.

<sup>32</sup> *New Zealand Gazette*, 19 January 1842, October 26 1842, July 12 1843.

<sup>33</sup> GBPP 1841 Session 1 (311), *Correspondence Relative to New Zealand*, Lord Russell to Governor William Hobson, 9 December 1840, 27-28.

<sup>34</sup> GBPP 1841 Session 1 (311), *Correspondence Relative to New Zealand*, Lord Russell to Governor William Hobson, 28 January 1841, 51.

The ability to evaluate customs and practices of Māori to determine indigenous amenability to change depended upon the protectors becoming familiar with local communities. Like the instructions sent to the NZC, gathering information was explicitly part of the program and portfolio of protectors of aborigines. To communicate their findings, the governor directed protectors to submit a semi-annual report that would “embrace with the utmost possible exactness every topic connected with the increase or decrease of the number, the social and political condition, the education, and the intellectual, moral and religious improvement of the objects of his care.”<sup>35</sup> Like the NZC’s interest in building a repertoire of knowledge, developing institutions of humanitarian governance recognized a distinct need for information gathering as part of the raw material on which experiments of governance could be based. The two key areas of experimentation undertaken by the colonial government were resolving questions about sovereignty and land ownership, and the degree to which Māori should be subject to, or exempted from, British law.

Following his arrival in New Zealand, Governor Hobson had not immediately implemented a program of reserved land for Māori. Unlike directives sent to representatives of the New Zealand Company, initial instructions about humanitarian governance received by government officials conceptualized establishing reserves as a gradual process that worked in tandem with land sales. Since the Crown had asserted an exclusive prerogative to purchase and sell land acquired from Māori in the Treaty of Waitangi (though Governor FitzRoy waived this right at times), government officials would mark out reserves within each block or parcel of land as part of the process of purchasing, surveyors, and selling.

<sup>35</sup> GBPP 1841 Session 1 (311), *Correspondence Relative to New Zealand*, Lord Russell to Governor William Hobson, 28 January 1841, 51.

To identify which Māori exercised ownership over particular areas, and operating with the exhortations of the imperial government for colonial officials to gather as much information as possible, in January 1841 the London government directed Hobson to conduct a survey of Māori land with all “practicable and necessary precision.”<sup>36</sup> Like the experience of the New Zealand Company in settling purchase claims around Port Nicholson, establishing title and ownership complicated the colonial state’s effort to establish territorially-based practices of humanitarian government. While hospitals, education, and legal reform could overlay existing patterns of territorial ownership, designating land as a reserve – and for whose benefit – was more complicated.

In a movement that caused some to question the capability of the Protectorate to advocate for Māori, the Lord Russell outlined a system linking the state’s income to the amount of land that could be acquired from Māori. Russell advised that between 15 and 20 percent of the sale price of land purchased from Māori and then sold on to settlers would constitute a fund for “defraying the charge of the protector’s establishment” and costs authorized by the “protector, the governor and executive council ... for promoting the health, civilization, education and spiritual care of the natives.”<sup>37</sup> Russell placed a high priority on retaining Māori villages, agricultural plots, and burial grounds and informed Hobson that such areas should be inalienable even on the authority of the local government. A directive to maintain Māori villages caused conflict with the representatives of the New Zealand Company. In Port Nicholson, Company representatives asserted that their purchases of land in Port Nicholson included the valuable waterfront land occupied by the three Māori villages.

<sup>36</sup> GBPP 1841 Session 1 (311), *Correspondence Relative to New Zealand*, Lord Russell to Governor William Hobson, 28 January 1841, 51.

<sup>37</sup> *Ibid.*, 52.

Linking state revenue to the purchase and resale of Māori land to settlers raised a thorny ethical quandary for the Protectorate. Acquiring Māori land was supposed to sustain the humanitarian and civil operations of the government. While land purchases fluctuated over the 1840s as a proportion of government income, the dual role of the Protectorate as both an advocate for Māori and a key player in negotiating land purchase agreements with Māori land left the Protectorate vulnerable to accusations of favoritism toward particular iwi or hapu. As part of the apparatus of acquiring land, the Protectorate occupied the doubly delicate position as both a facilitator of the transfer of land to the colonial state and holding responsibility for mitigating the consequences of such sales.

Though the government had yet to adopt and designate its own system of reserves, the colonial state did move, by late 1841, to regulate the administration of the New Zealand Company's native reserves at Port Nicholson and Nelson. Retaining Halswell as an agent, the government sought to establish a procedure for generating revenue from the reserved land. Now, Halswell was in the position of answering to both the colonial government and the New Zealand Company. Halswell received instructions from the government regarding the management of native reserves that stipulated that, after advertising in the *Government Gazette*, the official newspaper of the colonial government, and in local papers at least a month ahead of time, native reserves could be leased for periods of not more than seven years. Rent was to be paid quarterly and include an advance of ten percent on the first year. Any proceeds realized from the reserves were to support "education and religious instruction of the natives."<sup>38</sup> These measures included fencing the lots of reserved sections, enlarging the native churches at the villages of Te Aro and

<sup>38</sup> George Clarke to Edmund Halswell, 28 September 1841, H. Hanson Turton, *An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand* (Wellington: George Didsbury, 1883), Section D: Native Reserves, 3.

Pipitea, providing a small salary for both a European teacher and a “Native” instructor, and disbursing funds for a dispensary, medical advice, and other assistance for the sick. It took until April 2, 1842 for the first lease to be signed. Until rental income began to accumulate, Halswell regretted that he was without any means of “promoting the moral improvement” of the Māori.<sup>39</sup> The delay in implementing a systematic approach to renting reserves illustrates how a multiplicity of agents and institutions slowed the development of humanitarian governance.

Opportunity for leasing reserves was further curtailed three weeks later when Halswell received notification from Auckland that due to the establishment of a Land Commissioners Court in Port Nicholson, which was instructed to investigate contested claims to land, “no contracts should be entered into with reference to any native reserve” under a doubtful title.<sup>40</sup> The seven-year limit on leases was also a source of contention. Critics noted it limited demand for leases as possible tenants were wary of clearing the land or building a permanent structure when faced with the prospect of losing the value of their improvements at the expiry of the lease. In the absence of revenue from land sales or leases, Halswell nevertheless continued to survey, stake-out, and fence reserved lots and receive one-eighth of any timber sawn from trees on the property. While it does not appear that the native reserve fund received money for the timber itself, the processed wood was intended for use by Māori in building projects.<sup>41</sup>

By mid-1842, native reserves in Port Nicholson were still not fulfilling their intended function as a source of income for Māori or as a site for dispersing the indigenous population

<sup>39</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Halswell to Secretary of the Company, February 2 1842. The lease was for Barret’s Hotel for the sum of £54.9.0. H. Hanson Turton, *Maori Deeds of Land Purchase in the North Island of New Zealand*, vol. 2 (Wellington: George Didsbury, 1878) 97-98.

<sup>40</sup> GBPP 1844 (556) *Select Committee on New Zealand*, J. A. Stuart Freeman to Edmund Halswell, April 23 1842, Appendix 681.

<sup>41</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Edmund Halswell to Colonel William Wakefield, June 4 1842, Appendix 678.



among European settlers. Halswell lamented that “the native reserves should still remain for the most part unprofitable, when so much good might be accomplished.”<sup>42</sup> Among the reasons for this delay was continuing uncertainty about which Māori group had sold land to the New Zealand Company. Concern from prospective tenants about taking a lease with an uncertain title, meant not only diminished demand from Europeans but also that Port Nicholson Māori were reluctant to move onto reserved land that “other natives have occupied or might occupy.”<sup>43</sup> Disputes over title and sale did not simply complicate issues of landholding. Because the model of funding humanitarian governance for Māori was dependent upon a stream of revenue from land sales and leaseholds, uncertainty about title meant reserves were unable to generate funds for causes benefitting Māori that would encourage their participation and assimilation into colonial society.

The New Zealand Company reserve system pre-dated the establishment of the Protectorate and initially operated as a separate, Company-administered entity though adhering to regulations outlined by the colonial government. In June 1842, the Colonial Secretary in Auckland wrote to the Company “that by a recent arrangement, the trusteeship of all native reserves in New Zealand [would vest] in the Right Reverend the Lord Bishop of New Zealand, the Chief Protector, and his Honour the Chief Justice.”<sup>44</sup> By consolidating reserves under one administrative umbrella the government hoped reserves would provide for the education of Māori youth, spiritual care, and such programs conducive to “advancement in the sale of social

<sup>42</sup> Ibid., Appendix 679.

<sup>43</sup> Ibid., Appendix 679.

<sup>44</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Willoughby Shortland to Edmund Halswell, 18 June 1842, Appendix 682.

and political existence.”<sup>45</sup> The percentage of funds earmarked for native affairs confirmed the figure suggested earlier by Lord Russell at between 15-20 percent of the proceeds from land sales.<sup>46</sup> Though still operating more at the level of intention rather than as an operative institution, the consolidation of native reserves under the control of the Chief Protector and Chief Justice, two government officers, and the Bishop of New Zealand – head of the colony’s largest religious body – speaks to a continued interest in humanitarian governance and discussion about which offices and entities should have the authority to act as agents of the colonial state.

This consolidation of government authority, if not yet actionable control, over native reserves was an effort to consolidate best practices for humanitarian governance. The incorporation of NZC reserves under the umbrella of the colonial government placed Halswell in a junior position to Clarke. The two did not get along, but in the absence of a clear replacement Halswell was retained by the government. Clarke critiqued Halswell for being too “deeply interested in the Company’s affairs, and ignorant both of the language and of the customs of the natives.”<sup>47</sup> Halswell was not alone in not speaking Te Reo Māori; the lack of Māori-speaking agents continued to be a source of difficulty for the Protectorate. Governor Hobson, in a letter to the Secretary of State for the Colonies, underscored the important connection between language training and humanitarian governance since “however well-educated a gentleman may be, unless he speak the native language, he will be unable to properly to perform the duty of a protector.”<sup>48</sup> Language proficiency also indicates that Māori did not feel compelled to learn English to interact with the colonial state and that the colonial administration had to engage Māori.

<sup>45</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Willoughby Shortland to Chief Justice William Martin, June 26 1841, Appendix 683.

<sup>46</sup> Willoughby Shortland to George Clarke, 26 July 1842, Section D: Native Reserves in Turton, *Epitome of Official Documents*, Section D: Native Reserves, 3.

<sup>47</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Chief Protector’s Report, 4 January 1843, Appendix 122.

<sup>48</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Acting Governor Willoughby Shortland to Lord Stanley, 21 November 1843, Appendix 255.

The importance of engaging Māori required colonial officials to travel areas where Māori lived. Reflecting upon his experience in negotiations with Māori in the Thames Valley in 1842, Willoughby Shortland, the Colonial Secretary of New Zealand who went on to serve as Acting Governor of New Zealand following the death of Governor Hobson in September of 1842, underscored the important role that protectors played as cultural intermediaries. Prioritizing moral suasion as a method of governance that suited the limited capacities of the colonial state, the “continuance of mild, just and firm measures,” as best calculated to encourage the “civilization of a noble-minded and intelligent aboriginal race.”<sup>49</sup> Shortland was wary of the efficacy of military power and thought that armed interference would be more likely to destroy the work of colonization.<sup>50</sup> The Colonial Secretary advocated sending “gentlemen of intelligence” as magistrates into the different districts with power to redress native grievances against each other as well as to prevent the aggressions of Europeans. Confidence in the intellectual capacity of Māori and their ability to adopt European forms of laws promised eventual adoption, but the policy of moral suasion would undoubtedly, in the minds of colonial officials, not be a quick process.

Moral suasion though practices of humanitarian governance, to Shortland, would have the added virtues of convincing Māori chiefs to convert to Christianity and dissuade Māori from believing the stories spread by “disaffected” Europeans about the conditions of indigenous peoples in Australia, India, and other parts of the globe. Shortland’s account of his visit to the Thames Māori also notes that local Māori expressed a “lively desire that a person attached to the Government should be commissioned to live amongst them” to serve as a mediator and point of

<sup>49</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Willoughby Shortland to Governor Hobson, 5 August 1842, 196.

<sup>50</sup> *Ibid.*, 196.

contact for questions to the government.<sup>51</sup> Having access to administrative infrastructure of the colonial state was valued by Māori communities which were alive to the possibilities the Protectorate provided as a conduit for petitions, grievances, or claims to the government at Auckland. Shortland's letter suggests a model of humanitarian administration that saw the path of just administration as being based on the duality of the gospel and the value of English law enforced through a state-controlled monopoly of violence. Religious conversion and a European legal system, Shortland hoped, would diffuse into the Māori community. Māori won over by the Bible and the law would provide a positive example to other Māori skeptical about the values of colonization.

The degree and mechanisms by which colonial officials sought to incorporate Māori into the colonial state, and the power of the state to compel that action, became part of larger questions and uncertainties regarding the form that humanitarian governance would take in New Zealand. One way of disseminating information to indigenous communities was through increased print runs of the Māori-language official newspaper *Te Karere o Nui Terene* (the *Maori Gazette*). First published on January 1<sup>st</sup> 1842, by September of that year 1,000 copies a month requested by the CMS and WMS alone.<sup>52</sup> In 1843, George Clarke Jr. reported from Port Nicholson that he had circulated issues of the *Maori Gazette* "amongst the natives scattered throughout the whole of the southern district, and wherever I have been travelling they have shown the greatest eagerness to possess them, and acquaint themselves with their contents."<sup>53</sup>

<sup>51</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Willoughby Shortland to Governor Hobson, 5 August 1842, 190, 196.

<sup>52</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Willoughby Shortland to Lord Stanley, 24 September 1842, Appendix 189.

<sup>53</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Report of Sub-Protector George Clarke Jr. to George Clarke Sr., 14 June 1843, Appendix 350.

Colonial officials saw interaction between Māori and settler populations has having positive social and political effects. A supply of indigenous labor relatively proximate to areas of European settlement was especially intriguing and a shortage of labor reflected the economic realities of early colonial New Zealand. In his opening address to the Legislative Council in December of 1841, Governor Hobson noted the generally positive relationship between Māori and Pākehā. The governor stated that settler populations were “indebted, in a great measure, for a supply of the principal necessities of life” and “for one of the principal elements of national prosperity – a due supply of labour.”<sup>54</sup> As articulated in the first years of British colonial administration, Maori contributions to the settler colonial state were crucial to the economic success and anticipated future of New Zealand.

Labor’s importance to the colonial economy formed part of an 1842 assessment echoing the governor’s concerns. Citing the high price of labor, want of capital, and intensity of labor required to clear and enclose agricultural land, the possibility of utilizing Māori labor formed a short cut to New Zealand’s development as an economy.<sup>55</sup> Hobson’s understanding of the increasing importance of indigenous labor suggests not only the continued positive perception value of Māori to the economy, but also that Māori already comprised a labor pool for European employers. The civilizing efforts of regular labor, though not a formal part of humanitarian governance, would have a beneficial effect on Māori populations.

By the end of the 1842, both George Selwyn, the Bishop of New Zealand, and William Wakefield could report to their respective superiors that there was finally some progress on raising funds from the native reserves. Reserved lands at Nelson were being put to use with leases valued at £300 annually and Bishop Selwyn and the NZC’s Nelson agent Arthur

<sup>54</sup> TNA, Minutes of the Legislative Council, 14 December 1841, CO 211/1.

<sup>55</sup> Charles Terry, *New Zealand: Its Advantages and Prospects* (London: T & W Boone, 1842), 253.

Wakefield, another brother of Edward Gibbon Wakefield, had advanced £400 for the construction of a school house and infirmary that would serve Māori in the South Island's northwest corner. Since there was no Māori settlement in the immediate vicinity of Nelson, a small hostelry was also under construction to provide accommodation for Māori visiting town for trade.<sup>56</sup> Building humanitarian infrastructure was also underway in Wellington with the temporary repurposing of two emigration houses as a school and infirmary for Port Nicholson Māori. Medical expenses, however, cost twice as much as the £69 in rental income earned by the leases and Halswell had to meet the excess cost out of his own resources.<sup>57</sup> The continued uncertainty of finances made planning for large-scale humanitarian interventions difficult.

In an attempt at increasing the number of tenants paying rent on native reserves, the seven-year maximum lease on reserve lots was waived in 1842. Before leaving Wellington in December of 1842, Bishop Selwyn published guidelines stipulating that native reserves could be let for seven years without any restrictive covenant, fourteen years with a commitment to erect wooden buildings with the value of at least seven years rent, or twenty-one years with the covenant to erect brick or stone buildings worth ten years' rent.<sup>58</sup> These changes acknowledged the slower than expected utilization of reserved land as a source of income and sought to balance the need to not fully alienate land with the security of tenure and term of contract required to motivate potential tenants to lease, clear, and develop a reserved lot.

<sup>56</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Colonel William Wakefield to Secretary of the New Zealand Company, September 15 1842, Appendix 684; GBPP 1844 (556) *Select Committee on New Zealand*, George Selwyn to Willoughby Shortland, December 19 1842, Appendix 185-6. Plans also existed to construct a Māori hostel in Auckland with separated living areas for traders and provision for merchants from various iwi and hapu.

<sup>57</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Colonel William Wakefield to Secretary of the New Zealand Company, September 15 1842, Appendix 684.

<sup>58</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Colonel William Wakefield to Secretary of the New Zealand Company, September 15 1842, Appendix 684.

If questions and concerns about land comprised a major focus of humanitarian governance, a second principal question for the Protectorate, and the government more generally, was the extent to which Māori were to be incorporated or isolated from the administration of British law. Though not directly linked to the land question at this date, legal assimilation increasingly became part of humanitarian governance in the 1840s. Preservation through isolation, the policy advocated by the 1837 Select Committee, suggested the maintenance of indigenous legal forms and traditions. After deciding on annexation in 1840, British law had to now address the legal requirements of settler populations while negotiating aspects of Europe's legal tradition that ran counter to indigenous practices.<sup>59</sup> The question for the Protectorate, then, became how to apply British law in a manner that balanced a moral obligation to protect indigenous interests with an aspiration for consolidating administrative control and establishing a monopoly of violence. The colonial state's lack of military power to coerce adherence or enforce decisions meant that the colonial government could not simply impose laws.

Despite the weakness of the government's ability to compel enforcement, Māori generally abided by the laws of the colony in the early 1840s. Perhaps the most significant individual crime came early in Clarke's tenure as Protector of Aborigines when both he and his son served as interpreters during the trial of Maketu, who was convicted and executed in March 1842 for the murder of a settler household in the Bay of Islands (at the time the household included the great-granddaughter of a local chief). The trial did not provoke a violent reaction from Maketu's relations nor from other Māori and Clarke wrote to the governor that he was very impressed with how Māori had acceded to the process of the court. Clarke noted, however, that the colony's peaceful relations with Māori had more to do with the "the good sense which

<sup>59</sup> Hazel Petrie, *Chiefs of Industry: Māori Tribal Enterprise in Early Colonial New Zealand* (Auckland: Auckland University Press, 2006).

actuates [the Māori] than to the prudence and forbearance of Europeans” not just in places like the Bay of Islands but throughout New Zealand.<sup>60</sup> The need for caution and care in how Māori became part of British administrative practices was required in light of what Clarke observed was the “helpless position of the Government, alike known to the natives and ourselves.”<sup>61</sup> Though the forfeiture of Maketu’s life fit with Māori ideas of retribution, Māori willingness to adhere to British laws even in the absence of a monopoly of force suggests their evaluation of British legal processes as something that they could derive value from and, in some circumstances, be useful for them as a form of justice.

Clarke’s observations about the reaction of Māori led him to believe that the government was fortunate given its relatively weak position. The Protector’s Office, however, was spread thin and needed to be extended if the benefits of a European presence in New Zealand were to outweigh the costs. A robust presence of government officers would provide Māori protection from “wily European” subterfuge since “natives who are living at a distance from either a protector or efficient magistrates, are left ... to the cupidity and selfishness of their own and our countrymen who with impunity can now trample native customs without restraint.”<sup>62</sup> In the absence of being able to utilize reserves as a source of financial support for indigenous peoples, Clarke focused his attentions on providing advice and legal consultation.

Māori interaction with European society, Clarke wrote, was generally deleterious to the “native character,” but he agreed that isolation as a form of protection like that advocated in the 1830s would never work given the engaged participation he had observed by Māori in local markets. Growing areas of interaction needed structure to prevent the ills identified by the Select

<sup>60</sup> GBPP 1844 (556) *Select Committee on New Zealand*, The Chief Protector’s Report for the Half Year Ending 30<sup>th</sup> April 1842, 18 June 1842, Appendix 191.

<sup>61</sup> *Ibid.*, 191.

<sup>62</sup> *Ibid.*, 191.



Committee on Aboriginal Tribes and Clarke wrote that British law “can scarcely be expected to operate among them, until they have the means of both knowing and making use of those laws.”<sup>63</sup> The extension of protection and humanitarian governance thus took on a further pedagogical aspect of empowering Māori to make use of the legal apparatus. The colonial government, however, did not think all laws were universally appropriate for Māori.

The 1844 Native Exemption Ordinance attempted to foster assimilation through limiting the invasiveness of British law as it applied to selected judicial violations.<sup>64</sup> One of the main stipulations provided that in civil cases involving both Māori and non-Māori, Māori convicted of theft could pay up to four times the assessed value of stolen good instead of going to jail. This was an equivalent to the traditional Māori custom of *utu*, or retribution for a crime and replaced the existing punishment of incarceration. Being imprisoned was held to be particularly odious in Māori society. Furthermore, the Ordinance authorized two principal chiefs of the tribe to which the offender belonged to execute warrants on behalf of the Crown and in recompense receive £2 for delivering the suspect to a court. The passage of this Ordinance reflected a legal manifestation of humanitarian governance by modulating the punishments to suit indigenous understandings of justice. Delegation of judicial responsibilities to local chiefs also included a pedagogical approach to legal acculturation by including indigenous elites in the administration of British justice to familiarize, reward, and involve Māori in the administration of crime and punishment.

Some of the chiefs Clarke dealt with in the northern North Island were well aware of the realms in which government power was limited. They told Clarke that their interpretation of the

<sup>63</sup> GBPP 1844 (556) *Select Committee on New Zealand*, The Chief Protector’s Report for the Half Year Ending 30<sup>th</sup> April 1842, 18 June 1842, Appendix 191.

<sup>64</sup> “Native Exemption Ordinance,” 16 July 1844, 7 Vict., c18 (New Zealand).

Treaty of Waitangi was that its jurisdiction only related to Māori interactions with Europeans and that in purely native matters and concerns they would be left to their own devices.<sup>65</sup> Lord Russell had cautioned Governor FitzRoy about overreaching the power and authority of the British administration in the islands. Willoughby Shortland, the acting governor, had particularly underscored Māori martial prowess and that even though declaring war and making peace were

“essential attributes of sovereignty, and although we may not always be able to prevent recourse to arms between hostile tribes, yet, I think, we should never recognize their right to arrange their differences in this manner and should be always at hand, by friendly mediation, or, when we have the means, by overpowering force, to arbitrate between them, and uphold our arbitration.”<sup>66</sup>

Though Stanley granted a wide range of discretion to the Governor, with the usual injunctions against cannibalism, and despite the basic concession of limited involvement outlined above, he held out as possible sanction the withdrawing of British protection both to those tribes which quarreled with each other as well as those which practiced cannibalism.

The importance of preserving face and reputation formed part of the logic of humanitarian governance. The illusion of power and strength needed to be preserved at all costs through only judicious choices of intervention. Whatever his course of action, Lord Russell warned, the governor “must never attempt to interfere, and fail of success.”<sup>67</sup> This memorandum, sent a month before the Wairau Affray which formed the first major armed conflict between settlers and Maori, reflects the limited power of the colonial government and the necessity to perform a stronger power than that possessed by the colonial state. Casting any intervention or non-intervention as a choice, coming from a position of strength, rather than as a choice of action

<sup>65</sup> GBPP 1844 (556) *Select Committee on New Zealand*, The Chief Protector’s Report for the Half Year Ending 30<sup>th</sup> April 1842, 18 June 1842, Appendix 191.

<sup>66</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Minute from Willoughby Shortland to Lord Stanley, 14 May 1843, Appendix 189.

<sup>67</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Minute from Willoughby Shortland to Lord Stanley, 14 May 1843, Appendix 189.

that reflected the limited means and uncertain power of the colonial government. Relying on moral suasion and humanitarian action, therefore, may well have been considered the most influential avenue open to the administrations of Hobson, Shortland, and FitzRoy, and the exercise of humanitarian governance, as expressed through the institution of the Protectorate, was the most efficacious administrative technique available.

For the local government, implementing a practice of humanitarian governance acknowledged the limitations of settler power while presenting incentives for Māori to participate in governance. As the government was unable to exert a high level of coercion, and uncertainty over title hampered efforts to develop the native reserves, the government and the New Zealand Company relied upon the mediations of the Protectorate to maintain peace (and thus the reputation of the colony back in Britain) and facilitate the acquisition of land from various Māori groups. Though it foresaw the assimilation of Māori into the colonial state, the type of humanitarian governance proposed for New Zealand during this period recognized the capacity for Māori to be semi-autonomous from government control and even, as in the case of fulfilling warrants, to act as delegated agents.

### **Māori Responses to Humanitarian Governance**

In the early 1840s, however, Māori were able to engage the settler colonial state on terms largely of their own making. The Protectorate formed channels through which Māori could challenge the legitimacy and legality of land transactions with Europeans, and Clarke's staff was also called upon to involve itself in inter-Māori disputes. In the Thames Valley southeast of Auckland, Colonial Secretary Shortland noted that local Māori had conferred with Clarke about

establishing a “Pakeha chief” and a settlement of Europeans near Tauranga.<sup>68</sup> One chief, Tapaia, advocated that a European settlement could even bring peace to the area and volunteered to sell some land between them (the Thames Māori) and their inland rivals around Rotoroa “which they said would be the means of putting an end to the wars which had so long existed between them.”<sup>69</sup> The creation of a European settlement as a buffer zone formed part of both Māori economic ambitions – the Thames was a fertile area for the production of potatoes and other provisions mostly destined for the Auckland market – as well as solving a political concern by insulating them from inland political enemies.

Elsewhere in the North Island, the use of the Protectorate and the language of humanitarian governance served as a means for local Māori to consolidate their own territorial position. At Port Nicholson Te Puni and “Warepouri” [Te Wharepouri], two Te Āti Awa notables asked to meet with George Clarke Jr. to express their concern about their iwi’s security. Since 1835 when the Ngāti Mutunga had left Port Nicholson to invade the Chatham Islands (a remote island group 420 miles southeast of Wellington), the Te Āti Awa had felt at the mercy of the Ngāti Toa and Ngāti Kahungunu, two iwi in close proximity to Port Nicholson. Clarke postulated that “by inviting the Europeans to settle down amongst them as a barrier between them and their more powerful neighbours” the Te Āti Awa wanted to encourage settlement and cultivate the protection of European as a way to secure their own proximate position to sources of European goods and sites of commercial exchange.<sup>70</sup>

<sup>68</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Willoughby Shortland to Governor William Hobson, 5 August 1842, Appendix 195.

<sup>69</sup> *Ibid.*, 196.

<sup>70</sup> GBPP 1844 (556) *Select Committee on New Zealand*, George Clarke Jr. to George Clark Sr., 13 December 1842, Appendix 123.

The selling of land to which title was uncertain, as Europeans did not have a deep knowledge of the recent history of the area, could also serve Māori political purposes by bringing Europeans as buffers into the post-Musket War balance of power. One Wellington resident, Vernon Smith, wrote to the Methodist missionary John Beecham noting the existence of these quarrels. Smith argued that Te Puni and Te Wharepouri – who resided at Petone and Ngauranga on the north side of Port Nicholson – had sold the NZC land at the south end of the harbor that belonged to that of their rivals.<sup>71</sup> The possibility for Te Puni and Te Wharepouri's to be, as they claimed, victims, or, as Vernon Smith argued, opportunists, meant that Māori did not simply occupy a passive role as humanitarian subjects. Rather, the Protectorate formed another element within the strategic thinking of Te Āti Awa. Beseched by both sides, the Protectorate had to adjudicate and navigate the competing claims of Māori, settler, and NZC voices. Conflicting claims to title were not just between Māori and European, but also amongst Māori with Europeans forming an added factor in a process of migration and warfare that was, by 1840, already decades old.

Given the small number of civil servants working for the Protectorate and the large expanse of territory they had to cover, protectors were among the most mobile and visible representatives of the colonial government. While many Māori were in a position to disregard the government during the first half of the 1840s, some groups nevertheless engaged with the Protectorate to register claims and legitimate their own authority or leverage their claims against other parties, indigenous and European alike. The active interest which these negotiations frustrated some colonial officials. In 1842, Nopera Pana-kareao, a leader of the Te Patu hapu of the Te Rarawa iwi who had allowed the CMS missionaries to establish themselves at Kaitaia in

<sup>71</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Vernon Smith to Reverend John Beecham, 11 July 1841, Appendix 294.

north of the North Island, declared his priority of right over all the lands in Doubtless Bay. Registering his claim with Henry Tacy Kemp, the protector stationed in his district. Pana-kareao's petition denied the right of "any other party to sell there without his sanction and ratification."<sup>72</sup> Humanitarian governance was not an uncontested process. Māori actively challenged decisions of the colonial state's officials.

While working alongside Protector Kemp to resolve the disagreement between Warekauri and Nopera Pana-kareao about the authority to sell land in Doubtless Bay, Edward Godfrey, a land commissioner, wrote to the Colonial Secretary that the month-long process of mediating between the "litigious" Māori was too much. Kemp and Godfrey referred the matter to Chief Protector Clarke who had purchased some of the claims in 1840 and thus had personal experience with the chiefs.<sup>73</sup> Māori participation in negotiating of the terms of humanitarian governance under the Protectorate suggests that they took this facet of humanitarian governance seriously as an avenue to appeal grievances and articulate their claims.

In 1843, Clarke noted in a report that since the establishment of British sovereignty "new and almost unheard-of claimants among the natives are coming forward, grounding their titles to lands from which they had been driven by their more powerful neighbours many years ago."<sup>74</sup> The Protectorate attempted to resolve competing claims through purchase agreements, but protectors often also became the destination of claims lodged by Māori that either asserted their ownership of the land or declaimed the rights of other to establish a claim. The Treaty of Waitangi was thus not a "reset" moment in the history of inter-Māori conflict over land, but

<sup>72</sup> GBPP 1844 (556) *Select Committee on New Zealand*, H. Tacy Kemp to George Clarke Sr., 10 February 1843, Appendix 124.

<sup>73</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Edward L. Godfrey to Willoughby Shortland, 16 February 1843, Appendix 127.

<sup>74</sup> GBPP 1844 (556) *Select Committee on New Zealand*, George Clarke Sr. to Willoughby Shortland, 4 January 1842, Appendix 121.

rather the arrival of the British restructured the possibilities for contesting and settling territorial disputes.

Clarke asked for more resources to help mediate Māori and European conflicts in the colony. A small staff meant it was difficult to cover a colony that had limited communications infrastructure and an anxiety about the government's knowledge of Māori communities and their loyalty to the government. In a report to Governor FitzRoy in 1843, Chief Protector Clarke observed that since there "never was there a people more uneasy under the yoke of submission to authority than the New Zealanders," only the "uniform kindness" of the colonial government was maintaining peace in the colony.<sup>75</sup> Clarke's awareness of the precarious position in which the colonial government existed was informed by an witnessing the unresolved tension about access to and purchase of land, the co-existence of British and indigenous justice and the limited reach of British law, and the resistance to British sovereignty expressed and exhibited by some Māori leaders. To Clarke, humanitarian governance could be a way of implementing "uniform kindness." Māori authority in New Zealand was such that the colonial state needed to campaign for hearts and minds through actively engaging with and negotiating with Māori. British officials in the colony relied on humanitarian governance to soften the hard edges of empire and make colonization amenable to Māori.

### **The Wairau Affray**

On the morning of June 17<sup>th</sup> 1843, near the banks of the Wairau River at the north end of New Zealand's South Island, fifty Europeans faced a group of about two hundred Māori. The

<sup>75</sup> GBPP 1844 (556) *Select Committee on New Zealand*, George Clarke Sr. to Willoughby Shortland, 4 January 1842, Appendix 122.

Europeans, employees or affiliates of the New Zealand Company, had come to arrest Te Rauparaha, a rangatira of the Ngāti Toa, on the charge of destruction of NZC property.<sup>76</sup> By the end of the day, twenty-two Europeans and three Māori were dead and news of what became known as the Wairau Affray, Wairau Incident, or the Wairau Massacre, radiated outward from this corner of New Zealand. Wairau marked the first post-annexation instance of armed violence between organized groups of Māori and colonists. The violent result set off a ripple of anxiety both locally among settler and Māori communities as well as in the distant imperial metropole. Wairau, though not the immediate cause of further armed conflict, highlighted the tenuous hold of colonial authority in New Zealand and challenged perceptions of how humanitarian governance might function when threatened by violence.

The collision between humanitarian governance, uncertainty about land purchase agreements, and continued strength of Māori autonomy illustrated both the limited power of the colonial government and the fine line the Protectorate had to traverse as it became, along with local missionaries, a key intermediary between the government, the Company, Te Rauparaha, and Rangihāeta. Following the affray, the Protectorate restated their perspective that the colonial state lacked a monopoly of force and that the best way forward would be to censure the Company and admit fault. Clarke remained deeply skeptical about the activities of the NZC that preceded the affray and his office was clear that “the only step” that should be taken by the government was to “avow, in the strongest terms, their disapproval of the conduct adopted by the Nelson settlers, and the deep horror ... at the very severe measures pursued by the aborigines” who had killed surrendered prisoners.<sup>77</sup> The main concern expressed by Clarke, even at the

<sup>76</sup> rangatira: hereditary Māori leaders of hapu

<sup>77</sup> GBPP 1844 (556) *Select Committee on New Zealand*, George Clarke Sr. to Willoughby Shortland, 8 July 1843, Appendix 135.



potential risk of humiliating the government, was the importance of re-establishing confidence between the European and Māori populations. Governor FitzRoy followed Clarke's advice when, along with Sub-Protector George Clarke Jr., he visited Te Raupraha and Te Rangihāeta at Otaki, near Wellington. The repercussions of this event, however, brought the young antipodean colony to the attention of the metropolitan public.

As news of the Wairau Affray reached Britain, representatives of both the government and the New Zealand Company faced criticism from the British press. Both sides endeavored to create favorable impressions back in the United Kingdom. The Company's strategy involved touting the virtues of its own plan and decrying the influence of the local government. Framing the reserve plan as the "refinement of modern ideas" about the treatment of aboriginal people that reflected the "enlarged humanity" of a post-emancipation age of progress, the Company put itself as the next step of a process of "humanized English colonization" begun by William Penn in the North American context.<sup>78</sup> Having lost the administrative responsibility for the reserves, the Company was also free to attack the policies of the local government, contrasting the period of "harmony" with the "dissent" of the local government.

Joseph Somes, the Director of the New Zealand Company, painted a grim picture of how the local colonial government in New Zealand had fumbled the development practices of humanitarian governance. Though the NZC had been compelled to transfer the native reserves, Somes wrote to the Secretary of State for the Colonies that little had been done by colonial authorities who were lacking both "sound appreciation of the wants of the native, or of thought sedulously applied to the bettering of their condition."<sup>79</sup> Furthermore, the Company leveled

<sup>78</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Joseph Somes to Lord Stanley, 25 January 1843, Appendix 33.

<sup>79</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Joseph Somes to Lord Stanley, 25 January 1843, Appendix 34-35.

accusations of parsimony, citing that out of a colonial budget of £50,000, only £40 was earmarked for a school-teacher, Some also suggested that the Protectorate seemed more a means of providing a living for the Clarke family rather than comprising an efficient advocate of aboriginal issues.<sup>80</sup> Discrediting the colonial state's practices of humanitarian government in the eyes of the British public referred to the administration of Māori welfare as beyond the competence of the present set of colonial administrators.

Favorable accounts based their support on a critique of what they saw as the flawed operation of the Colonial Office. The argument tended to favor the decentralization of power from the Colonial Office, considered as a "meddling" influence, and instead proposed that more power be placed in the hands of the settlers and responsible government. The *Liverpool Mercury*, a weekly newspaper following reformist and Liberal principles, singled out Governor Hobson, the first governor of New Zealand, for establishing a pattern of lax communication between various manifestations of the colonial project.<sup>81</sup> Getting information to and from New Zealand was, until the arrival of international telegraph cables in 1876, difficult, but the hasty signing of the Treaty of Waitangi and preemptive arrival of the New Zealand Company surveying and settlement ships meant that from even before the establishment of the colony as a legal entity there was confusion as to the rights and obligations of the local government, the Colonial Office, and the New Zealand Company to each other.

The *Mercury* saw the Wairau Massacre as symptomatic of a larger awkwardness in the colonial system. Britain's colonial empire, the paper argued, was too large to be administered efficiently from London under a centralized system. Instead of relying on the Colonial Office,

<sup>80</sup> Ibid., 34-35.

<sup>81</sup> "The Colonial Secretary and the New Zealand Company," *Liverpool Mercury*, April 26, 1844, n.p..

the *Mercury* thought self-government would “avoid the recurrence of such catastrophes as New Zealand massacres, Canadian rebellions and Port Natal emigrations.”<sup>82</sup> This comparison is noteworthy for putting Wairau on equal footing with a number other colonial crises throughout the empire in the 1840s. The newspaper linked the examples of violence through a perceived unwillingness to grant authority to the local settler governments.

*John Bull*, a London paper that appealed to a Conservative and Anglican audience, underlined the evolution of the settler empire in the wake of imperial crisis noting that “pecuniary assistance is not what the New Zealand Company directors ask” but rather “the establishment of a “protective force ... which is certainly necessary for the safety of the colonists.”<sup>83</sup> The promotion of colonial military capacity was considered as even more important with the transition from a type of British involvement in New Zealand characterized by a maritime trading economy, called by the paper “the reign of the tobacco and blankets,” to a terrestrially-based extractive economy. As colonial modes of production solidified and intensified with the growth of the of the settler state, those interested in colonial governance saw a need for the strengthening of an apparatus to enforce the rule of law and order.

The local government defended its actions with a set of more sanguine reports about the exercise of humanitarian governance, and referred to a wider range of geographical spaces than the Company settlements of Port Nicholson, Nelson, and New Plymouth. In addressing the Colonial Office, their assessments of the scope and possibility of government intervention, especially militarily, were limited. Uncertainly about the future direction of colonization in New Zealand and public interest in the aftermath of Wairau was such that in 1844 Parliament established a Select Committee inquiry into the affairs of New Zealand. At the request of the

<sup>82</sup> “The Colonial Secretary and the New Zealand Company,” *Liverpool Mercury*, April 26, 1844, n.p..

<sup>83</sup> “Meeting of the New Zealand Company,” *John Bull*, March 30, 1844, 208.

Company, the committee was to be a clearinghouse for both written and verbal evidence about Wairau and the British settler project in New Zealand more generally.

The Committee met six times between the 21<sup>st</sup> of May and 23<sup>rd</sup> of July 1844 with an additional ten sessions to hear testimony from fourteen witnesses.<sup>84</sup> Professionally, the witnesses were all some type of colonial expert from surveyors to a former member of New Zealand's Legislative Council. In its report the committee stated an assimilationist approach to protection in that "reserves ought to be made for the natives interspersed with the lands assigned to settlers" to "incorporate them into the community of British subjects." Indeed, the committee argued "that every effort should be made to amalgamate the two races."<sup>85</sup> No longer then, was land to be held in trust just for the families of chiefs who, along with missionaries, would mitigate the impact of colonization. Rather, native reserves were, according to this vision, to be used as a space in which Māori could live, work, and become European.'

Amalgamation was to take place in contact with Europeans and consolidated a shift toward considering contact through commerce to be elevating. Assimilation formed a goal of humanitarian governance that could mitigate the prospect of future violent encounter. New Zealand's physical characteristics, a high volume of rainfall and moderate climate, favorably compared New Zealand with drier Australian regions, and the booster literature of the New Zealand Company claimed that the new colony could support as large a population as the British Isles.<sup>86</sup> This perceived similarity between New Zealand and Britain, allowed the Select

<sup>84</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Expenses of Witnesses, xxx. All of the witnesses were from England, Scotland, or Wales. Of the total five had to travel to London to give evidence.

<sup>85</sup> GBPP 1844 (556) *Select Committee on New Zealand*, Report of the Committee, 23 July 1844, xvii, xxix, xi.

<sup>86</sup> New Zealand Company, *Information Relative to New Zealand, Compiled for the Use of Colonists, by John Ward ... The Fourth Edition* (London: J. W. Parker, 1841), 2, 81.

Committee and advocates of assimilation to envision a future based on the accelerating amalgamation of Māori into a settler society.

### **The Native Trust Ordinance**

As the Select Committee on New Zealand considered witness testimony and other evidence in London, the question of how to administer land held in trust for Māori was still not fully enshrined in New Zealand's government policy. Since 1840, the colony's Legislative Council had passed laws geared toward structuring Māori customs to align more with those of European settlers. Among other interventions, the short-lived Prohibition of Distillation Ordinance of 1841 attempted to curtail the availability of alcohol, the Raupo House Ordinance of 1842 sought to limit the use of indigenous building materials, and the Cattle Trespass Ordinance of 1843 allowed magistrates to award damages to victims of stray cows who had wandered off unfenced (largely Māori) pastures. But nothing was on the books about the regulation of native reserves.<sup>87</sup>

The Legislative Council finally turned to the regulation of local practices of humanitarian governance in 1844 and approved a Native Trust Ordinance on June 29<sup>th</sup> 1844. The ordinance proposed that the Governor, the Lord Bishop of New Zealand, the Attorney General, the Commissioner of Land Claims, and the Chief Protector of Aborigines were to serve as "Trustees for Native Education and Improvement in New Zealand." In this capacity, commissioners would oversee the Native Reserves that were now designated for "the bodily and spiritual welfare of the native race and to their advancement in the scale of social and political existence."<sup>88</sup> Outlined

<sup>87</sup> "Distillation Prohibition Ordinance," 23 June 1841, 4 Vict., c5 (New Zealand); "Cattle Trespass Ordinance," 14 March 1842, 5 Vict., c16 (New Zealand); "Raupo Houses Ordinance," 3 March 1842, 5 Vict., c17 (New Zealand).

<sup>88</sup> "Native Trust Act," 29 June 1844, 7 Vict., c9 (New Zealand).

specifically in section ten of the Ordinance was that income from the reserves should also benefit the children of Māori and Pākehā unions. The bill's approval suggests a desire on the part of the local government to revisit the inefficiencies and confused lines of communications that had characterized the administration of the reserves from the colony's establishment, address the purposes and alienability of the reserves, and provide what appears to be a financial safety net for the children of mixed-raced couplings. Furthermore, the Ordinance was directed toward rural areas and recognized the fact that to a large degree, especially during the 1840s, the Māori population was not in regular sustained contact with the settler population.

The fusion of spiritual and secular concerns informed both the theory and practice of humanitarian governance in the colony during the early 1840s. Missionaries provided education to and information about Māori communities, and conversion formed part of a vision of progress for Māori. In debate over the ordinance, however, three councilmen perceived a flaw that the bill left "in the hands of the Trustees an unlimited power to teach ... the religious opinions of a particular class of Christians to the exclusion of those of every other class."<sup>89</sup> An imprecise 1845 estimate of New Zealand's Māori population put the total number just under 110,000 with confessional divisions numbering 42,700 Anglicans, 16,000 Methodists, and 5,100 Catholics. With the incumbents of the proposed trustee offices all Anglican, there was some grounds for concern on the part of the colony's other faith groups.<sup>90</sup> Although the Colonial Office overruled the objection on the basis that it was better for Māori to be any type of Christian rather than "pagan," the dispute reveals that the settler community did not always speak with a single voice.

<sup>89</sup> TNA, Minutes of the Legislative Council, 29 June 1844, 74-75. CO 211/1.

<sup>90</sup> TNA, Minutes of the Legislative Council - Return of the Native Population of New Zealand, 3 April 1845, Appendix A. CO 211/1.

The Native Trust Ordinance received royal confirmation in August of 1845, but was never printed in the Government Gazette, part of the usual process of bringing a law into effect. Robert FitzRoy, the governor who had initially approved the ordinance, was unpopular with many settlers and the NZC. The NZC's lobbying to have FitzRoy recalled was successful, and London sent a dispatch to this effect in November 1844. The new governor, George Grey, refused to gazette the Ordinance and thereby denied its implementation. Grey wanted more gubernatorial control over the process of land use in New Zealand and adopted a more active position regarding the incorporation of Māori into the state. Grey, however, did approve a Native Land Purchase Ordinance of 1846 prohibiting the occupation or use of Māori land without a license from the governor, but the ordinance made no exception for reserves. Indeed, no further legislation for the administration of Māori reserves was introduced until the 1850s.<sup>91</sup>

### **Conclusion**

In a period when implementing theories of humanitarian governance as a government practice was frustrated by changes in policy, the capacity of Māori to remain autonomous from European control, and continuing uncertainty about title to land, it is perhaps not surprising that colonial administration achieved a tenuous start. A lack of systemic policy rendered humanitarian governance localized and reactive rather than assertive and uniform.

The relative strength of various Māori groups relative to the government meant that inter-iwi conflict was often resolved internally and that the reach of colonial law was often curtailed. A shift from advocating protection through isolation to protection as assimilation, however, already in the 1840s shaped the form humanitarian governance would follow in the future by

<sup>91</sup>“Native Land Purchase Ordinance,” 16 November 1846, 10 Vict., c19 (New Zealand).

closing a possible practice that maintained Māori autonomy and pursued a policy of indirect influence and control. By not seriously considering isolation as a humanitarian option, the failure of the government to pursue protection constituted part of a wider racialization of New Zealand's landscape as a settler space in which Māori would have to assimilate.

The arrival of Governor Grey and the beginning of open armed hostilities in March 1845 in the Bay of Islands between the government and iwi began a period of episodic conflict known as the New Zealand Wars. The shift to armed struggle further distanced the government from returning to an 1830s ideal of protection. The shift away from pursuing policies that protected Māori through the actions of the Protectorate in favor of pursuing Māori amalgamation shows how humanitarian governance shifted from one that required Māori investment and participation to administrative techniques that were increasingly prescriptive.

Efforts to integrate indigenous space and labor into the colony's political economy of settler society remained a feature of humanitarian intention. Conflict between the Crown and the New Zealand Company regarding the administration of reserves precluded most meaningful development as they served as a proxy for debate about the future of Māori within the colony. Reserve administration was thus a casualty of both minimal resources as well as indecision about the purpose and role of the reserves. In a dispatch to the Colonial Office, Governor Grey was unsparing in his criticism of how the Protectorate had administered Māori. Grey occupied an ambiguous position as advocate of aboriginal rights and privileges while also being an agent of the colonial government and thus a comprador for the purchase of Māori land for settlement. Shortly after his arrival, Grey dissolved the Protectorate and incorporated the responsibilities of the office more tightly to that of the executive government.



One reason why the Protectorate and the reserve system failed as policies of humanitarian governance can be found in the confusion that surrounded the legal transformation and consolidation of the islands as a space of British settler colonization. Legal debates about the transfer of sovereignty, the linguistic aspects of the Treaty's translation which left ambiguity as to exactly what rights and duties has been transferred, and the phases by which British authority slowly expanded and intensified over the islands, has been a subject of rich scholarship since the 19<sup>th</sup> century.<sup>92</sup> Humanitarian governance was a way of making the development of colonial administration palatable to Maori during a moment when the colonial state lacked the resources to enforce its policy. The intertwined aspects of moral reform, economic development, and incorporating Maori land into the colonial state would continue as threads, but the role of the colonial state would shift from one that had to appeal to Maori to one that was able to reframe practices of humanitarian governance on terms that increasingly sought to accomplish their own goals.

<sup>92</sup> Michael. Belgrave, *Historical Frictions: Maori Claims and Reinvented Histories* (Auckland: Auckland University Press, 2005).

### **Chapter 3: To Gain their Confidence and Attachment Humanitarian Governance in Health, Education, Economy and the Law (1845 – 1856)**

In late 1845, George Grey, the 33-year-old Governor of South Australia, answered a call from Lord Edward Stanley, Britain's Secretary of State for the Colonies and a future Tory prime minister, to take up a new role as Governor of New Zealand. Grey's appointment, however, was not part of the British Empire's regular circulation of imperial administrators.<sup>1</sup> Instead, his posting arose out of Lord Stanley's recall of Governor Robert FitzRoy to London after only two years in New Zealand.<sup>2</sup> Displeased by the colony's unstable financial situation, troubled by a lack of communication, and under pressure from the New Zealand Company's lobbyists, the British government believed New Zealand would benefit from different leadership. Compounding FitzRoy's political difficulties was the outbreak of armed conflict on the South Island in 1843 and two years later on the North Island. To fill the vacancy, Lord Stanley nominated Grey as a suitable candidate to resolve the colony's financial and administrative troubles.

A tenuous economic environment, political restlessness among both European and Māori communities, and confusion over the legality of government revenues meant Grey arrived during a period of crisis. In this tumultuous situation, the new governor proposed a series of programs that departed from the indigenous policy pursued by his predecessor. Among the changes was dissolving the Protectorate of Aborigines. Established by New Zealand's first governor in 1840,

<sup>1</sup> David Lambert and Alan Lester, *Colonial Lives Across the British Empire: Imperial Careerism in the Long Nineteenth Century* (Cambridge: Cambridge University Press, 2006).

<sup>2</sup> Paul Moon, *FitzRoy: Governor in Crisis* (Auckland: David Ling Publishing, 2000).

the protectorate liaised between the colonial administration, settler groups, and Māori. Justifying the office's closure only five years after its formation, Grey argued that protectors were generally inefficient, non-communicative, and insinuated they undermined the government's authority among Māori. By early 1846, Grey had dismissed the protectorate's half-dozen staff and brought the administration of native affairs under the gubernatorial portfolio. Centralizing indigenous management within the governor's office consolidated his authority in official interactions between the settler-colonial administration, the imperial government in London, and Māori.

One of the protectorate's main purposes had been managing the colony's system of native reserves. Constituting a central element of humanitarian governance and included within initial prospectus for European settlement, plans for native reserves stipulated that one-tenth of the land surveyed for settlers was to be set aside "in trust for the future benefit of the chief families of the ceding tribes."<sup>3</sup> These lands, also called "Native Tenths," were to accrue in value based on their proximity to European settlement. A growing population would not only render the land more economically valuable but, by being interspersed among settler allotments, was also intended to promote the adoption of European customs by a Māori elite. Māori might reside on some of the reserved land, use others to grow food or commodities, and lease surplus sections to Europeans or other Māori as a source of passive rental income.

In its first years of operation the reserve system was unsuccessful. Though a colonial ordinance specified who was to serve as trustees of the native reserves, the administrative structure proposed by the ordinance was never fully developed on a colony-wide level. George Selwyn, the Anglican Bishop of New Zealand who was to serve as one of the five trustees, recused himself from responsibility for the trust in 1845 and left the rest of the trustees in a state

<sup>3</sup> Parliamentary Papers of Great Britain [GBPP] 1844 (556) *Select Committee on New Zealand*, Instructions from the Directors of the Company to Edmund Halswell, 10 October 1840, 668.

of limbo – they seem to never have met as a full committee. Nor were reserves fully surveyed. Out of the 110 reserve lots allocated around Wellington in 1840, by January of 1844 only 34 had been demarcated.<sup>4</sup> An absence of administrative resources, lingering uncertainty about which lands had clear and unencumbered title, and the inability of the colonial government to compel action influenced the implementation of humanitarian governance during New Zealand’s early colonial history. The precariousness of the settler-colonial state meant that at the time of Grey’s arrival in New Zealand native reserves exerted little of the transformative potential that London planners had hoped for.

If William Hobson and Robert FitzRoy, the colony’s first two governors, subscribed to ideas of humanitarian governance that permitted a large degree of Māori autonomy, under George Grey humanitarian governance featured a broader slate of interventions seeking to incorporate Maori more universally within the colonial state. Following the abolition of the protectorate and lasting the duration of Grey’s first term as governor (1845 - 1853), reserves – as a category of land designated for the benefit of Māori – became part of the larger workings of native policy. Unlike native reserves intended to support chiefly families as conduits of European social, economic, and cultural practices, Grey’s vision for humanitarian governance saw the state as able to engage the whole breadth of Māori society.

This chapter argues that humanitarian governance remained focused on ameliorating the suffering and mitigating the precarity of indigenous New Zealanders even as official policies shifted to prioritize integration over maintaining indigenous autonomy. Under Grey’s administration, policies amalgamating indigenous bodies, lands, and modes of production as part

<sup>4</sup> Archives New Zealand [ANZ], Land Office Papers: Description of Native Reserves in Wellington Settlement, n.d., New Zealand Company [NZC], 33/4/9. The reserves were scattered throughout the Port Nicholson District ranging from two of 81 of the surveyed sections in Lowry Bay, to one out of 34 in Horokiwi. GBPP 1845 (369) *Despatches from the Governor of New Zealand*, Table Showing the Land Surveyed and Under Survey, 31 January 1844, 95.

of the settler-colonial state reframed practices of humanitarian governance in ways that colonial administrators hoped would accelerate, broaden, and consolidate Maori adoption of European customs and behaviors.<sup>5</sup> Grey was no stranger to thinking in terms of systemic change.

Contributing to Lord Stanley's favorable impression of Grey's suitability for the role was the positive reception of the latter's 1840 pamphlet proposing the gradual and nuanced application of British laws to indigenous Australians as the "course pointed out by true humanity[.]"<sup>6</sup> By following a shift in humanitarian governance from practices largely accommodating difference to an administrative philosophy that prioritized economic, social, and legal integration across classes, Grey's first administration – for he returns to New Zealand in December 1861 for a second term as governor - shifted away from Māori economic autarky and cultural autonomy. In its place was a policy that actively pursued amalgamating Maori into the colonial state as a way to accelerate indigenous social, political, and economic transformations.<sup>7</sup>

The crisis circumstances surrounding Grey's appointment allowed him a wide degree of latitude to accomplish these goals. As the executive of a colony perceived to be in crisis by the British public and officials in London, Grey nevertheless had to justify his policies to his superiors. To do so, Grey wrote to the Colonial Office explaining his accusations against the Protectorate of Aborigines and situating his own policies as interventions that would improve the

<sup>5</sup> Though the term "rule of difference" is useful, its instantiation in early colonial New Zealand was not of the same nature as the practice of colonial rule on the Indian subcontinent where administrators used the diversity of local communities to justify the negation of rights and customs. There were distinct modes of governance for New Zealand's aboriginal and European populations, and the colonial government determined categories of friendly and oppositional Māori groups, but the state perceived "natives" as more as a singular category and did not codify distinct rules for different *iwi* or *hapū*. Partha Chatterjee, *The Nation and Its Fragments: Colonial and Post-Colonial Histories* (Princeton: Princeton University Press, 1993).

<sup>6</sup> George Grey, "Report Upon the Best Means of Promoting the Civilization of the Aboriginal Inhabitants of Australia," in H. Hanson Turton, *An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand* (Wellington: George Didsbury, 1883), 20.

<sup>7</sup> Mahmood Mamdani, *Citizen and Subject* (Princeton: Princeton University Press, 1996), 17-19. Humanitarian governance in New Zealand during this period shifts from a model more akin to indirect rule to one that aspired to direct rule through tutelary processes of health, education, and legal tutelage.

health, education, and economy of Māori.<sup>8</sup> That Grey could not simply dismiss the protectorate, and the governor's continued defensiveness in justifying his interventions, suggests that Grey was attuned to the importance of identifying his administration as sensitive to the humanitarian sentiment that had played a significant role in bringing the islands of New Zealand under British control. Continued debate within the networks of the early-Victorian empire about the guiding principles and implementation of colonial administration reminds us that the British perspective of administration and rule was rarely that of a single collective mind.<sup>9</sup> Instead, humanitarian governance in New Zealand in the decade following Grey's arrival adopted methods acceptable to imperial administrators and the British public while remaining cognizant of the limited power of Britain's colonial administration in New Zealand.

Responding to an assemblage of actors and processes engaged in the articulation, transmission, and practices of concern for the welfare of distant others, Grey had a central role in a trans-imperial process of enacting and justifying colonial policy.<sup>10</sup> Grey was able to navigate the channels of official communication while building his reputation along the way. He was familiar with the power of discourse and the importance of framing decision-making in a manner that was sensitive to an audience that conceptualized Britain's colonial endeavors as steeped with emancipatory potential. In New Zealand's early years of formal colonization (1840 - 1872), the balance of military, economic, and demographic power was not monopolized by Europeans. Grey's approach positioned the colonial government as responsible for delivering programs of

<sup>8</sup> GBPP 1847 (837) *Papers Relative to New Zealand*, Governor George Grey to Lord Edward Stanley, 3 June 1846, 5-7.

<sup>9</sup> Zoë Laidlaw, *Colonial Connections* (Manchester: Manchester University Press, 2006).

<sup>10</sup> Alan Lester and Fae Dussart, *Colonization and the Origins of Humanitarian Governance* (Cambridge: Cambridge University Press, 2014), 10.

social and economic development. Interventions into multiple areas of indigenous life cast the government in the role of a custodian of a promising, if vulnerable, population.<sup>11</sup>

Grey saw Māori as both full of potential and as a possible threat to the settler-colonial state. His vision for governance advocated making Māori and European “mutually necessary to each other.”<sup>12</sup> Government action could aid the “rapid and remarkable progress in the arts of civilized life” already achieved by Maori. This progress, Grey thought, might be encouraged by employment on public works, instruction in European practices of agriculture and animal husbandry, and participation in a system of commodity production and exchange.<sup>13</sup>

To achieve these goals Grey proposed Māori martial capacity could be curtailed by limiting access to gunpowder and bound to the service of the state through participation in a Native Constabulary. Anxiety about the dangers of alcohol would be addressed through restrictions on the sale of spirits. Educating Māori children in English, Christian scripture, and farming techniques would help constitute a workforce of useful laborers. Developing indigenous knowledge of the law and including Maori within colonial judicial institutions would familiarize Maori with European legal codes and disciplinary processes. European courts would reinforce the colonial state as an arbiter and guarantor of justice, curtail the influence of indigenous authority, and reduce the frequency of extra-judicial violence.<sup>14</sup>

Humanitarian governance as pursued by Grey was a strategy of rule that adapted to local conditions. Adopting integration as a humanitarian undertaking that provided Māori access to

<sup>11</sup> James Belich, ‘Grey, Sir George (1812–1898)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com.proxy.lib.umich.edu/view/article/11534>, accessed 10 September 2016].

<sup>12</sup> GBPP 1847-48 (1002) *Further Correspondence Relative to New Zealand*, Governor George Grey to Earl Grey, 17 March 1848, 104.

<sup>13</sup> *Ibid.*, 104.

<sup>14</sup> “Resident Magistrates Courts Ordinance,” 1846, 10 Vict., c16 (New Zealand); “Arms Ordinance,” 1846, 10 Vict., c18 (New Zealand); “Native Force Ordinance,” 1847, 11 Vict. c1 (New Zealand); “Sale of Spirits to Natives Ordinance,” 1847, 11 Vict. c3 (New Zealand); “Education Ordinance,” 1847, 11 Vict. c10 (New Zealand).

British markets, networks, and laws perpetuated established portrayals of New Zealand as a space within the British Empire deeply infused with humanitarian sentiment. Indigenous autonomy – that is insulating and mediating indigenous New Zealand from European influences – was no longer understood by New Zealand’s colonial government as a policy of protection. Despite this shift to incorporating Maori on largely European terms, in the decades before the British Empire’s crisis year of 1857, New Zealand’s advocates hailed it as an example of what liberal empire could look like.

Understanding how humanitarian governance shifted from one that was comfortable coexisting with Māori autonomy, to one that increasingly circumscribed Māori ability to opt-out of a colonial system, signifies the growing ambition of humanitarian governance during New Zealand’s early colonial period. Practices of humanitarian governance under Grey – establishing colonial hospitals, promoting government support of schools, and limiting the geography of legal pluralism – were programmatically diverse, spatially expansive, and reformed how the colonial state interpreted its obligations to indigenous subjects.

Interactions between the state and Māori became more intertwined from the mid 1840s. Limitations on the ability of the colonial government to compel Māori, however, maintained the colonial state’s focus on cultivating the voluntary attachment of indigenous New Zealanders.<sup>15</sup> The government’s collaboration with indigenous elites as an administrative vehicle through which to further legal integration was continuous with practices from the early 1840s while the development of health, education, and economic development efforts reflected interest in the entirety of the Maori population rather than being confined to an elite. The limited coercive power of the colonial state, however, meant that its interventions could not be as explicitly

<sup>15</sup> James Belich, *Making Peoples* (Auckland: Penguin Press, 1996), 212.



coercive as they were in other colonial settings throughout the empire or during the later 1850s and 1860s in New Zealand when the colonial state received substantial military support from Britain.<sup>16</sup>

Invoking humanitarianism as an ethical framework for colonial rule requires considering the ways humanitarian action establishes, conceals, or reinforces structures of power. A reading of official documents from the 1840s and 1850s reveals a contemporary awareness of imperial weakness and inability to force Māori to become yeoman farmers on individual lots or for all Māori children to enroll at English schools. Interventions characterized by “soft power,” like establishing hospitals and schools, thus formed one way for the colonial government to pursue its programmatic agenda and promote a vision for Māori assimilation into the colonial state without resorting to military intervention.

Examining the opening of hospitals, expansion of primary schooling, curtailment of indigenous legal authority, and promotion of commodity production reveals how principles of humanitarian governance under Governor Grey became concrete as a slate of administrative interventions. During the nineteenth century European governments extended their involvement in the health and welfare of their subjects. Health was particularly important during an era when declining Māori populations formed a source of continued concern for British contemporaries.<sup>17</sup> Schools and hospitals as sites of state intervention were within the remit of Grey’s instructions from Lord Stanley in his instructions to Grey. Revealing a convergence between metropolitan and colonial goals, Lord Stanley wanted the new administration to “omit no measure within the reach of prudent legislation or a wise administration of the law, for securing to the aborigines ...

<sup>16</sup> Richard Hill, *Policing the Colonial Frontier* (Wellington: Victoria University Press, 1986); James Belich, *Replenishing the Earth* (Oxford: Oxford University Press, 2009).

<sup>17</sup> Alan Moorehead, *Fatal Impact: An Account of the Invasion of the South Pacific, 1767-1840* (New York: Harper & Rowe, 1966).

the most unrestricted access to all the means of religious knowledge and of civilization[.]”<sup>18</sup> Grey’s pursuit of this goal through practices of humanitarian governance worked toward assimilationist principles linked to Grey’s hopes for indigenous assimilation rather than the more temporally ambivalent processes of earlier years. The remainder of chapter takes four examples – hospitals, education, economic development, and the law – to show how the colonial state’s humanitarian practices enforced, or aspired to enforce, the horizontal integration of New Zealand’s Māori on largely European terms and in a manner that sought to align Māori futures with those of settlers.

### Hospitals

Hospitals and health care designated for the benefit of Māori developed haphazardly. As early as 1837, the Church Missionary Society stationed a doctor at the Bay of Islands to provide medical attention to local Māori and missionaries.<sup>19</sup> To address the health needs of Māori in its Port Nicholson settlement, the New Zealand Company reimbursed local doctors for their services.<sup>20</sup> In 1843 George Selwyn, the Bishop of New Zealand, planned to open a hospital and school for South Island Māori at Nelson. A violent clash at Wairau in June 1843, however, caused Selwyn to question whether or not Māori would be willing to place their health and the care of their children in the hands of European institutions.<sup>21</sup> Nelson would have to wait another decade for its first permanent hospital. The establishment of state-funded colonial hospitals in the

<sup>18</sup> GBPP 1846 (337) *Further Correspondence Relative to New Zealand*, Lord Stanley to Lieutenant Governor Grey, 13 June 1845, 70.

<sup>19</sup> Catharine Coleborne, “Health and Illness, 1840s-1990s,” in *The New Oxford History of New Zealand*, ed. Giselle Byrnes (Oxford: Oxford University Press, 2009), 489.

<sup>20</sup> GBPP 1844 (556) *Report from the Select Committee on New Zealand*, Bishop George Selwyn to Officer Administering the Government Willoughby Shortland, December 19 1842, Appendix 24, 185. The cost of medical care for Māori in 1842 amounted to more than £140.

<sup>21</sup> ANZ. Bishop of New Zealand to the Colonial Secretary, 23 September 1846, Internal Affairs (IA) 1 54 46/1415.

mid-1840s replaced the decentralized provision of medical care for Māori.<sup>22</sup> European administrations understood the importance of hospitals as both improving the health and wellness of the local population, forming a visible and accessible means through which the beneficence of the colonial government could be displayed, and as a form of tutelage that would bring Māori health practices into alignment with European traditions of wellness.

Caring for Māori bodies formed part of the justification for colonial rule in New Zealand. No system with a codified purpose and plan emerged until the late 1840s. Testifying in London before the 1844 parliamentary committee, George Earp, author of several guidebooks about New Zealand and a significant informant to the committee, affirmed that government hospitals and schools would be a “judicious and positive intervention for Māori. Earp postulated revenue raised from native reserves could provide funding for health infrastructure and poor relief in a manner analogous to Britain’s Poor Law.<sup>23</sup>

Also in 1844, William Spain, the official responsible for purchasing land from Māori, recommended establishing a government hospital at New Plymouth. The cost of establishing the facility would be credited against a £200 payment promised to local Māori as part of a government land purchase. Māori, however, had not asked for a hospital, instead requesting a case of double-barreled guns. Spain did not act on their request and instead calculated that the hospital would provide a focal point for “charitable efforts” and, by being situated on a native reserve, help to convince local Māori of the usefulness of native reserves and the benefits of having European neighbors.<sup>24</sup> The substitution of a hospital facility as part of a £200 payment for

<sup>22</sup> GBPP 1846 (772) *Correspondence Between the Colonial Office and Mr. Halswell*, Edmund Halswell to Lord Lytton, 18 June 1846, 9. Halswell complained that there was no funding available for hospitals and he had to provide medical expenses out of his private resources.

<sup>23</sup> GBPP 1844 (556) *Report from the Select Committee on New Zealand*, Testimony of George B. Earp, 149.

<sup>24</sup> GBPP 1846 (203) *Despatches from the Governor Regarding Land and the New Zealand Company*, Minutes of the Commissioner’s Proceedings in the Court at New Plymouth, 12 June 1844, 134.

land – even though local Māori had been promised weapons – and the use of native reserves as a site for providing public health infrastructure rather than being entrusted to Māori oversight suggest a continued government wariness about Māori possessing firearms. As a practice of humanitarian governance, the New Plymouth hospital displaced the cost of providing healthcare onto Māori recipients. The cost of establishing a hospital was born by Māori through a reduction in a payment for land they had sold to the government and yet was presented by the colonial administration as an example of government munificence.

By 1847 Grey could write Lord Stanley with news that four hospitals were in the planning stage. Located in the principal North Island settlements of Auckland (opening in 1847), Wellington (1847), New Plymouth (1848), and Wanganui (1851) the hospitals provided medical assistance to local communities. Equipped with steam baths, inpatient facilities, and staffed by trained practitioners, Grey anticipated that the establishment of what he termed “mixed hospitals” for Māori and Europeans would be beneficial for Māori by virtue of modeling European practices of health and hygiene. In contrast to what he described as the “utterly useless establishment” of the Protectorate of Aborigines, Grey painted a favorable picture of the impact hospitals had on Māori.<sup>25</sup> The systemization of medical care both legitimized Grey’s shift away from the native policy practiced by his gubernatorial predecessors and framed his approach to humanitarian governance as focused on improving the health and well-being of Māori.

The Wellington hospital, opened on September 15<sup>th</sup> 1847, was the first facility established and furthered government efforts to “gain the attachment and promote the civilization” of Wellington Māori.<sup>26</sup> Dr. John Fitzgerald, the hospital’s chief surgeon, remarked

<sup>25</sup> GBPP 1847 (837) *Papers Relative to New Zealand*, Governor Grey to Earl Grey, 4 February 1847, 92-93.

<sup>26</sup> GBPP 1847-48 (1002) *Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 6 March 1848, 70.

that mixed wards of indigenous and European practices was a useful arrangement because by seeing Europeans submit to treatment it was thought to inspire Māori to “greater confidence in [the doctor’s] art” and provide models of punctuality and regularity in taking medicine.<sup>27</sup> The hospital’s first surgical procedure removed a neck tumor from Hiangarere, a Te Āti Awa chief and signatory of the Treaty of Waitangi. Wiremu Tamihana, a prominent Ngāti Hauā leader, subsequently expressed his appreciation to Grey for this procedure and the “humane system” the hospitals comprised as representative of the government’s “love for the natives.”<sup>28</sup>

At Auckland, where the hospital also opened in 1847, Dr. William Davies expressed his confidence that the facility would be a boon to both the health and social acculturation of area Māori. Reflecting upon his plan to integrate fifty beds in the Māori and European wards, Davies noted that medical care could well “prove one of the most powerful means of civilizing and improving the moral habits of the aboriginal population.”<sup>29</sup> Diseases, most commonly consumption (tuberculosis) and scrofula (tuberculosis of the neck usually resulting from infected lymph nodes), were “speedily arrested upon the patient being subjected to the strict regimen of a well-regulated hospital” with Māori hygiene “much improved by their intercourse with the European patients.”<sup>30</sup> Hospitals were, to Grey and government officials, sites of medical and hygienic tutelage that improved the health and labor potential of Māori while also enhancing the reputation of the government among Māori who sought treatment there.

Colonial hospitals were well used. Writing three months after the opening of the Wellington facility Dr. Fitzgerald noted establishment’s ten beds had been fully occupied and by

<sup>27</sup> Ibid., 72.

<sup>28</sup> GBPP 1847-48 (1002) *Further Papers Relative to the Affairs of New Zealand*, Wiremu Tamihana te Nike to Governor George Grey, 11 October 1847, 11-12.

<sup>29</sup> GBPP 1850 (1136) *Further Papers Relative to New Zealand*, Dr. William Davies to Governor George Grey, 1 January 1849, 29.

<sup>30</sup> Ibid., 29.

1852 treated over 400 Māori patients each year.<sup>31</sup> Patients came not just from the Wellington area, but also travelled up to fifty miles on rough roads from Otaki, Wainuiomata, Manawatu, and Waikanae.<sup>32</sup> In 1848 at Auckland, Dr. Davies reported treating 534 Māori and 130 Europeans and shared his colleague's appreciation for the facility's broad geographic catchment.<sup>33</sup> Dr. Fitzgerald echoed Grey's conviction that hospitals could function both as a place of healing and as models for European health practices. Nevertheless, he also recommended Grey recruit local Māori chiefs to serve on the hospital's committee. By gaining the "sanction and concurrence" of local notables, Fitzgerald hoped that more Maori would also subscribe to European medicine.<sup>34</sup> Involving local indigenous elites speaks to the still-nascent power of the colonial state in the late 1840s. The government lacked the power to coerce Māori and in this period had to rely on cooperation.

Visible interventions, in this case through medical procedures that made the sick well again, formed one means through which the colonial state practiced humanitarian governance. Hospitals formed one way of demonstrating to both Māori and British critics that New Zealand was fulfilling its promise as different, humane chapter in Britain's colonial history. A combination of humanitarian rhetoric, involvement of local Māori, and reports of improved health outcomes engaged both aspirational ideas of humanitarian action and individual

<sup>31</sup> In the first 18 months of operation, the Wellington Hospital treated 355 patients of whom 291 were Māori. GBPP 1850 (1280) *Further Papers Relative to New Zealand*, Return of the Number of Patients Treated at the Colonial Hospital - Wellington, 1 April 1848, 166.

<sup>32</sup> GBPP 1847-48 (1002) *Further Papers Relative to the Affairs of New Zealand*, Dr. J. Fitzgerald to Governor George Grey, 21 January 1848, 71.

<sup>33</sup> GBPP 1850 (1136) *Further Papers Relative to New Zealand*, Dr. William Davies to Governor George Grey, 1 January 1849, 30.

<sup>34</sup> GBPP 1847-48 (1002) *Further Papers Relative to the Affairs of New Zealand*, Dr. J. Fitzgerald to Governor George Grey, 21 January 1848, 71; GBPP 1847-48 (1002) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 6 March 1848, 72. Dr. Fitzgerald forwarded Governor Grey the names of twenty notables from seven Port Nicholson *pas* (Māori settlements). The localities suggested for recruitment were Petmi, Wai Wetu, Ngauranga, Kai Wara Wara, Pipitea, Kumutoto, and Te Aro.

testimonials of recovery. Neat statistical tables describing the recovery of Māori patients comprised tangible evidence of delivering aid to a group considered vulnerable. The disciplining and organization provided by the physical space of the colonial hospitals constituted a space in which Māori of all classes could be brought into contact with Europeans in a structured and regulated manner that inspired proper behavior by all parties.<sup>35</sup>

Public health campaigns funded by the colonial government extended the infrastructure of humanitarian governance into Māori communities and thereby extended the geographic reach of health care beyond the walls of colonial hospitals. One of the earliest public health initiatives was vaccinating Māori against smallpox. This campaign was largely prophylactic since in January of 1849 the colony had not experienced any recorded cases of smallpox. Nevertheless, Dr. Davies, working at Auckland, embarked on a vaccination campaign in the interior of the North Island. With the help of a colleague from the 58<sup>th</sup> Regiment in the last few months of 1848 Davies inoculated 464 patients.<sup>36</sup> Taking medicine out into the countryside provided a visible benefit to Māori who did not trade with or have robust interactions with Europeans.

Two years later, Dr. P. Wilson, in charge of the hospital at New Plymouth, noted that a 1849 Māori-language account of smallpox (including an amateurs' guide to vaccination) had alarmed local Māori. Aware of the government's vaccination efforts like those undertaken by Dr. Davies, and "finding they could produce vesicles, or pustular blebs [themselves] ... vaccination went on in indiscriminate progress."<sup>37</sup> Wilson's complaint was that Māori who self-inoculated rarely had the results of their procedure checked and confirmed as effectual. The adoption of

<sup>35</sup> Damon Salesa, *Racial Crossings* (Oxford: Oxford University Press, 2011), 110.

<sup>36</sup> GBPP 1850 (1136) *Further Papers Relative to New Zealand*, William Davies to Governor George Grey, January 1 1849, 30.

<sup>37</sup> GBPP 1850 (1280) *Further Papers Relative to New Zealand*, Dr. P. Wilson to Governor George Grey, December 1849, 115-116.

vaccination practices by Māori reveals the porousness of European control over health interventions and the mobility of medical expertise and techniques beyond settler-colonial spaces. The spread of medical expertise outside of institutionalized settings was worrisome for European practitioners who were skeptical about the capacity of Māori to administer effective vaccinations.

Governor Grey's 1849 general report to London emphasized the continued effect hospitals had "to bring the natives under the influence of the Government, and to gain their confidence and attachment."<sup>38</sup> Through the inculcation of "the comforts and conveniences of a civilized life" Grey hoped Māori would become materially and socially invested in the success of British colonization.<sup>39</sup> The types of health practices that hospitals embodied functioned as a type of tutelary humanitarian action designed to accustom Māori to European concepts of health and hygiene while enhancing the prestige and positive perception of the colonial government among Māori.

Hospitals continued to figure prominently in Grey's communications to London as evidence of the efforts undertaken by the colonial state to establish humanitarian governance. In an 1852 letter to the Colonial Office, the governor asserted that "the maintenance of these hospitals is a matter of paramount importance to the native race, whilst, if the question is also viewed as a means for the diffusion of civilization, by showing the natives the value of and accustoming them to European houses, food, and comforts, and also as a means of gaining their attachment to the British Government and British race."<sup>40</sup> Like previous iterations of medical

<sup>38</sup> GBPP 1850 (1136), *Further Papers Relative to New Zealand*, Governor George Grey to Earl Grey, 9 July 1849, 194-5.

<sup>39</sup> *Ibid.*, 194-5.

<sup>40</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 13 February 1852, 73.



provision in the 1840s, medical interventions provided a visible and generally positive colonial intervention. In addition to building confidence in the settler state, by promoting European habits of health among Māori, hospitals and medical care also forwarded a policy of cultural assimilation. Collecting biomedical information was also important for discovering the causes and magnitude of Māori illness and mortality during an era full of concern about the future viability of Māori populations. Māori bodies, however, were not the only concern of Governor Grey who also advocated schools and practical education as another implementation of humanitarian governance.

### **Education**

If the care of Maori bodies provided one method of justifying and framing a policy of more intensive integration – in that improved health was both a humanitarian goal and a type of tutelage for Māori – schools constituted a second thread of humanitarian governance. Education had been part of the government’s aspirations since the colony’s 1840 establishment with the first governor receiving instructions that the “education of youth among the aborigines” was “indispensable to the success of any measures for their ultimate advancement.”<sup>41</sup> The 1844 Select Committee on New Zealand, convened in the aftermath of the Wairau Affray to consider the progress of colonization in New Zealand, flagged education as deserving of utmost attention and Māori schools figured among the anticipated beneficiaries of grants of land or funding from native reserves.<sup>42</sup> Teaching also continued to be a point of concern for humanitarian groups like

<sup>41</sup> GBPP 1841 Session 1 (311) *Correspondence Relative to New Zealand*. Lord Russell to Governor William Hobson. 9 December 1840, 28.

<sup>42</sup> GBPP 1844 (556) *Report from the Select Committee on New Zealand*. Report of the Committee, 23 July 1844, xi.

the Aborigines Protection Society.<sup>43</sup> Like hospitals, Grey conceptualized Māori education as both a humanitarian measure facilitating the progress of Maori in metrics of European civilization and one that would work to assimilate Māori into European society, in the process becoming disciplined participants in a colonial labor pool.

Grey, however, was cognizant of the limited resources at his disposal and advocated a non-sectarian approach to education that built upon existing educational infrastructure established by Anglican, Methodist, and Catholic missionary societies. Grey felt imparting a religious education outweighed the perceived dangers of Catholicism. The importance of education, he felt, was “the true means of removing barbarism and promoting civilization.”<sup>44</sup> Instead of a state-run system, the Education Ordinance of 1847 provided for government financial assistance to missionary schools.<sup>45</sup> This model was seen as particularly well-suited to New Zealand’s geography and demography due to the colony’s dispersed population, rugged interior with poor road connections, and existing missionary school infrastructure that had been growing since 1814 with the establishment of a Church Missionary Society outpost at Waimate in the Bay of Islands. Grey anticipated that the schools’ first pupils would be mostly native and mixed-race children but saw that education could subsequently be extended to include European children.<sup>46</sup> An appropriation from the general colonial revenue stream was to support educational efforts and Grey justified spending up to five percent of the entire colonial revenue on education

<sup>43</sup> Louis Chamerovzow, *The New Zealand Question and the Rights of Aborigines* (London: T.C. Newby, 1848), 415-16. Chamerovzow had become Assistant Secretary of the Aborigines’ Protection Society in 1847.

<sup>44</sup> GBPP 1847-48 (1002) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 9 December 1847, 49.

<sup>45</sup> “Education Ordinance,” 1847, 11 Vict c10 (New Zealand).

<sup>46</sup> GBPP 1847-48 (1002) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 9 December 1847, 48.

as necessary since an “efficient system of education” was considered necessary to secure the colony’s future.<sup>47</sup>

The Education Ordinance stipulated religious education, industrial training, and instruction in the English language as grounds for receiving state aid. Grey wrote that these skills were important given the necessity of English, the high demand for skilled manual laborers in frontier context, and the likely distance of a dispersed population from “all the ordinances of religion.”<sup>48</sup> Grey considered Māori to be “distinctly an agricultural race,” so favored a practical education, or “industrial” model of training. This form of education would introduce Māori to the principles of British agricultural techniques, develop the colony’s human capital in the process, and defray operational expenses through each establishment producing its own food.<sup>49</sup> Grey postulated that schools would quickly become self-sustaining and that “all native and half-caste children, as well as all destitute European children, would receive an excellent and useful education.”<sup>50</sup> The provision of education as a humanitarian gesture was designed to benefit the colony by instructing both poor whites and Māori in skills that would make them productive members of the colonial economy.

The schools’ pedagogical philosophy was structured on David Stow’s “Glasgow System” of intellectual, physical, and moral training.<sup>51</sup> Describing a school at New Plymouth run by the Wesleyan Missionary Society that had opened in 1846, two Inspectors of Public schools reported that the 25 boys resident at the institution had made “remarkable progress in reading, writing,

<sup>47</sup> GBPP 1847-48 (1002) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 9 December 1847, 48.

<sup>48</sup> *Ibid.*, 48-49.

<sup>49</sup> 1850 (1136) *Further Papers Relative to New Zealand*. Governor George Grey to Earl Grey, 22 March 1849, 69.

<sup>50</sup> *Ibid.*, 69.

<sup>51</sup> Elizabeth J. Morse, “Stow, David (1793–1864),” *Oxford Dictionary of National Biography*, Oxford University Press, 2004 [<http://www.oxforddnb.com.proxy.lib.umich.edu/view/article/26609>, accessed 17 Oct 2015]

arithmetic, geography, and knowledge of the English language.”<sup>52</sup> Corollary to their schoolwork, scholars helped with preparing land for planting, mowed hay, harvested crops, threshed wheat, built fences, carted manure, milked the school’s dairy cows, and fed stock. An orchard was also in the planning stage. Mission schools were open to both boys and girls and the limited number of places they offered could not always meet demand. At St. Patrick’s, a Catholic school in Auckland, Grey estimated there were two or three hundred suitable candidates for the twelve spots.<sup>53</sup> In addition to educating and training individual students, the inspectors wrote schools would “prove a powerful means of civilization, and tend efficiently to make good British subjects of those so educated, and likewise extend a similar beneficial bearing over those with whom they associate when they return to their homes.”<sup>54</sup> School inspectors anticipated that graduates would have a positive compounding effect Māori in their communities. This optimism echoed hopes for the ripple effects of hospitals in promoting European patterns of health and hygiene among Māori.<sup>55</sup>

Administrators hoped Māori graduates of the industrial schools would contribute to the success of the colonial state by participating in a colonial economy and disseminating knowledge among their own communities.<sup>56</sup> By extending the influence of the government beyond New

<sup>52</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Inspector J. Flight and Inspector P. Wilson to Governor Grey, 2 August 1852, 157-159.

<sup>53</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 21 April 1854, 11.

<sup>54</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Inspector J. Flight and Inspector P. Wilson to Governor George Grey, 2 August 1852, 156, 1859.

<sup>55</sup> The idea is also analogous the compounding effect of evangelization in the Pacific that relied on thousands of Islanders to magnify and extend missionary labors. Dough Munro and Andrew Thornley, “Pacific Islander Pastors and Missionaries,” *Pacific Studies* 23, no. 3 (2000).

<sup>56</sup> ANZ, Blue Book, 1849, IA 12 10, 134-137. Five Church of England schools received £1,225.10.0, two Wesleyan schools received £873.10.0, and six Roman Catholic schools received £405.0.0. These institutions enrolled almost 2,000 pupils. Schools designated as “native schools” in italics. Church of England: St. John’s College (61 males), Auckland Native Girls’ School (30 female), *Otawhao* (22 total), *Kaitotehe* (27 total), *Waikato Heads* (22 males, 25 females); Wesleyan Missionary Society: Three Kings (140 total), *New Plymouth* (26 males); Roman Catholic Schools: Auckland (196 males, 165 females), Howick (67 males and 70 females), Pamanure (42 males and 20 females), Onehunga (23 males and 21 females), Otahuhu (12 males and 10 females), St. Mary’s. *Native School*:

Zealand's European settlement, graduates of the institutions were also conceptualized as mediators between Māori and European societies and capable of softening points of friction between communities. Writing from a Church Missionary Society school in Waikato, Robert Maunsell, who along with his wife Beatrice ran several schools in the area in the 1850s, characterized the school as not simply "a matter of justice to the aborigines, but as a source of benefit to the colonists."<sup>57</sup> Maunsell wrote that education was the best means to promote civilization and industrial schools could act as a "cordon" between the settled agricultural districts of the colony and the "uncivilized tribes" by virtue of students' familiarity with both European and Māori traditions, thereby diffusing tensions, developing a labor market, and investing Māori in the success of European settlement.<sup>58</sup>

Māori communities supported missionary schools with in-kind support or donations of land. Writing to the governor, Maunsell happily reported local Māori had donated 80 acres as an endowment for a school.<sup>59</sup> The government rewarded such philanthropy. As compensation for giving a block of land for a school, the government rewarded the Waikato chief Ta Kerei with a horse as a gesture of thanks.<sup>60</sup> Gifts of land and support for mission schools suggests that Māori groups for whom the situation of a school was possible saw advantages in having their children educated in a European model.

While the period of Governor Grey's first administration saw native reserves retreat to the background as a direct means of government intervention in Māori lives, a notable exception was the financial support reserves provided to a Church of England school on the South Island

*Waimate (6 males, 28 females), New Plymouth Infants (30 males, 20 females), New Plymouth Boarding (7 total), Kaipara and Wairoa (20 total), Kawhia (965 total), Aotea (750 total).*

<sup>57</sup> PP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Robert Maunsell to Governor George Grey, 6 August 1852, 155.

<sup>58</sup> *Ibid.*, 155.

<sup>59</sup> *Ibid.*, 155.

<sup>60</sup> ANZ, Andrew Sinclair to Native Secretary, 1 December 1853, IA 4 267 1853/2675-2676.

near Nelson. Established at Motueka in 1851, three Māori girls joined the school later that year. Inspectors noted that care was taken to ensure Māori children “were always sent clean and decently clothed.”<sup>61</sup> Using income from rented native reserves, Nelson’s Board of Native Trustees paid three-quarters of the salaries for the school’s master, mistress (who taught two hours per day and provided instruction in domestic management to female students), a Māori assistant, and the school fees for Māori pupils. The three school inspectors who visited in 1852 lauded the school’s eighteen Māori students for their good behavior and that “the free intercourse between the children of both races, and their instruction in common, should be carefully preserved” as it was the only example the inspectors knew of where such an atmosphere existed.<sup>62</sup>

To expand the school’s facilities, a further £60 grant from the Board supported the construction of a second schoolroom allowing for increased access for Māori students. While there was no industrial establishment connected with this school, the school inspectors thought one could be added with advantage. Generally, the inspectors considered adult Māori students less fluent in English than their younger counterparts. While less proficient in English, adult students were quite apt in “all that relates to the science of numbers” as indicated through their work on calculating interest on loans.<sup>63</sup> Even in an educational setting as integrated as the Motueka school, one that did not have an explicit component of industrial training, a process of acculturation and tutelage aspired to bring Māori into European society as modest, quiet, and Anglophone.

<sup>61</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Richmond, Greenwood and Stephens to Governor George Grey, 9 October 1852, 168.

<sup>62</sup> *Ibid.*, 169. The school also ran a night school for adults that enrolled two English and 30 Māori men.

<sup>63</sup> *Ibid.*, 169.

The Motueka school continued to benefit from contributions from both the state and the Church of England. In late 1854, Matthew Richmond, the Superintendent of Nelson and who had taken over administration of that district's reserves in July of 1853, wrote that a considerable portion of the £280.3.0 received as rents from native reserves had "been expended in providing instructors, books, paper etc. for a school[room] and in purchasing school furniture" for the educational establishment at Motueka. Richmond had also authorized the purchase of oxen, horses, carts, tools, and the repair of chimneys and windows for "deserving families" and "industrious tribe[s]."<sup>64</sup> Two years later, in 1854, the Bishop of New Zealand had alienated 418 acres out of the Native Reserves to provide land and support for such a program.<sup>65</sup> The blending of resources from both the Church of England and from the state reveals continuing cooperation between religious bodies and the civil government in the 1850s. Integrating Māori into colonial society was not seen as the province of one group or the other. The often antagonistic relationship and disagreement of how best to pursue the humanitarian governance of Māori that characterized the early 1840s was, by the early 1850s, set aside in favor of co-operation.

Rules and regulations structuring the curriculum and enrolment of schools emerged gradually. Anglican schools, which educated the majority of students, received a codified syllabus in 1853 from the London-based Church of England Education Board. The Board outlined a syllabus of scripture, elements of arithmetic, geography, writing a good "running-hand" in Māori, and accurate pronunciation of simple and compound English sounds.<sup>66</sup>

Regulations also allowed for the "destitute children of all classes" to enroll (which included

<sup>64</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Richmond Greenwood and Stephens to Governor George Grey, 9 October 1852, 169.

<sup>65</sup> ANZ, Richmond to the Colonial Secretary, 7 December 1854, IA1 146 54/4130.

<sup>66</sup> GBPP 1860 (2719) *Further Papers Relative to the Affairs of New Zealand*, Rules and Regulations of the Education Board of the Council of the Church of England, 28 October 1853, 23.

European, mixed-race, and pupils from the Pacific Islands) but only on the condition that such enrollment did not interfere with the interests of the Māori pupils.<sup>67</sup> Though most schools were co-educational, the course of instruction at one Catholic girls' school in Wellington reveals that education could also be gendered with the "the time of the girls divided between exercises of piety, study, [and] manual work of a nature to make them useful servants."<sup>68</sup> While a priority for enrolling Māori indicates sensitivity on the part of school administrators to the particular needs of New Zealand's indigenous people, the form and content of that education worked to reinforce categories of labor, and also gendered labor practices, deemed appropriate occupations for a colonized population.

Five years after the passage of the Education Ordinance, Grey wrote to the Colonial Secretary that the schools were a success. Whereas in 1848 armed conflict in the Bay of Islands had threatened to disrupt the colony, the framework of industrial schools had contributed, in Grey's words, to reorienting Māori "attachment to the British government" from a "fear of arms" to one that was based on "a sense of duty, of gratitude ... and upon a consciousness of community of interests and prosperity."<sup>69</sup> The colony's schools provided boarding facilities for 702 pupils and funding was pegged to five per-cent of the colonial revenue, fifteen per-cent of proceeds from funds raised from the sale of land, and a considerable annual grant from Parliament.<sup>70</sup> Cooperation between church and state in this period was hailed by Grey who attributed the success of the schools in no small measure to the efforts of missionary societies who provided each school with a clergyman and a teacher at no cost to the government.

<sup>67</sup> Ibid., 21.

<sup>68</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, C. Clifford and J. Johnston to Governor George Grey, 7 December 1852, 174.

<sup>69</sup> PP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to John Pakington, 8 October 1852, 159.

<sup>70</sup> Ibid., 161.



Education provided a means of investing Maori in the success of the colonial state. Alongside health, education formed part of a larger efforts to implement humanitarian governance with a goal of strengthening a sense of Maori attachment to, and participation in, settler society.

Grey's ambitions for the model of industrial education he favored for New Zealand were empire wide. The governor interpreted schools as a humanitarian intervention by providing pupils with food and shelter and as a method through which to accelerate the adoption of British customs. Schools, Grey wrote, were not simply a local matter but rather one that "should be administered for the welfare of the entire empire" which in the case of New Zealand included the neighboring Pacific Islands. New Zealand's governor thought that the colony might become "the metropolis" for the southwest Pacific and a regional center for education, trade, and the "many commodities" of the islands.<sup>71</sup> Grey's vision for an extended official British presence in the southwest Pacific was still some decades away, but two years earlier, in 1849, the roll of St. John's College in Auckland included five boys from New Caledonia alongside a roll of 20 European, 34 Māori, and two mixed-race students.<sup>72</sup> Extending his confidence in education as a means of promoting attachment to the state, Grey also wrote that industrial schools could be productively established in the Cape Colony where they might "prove more efficient for the purposes of peace and order than any force" by virtue of "christianizing and civilizing."<sup>73</sup> Schools, in Grey's estimation, could gain the confidence of the empire's indigenous populations without the need for military force. Humanitarian governance would not only promote loyalty

<sup>71</sup> GBPP 1851 (1420) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 29 January 1851, 123.

<sup>72</sup> ANZ, Blue Book, 1849, IA 12 10, 134-135.

<sup>73</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to John Pakington, 8 October 1852, 161.

and contribute to a colonial labor pool but also eschew the destructive and expensive violence of securing stability through military action.

If missionaries, settlers, and administrators expressed a growing consensus that the governance of New Zealand's Maori should promote assimilation into colonial society, disagreement was beginning to rise about which voices should set and maintain government policy as it related to indigenous affairs. Established as a crown colony where the governor could rule with a large degree of autonomy from resident Europeans, by the early 1850s, settler communities were agitating for a degree of responsible government. Metropolitan British voices, however, expressed skepticism about the ability of European settler populations to humanely interact with aboriginal peoples. Reflecting a lingering anxiety, the 1847 extension of responsible government to New Zealand was postponed to 1852.<sup>74</sup>

Partly due to his uncertainty about whether or not an elected settler legislature would continue funding Māori education, Grey had also supported deferring representative government and suggested to the British government that the governor be given power to amend or repeal any law affecting Māori.<sup>75</sup> Aware that New Zealand's House of Representatives, as the elected body representing settlers, might not be relied upon to continually authorize expenditure for native purposes, Grey favored the provision of the Constitution Act of 1852 that provided an annual sum of 7,000 pounds for "native purposes," including Māori schools.<sup>76</sup> By being mandated by legislation, rather than subject to annual appropriation, this sum was isolated from reallocation by the representative government.

<sup>74</sup> "An Act to Suspend for Five Years ... Provision for the Government of the New Zealand Islands," 1847, 11 Vict., c5 (Imperial)

<sup>75</sup> The colony's attorney general during this period shared Grey's concerns. William Swainson, *New Zealand and Its Colonization* (London: Smith, Elder & Co., 1859), 185; GBPP 1850 (1136) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 22 June 1849, 171.

<sup>76</sup> "An Act to Grant a Representative Constitution to the Colony of New Zealand," 1852, 15&16 Vict., c72 (Imperial), Article 65 and Schedule.

Grey's fears about the settler legislature's commitment to financially supporting his vision of humanitarian governance were realized by his successor as New Zealand's governor. Thomas Gore Browne, who served from September 1855 to October 1861, faced an Executive Council vote to remove £5,900 out of the £7,000 budget earmarked for "native purposes." Browne characterized this request as both impolitic and unjust. Like his predecessor, Browne thought education formed "the most efficient means of civilizing a people who contribute so largely to the revenue, and whose barbarism is so dangerous to our prosperity, and perhaps our existence as a colony."<sup>77</sup> These sentiments reveal the continuing precariousness of the colonial government in New Zealand

Nor was anxiety about curtailing expenditure on education restricted to the colonial government. Octavius Hadfield, in charge of the Anglican mission at Otaki near Wellington since the 1840s and good friend of the Ngāti Toa leader Te Raupraha, advised the government to "show its good will towards the natives by encouraging the spread of education."<sup>78</sup> Hadfield reiterated the importance of a multipronged and non-violent form of engaging Maori and that it would be the "joint action of religion, law, and civilization that will lead these people to happiness, peace, and prosperity."<sup>79</sup> What veteran missionaries like Hadfield understood was the capacity of Māori to resist military coercion and that in the 1850s indigenous New Zealand could not be compelled to join and participate in the institutions of the European state if they did not want to.

<sup>77</sup> GBPP 1860 (2719) *Further Papers Relative to the Affairs of New Zealand*, Governor Browne to Henry Labouchere, 31 May 1856, 231.

<sup>78</sup> ANZ, Octavius Hadfield, Remarks on the State of Feeling Between the Natives and the Government, 15 April 1856, Governor (G) 13 2 13.

<sup>79</sup> *Ibid.*

An 1856 House of Representatives committee tasked with investigating Native Affairs sanctioned government sponsorship of religious educational institutions and recommended its continuation with financial support distributed in “proportion to the number of scholars who are being taught to read, write, and cypher in the English language.”<sup>80</sup> The board also endorsed Grey’s system of allocating grants of land to institutions like industrial schools as a way of providing “endowments for this purpose, to assist in the building of new school houses, and to co-operate generally in making the schools self-supporting as far as possible.”<sup>81</sup> Referring to instruction in English as a metric for funding shows the continued importance of linguistic assimilation. Grey conceptualized schools as one component of a larger program designed to integrate Māori, one that included employment on public works like roadbuilding, establishing of simple courts of judicature, building hospitals at accessible points, and cooperating with the missionaries.<sup>82</sup>

By 1857, the Church of England schools, of which there were six in the North Island, received £1690 to support the education of 286 scholars, the Methodist’s six schools receiving £1178 in support.<sup>83</sup> The acculturation of Māori through an industrial education advocated by Grey and Browne reflected an implementation of humanitarian governance that promoted Māori labor and potential financial contributions to the tax base as important to colonial society. The colonial government also used printed material to educate Māori about British culture, inform them of government policies, and disseminate practical information. In 1852, Grey was pleased by the larger than anticipated sales figures of a government-sponsored Māori-language edition of

<sup>80</sup> Appendix to the Journals of the House of Representatives [AJHR], “Report of a Board . . . to Enquire into and Report Upon the State of Native Affairs,” 1856 Session 1, B-3, 11.

<sup>81</sup> *Ibid.*, 12.

<sup>82</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to John Pakington, 8 October, 1852, 162.

<sup>83</sup> AJHR, “Reports on Native Schools,” 1858 Session 1, E-01.

*Robinson Crusoe* and wrote to his superiors in London that Henry Kemp, the colony's Native Secretary, was working on a translation of *Pilgrim's Progress* that would, in Grey's mind, add a "fresh stimulus to the rapid advances the natives continue to make in the arts of civilized life."<sup>84</sup> The printed word as a tutelary intervention formed a means of augmenting social change, with the portability and reach of texts, like newspapers and books, reaching beyond the relatively limited numbers of Māori educated at mission schools.

A Māori-language newspaper published by the government, *The Māori Messenger – Ko te Karere Māori*, formed another avenue promoting "the diffusion of useful knowledge."<sup>85</sup> A committee of the New Zealand House of Representatives recommended free copies should be sent to chiefs, native assessors, and natives teachers, two copies to the mission stations, and that "for all other copies a small charge should be made, so as to get the natives as soon as possible out of the habit of expecting to get things for free."<sup>86</sup> This encapsulation of pedagogy, both in terms of useful information and texts considered to be beneficial to moral growth, as well as conditioning Māori to become part of a waged laboring economy, situates the humanitarian goals of education within a larger program of actions designed to integrate and accustom Māori to settler colonization.

For Grey, schools and hospitals, were part of a larger plan "to bring the natives under the influence of the Government, and to gain their confidence and attachment" with hospitals, savings banks, pensions for allied chiefs, and employment in public works.<sup>87</sup> In 1846, in the aftermath of the Wairau Affray, the Bishop of New Zealand noted that the violence had

<sup>84</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 15 June 1852, 110-111.

<sup>85</sup> AJHR, "Report of a Board ... to Enquire into and Report Upon the State of Native Affairs," 1856 Session 1, B-3, 12.

<sup>86</sup> *Ibid.*, 12.

<sup>87</sup> GBPP 1850 (1136) *Further Papers Relative to New Zealand*, Governor George Grey to Earl Grey, 9 July 1849, 194-5.

“destroyed this good understanding and confidence” and establishing provisions for education and health care would rebuild confidence in the colonial government.<sup>88</sup> The building of mutual confidence, according to Grey, had the ultimate aim of making separate European and indigenous societies unnecessary. The governor worked to assimilate Māori into European society and anticipated assimilation would take place largely on European terms.

### **Economic Development**

If medical and education policies reveal how government policies implemented a vision of humanitarian governance as practice, and sought to integrate Māori into the British settler state, a third category of integration focused on economic interests. Like hospitals and schools, these programs were tutelary in their effort to instruct and accustom Māori to European behaviors with the goal of enabling Māori participation in a settler-colonial political economy. Recognizing the limited coercive power of the state, however, and the consequent necessity to encourage voluntary attachment by Māori, economic development projects built upon existing Māori authority and entrepreneurship. Māori, during Governor Grey’s first administration, accessed loans from the colonial state to secure the purchase of coastal trading vessels, received grants to build mills, and earned a wage through employment on public works projects. While these projects can be considered humanitarian in that they focused on helping or facilitating the improvement of a designated group of people, the government’s agenda was also informed by a desire to weave Māori labor, productive potential, and knowledge into the colonial economy and invest Māori in the financial and material success of the state.

Administrators understood Māori participation in New Zealand’s economy as having the

<sup>88</sup> ANZ, Bishop George Selwyn to Colonial Secretary, 22 September 1846, IA1 54 46/1415.

two-fold benefit of economic and social advancement. Grey praised the attention Māori paid to “the cultivation of wheat, to improved modes of agriculture, and to the rearing of horses in cattle.”<sup>89</sup> The effect of Māori participation in the economy was to “blend the interests of the two races” and also to “induce the natives largely to contribute to that revenue, which will provide the means for their own more perfect control and government.”<sup>90</sup> The governor anticipated indigenous labor opening more land for settler cultivation with resulting employment doing much to “promote their civilization.” Acknowledging Māori economic potential recognized the value indigenous New Zealanders had for the colony’s economy as producers, consumers, and laborers.

Māori entrepreneurship and labor potential was thus a resource to be developed as the failure of the New Zealand Company unsettled the reputation of large-scale settlement projects, at least in populated areas of the North Island with continuing uncertainty about land title.<sup>91</sup> Smaller numbers of Māori on the South Island made it more amenable to planned colonization schemes with nearly all indigenous title extinguished by the late 1850s. The security of title allowed ambitious settlements of the type pursued by the Free Church of Scotland in Otago from 1848 and the Church of England in Canterbury from 1850 on much firmer footing than that enjoyed by the New Zealand Company when it arrived at Port Nicholson in 1839.

Economic development programs invoked a language of material and moral improvement. From the beginning of European settlement in New Zealand, Māori had played a central role in the production and transport of foodstuffs. Indigenous ownership of coasting

<sup>89</sup> GBPP 1847-48 (1002) *Further Correspondence Relative to New Zealand*, Governor George Grey to Earl Grey, 17 March 1848, 104.

<sup>90</sup> *Ibid.*, 104.

<sup>91</sup> In 1847, in exchange for its land claims, the New Zealand Company received an emergency loan from the British Parliament. Its operations dwindled from there and the Company’s charter was returned in 1858.

vessels provided important links in the colonial economy, especially given the poor state of New Zealand's roads into the 1850s.<sup>92</sup> In December 1853, to pick one of dozens of examples, a government grant of £180 to chief Apiriema of Tauranga enabled him to complete the purchase of the schooner *Eliza*.<sup>93</sup> Apiriema expected to make repayments from the profit on future crops. The same month, the colony's Native Department made a gift of millstones to the Māori living at Ohumieuta. The gift was intended "to encourage them in their agricultural pursuits and in their recently adopted peaceful habits."<sup>94</sup> Other gifts or loans made by the government to Māori to assist economic development took the form of horses, tack, or agricultural implements like ploughs. Gifts could incentivize production, reward the loyalty of recipients, and encourage future cooperation or service on behalf of the Crown.

Financial rewards for explicit military support also formed one strategy of managing indigenous affairs. In recognition of their service during the War in the North (May 1845 – January 1846), for example, the Resident Magistrate at Russell was authorized to distribute £100 to loyal chiefs throughout the Bay of Islands.<sup>95</sup> Government coffers were not limitless, however, as Wiremu Marsh, a prominent Ngāti Rangiwewehi leader, found when his request for a loan of £137 to purchase carts, harness, horses, and a plough was turned down by the Colonial Secretary due to the sum allotted by the General Assembly having been exhausted for the years.<sup>96</sup>

Economic development as a branch of humanitarian governance from 1845-1856 suggests that the government sought to reward loyalty and invest Māori in the colonial economy during a

<sup>92</sup> Hazel Petrie, *Chiefs of Industry* (Auckland: Auckland University Press, 2006). Through the 1840s and 1850s, Māori vessels trading up and down the coast supplied much of Auckland's food.

<sup>93</sup> ANZ, Colonial Secretary to Native Secretary, 5 December 1853, IA4 267 272 1853/2688. Ships were also advertised directly to Māori. "Schooner For Sale," *The Maori Messenger/Ko te Karere Maori* (Auckland, New Zealand), 20 December 1849; "For Sale: A Schooner, Substantially Built," *The Maori Messenger/Ko te Karere Maori* (Auckland, New Zealand), 4 December 1851.

<sup>94</sup> ANZ, Colonial Secretary to Native Secretary, 27 December 1853, IA4 267 272 1853/2833.

<sup>95</sup> ANZ, Colonial Secretary to Native Secretary, 12 June 1855, IA4 267 272 1855/1733a.

<sup>96</sup> ANZ, Colonial Secretary to Acting Native Secretary, 4 March 1856, IA4 267 272 1856/638.



period where the limited coercive power of the state made the threat of violence a rather tenuous proposition. Colonial administrators, however, had to be strategic about how they could advance the state's interests.

In addition to direct grants and loans to individual Māori, government economic intervention also occurred through expenditure on public works. Direct employment of Māori both eased pressure on a scarce supply of European labor and was favored by the colonial administration for bringing Māori into contact with the state. In early 1847, Governor Grey had proposed the “extensive employment” of Māori on roadworks. Building public infrastructure, Grey thought, would familiarize Māori with European tools and accustom Māori “to a better diet, to better clothes, to discipline, to regular hours of work.”<sup>97</sup> These projects made the country more accessible and provided Māori an easy way to transport their produce to market. Sketching the virtues of his plan to his superiors in London, Grey noted positive results with Māori “never previously fe[eling] such feelings of attachment and respect for the Government as they now entertain.”<sup>98</sup> Labor's moral component as a regulating and structuring force was important to the governor as a component of indigenous progress. The governor's promotion of Māori employment on public works was a way to continue a process of Māori integration into a waged labor economy begun in the colony's industrial schools.

Māori participation in the colonial economy was also important to non-government groups like the Aborigines Protection Society. The APS, upon the request of Thomas Brunner, then employed as the surveyor of Crown lands in Nelson, sent equipment for a mill designated

<sup>97</sup> GBPP 1847 (837) *Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 4 February 1847, 94.

<sup>98</sup> *Ibid.*, 94.

for “the benefit of the natives on the West Coast of the South Island.”<sup>99</sup> The mill was to be placed in the care of the Wesleyan Missionary Society or with Bishop George Selwyn. Like education, the provision and direction of material aid to Māori was undertaken in part with the cooperation of missionary societies who were working on the ground. Colonial administrators hoped production and labor would be a boon for both Māori and the colonial economy. By incentivizing commodity production Māori labor could supplement the settler population in fueling the growth of New Zealand. Regular work and discipline, colonial administrators hoped, would also familiarize and accustom Māori to working within European modes of production, consumption, and exchange.

### **Legal Integration**

Changes in civil and criminal ordinances establishing how Māori lived under British law – and the extent to which they could remain independent from European juridical processes – constituted another area of government activity directing Māori assimilation into European society. Since the colony’s establishment, the government had conceptualized aspects of the law as tutelary. Most Māori communities, however, could largely live outside the law. Between 1845 and 1856, legal changes consolidated judicial authority as the prerogative of the European colonial state while retaining an earlier reticence about the wholesale imposition of British jurisprudence. The law, to officials like Grey, was to retain pedagogical elements when applied in Māori contexts.

Administrators understood judicial structures and institutions as part of humanitarian governance by establishing a means of redress, enforcing contracts, and reducing extrajudicial

<sup>99</sup> Rhodes House Library [RHL], Aborigines Protection Society Minutes, 26 October 1853, MSS Brit Emp s.20, E5/11, AMB – 27A/281.

violence. Anticipating Māori rejection or resistance if new laws were implemented too rashly or in a blanket fashion, colonial governors selectively adapted aspects of British law in light of Māori capacity to resist coercion. Working within this reality and framing proposed changes as a means of facilitating Māori adoption of European social conventions, laws applied to indigenous spaces nevertheless curtailed the areas in which Māori could exercise autonomy.

This section looks at a repeal, an enactment, and a decision not to act, as representative of how colonial law encouraged assimilation as a humanitarian intervention. The repeal, that of the Native Exemption Ordinance in November 1846, removed the status of Māori as individually excused from following the majority of British laws. The enactment of the Resident Magistrates Court Act that same month brought Māori assessors into the court structure as arbitrators for Māori making claims against other Māori.<sup>100</sup> The decision not to act occurred through the government's failure to create Aboriginal Districts in which Māori law and custom might be practiced. Together, efforts to bring Māori more closely into the judicial operations of the colonial state alongside the state's failure to implement separate geographies in which indigenous society would be insulated from the colonial state reveals a shift away from the policies of the early 1840s that advocated legal autonomy and the gradual adoption of British law by Māori as the soundest implementation of humanitarian principles.

Like hospitals, schools, and economic development efforts, colonial administrators looked to the law as a tutelary intervention that could impact future Māori participation in New Zealand society. Laws situated Māori – both as individuals and as a collective – as part of colonial society rather than as adjunct to it. Using language that lauded the benevolent intention, opportunities for tutelage, and promotion of security these changes brought about, Grey

<sup>100</sup> “Police Magistrates and Native Exemption Repeal Act,” 1846, 10 Vict., c14 (New Zealand); “Resident Magistrates Courts Act,” 1847, 10 Vict., c16 (New Zealand).

recognized the importance and potency of the law as a tutelary instrument. The governor, however, was impatient that changes to Māori society occur on a faster timetable than the gradualist and long-term approach that had inspired the Native Exemption Ordinance.<sup>101</sup> Māori interactions with the British legal system under Grey underwent a modification that, like schools and medical provision, was intended to function as a model for “educating” Māori to become subjects of the British Empire.

The repeal of the Native Exemption Ordinance in November of 1846 ended one short chapter of variable enforcement of colonial law that allowed each community – Pākehā and Māori – to live largely under their own laws while nevertheless ensuring that transgressions would not go unpunished.<sup>102</sup> The Native Exemption Ordinance, passed in 1844, had promoted a vision of Māori assimilation that held “obedience to the laws and customs of England” was something to be “greatly desired,” but recognized the imposition of an entirely new body of jurisprudence could cause significant harm since Māori were not familiar with the principles and practices British laws.<sup>103</sup> The timeline for this “obedience,” therefore, was vague. Administrators hoped Māori would gradually come to understand British laws and would willingly place themselves under its authority rather than require coercion.

The Native Exemption Ordinance placed judicial power in Māori hands. In the case of inter-Māori offenses, two principal chiefs of the involved parties were empowered to resolve the dispute. The law prioritized enforcement “with the least possible risk of interrupting the peace of the community[.]”<sup>104</sup> Except in the case of rape and murder, accused Māori were to be released upon payment of a deposit of four times the value of the goods allegedly damaged or stolen. If

<sup>101</sup> GBPP 1847 (837) *Papers Relative to New Zealand*, Governor George Grey to Lord Stanley, 12 June 1846, 18.

<sup>102</sup> “Police Magistrates and Native Exemption Repeal Ordinance,” 1846, 10 Vict., c16 (New Zealand).

<sup>103</sup> “Native Exemption Ordinance,” 1844, 8 Vict., c18 (New Zealand), Preamble.

<sup>104</sup> *Ibid.*, Paragraph 2.

found guilty, the deposit would be used to reimburse the victim for the value of the stolen goods with the remaining balance paid to the government as a fine. In civil cases, the ordinance established that “no person of the aboriginal race shall be subject to imprisonment” as they remained “ignorant of the operation of the law.”<sup>105</sup> Māori considered imprisonment repugnant and degrading; the explicit exclusion of confinement as a penalty in most cases suggests the recognition of this fact by the colonial state. The cautionary stance taken by the law as wanting not to upset local communities, and placing responsibility for delivering warrants in the hands of Māori, reveals the limited scope of government, the tentativeness with which it could pursue prosecution, and a reliance on using indigenous authorities to fulfill the demands of European courts.

In October of 1846, in an address to the Legislative Council, Governor Grey put forward as a policy goal “such modifications of the British law as appear adapted to the present state of the Native population, and at the same time calculated to accustom them by degrees to take an active part in the administration of the laws of their country.”<sup>106</sup> The repeal of the Native Exemption Ordinance the following month, however, indicated that Māori participation in judicial processes would be as assistants to European jurists and enforcers of British law and not as arbiters of whether or not to move forward with a prosecution or to execute a warrant. The repeal of the Native Exemption Ordinance made punitive measures more uniform in their application across both Māori and Pākehā communities. It also consolidated state control over judicial administration. No longer empowered to exercise authority about whether to pursue legal

<sup>105</sup> “Native Exemption Ordinance,” 1844, 8 Vict., c18 (New Zealand), Paragraph 12.

<sup>106</sup> Governor Grey’s Address to the Legislative Council, 5 October 1846, in H. Hanson Turton, *An Epitome of Official Documents Relative to Native Affairs and Land Purchases* (Wellington: George Didsbury, 1883); Richard Hill, *Policing the Colonial Frontier: The Theory and Practice of Coercive Social and Racial Control in New Zealand, 1767-1867* (Wellington: Department of Internal Affairs, 1986).

action, the autonomy of Māori chiefs was consequently reduced.

To fill the gap created by the repeal of the Native Exemption Ordinance and bolster the colony's judicial infrastructure, the Legislative Council passed a Resident Magistrates' Courts Act that extended the jurisdiction of colonial courts and limited the ability of individual Māori to remain outside of European judicial processes. The preamble of the Act laid out the reasons for its passage as enabling "the more simple and speedy administration of justice" and reveals the continuing desire for flexibility by allowing "for the adaptation of the law to the circumstances of both races."<sup>107</sup> Magistrates could still authorize payments of four times the value of stolen goods, but they were not required to and could, in cases where a guilty plea was entered, summarily imprison the guilty party for up to two years.<sup>108</sup> Establishing resident magistrates' courts was partly due to expedience – in that they extended the number and geographic distribution of judicial venues – but nevertheless still implemented principles of humanitarian governance by creating a mechanism through which inter-Māori disputes could be resolved. Governor Grey had expressed criticism about how the existing judicial processes had negatively impacted Māori. Infrequent sittings of courts, a lag time in rendering decisions, and exclusively European juries were, Grey thought, injurious to indigenous interests. Increased frequency and flexibility of judicial proceedings would open up possibilities for Māori to obtain judgment from the state and strengthen their confidence in the government.

In a description of the law's intent, Governor Grey wrote to London that the goal was not only familiarizing Māori with British laws but also "inducing them, if possible, to assist in the

<sup>107</sup> "Resident Magistrates Courts Act," 1846, 10 Vict., c16 (New Zealand). Māori made good use of the courts with 23 out of 40 cases heard before the Auckland court over three months in 1847 made by Māori. Most of these cases were for claims of under £5 for wages or work performed. GBPP 1847-48 (892) *Papers Relative to the Affairs of New Zealand*, Claims of Civil Cases Disposed of at the ... Court at Auckland July – September 1847, 6 October 1847, 7.

<sup>108</sup> "Resident Magistrates Courts Act," 1846, 10 Vict., c16 (New Zealand), Article III: 9-10.

administration of them,” thereby framing the legal change as tutelary even if it represented a demotion in status for Māori collaborators.<sup>109</sup> The act’s fifth article accomplished familiarization by brining Māori into the court system as Native Assessors. Assessors were to be selected and appointed by the governor as “men of the greatest authority and best repute in their respective tribes,” and as compensation for their time would be paid up to five pounds for each satisfactory judgment.<sup>110</sup> Two assessors, one nominated by the plaintiff and one by the defendant, would work with resident magistrates and were authorized to address all cases of a civil nature transpiring between Māori.

Situated in the more densely populated areas and possessed with powers of summary jurisdiction, Gover Grey hoped resident magistrates would reduce the “pretext for resorting to violence in order to obtain satisfaction.”<sup>111</sup> By exposing Māori to processes of British law and intensifying the nature of official contact, Grey wanted government institutions, like juries, to be pedagogical even if, for Grey, Māori were, yet, “not advanced enough as a race to perform the duties of jurymen.”<sup>112</sup> Resident magistrates were also to be eyes and ears of the state, “watching carefully, and reporting on the disposition of the native population.”<sup>113</sup> The humanitarian sentiment of the laws’ preamble, however, existed alongside the removal of Māori exemption from imprisonment. Furthermore, even though local elites of “greatest authority” and “best repute” retained the ability to decide cases, they were shifted into an advisory role alongside a European resident magistrate. The repeal of the Native Exemption Ordinance and the passage of the Residence Magistrates’ Courts Act allowed punishments traditionally unacceptable to Māori

<sup>109</sup> GBPP 1847 (837) *Papers Relative to New Zealand*, Governor George Grey to the Right Hon. William Gladstone, 14 November 1846, 79-80.

<sup>110</sup> “Resident Magistrates Courts Act,” 1846, 10 Vict., c16, Section 20.

<sup>111</sup> GBPP 1847 (837) *Papers Relative to New Zealand*, Governor George Grey to the Right Hon. William Gladstone, 14 November 1846, 80.

<sup>112</sup> *Ibid.*, 80.

<sup>113</sup> *Ibid.*, 80.

sensibilities. The two laws also incorporated Māori authoritative structures on terms that situated them as participants in the colonial state rather than autonomous practitioners of jurisprudence.

If the Native Exemption Ordinance and the Resident Magistrates Act worked to limit the ability of individual Māori transgressions to be resolved outside colonial courts, the failure to implement Aboriginal Districts shows the curtailment of indigenous autonomy over geographic space. Allowed by the 1846 charter granted to New Zealand, but never brought into practice, the failure of the colonial state to implement Aboriginal Districts aligns with a wider reorientation of humanitarian governance away from a tolerance of Māori autonomy and decision making and toward a more state-directed practice. Grey saw the future of legal accommodations for Māori within New Zealand society diminishing in proportion to growing familiarity between the European and Māori communities.

While New Zealand had received an initial charter in 1840, a growing population, continuing confusion about the language of the Treaty of Waitangi, uncertainty about legality of many land purchases, and the relationship between the settlements of the New Zealand Company and the British government, had resulted in a jumble of enactments and resolutions. Earl Grey, the Colonial Secretary, perceived New Zealand's legal environment as in "almost inextricable confusion"<sup>114</sup> The 1846 Charter restructured the earlier document by "calling the settlers to participate much more largely in the business of legislation and local self-government."<sup>115</sup> In comments contextualizing the issue of the new charter, Earl Grey restated the importance of the 1840 charter's protection of aboriginal peoples. A principle of respecting indigenous practices meant that "the laws and customs of the native New Zealanders, even though repugnant to our

<sup>114</sup> PP 1847 (763) *Papers Relative to New Zealand*, Earl Grey to Governor George Grey, 23 December 1846, 67. The European population is grew from about 2,000 in 1840 to 22,000 in 1850.

<sup>115</sup> *Ibid.*, 64.



own laws, ought, if not at variance with general principles of humanity, to be for the present maintained for their government in all their relations to and dealings with each other; and that particular districts should be set apart within such customs should be so observed.”<sup>116</sup> The authority to create these districts fell to the governor.<sup>117</sup>

Chapter XIV of the Royal Sign Manual, a document delineating the parameters of governance called for by the charter of 1846, empowered the governor to designate Aboriginal Districts. Aboriginal Districts, the operation of non-repugnant “laws, customs, and usages” would be allowed and enforcement left to native chiefs. Moreover, non-Māori moving within such districts were charged to “respect and observe such native laws” or risk being penalized by any [European] court or magistrate within the province.<sup>118</sup> Governor Grey announced the 1846 charter in November of that year and it would come into effect the following January.<sup>119</sup> The absence of establishing formalized apparatus for the practice of customary law suggests that Grey was disinclined to promote sovereignty and sought to integrate Māori on terms favoring the colonial state. Extending the reach of law into Māori lives allowed Grey to use legal structures to accustom Māori rather than maintain indigenous New Zealanders in a separate space with its own legal authority.

Like Governor Grey, Earl Grey anticipated the passage of time would see Māori become agreeable to and eventually adopt British law. Aboriginal Districts, therefore, were only intended

<sup>116</sup> “Government of New Zealand Act,” 1846, 9 & 10 Vict., c103 (Imperial), Section 10; GBPP 1847 (763) *Papers Relative to New Zealand*, Earl Grey to Governor Grey, 23 December 1846, 70-71.

<sup>117</sup> *Ibid.*, 70-71.

<sup>118</sup> GBPP 1847 (763) *Papers Relative to New Zealand*, Instructions Accompanying the New Zealand Charter - Chapter XIV, 28 December 1846, 87.

<sup>119</sup> GBPP 1847-48 (1002) *Further Papers Relative to the Affairs of New Zealand*, Governor George Grey to Earl Grey, 30 November, 42. The 1846 Charter wound up being postponed for five years. Grey did not know that on March 7, 1847 the British Parliament had suspended implementing the colony’s self-governing institutions for five years partly based on the governor’s own lobbying for a delay in granting responsible government to New Zealand’s settler population. “An Act to Suspend for Five Years ... Provision for the Government of New Zealand,” 1847, 11 Vict., c5 (Imperial).

to be temporary measures. New Zealand would become a place of English language and English law. In the meantime, the Colonial Secretary wrote that “chiefs or others, according to their usages, should be allowed to interpret and to administer their own laws” while retaining full confidence that the spread of Christianity and knowledge of English would, in time, render any “distinctions of law and of legal customs ... unnecessary and obsolete.”<sup>120</sup> This vision for a distinct legal geography in which customary law could be practiced, to the extent that it was not “repugnant to humanity” - these crimes generally encompassing infanticide and cannibalism - reflected an understanding of humanitarian action of the late 1830s and early 1840s. That the idea for Aboriginal Districts, as spaces of Māori legal authority, was never implemented by Grey in New Zealand reduced the presence of Māori in setting the parameters of humanitarian governance.

In February of 1847, Grey wrote of further changes in the administration of justice. Designed to facilitate Māori access to judicial process, the changes also positioned the government as attentive to the needs of Māori. To improve the speed of due process the governor directed the Supreme Court to sit more frequently, authorized Resident Magistrates to hear claims cases of less than £100 against the government, and appointed a lawyer who would serve as counsel for natives at an annual salary of £100 plus a 5% commission on any recovered funds.<sup>121</sup> Grey framed this last measure as addressing the problem of those accused in civil suits who frequently evaded justice. One Māori claimant, for example, lost £120 as a result of a promise of payment not being fulfilled.<sup>122</sup> Grey also wrote that he had enacted an ordinance aimed at the prevention of the abandonment of mixed-race children, “as they were previously in

<sup>120</sup> GBPP 1847 (763) *Papers Relative to New Zealand*, Earl Grey to Governor George Grey, 23 December 1846, 70-71.

<sup>121</sup> GBPP 1847 (837) *Papers Relative to New Zealand*, Governor George Grey to Earl Grey, 4 February 1847, 93-94.

<sup>122</sup> *Ibid.*, 93-94.

the habit of doing – a measure which will produce important future benefits to this country.”<sup>123</sup>

Maori military proficiency limited the degree to which the colonial government could rely on widespread coercion. This limitation shaped how local colonial administrators represented failure and success in Britain.<sup>124</sup> Tenuous British power was recognized at the beginning of Governor Grey’s administration by Secretary of State for the Colonies. Fragile British governance meant presenting interventions in a humanitarian light and gaining the “confidence and attachment” of Maori meant colonial policy could be presented as detached from military occupation and the loss of sovereignty. British troops, however, were stationed throughout the colony and in conjunction with the ability of the Royal Navy to move military assets quickly should not be discounted. Despite having these regular, trained military forces available that could maintain themselves in the field for extended amounts of time, colonial officials were still reticent to threaten military action. If policy was dependent on armed force, the necessary military support had to be there or risk rupturing the narrative of the colonial state’s monopoly of violence.

Earl Grey wrote that the “ulterior consequences which must inevitably result from any, even apparent, want of power or decision in enforcing obedience to it are so serious” that he instructed the governor to not make any agreements that could later prove to be untenable.<sup>125</sup> The necessity of working within the limited capacity of the colonial state to coerce Maori contextualizes the possibilities open to the colonial government. Balancing power with persuasion, changes to New Zealand’s legal code under Grey recognized the difficulty of

<sup>123</sup> GBPP 1847 (837) *Papers Relative to New Zealand*, Governor Grey to Earl Grey, 4 February 1847, 92-94. “Destitute Persons Ordinance,” 1846, 10 Vict. c9 (New Zealand)

<sup>124</sup> James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict* (Auckland: Auckland University Press, 1986).

<sup>125</sup> GBPP 1846 (337) *Further Correspondence Relative to New Zealand*, Lord Stanley to Governor George Grey, 10 August 1845, 80.

pursuing coercion and highlighting how integrating Maori into colonial legal frameworks would not only promote social progress but would also cultivate indigenous loyalty to state institutions.

### Conclusion

Interventions in judicial practices, medicine, the economy, and the law served to accelerate assimilative processes on terms favorable to the colonial administration. The increasing presence of Christianity, “civilization,” and Māori usage of English would, administrators hoped, eventually render distinctions between the two communities unnecessary with Māori adopting European models. Unlike in other areas of settler colonization, however, British observers and administrators continued to interpret Māori society capable of change. Humanitarian governance could, in this period, encourage the social, cultural, and economic transformations of New Zealand’s indigenous people. In contrast to assessments of indigenous populations as irredeemable, policies pursued by the colonial government during the 1840s and 1850s assumed that indigenous customs and laws were malleable and, given time, would adapt and become amenable to the customs and laws of Europeans.<sup>126</sup>

Cultural assimilation, for Grey, was the desirable end point for the influence of British settlement on Māori communities. By 1850, Grey was able to write that a “considerable number of their young chiefs and most promising young men were enrolled in an armed police force, and thus habituated to act as actual administrators in the lowest offices of the law, and were made acquainted with the practical administration of the law [and acted as military allies as well].”<sup>127</sup>

If Grey was confident in the benefits Māori would derive from adopting English social practices

<sup>126</sup> George Grey was also an avid recorder of Māori folklore, songs, and other cultural elements. Among several published works is George Grey, *Mythology and Traditions of the New Zealanders* (London: G. Willis, 1854).

<sup>127</sup> GBPP 1850 (1136) *Further Papers Relative to New Zealand*, Governor George Grey to Earl Grey, 9 July 1849, 194.

and patterns of political-economy, he remained skeptical about the capacity of local, settler populations to abet that transformation in a way that was humane to Māori. If the colonial executive was answerable to London, rather than a settler legislature, Grey felt he could exercise a moderating influence on how settlers treated the colony's indigenous people.

In the 1850s, however, agitation for local control over colonial affairs was building in New Zealand and the imperial government revisited the question of governance within the colony. Grey had successfully persuaded the British government to postpone an 1846 Constitution Act that would have granted the settler population self-governance. His arguments against self-governance echoed his belief that settler control over native affairs would be injurious to Māori and because the precarious security position of New Zealand made the granting of representative government a dangerous proposition.<sup>128</sup> Earl Grey, who had become Secretary of State for the Colonies in July of that year, favored of colonial self-government but also believed the British government had an obligation to secure the safety and security of colonial peoples, was sympathetic to Governor Grey's concerns.<sup>129</sup> Earl Grey observed that there was "serious danger" in the "otherwise inestimable advantages of colonial self-government" which was that the powers of franchise could be "perverted into an instrument for the less civilized and less powerful races of men" given their exposure to a "temptation from which [other legislatures] are exempt."<sup>130</sup> Humanitarian concern in protecting Māori from acquisitive settlers who could, with self-government, acquire legal sanction for actions dispossessing the Māori, compelled the imperial government to impress upon Grey the significance of

<sup>128</sup> "New Zealand Constitution Act," 1846, 9 & 10 Vict. c103 (Imperial)

<sup>129</sup> Burroughs, Peter. "Grey, Henry George, third Earl Grey (1802–1894), politician." Oxford Dictionary of National Biography. 12 Dec. 2017. <http://www.oxforddnb.com/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-11540>.

<sup>130</sup> GBPP 1847 (763) *Papers Relative to New Zealand*, Earl Grey to Governor George Grey, 23 December 1846, 71.

communicating to the legislature “the sacred duty which will be incumbent on them, of watching over the interests, protecting the persons, and as far as may be, cultivating the minds of the aboriginal race among whom they and their constituents have settled.”<sup>131</sup> The paternalism and humanitarian impulses underlying these sentiments are clear, in that the government was to be responsible for Māori integration and bringing Māori into a European economic order.

Grey’s conduct in postponing the introduction of representative government was confirmed by Earl Grey. The delay was justified in part “with a view of preparing the colony, and especially the Native race, for so important a change in the form of government” and that the “extraordinary progress which New Zealand has made ... and the progressive civilization of the Natives, afford the best proof of” the benefits of Grey’s approach to the administration of New Zealand’s indigenous people.<sup>132</sup> Grey’s intervention sought to accelerate the speed of Māori assimilation. Practices of humanitarian governance proposed and implemented in the late 1830s and early 1840s envisioned Maori occupation of Native Reserves and invested Māori with a large degree of control of the nature and tempo of social and cultural transformation. In the 1840s, however, instead of an auto-didactic model of humanitarian governance the practices of humanitarian governance advocated by the colonial government shifted control from Maori individuals and institutions to ones directed by the colonial government.

Schools, hospitals, and tutelary forms of law were all aspects of an overall ambition to bring indigenous New Zealand under the control of the colonial state by gaining Māori “confidence and attachment.”<sup>133</sup> Social programs joined subsidies for flour mills and other

<sup>131</sup> GBPP 1847 (763) *Papers Relative to New Zealand*, Earl Grey to Governor George Grey, 23 December 1846, 71.

<sup>132</sup> Earl Grey to Governor George Grey, 5 December 1849, in H. Hanson Turton, *An Epitome of Official Documents Relative to Native Affairs and Land Purchases* (Wellington: George Didsbury, 1883), 51.

<sup>133</sup> GBPP 1850 (1136), *Further Papers Relative to New Zealand*, Governor George Grey to Earl Grey, 9 July 1849, 194-5.

farming equipment, savings schemes, and employment on public works as part of a methodology of rule. The spaces and forms of humanitarian governance, however, increasingly aspired to remove options from Māori hands even if Native Assessors, government grants, and the provision of health and educational programs allowed Māori a means of deriving some benefit from, or participating in, governance. The type of humanitarian governance advocated by Grey, the “building of mutual confidence,” however, ultimately aimed to make legal pluralism unnecessary. The assumption was that Māori would become part of European society and that assimilation would take place largely on European terms.

The shift in how the colonial government interfaced with New Zealand’s indigenous people, one that moved from an accommodation of difference in the early 1840s to Grey’s vision of a horizontally integrated society, used a discourse of humanitarian action to accomplish its goals. If the political circumstances of FitzRoy’s departure made Grey’s program of horizontal integration possible then a humanitarian framing of actions undertaken in New Zealand – changes that recast humanitarian action as much more strongly proto-developmental – reflects the particular situation of New Zealand’s colonial space, one that was different from other sites of empire by virtue of its history as a site of humane governance and relative power of indigenous peoples.

In 1856 the colonial legislature turned its attention to native reserves, but did not reestablish them as a system that supported Māori autonomy. Instead, rents from reserved land would be directed toward supporting institutions like hospitals and schools established by Grey. Grey’s approach to humanitarian governance worked to ally interventions more closely to the programs of the colonial government and limited the ability of Māori to articulate the terms and means through which humanitarian governance might be exercised. By not reestablishing the

native reserve system as a system that supported Māori autonomy and instead focusing on making individual grants and financial supports to institutions like hospitals and schools, Grey brought the humanitarian resources of the state more closely under the control of the government. Grey left New Zealand in 1854 to take up the governorship of the Cape Colony but returned later, in 1861 to an environment that enabled another type of force to be applied to horizontal integration. The outbreak of more sustained violence with the invasion of the Waikato in 1863. There, with the support of 10,000 British troops, Grey pursued integration by other, more forceful, means. The impact of representative government will be taken up in the next chapter, where an 1856 committee turned their attention to the overlooked Native Reserves.



#### **Chapter 4: English in Spirit if not Absolutely in Form Trusteeship, Humanitarian Institutions, and Individualizing Native Space (1854-1865)**

The inaugural session of New Zealand's House of Representatives on May 24, 1854, formed a milestone in transferring legislative authority from the British Parliament and Colonial Office in London to politicians in New Zealand. Local administration, authorized by the 1852 Constitution Act, reshaped the colony's government.<sup>1</sup> Instead of a governor consulting nominated advisers about legislation that would be ultimately sent to the United Kingdom for approval, policy now drew its mandate from a colonial electorate. Structurally, New Zealand's administration adopted a bicameral General Assembly with a Legislative Council appointed by the governor and an elected House of Representatives.<sup>2</sup> A "responsible ministry," drawn from both chambers with an analogous role to that of the British cabinet, joined the governor as principal contributors to public policy.

Following this shift to local government, a process referred to at the time as a grant of "responsible government," the sixteen members of the Legislative Council and forty members of the House of Representatives who met in Auckland for the Assembly's opening session held a large degree of responsibility for charting the legislative future of the colony and shaping the position of Māori within it.<sup>3</sup> The governor, however, retained authority over purchasing land

<sup>1</sup> "An Act to Grant a Representative Constitution to the Colony of New Zealand," 30 June 1852, 15 & 16 Vict., c72 (Imperial).

<sup>2</sup> Section 7 of the Constitution Act stipulated that franchise was not delineated based on race but required electors to be over the age of 21, have an estate worth at least £50 or a lease valid for longer than three years.

<sup>3</sup> New Zealand. 1854-1855. *Parliamentary Debates*. Roll of the Legislative Councillors and List of Members of the House of Representatives. vii-viii.

from Māori and reserved the prerogative to send selected bills to London for further consultation or approval.<sup>4</sup> After two years of instability, by 1856 representative government had found solid footing under the colony's first premier Henry Sewell. Empowered to draft laws, levy taxes, and regulate the disposal of land, New Zealand's assumption of local government formed part of a wider devolution of legislative responsibility - and consequent increase in political power - to white settler colonies that occurred throughout the British Empire following 1840.<sup>5</sup>

Though the constitution granted significant powers to the colonial legislature it did not leave local hands entirely unfettered. Reflecting lingering skepticism within the Britain about the ability of a settler government to sufficiently care for the welfare of its indigenous subjects, in granting a constitution to New Zealand the British parliament had included a clause mandating £7,000 in annual expenditure for "Native Purposes." Furthermore, the governor was authorized to designate spaces in which Māori could live under customary law so long as their "laws, customs or usages" were not "repugnant to the general principles of humanity."<sup>6</sup> The governor was also permitted to designate districts in which those same "laws, customs, and usages" might be followed instead of English law. By earmarking financial benefits for Māori and providing a framework for native New Zealanders to remain under, and be held accountable to, indigenous law, the constitution expressed a commitment to settler legislative control and the maintenance

<sup>4</sup> "An Act to Grant a Representative Constitution to the Colony of New Zealand," 30 June 1852, 15 & 16 Vict., c72 (Imperial), Section 56, 72, 73. Only the Crown, though in practice this power was delegated to the governor, could "purchase or in anywise acquire or accept from the aboriginal Natives" land held by them in common. The legislature's administrative reach was confined to the remit of regulating the sale of lands already been alienated from native title.

<sup>5</sup> Lord Durham's influential 1839 *Report on the Affairs of British North America* recommended the granting of responsible government to Upper and Lower Canada. The trend toward colonial self-governance was not unmitigated as demonstrated by debate over responsible government in Jamaica during the 1840s and 1850s. James Belich, *Replenishing the Earth* (Oxford: Oxford University Press, 2009); Denis Judd, *Empire: The British Imperial Experience from 1765 to the Present* (London: HarperCollins, 1996), 52; Thomas Holt, *The Problem of Freedom* (Baltimore: Johns Hopkins University Press, 1992), 240-249.

<sup>6</sup> Parliamentary Papers of Great Britain [GBPP] 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Right Hon. Sir John Pakington to Governor George Grey, 16 July 1852, 304.

of structures protecting Māori. The future of humanitarian governance in New Zealand under the new constitution entailed a balance of power between the legislature and the executive. Policy decisions hinged on defining, developing, and defending visions of how the state should regulate Māori people and lands.

Despite limiting the colonial legislature's authority to alienate and regulate Māori space, imperial administrators expressed confidence that New Zealand's colonial government would follow a progressive interpretation of liberalism characterized by a commitment to the rule of law as a force for positive social change.<sup>7</sup> In forwarding the Constitution Act to Governor Grey in 1852, John Pakington, Britain's Secretary of State for the Colonies, had commented on Grey's "strong commitment to liberal institutions" and hoped that in time the "blessings of religion and social culture" would allow Māori to "avail themselves largely of the Constitutional privileges" made available to those "who have made progress in civilization in common with their fellow subjects of the British race."<sup>8</sup>

In the period of relative calm throughout New Zealand that followed military conflict in the Hutt Valley and at Wanganui in 1847, yet before the outbreak of large-scale violence in Taranaki in 1860, the imperial and local governments envisioned a colonial future where Māori followed in the footsteps of settler populations in acquiring political rights. Legislation drafted in the years immediately following New Zealand's grant of responsible self-governance opened possibilities for developing judicial and administrative structures within Māori communities. Humanitarian governance during these years promoted institutions that would assimilate Māori

<sup>7</sup> Pitts and Mehta point to the tensions between an empire justified with a language of liberation from oppression and the contrasting experience of coercion. Jennifer Pitts, *A Turn to Empire* (Princeton: Princeton University Press, 2005); Uday Mehta, *Liberalism and Empire* (Chicago: University of Chicago Press, 1999).

<sup>8</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Sir John Pakington to Governor George Grey, 16 July 1852, 304.

into English legal processes and patterns of land tenure. Local administration, therefore, created new institutions that allowed the settler-colonial state to direct the degree and nature of Māori engagement with the state toward adopting English laws. Reflecting the continued martial capacity of Māori in the late 1850s, the governments approach to integration relied upon the voluntary attachment of Māori through a gradual amalgamation of Māori space and bodies as individuals rather than on a tribal scale.

This chapter considers how colonial policies – laws regulating behaviors, patterns of land use, and Māori interactions with the justice system – formed a practice of humanitarian governance within a political structure that granted local settler-colonial authorities significant power. In debates about Māori policy, a large majority of voices both inside and outside the government favored “improvement” rather than elimination. The more contentious debates, therefore, concerned establishing metrics and methods for what constituted progress and improvement.<sup>9</sup> Indigenous New Zealand in the mid-1850s still comprised a large portion of the North Island, and administrators acknowledged the limits of the government’s power to compel Māori.

Linking interventions in land tenure, administrative authority, and the justice system were efforts to individualize communal structures. Ranging from population-wide interventions structuring how Māori encountered the justice system to facilitating the individualization of land in a single South Island reserve, colonial policy continued earlier efforts to assimilate and incorporate Māori land and labor at both individual and societal scales. In continuity with the approach taken by earlier administrations, New Zealand’s responsible government remained invested in a pedagogy of assimilation, one that saw Māori as abetting their own colonization by

<sup>9</sup> Tony Ballantyne, “Genesis 1:28 and the Languages of Colonial Improvement in Victorian New Zealand,” *Victorian Review* 37, no. 2 (2011): 11.

contributing to the administration of laws and from their potential as a source of agricultural labor and production.

The question Edward Stafford, who led the local government as New Zealand's premier from June of 1856 to July of 1861, faced was how to frame a new set of policies regarding Māori that acknowledged the limitations of colonial power while facilitating the liberal aim of "improving" Māori to where they could exercise constitutional rights. To do this, in the words of Thomas Gore Browne, the colony's governor from 1855 to 1861, social change would have "to operate from native centres, by means of institutions, English in their spirit, if not absolutely in their form, devised to supply the peculiar necessities of the native tribes, and to secure their confidence and support."<sup>10</sup> Implementing this program shifted practices of humanitarian governance toward a model of administration that promoted European trusteeship of indigenous lands and peoples at the expense of the dispersed and autonomous native policy of earlier years. Instead of policies that allowed for Māori influence in practices of humanitarian government, the colonial state pursued programs characterized by a paternalist implementation of trusteeship that reoriented official indigenous participation in the administration of justice, management of land, and regulation of space as one that was tutelary rather than an approach that recognized the accommodation of indigenous practices.

Support for further integration of Māori also came from the missionary community. Octavius Hadfield, a prominent Anglican missionary living near Wellington, endorsed a vision for involving local Māori with the administration of justice. Writing in 1856, he argued that the main object of government was the equal administration of, and collective respect for, the law.

<sup>10</sup> GBPP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Memorandum by Responsible Advisers Native Affairs: 29 September 1858, Governor Thomas Gore Browne to Right Honorable Sir E. Bulwer Lytton, 14 October 1858, 22.

Involving Maori in colonial institutions like courts, he wrote, would help all “ranks become familiarized with law and accustomed to submit to it,” a development that would do more, in Hadfield’s mind, to maintain tranquility in the colony than any amount of armed force. Hadfield saw benefits of colonial courts as educating “inferior men through the legal action of law,” as a counterbalance to the customary authority of Māori notables, and as a way to encourage loyalty to the colonial state.<sup>11</sup>

Interventions made by the government between 1854 and 1865 reorganized the administrative map and institutions of Māori New Zealand. In particular, five pieces of legislation embodied how the colonial government reframed the relationship between Māori and the colonial state. One law, the Native Reserves Act of 1856, was the first legislative regulation of Māori affairs passed after the colony received self-government. As the title suggests the legislation directly engaged with the question of reserved land, the longest-standing type of humanitarian governance designated for the benefit of Māori.<sup>12</sup> Its purview was consolidating and reorganizing reserve lands under an efficient system of management.

Two years later, in 1858, the Stafford ministry proposed a package of four bills as a suite of measures reformulating the New Zealand’s native administration. Frederick Whitaker, a legislative councilor who served as the colony’s Attorney-General for most of the period between 1856 to 1861, said the purpose of the legislation could “be summed in one word – [the government] wanted to civilise [the Māori].”<sup>13</sup> All four acts were passed by the General Assembly within two weeks of each other in August 1858. The Native Districts Regulation Act

<sup>11</sup> Archives New Zealand [ANZ], Octavius Hadfield - Remarks on the State of Feeling Between Natives and Settlers. 15 April 1856, Governor [G] 13 2 13.

<sup>12</sup> “New Zealand Native Reserves Act,” 6 August 1856, 19 & 20 Vict., c10 (New Zealand).

<sup>13</sup> GBPP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Report of Debate in the Legislative Council on Native Bills: July 1858, Governor Thomas Gore Browne to Sir E. Bulwer Lytton, 14 September 1858, 8.

authorized government intervention in designated Māori districts; the Native Circuit Courts Act formalized the judicial power of Māori in an advisory rather than in an autonomous capacity; the Native Territorial Rights Act allowed for the individualization of land titles previously held collectively; and the Bay of Islands Settlement Act designated a special zone authorizing an intentionally mixed Māori-European settlement.<sup>14</sup> The chapter concludes by returning to an examination of native reserves, in this case at Kaiapoi on the east coast of the South Island, to see how the ownership of a large reserve shifted from a collective to an individual basis and what this shift reveals about the limits, capacities, and visions of a reformulated approach to humanitarian governance.

Control of indigenous space constitutes a central tenet of settler colonialism. Together these policy changes reformulated indigenous authority in a range of territorial spaces and administrative contexts and structured the exercise of humanitarian governance as one undertaken on behalf of Māori rather than as one that included Māori voices in establishing future policy directions. Legislative and administrative changes demonstrate how a newly empowered settler legislature could shift policy regarding indigenous land from what had been, under previous governors, a more general and collective concept of humanitarian governance in favor of one, under responsible government, that was more intensive and individual.

Dialogue about colonial self-government and the management of indigenous populations brought assertions about the value of settlers' site-specific knowledge into conversation with expressions of imperial humanitarian obligation. The latter perspective voiced skepticism about the degree to which a population engaged in territorially-expansive economic practices could

<sup>14</sup> “Native Districts Regulation Act,” 4 August 1858, 21 & 22 Vict., c41 (New Zealand); “Native Circuit Courts Act,” 4 August 1858, 21 & 22 Vict., c42 (New Zealand); “Native Territorial Rights Act,” 21 August 1858, 21 & 22 Vict., c80 (New Zealand); “Bay of Islands Settlement Act,” 19 August 1858, 21 & 22 Vict., c79 (New Zealand).

effectively administer to the needs of aboriginal groups who claimed ownership of, occupied, and used the land.<sup>15</sup> The difficulty faced by New Zealand's responsible ministers was to figure out how to promulgate an agenda that facilitated their vision of Māori colonial future without their proposals being overturned by the governor for being antagonistic toward Māori interests. While ministers wanted a vertically integrated and expanded colonial state with Māori participation directed toward supplying labor, Governors Browne (1855-61) and Grey (1861-68) cautioned against the rapid and unplanned expansion of settler territory as a source of unwelcome friction between Māori and European populations.

Like Grey's humanitarian program from the 1840s, Stafford's ministry framed changes to native administration in the late-1850s as pedagogical interventions facilitating Māori integration into the colonial state. Though legislators were far from unified in their approach to Māori issues, progress was generally measured by social, political, and economic metrics with success characterized by individualized landholding, Christianity, and European domestic habits and customs. What changed with the shift to representative government was a desire, articulated by the responsible ministry, of gathering and organizing the various pieces of New Zealand's colonial society into a form that was conducive to the assimilation and integration of Māori people as a source of labor and production and Māori land as a source of colonial wealth. Legislative interventions passed by the local government featured direct pressure to incorporate Māori into European practices of judicial administration and the promotion of a relationship with the state on individual terms. Policies designed to facilitate social change also aspired to bring

<sup>15</sup> Debates about the productivity of land and people were, of course, not limited to antipodean spaces but build on conversations within the United Kingdom about land use and "productivity" in England, Ireland and Scotland. E. P. Thompson, *Whigs and Hunters: The Origins of the Black Act* (New York: Pantheon Books, 1975); T. M Devine, *The Transformation of Rural Scotland: Social Change and the Agrarian Economy, 1600-1815* (Edinburgh: John Donald, 1994).



aspects of indigenous society within the European-controlled economic and judicial systems in ways that were tutelary and integrative. Humanitarian governance shifted registers from conceptualizing Maori as a people in peril to one that advocated and endorsed European civilization as a way to redeem Maori and save them from collapse.

A British government reticent to let a settler population unchecked control over its indigenous or non-European peoples was not unique to New Zealand.<sup>16</sup> Aboriginal peoples, when conceptualized as a “problem” to solve, constituted an aspect of colonial self-governance that caused the British Colonial Office considerable anxiety. In case of insurrection, costly border wars, or the depopulation of local labor supplies, conflict with indigenous populations could destabilize local societies. The increasing establishment and institutionalizing of difference was characteristic of 19<sup>th</sup>-century European empires. Colonial structures throughout the British Empire, especially in the aftermath of the 1857 Indian Rebellion, increasingly pushed to conform to a stricter regime of hierarchies and vertical relationships.<sup>17</sup> The process of differentiation in the administration of New Zealand’s native spaces and peoples was tied to both a long history of humanitarian governance and its context as a settler colony with a newly-empowered legislature implementing its authority. By 1865, a vision of liberal empire was being tested by outbreaks of armed violence and the assertion of Māori sovereignty that pushed the colonial government to consider consolidating the colonial state more firmly under explicitly European control and, by rendering collective land ownership difficult to practice, disrupting the collective land tenure of Māori society.

<sup>16</sup> Julie Evans et al., *Equal Subjects Unequal Rights: Indigenous Peoples in British Settler Colonies, 1830–1910*, (Manchester: University of Manchester Press, 2003).

<sup>17</sup> Frederick Cooper, *Colonialism in Question* (Berkeley: University of California Press, 2005); Catherine Hall, *Civilising Subjects: Metropole and Colony in the English Imagination, 1830-1867* (Chicago: University of Chicago Press, 2002).

## **The Native Reserves Act, 1856**

The 1856 Native Reserves Act formed the responsible government's first attempt at regulating Māori land. Two years earlier, during its inaugural session, the House of Representatives motioned that the local government should legislate "for the more efficient administration of the Native Reserves of this colony" through "encouragement to their profitable occupation and permanent improvement" by Europeans along with "obtain[ing] such information on the subject as may enable the General Assembly to legislate on the subject at their next session."<sup>18</sup> That, in 1854, the General Assembly still lacked a significant evidentiary corpus on which to make informed decisions speaks to the indifferent level of administrative attention paid to the reserves since their 1840 establishment. If, under Grey, concepts of indigenous management were more territorially diffused, this act marked the beginning of more intentional involvement by the government in regulating reserves. A heightened attention to Maori land ownership and authority meant humanitarian governance became more granular and intensive and brought the purpose of reserves more directly into line with the priorities of the settler colonial state.<sup>19</sup>

Between mid-June and late July of 1856, eleven years after the first statues regulating the administration of native reserves, the House of Representatives and Legislative Council debated and approved the Native Reserve Act.<sup>20</sup> This was a moment of pause to reconsider and reframe the structure, purpose, and role of Māori lands following the acquisition of nearly all remaining

<sup>18</sup> ANZ. Charles Clifford to His Excellency the Officer Administering the Government [Robert Wynard], 12 September 1854, Internal Affairs [IA]1 146 1854/3000.

<sup>19</sup> ANZ. Commissioner of Crown Lands to Colonial Secretary, 27 December 1853, IA1 146 1854/4130. Within the Province of Auckland no title to reserves had been granted instead Māori being left with untitled portions within the blocks they sold to the colonial government. ANZ. Surveyor General [Charles Ligar] to Colonial Secretary, 10 November 1854, IA1 154 1855/2662.

<sup>20</sup> "New Zealand Native Reserves Act," 6 August 1856, 19 & 20 Vict., c10 (New Zealand).

Māori land on the South Island.<sup>21</sup> The legislation systematized the purpose, defined the beneficiaries, and laid out the regulation of native reserves formed out of future land purchases through the colony. By incorporating features of humanitarian governance characteristic of the relationship between the colonial state and Māori since the abolition of the Protectorate of Aborigines in 1845, the legislation was not a total break from the past. Frederick Whitaker, the attorney-general, prefaced the second reading of the bill with the comment that the proposed changes would be an “instrument of practical good to the Native race.”<sup>22</sup> Whitaker thought the new law employed to “best advantage” the legacy of the New Zealand Company’s economic support of reserves, the tradition of using reserves to support religious and secular education, and their legacy promoting moral and economic aspects of cultural transformation.

The act placed lands “set apart for the benefit of the aboriginal inhabitants” under “an effective system of management” with money earned from rents or sales expended to benefit Māori.<sup>23</sup> Commissioners nominated by the governor were empowered to lease, sell, or exchange land to benefit the indigenous inhabitants. Unlike the Native Trust Ordinance of 1844, the role of native reserve commissioner was not automatically attached to a particular government or ecclesiastical office. Like earlier concepts of reserve use, ownership of land remained out of Māori hands with property held in trust. Trustees could lease land for terms of less than 21 years and gubernatorial approval was required for leases exceeding that term or for any sale or exchange of reserve land. Restrictions on the sale of land perpetuated an understanding of Maori as vulnerable. Proponents justified legislation based on the assumption that Māori were likely to

<sup>21</sup> Appendix to the Journal of the House of Representatives [AJHR], 1858, “Reports Relative to Land Purchases and the Condition of the Natives in the Middle Island,” Session I, C-3.

<sup>22</sup> New Zealand. Legislative Council. 1856. *Parliamentary Debates*. 30 June 1856, 237. Frederick Whitaker, Attorney-General.

<sup>23</sup> “New Zealand Native Reserves Act 1856,” 6 August 1856, 19 & 20 Vict., c10 (New Zealand), Preamble, Section 9.

be persuaded or duped into selling their land and consequently be left without a means of financial support.

Reserves as a source of financial and material support for schools and hospitals formed another point of continuity with the earlier practices of humanitarian governance under non-representative administration. With the approval of the governor, reserved land could be set apart for churches, chapels, and cemeteries as well as “schools, hospitals, or other eleemosynary institutions” under the direct or indirect control of native reserve commissioners.<sup>24</sup> This clause allowed commissioners to direct rental income toward supporting institutions previously reliant on direct government grants. By legislating that such intervention fell under the category of beneficiaries of funds raised from the reserves, the act allowed the redistribution of funds putatively for the exclusive benefit of Māori to be directed to more general programs of government capacity-building. Schools, for example, were required to teach English and hospitals funded by rental income were open to both races. Furthermore, mixed-race children were specifically included within the category of “Aboriginal Inhabitants” as eligible beneficiaries under the legislation.<sup>25</sup> Reserve income, therefore, was not exclusively expended on Māori but rather contributed to government programs for which Māori were not sole beneficiaries.

Suggested by the governor’s ability to approve or veto long leases and recognize grants of land for the likes of schools and hospitals, the colonial executive retained its role as arbiter of indigenous welfare. As the bill progressed through its first, second, and final readings, the most contentious clause was one that concerned *requiring*, rather than *recommending*, the governor to consult with his responsible advisers on native policy. The final version of the bill stipulated that

<sup>24</sup> “New Zealand Native Reserves Act,” 6 August 1856, 19 & 20 Vict., c10 (New Zealand), Section 8.

<sup>25</sup> “New Zealand Native Reserves Act,” 6 August 1856, 19 & 20 Vict., c10 (New Zealand), Section 19.

the governor could only act with the “advice and consent of the Executive Council” of the colony when formulating policies impacting indigenous affairs.<sup>26</sup> Mandated consultation with advisers limited the ability of the governor to singlehandedly control, limit, or guide the impact of settler-colonial policy on Maori.

During debate concerning the governor’s obligation to consult with his advisors, Henry Seymour, a member of the Legislative Council from Nelson, argued the effect of the clause requiring (instead of suggesting) consultation would be to deprive the Governor of his constitutionally-derived authority to administer native affairs. Seymour favored giving the governor more control since the office was “so intimately connected with peace and war” that “he who was responsible to the British Government should be altogether unfettered in his operations with the Natives.”<sup>27</sup> The Legislative Council, however, was split by arguments regarding the connection between native reserves as a category of land designated for the benefit of New Zealand’s indigenous peoples, and the administration of “the Natives” more generally. The vote on whether or not to limit the governor’s power by having him consult with the executive council was tied, and in casting the deciding vote in favor of requiring consultation, the chair noted that “the bill, however, involved no Native question ... the reserved lands were to be placed under a trusteeship, and in his opinion the Governor, as a trustee, should not be uncontrolled.”<sup>28</sup> By framing reserves as an issue relating to the trusteeship of a vulnerable population rather than part of native policy as an aspect of securing the state’s monopoly of violence, requiring the governor to meet with his responsible ministry, the law gave settler representatives a stronger voice in administrative policies directed toward Māori.

<sup>26</sup> “New Zealand Native Reserves Act,” 6 August 1856, 19 & 20 Vict., c10. (New Zealand), Section 18.

<sup>27</sup> New Zealand. Legislative Council. 1856. *Parliamentary Debates*. 3 July 1856, 250. Henry Seymour.

<sup>28</sup> New Zealand. Legislative Council. 1856. *Parliamentary Debates*. 3 July 1856, 251. Thomas Bartley, Speaker.

In discussing the bill, the Speaker of the Legislative Council noted that the Native Reserves Act had spurred the most debate of any bill ever before the General Assembly. The source of such protracted debate was the degree of power that the governor could exercise regarding native affairs, a source of continuing tension between ministry leading the government and the governor.<sup>29</sup> The administration of Māori space, therefore, remained a significant question for New Zealand's responsible government. After years of indifferent administration under a non-representative system, the settler legislature understood reserves as a valuable asset and important aspect of colonial governance.

A distinction between administering reserve land as an asset of the state instead of as a resource under Māori control and for Maori purposes illustrates a shift in humanitarian governance to a model that saw the state as operating to collectively support humanitarian initiatives with the resources at its disposal as a trustee, rather than a model that allowed a direct benefit to accrue to Māori from the use of their reserves. That voices like that of the Attorney General could consider native reserves as not belonging to Māori, and therefore not a native question, reveals a growing distinction between an understanding of reserves as a foundation protecting Māori from settler society and an understanding that advocated the integration and assimilation of Māori into colonial society. By considering reserves as another resource available to advance state policies, the colonial government discarded isolation as a part of its practices of humanitarian governance toward Māori.<sup>30</sup>

Thomas Gore Browne, who had previously served as Governor of St. Helena and succeeded Grey as New Zealand's governor in September 1855, agreed to forward the Native

<sup>29</sup> New Zealand. Legislative Council. 1856. *Parliamentary Debates*. 3 July 1856, 251. Thomas Bartley, Speaker.

<sup>30</sup> New Zealand. Legislative Council. 1856. *Parliamentary Debates*. 3 July 1856, 250. Frederick Whitaker, Attorney-General.

Reserve Act to London for final approval. He informed the responsible ministry that the British government's endorsement was not guaranteed due to the law's possible infringement on the constitutionally-guaranteed authority of the governor to administer indigenous affairs.<sup>31</sup> Despite Browne's concerns, the British government permitted the bill to become law. The following month, Browne lamented to Henry Labouchere, Britain's Secretary of State for the Colonies, that the vicissitudes of party politics made addressing the question of New Zealand's native affairs a very difficult one.<sup>32</sup> Divergent opinions about how to administer the reserves and uncertainty about the forms humanitarian government would take now that the colony had achieved responsible government remained points of contention between the local government, the governor, and the Colonial Office.

As with the previous iterations of Native Reserve trusteeship, the structure of the budgets makes it difficult to make a direct connection between income from rented reserve land and government financial support of Māori. The language of the act provided no schedule or guidance about how funds should be expended, and rents received from reserves seem to have been lumped in with general income rather than earmarked specifically for Māori purposes.<sup>33</sup> The colony's expenditures for 1857 note that the entirety of the £7,000 guaranteed for Native Purposes under the Constitution Act was allocated to schools while in that year a further £1,227 appropriated by the General Assembly was directed toward funding hospitals, pensions for loyal Māori, and entertaining official Māori guests of the government.<sup>34</sup>

For the purposes of implementing humanitarian governance as practice, however, the

<sup>31</sup> ANZ. Memorandum for Responsible Ministers, 25 July and 29 July 1856, G36 3.

<sup>32</sup> GBPP 1860 (2719) *Further Papers Relative to New Zealand*, Governor Thomas Gore Browne to Henry Labouchere, 21 September 1856, 360.

<sup>33</sup> AJHR, 1858, "Statement of the Public Accounts of the Colony," Session 1, B-3, 10-12.

<sup>34</sup> AJHR, 1858, "Statement of the Public Accounts of the Colony," Session 1, B-3, 10-12.

principle remained of holding land in trusteeship for Māori rather than distributing the territory as individual lots. By leasing reserves to Europeans, the government was able to bring the reserves into economic circulation rather than establishing them as a means through which Māori could develop their own properties. Though reserves were a category designated for the improvement of Māori, the administration of that space meant that Māori were only indirect beneficiaries.

### **The 1858 Acts**

Empowered with legislative authority to regulate the scale, quality, and purpose of Māori space within New Zealand, in 1858 the General Assembly passed a set of five bills framing the designation, administration, and adjudication of native space. A large amount of land beyond the authority of the settler state meant that legislators sought out ways of projecting governance beyond the boundaries of established European jurisdictions. The laws discussed during the 1858 session proposed a system of regulating Māori space that was operative on a wide scale and included elements of humanitarian governance. Together, these four acts sought to bind Māori more closely with the operations and administration of the colonial state. The law established a vision of the future that was premised on Maori adoption of “English institutions,” among them individualized land tenure, but also an understanding and practice of legal and political administration developed with the intention to make Māori resilient to what contemporaries believed was the ultimate ascendance of European colonialism.

If the ideal of promoting Māori social change in a “humane” fashion remained consistent with earlier iterations of humanitarian governance, official practice proposed by the bills set them apart from previous practices. This legislation was designed to work together as a package



with the overall goal of locating and situating Māori within a fixed territory that could, in time, become the object of state intervention. Debate within the General Assembly about the efficacy of this vision was split. One side, championed by the opposition, argued for the importance of stability and continuity that would be embodied by a permanent minister for native affairs who would not be subject to changes of political party. Insulated from the vicissitudes of sectional politics, this minister would buttress the executive branch's oversight of native affairs. This perspective promoted a laissez-faire perspective citing robust Māori economic activity at the Bay of Islands as testament to their industry.<sup>35</sup> This perspective interpreted contact between Māori and European as generally deleterious and that the future of incorporating Māori within the colony was through slow integration.

The opposing perspective, advocated by the responsible ministry, prioritized local expertise, the need to assimilate Māori quickly, and followed the premise that native issues were best addressed by local representatives rather than the transitory figure of the governor.<sup>36</sup> As evidence of the successful means of economic integration, in the eyes of Attorney-General Whitaker, were examples of individual grants of land being issued to Māori.<sup>37</sup> The opinion of the responsible ministry, therefore, advocated extending grants of land to individual Māori as the best means to secure a policy of economic inclusion. This stance was predicated on a positive assessment of Māori as adaptable and amenable to the structures proposed by the responsible ministry. Though disagreeing about policy, questions remained concerning the extent to which

<sup>35</sup> GBPP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Forwarding a Report of Debate in the Legislative Council on Native Bills July 1858, Governor T. Gore Browne to Sir E. Bulwer Lytton, 14 September 1858, 14.

<sup>36</sup> *Ibid.*, 8-9.

<sup>37</sup> *Ibid.*, 15.

Maori customs and practices were elastic enough to adopt and adapt to a vision of governance held by local settler representatives.

As the suite of bills advanced through the General Assembly, local legislators referred to other examples of settler colonization to inform their own approach. Whitaker noted that the local government had looked to “Arkansas, Caffraria [part of the Cape Colony], and Natal” in a search for best practices of the probable working of legislation. Whitaker proposed the example of the United States, in this case the management of the Indian Territory [Oklahoma] to the west of Arkansas, as exemplary of success and progress in “Indian civilization.”<sup>38</sup> It was Whitaker’s hope that the American president James Buchanan would allow the Indian Territory to be “incorporated into one of the sovereign states” following the progress of Native Americans in social and economic metrics. The association of particular peoples with particular arrangements of urban and rural space formed part of a wider effort to understand what type of people lived where. The overlap between geographic and demographic knowledge in the eyes of a colonial state focused on bringing land and people into a conception of productive political economy.<sup>39</sup>

### **The Native Districts Regulation Act**

The colony’s 1852 constitution had empowered the governor to designate “Native Districts” in which indigenous customs and usages would remain in force as customary law.<sup>40</sup>

<sup>38</sup> GBPP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Forwarding a Report of Debate in the Legislative Council on Native Bills July 1858, Governor Thomas Gore Browne to Sir E. Bulwer Lytton, 14 September 1858, 8.

<sup>39</sup> Giselle Byrnes, *Boundary Markers: Land Surveying and the Colonisation of New Zealand* (Wellington: Bridget Williams Books, 2001); Christopher Bayly, *Empire and Information: Intelligence Gathering and Social Communication in India, 1780-1870* (Cambridge: Cambridge University Press, 2000); Helena Michie and Ronald Thomas, *Nineteenth-Century Geographies: The Transformation of Space from the Victorian Age to the American Century* (New Brunswick: Rutgers University Press, 2003).

<sup>40</sup> New Zealand’s first Constitution, passed by the British Parliament but never implemented, made provision for “particular districts” in which Māori “laws, customs, or usages should be so observed.” “An Act to Make Further

Though the power was granted to the governor, the British Secretary of State for the Colonies John Pakington wrote to Governor Grey advising caution in exercising that authority. Pakington thought exempting Māori from the common law was not “a power not to be exercised without strong ground, and which, it is rather to be hoped, you may not find it necessary at present to exercise.”<sup>41</sup> Though resident magistrates had administered to legal transgressions within Māori space from the mid-1840s, in 1858 the local government approved more robust regulations. The Legislative Assembly passed the Native Districts Regulation Act that both affirmed the governor’s prerogative to designate such districts and proposed administrative guidelines.<sup>42</sup>

In defining the types of regulation that could be introduced within Native Districts, the policies sought to structure Māori society and social habits as well as punish criminal actions. In so doing, the local government saw an opportunity to extend control into otherwise remote areas beyond the current extent of political control. This effort to extend the reach of state regulation outside of reserves suggests the ambition of the settler legislature to regulate Māori space on a systemic level and extend the means of social control into spaces not yet territorially alienated by the colonial state. The reach of humanitarian governance, therefore, became more capacious and proscriptive.

In contrast to the enthusiasm of his responsible ministry, Governor Browne agreed with Pakington’s earlier assessment and was not confident about the capacity of settler governments to effectively administer to aboriginal concerns. In a report to Herman Merivale, the Assistant Under-Secretary of State for the Colonies and former Professor of Political Economy at Oxford,

Provision for the Government of the New Zealand Islands,” 28 August 1846, 9 & 10 Vict., c103 (Imperial), Section 10.

<sup>41</sup> GBPP 1854 (1779) *Further Papers Relative to the Affairs of New Zealand*, Sir John Pakington to Governor George Grey, July 16 1852, 304.

<sup>42</sup> “Native Districts Regulation Act,” 14 August 1858, 21 & 22 Vict., c41. (New Zealand).

Browne wrote that though it might be “politically inexpedient” to exercise his authority to create native districts, it might be the only way to withdraw the natives “from the control of the assembly and its ministers and [he] cannot but think they should be so.”<sup>43</sup> Browne’s concern reflected the balance he had to strike between fulfilling his constitutional obligation to support Māori interests while not impinging upon the exercise of responsible governance. Both the governor and the responsible ministry saw potential in establishing native districts. Whereas the governor thought Native Districts could be a potential form of protection for Māori, the colonial legislature saw them as a way to gain control.

The programmatic scope of the Native Districts Regulation Act rested upon promoting “the Social Economy of the Native Race” and established the local government’s authority to intervene in a wide variety of arenas. Economic aspects included the ability to regulate boundary fences, prevent the spread of sheep and cattle diseases, and promote fire prevention. Its reach also authorized regulating the sale of spirituous and fermented liquors, the cleaning of houses and buildings deemed in a “dirty and unwholesome state,” and ordinances protecting public and common property. The law also authorized the governor to suppress “injurious Native Customs” and permitted incarceration as a sentence instead of what had been conventional practice of paying monetary compensation for injuries. This proposal was a dramatic shift from earlier conceptions of administering European law within Māori communities that had vacillated between autonomy, exemplified by the 1844 Native Exemption Ordinance that treated Maori crimes as outside European judicial processes, and integration. Native Districts created a geographically expansive zone in which the government could attempt to influence and promote the development of “English institutions” from afar through Māori intermediaries.

<sup>43</sup> The National Archives [TNA], Governor Thomas Gore Browne to Herman Merivale, 29 April 1856, CO 209/135, fol. 392.

The designation of such a broad program suggests a turning point in how the settler government sought to promote Māori assimilation. Though any regulations were to be “made as far as possible with the general assent of the Native population affected,” enforcement was left up to Justices of the Peace who could impose up to a £50 fine for violations. The geographic reach of the act was comprehensive and stipulated that lands transferred to “any person of the native race, or to any persons or bodily politics in trust for Religious, Education, or Charitable purposes” be considered as within the Native District. Demographically, this categorized as “native” all Māori, those “half-castes living as members of any Native Tribe,” and any aboriginal people of the Pacific Islands.<sup>44</sup> Native Districts could only be created in areas over which native title had not already been extinguished, so the programmatic intent seems directed toward extending the reach of the state into those zones beyond its direct authority.

The Native District Regulation Act was announced in the government-published bilingual *Maori Messenger - Te Karere Maori* in September 1858.<sup>45</sup> By way of explanation, the editor took pains to reassure readers that “such Districts would not be appointed by the Governor except where he has good reason to believe that the inhabitants are sincere and unanimous in desiring it [and that]His Excellency wishes to shew the Maori people the right path and to remove obstacles; but having done this he leaves it to themselves to choose whether or not they will walk in it.”<sup>46</sup> To facilitate governance, a district runanga [council] composed of Māori notables was to advise the governor and local resident magistrates about the types of regulation they wanted to see implemented. The *Maori Messenger* noted that the purpose of the Native Districts Regulation Act and the Native Circuit Courts Act, the latter discussed below but passed

<sup>44</sup> “Native Districts Regulation Act,” 14 August 1858, 21 & 22 Vict., c41 (New Zealand).

<sup>45</sup> “An Act to Regulate the Local Affairs of Native Districts,” *Maori Messenger/Te Karere Maori*, 15 September 1858, 2.

<sup>46</sup> “Parliament,” *Maori Messenger/Te Karere Maori*, 15 September 1858, 1.

on the same day as the Native Districts Act, was to “aid the Maori people living apart from the Europeans in their efforts to raise themselves, and to become like their Pakeha brethren by the substitution of English laws for the old native customs.”<sup>47</sup> Under responsible government, assimilative pressure on Māori communities grew even as the government continued to frame those pressures as beneficial for facilitating the growth of Maori participation in governance, as a way to reduce the possibility for conflict, and as a possibility to use the power of indigenous authorities to legitimize intervention.

Authority to propose regulations for Native Districts was also held by the Governor-in-Council. One particular regulation the governor put into place in the Upper Waikato District, an area of dense Māori settlement, prohibited the selling, removing or disposing of liquors. Unless granted a license by a Resident Magistrate with the concurrence of at least one Native Assessor, moving spirituous or fermented liquors within the district could result in a £50 penalty with the fine put toward “the purposes of Government within said District, or otherwise for the common benefit of the inhabitants thereof.”<sup>48</sup> An attention to the manufacture and supply of alcohol continued a longstanding effort by both the colonial government and indigenous authorities to curtail access to alcohol by Māori. Between 1853 and 1862, convictions for drunkenness constituted half of the total number of convictions for all crimes passed down in New Zealand.<sup>49</sup> Cases brought against Māori in 1862, however, show that only 51 of 120 total convictions handed down to Māori were for drunkenness.<sup>50</sup> While early accounts praised Māori for their

<sup>47</sup> “Untitled,” *Maori Messenger/Te Karere Maori*, 28 February 1859, 1.

<sup>48</sup> “Order in Council,” *Maori Messenger/Te Karere Maori*, 16 December 1861, 1.

<sup>49</sup> Out of a total number of convictions of 28,489 passed down by New Zealand’s colonial courts between 1853 and 1862, 14,405 were convictions for drunkenness. “Statistics of New Zealand for 1862,” Statistics New Zealand/Tatauranga Aotearoa, [https://www3.stats.govt.nz/historic\\_publications/1862-statistics-nz/1862-statistics-nz.html](https://www3.stats.govt.nz/historic_publications/1862-statistics-nz/1862-statistics-nz.html).

<sup>50</sup> In 1862, out of 120 Māori convictions, 51 were for drunkenness. “Statistics of New Zealand for 1862,” Statistics New Zealand/Tatauranga Aotearoa, [https://www3.stats.govt.nz/historic\\_publications/1862-statistics-nz/1862-statistics-nz.html](https://www3.stats.govt.nz/historic_publications/1862-statistics-nz/1862-statistics-nz.html).

abstemiousness, access to alcohol and the potential for its abuse constituted a growing thread of anxiety among both Māori and European commentators.

In its assessment of the Native Districts Act, the Colonial Office was largely favorable. Lord Carnavon, writing on behalf of the Secretary of State for the Colonies, however, expressed that circumstances did not yet “justify the Imperial Government in abdicating the responsibilities which at present rest on it with regard to that remarkable race[.]”<sup>51</sup> What concerned the Colonial Office most was the absence of a clause allowing the Crown (through the governor) to veto regulations the executive branch considered deleterious to Māori interests. Carnavon, in this instance, trusted that the governor would be able to impose conditions on granting assent to what was otherwise largely a “wise and useful legislation.”<sup>52</sup> Carnavon’s worries suggest that while the British government was sensitive to the difficulties of adjusting legislation remotely and retrospectively when letters took months to travel from Auckland to London, the imperial government was still actively interested in how New Zealand managed its native affairs.

Between 1858 and 1862, Governors Browne and Grey (who returned to New Zealand in 1861 after a term as governor of the Cape Colony) established fifteen Native Districts. Reflecting the general extinction of Maori title to land on the South Island by the late 1850s, all fifteen districts were located on the North Island.<sup>53</sup> The first two, at the Bay of Islands and the Upper Waikato, were located in areas of dense Māori population. Others, like the Ahuriri District declared in March of 1862, were territorially expansive if sparsely populated and, in the case of Ahuriri, was coterminous with the province of Hawke’s Bay on the east coast of the North

<sup>51</sup> GBPP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Lord Carnavon [writing on behalf of the Colonial Secretary] to Governor Thomas Gore Browne, 18 May 1859, 172.

<sup>52</sup> *Ibid.*, 172.

<sup>53</sup> AJHR, 1858, “Reports Relative to Land Purchases and the Condition of the Natives in the Middle Island,” Session I, C-3.

Island.<sup>54</sup> In the early 1860s, Hawke's Bay had a relatively small European population. The boundaries of the native district excluded those pockets of land around the port city of Napier that had already been sold to the government.

Dense Māori populations on the North Island, especially in the rugged and forested eastern and central areas, meant that the government was unable to exert a unilateral monopoly of force until the 1870s. Native Districts, by directing administration through Māori authority instead of attempting to govern the space, allowed a government that expressed anxiety about its lack of coercive force to nevertheless assert a degree of institutional control.<sup>55</sup> The act of designating a space as a Native District established a veneer of government authority and the development of runangas developed a framework for indirect rule. Local Māori, who derived prestige through serving on such a body, as did Native Assessors whom the local government hoped would learn elements of administration and judicial practice, could become part of English institutions. Native Districts worked to obviate the responsibility of local government for an area while laying the groundwork for the institutions of government.

The administration of Native Districts aspired to assimilate Māori leadership into settler institutions of government. The density of administrators designated to oversee Native Districts, however, was uneven. In 1862, European officials in the Bay of Islands Native District comprised a staff of nine including a civil commissioner, resident magistrates, interpreters, and medical attendants at three locations throughout the district. European staff worked alongside thirteen Māori assessors who were also part of the district runanga, three Māori wardens, and

<sup>54</sup> "Order In Council Appointing District of 'Ahuriri,'" *Maori Messenger/Te Karere Maori*, 13 March 1862, 19.

<sup>55</sup> There were 5,575 officers and men stationed in New Zealand by December 1862. "Table Showing the Increase and Decrease of the Population of European Descent in New Zealand," Statistics New Zealand/Tatauranga Aotearoa, [https://www3.stats.govt.nz/historic\\_publications/1862-statistics-nz/1862-statistics-nz.html#idtable\\_1\\_2039](https://www3.stats.govt.nz/historic_publications/1862-statistics-nz/1862-statistics-nz.html#idtable_1_2039).



twenty Māori constables. Some familiar names appear on the register of administrators including George Clarke, the dismissed Protector of Aborigines who served Civil Commissioner in the Bay of Islands.<sup>56</sup> The Bay of Plenty was similarly staffed by both European and Māori while other spaces, especially those like Taupo, further from European centers of population, only had a handful of administrators and nearly no Māori employees.<sup>57</sup> Creating Native Districts established a framework of guiding development along lines designed to foster the development of English institutions. Tension between the governor and representatives of the settler population meant indirect rule that blended Maori and settler elements was never brought to full fruition. Debate about the extent to which Native Districts might administer Māori space was also redirected by the outbreak of warfare in areas of the North Island from 1860.

### **The Native Circuit Courts Act**

Alongside Native Districts, Native Circuit Courts constituted a limited geographic area in which indigenous authorities were vested with administrative power. Operating under the regulatory supervision of the colonial state, courts featured elements of indirect rule. Staffed through local runanga and overseen by a European agent, the Native Circuit Courts Act established jurisdictions coterminous with analogous roles to the regulations proposed for Native Districts. Courts and districts were often established together; announcements creating a Native Circuit Court usually accompanied the creation of the Native District to which it was joined, often on the same page of the *Maori Messenger/Te Karere Maori*. Native Circuit Courts formalized the structure through which crimes, misdemeanors, and other offenses that would otherwise be heard by a Resident Magistrate or Justice of the Peace could be tried.

<sup>56</sup> “Tabular Return ... of Officers” *Maori Messenger/Te Karere Maori*, 20 August 1862, 3.

<sup>57</sup> *Ibid.*, 5.

The act proposed amalgamated court establishments in which a European resident magistrate assisted by at least one Māori Native Assessor could pass judgment on a range of criminal and civil cases. The governor appointed assessors from those men holding “the greatest authority and best repute in their respective tribes.”<sup>58</sup> Among their duties, assessors took charge of selecting jurymen to serve at trials. The jurisdiction of Native Circuit Courts extended to all cases committed amongst Māori or between Māori and European as long as the complaint stemmed from within the geographical boundaries of its associated Native District. The juridical and administrative spaces of Native Courts and Native Districts, therefore, worked in tandem.

The government approached the role of assessors as a pedagogical opportunity. Native Assessors acting on Native Circuit Courts were expected to develop their understanding of European legal practice under the guidance of a European jurist. Nominated assessors received a letter from the governor outlining the scope of their work, the duties of juries, and reminding them that the majority of their powers were given only when associated with a resident magistrate.<sup>59</sup> The letter stressed that the Governor did not want to interfere in disputes brought before assessors, who were usually local notables, in their capacities as arbiters of customary law. A distinction between authority to hear and rule on customary law and passing judgement under English law, separated the judicial legitimacy derived from chiefly authority within an indigenous framework from the circumscribed role he enjoyed as an assessor to colonial courts.

The government’s instructions also underscored the importance of assessors maintaining a distinction between their two jurisdictions as “no proceedings for which authority cannot be found in these Acts will have any legal sanction” and that outside of the Native Circuit Court “no authority is given to you by law to demand fees.” Navigating a bifurcated judicial authority,

<sup>58</sup> “Native Circuit Courts Act,” 4 August 1858, 21 & 22 Vict., c42 (New Zealand) Section 31.

<sup>59</sup> “Circular Letter Addressed to the Native Assessors,” *Maori Messenger/Te Karere Maori*, 13 March 1862, 13.

assessors were also expected to be agents of the state as they fostered an appreciation of legal codes amongst Māori in their jurisdiction.<sup>60</sup> Native Circuit Courts represent an ambition of the state to incorporate existing Māori authority while aspiring to culturally assimilate and accustom Māori to the operation of English law.

In areas where the government was unable to address claims for criminal grievances due to a lack of infrastructure or absence of monopoly of force, the institution of native assessors provided a way to both facilitate Māori elite becoming part of the state apparatus as well as diffuse familiarity with the procedure and rationale of English law. Referring to the first declared Native District and Native Circuit Court in the Bay of Islands, as an opportunity to prove “a desire to be united with the Pakehas as one people, acknowledging one sovereign and obeying one law” in a manner that could be “worthy of imitation by other tribes in New Zealand.” Assessors were also encouraged to use the published Māori-language translation of English laws and consult with visiting magistrates so as to form “worthy an example of order and respect for law as we believe they now do of loyalty, enterprise, and industry.”<sup>61</sup> Courts followed an educational, peace-building, and acculturating role.

The Native Circuit Courts Act also authorized assessors forming a special Assessors Court in which two or more Native Assessors could exercise the same jurisdiction as a Native Circuit Court. Cases heard in these courts, however, were limited to adjudicating civil cases where damages were under five pounds, were prohibited from ordering punishment greater than a fine of twenty shillings, and were exclusively limited to conflicts between persons classified as being of the native race.<sup>62</sup> Establishing what was “native,” the law echoed the classifications of

<sup>60</sup> “Circular Letter Addressed to the Native Assessors” *Maori Messenger/Te Karere Maori*, 13 March 1862, 13-19.

<sup>61</sup> “Untitled,” *Maori Messenger/Te Karere Maori*, 28 February 1859, 3.

<sup>62</sup> “Native Circuit Courts Act,” 4 August 1858, 21 & 22 Vict., c42 (New Zealand) Section 33.

the Native District Regulations Act by stipulating that “half-castes,” other persons of mixed race who were “living as members of any Native Tribe,” and any Pacific Islanders were considered “native.”<sup>63</sup> Unlike the decisions of Native Circuit Courts which had little right of appeal, plaintiffs in Assessors Courts could appeal their cases to a regular Native Circuit Court chaired by a European magistrate. Though invested with judicial responsibilities, Māori participation in colonial legal processes was thus carefully circumscribed. In judgments that were not the result of jury trials, for example, their role as advisory to resident magistrates meant that a majority of native assessors needed to dissent in order for the resident magistrate’s decision to not stand. Provisional authority and curtailed responsibility suggests the colonial state envisioned the participation of Māori in Native Circuit Courts as accessory to the administration of justice, and therefore service as assessors was a tutelary position, rather than as a source of final authority.

Restrictions placed on being only able to try intra-Māori cases, the limitation of judicial authority to relatively minor matters, and the ability of claimants to ask for redress from a higher (and thus not exclusively Māori court), indicate that the responsible ministry considered Native Circuit Courts and Assessors Courts to be, for Māori, a space in which they would learn the mechanisms of European law and become functionaries thereof. Limitations on the severity and form of sanction meant circumscribed judicial power and insulated Europeans and non-Native Districts from indigenous practitioners of English law. Despite the limited scope of Māori involvement, imperial officials in London did not consider the legislation deleterious to Māori interest and approved of the bill becoming law in 1859.<sup>64</sup>

<sup>63</sup> “Circular Letter Addressed to the Native Assessors,” *Maori Messenger/Te Karere Maori*, 13 March 1862, 13.

<sup>64</sup> GBPP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Lord Carnarvon [writing on behalf of the Colonial Secretary] to Governor Thomas Gore Browne, 18 May 1859, 172.

Despite limited authority, Māori expressed their confidence and agency over the law. Matutaera Potatu and Wiremu Tamihana te Waharoa, two notable Waikato chiefs, along with “all the chiefs of Ngatihaua and Waikato,” wrote to Governor Browne in December of 1860 requesting that “our native districts be left with us” and that they would not let regulations be violated, affirming an indigenous capability to enforce and uphold the law.<sup>65</sup> In their letter, the Waikato chiefs were comfortable in asserting their legal autonomy and knowledge of judicial process. The chiefs went so far as to express a willingness to execute sentences of capital punishment on both Māori and Pākehā transgressors following the conventions of English law.<sup>66</sup> Māori engagement with the courts could also be used to bolster claim to administrative autonomy, establish areas of chiefly authority as well-run component of the larger colonial state, and remove pretexts for intervention due to accusations of poor administration.

Native assessors actively developed their knowledge of European jurisprudence. Published letters in the *Māori Messenger* and appeals to the colonial government about regulations proposed for the Native Districts reveal Māori efforts to develop indigenous administration within the newly designated spaces. These efforts helped to shape their authority as judicially-informed and responsible custodians of the law. To promote this goal, the government printed a Māori-language compendium of English laws, referred to by Māori as *Ngā Ture* (constitution), with the intention of “directing [Māori] efforts to legitimate objects inducing results beneficial alike to both races.”<sup>67</sup> Educating assessors about the principles and practices of English law worked to allay concerns about Māori knowledge of jurisprudence. By becoming

<sup>65</sup> “Waikato,” *Maori Messenger/Te Karere Maori*, 31 December 1860, 5.

<sup>66</sup> “Waikato,” *Maori Messenger/Te Karere Maori*, 31 December 1860, 6.

<sup>67</sup> Francis Dart Fenton, *Ko nga ture o Ingarani; he mea whakahau iho na [A summary of parts of English law, in Maori and English]* (Auckland: W. C. Wilson for the New Zealand Government, 1858); AJHR, 1858, “Correspondence Explanatory of the Relations between His Excellency and His Responsible Advisers in Reference to Native Affairs,” Session I, E-5, 7.

part of a settler-colonial institution, the colonial government hoped assessors would adopt the role of translators and mediators and thereby smooth out and explain the operation of English courts.

Both the Native District Regulation Act and the Native Circuit Courts Act featured a pedagogical component and an aspiration to indirect administration in which the parameters of Māori authority could be channeled and directed. What the acts endeavored to accomplish reflected limitations on the degree of intervention that the settler government could have on Māori. Native Districts and Native Circuit Courts formed a compromise between cultural assimilation established through efforts at systemic social change favored by Grey and the instructional potential allowed by spatial isolation – a characteristic of initial proposals for native reserves.<sup>68</sup> The defined legal space of the Native Circuit Courts adopted pedagogical elements and, like the Native Districts, were to forward a program of assimilation directed through tutelary aspects of the law that were from the perspective of the settler-colonial state safely delineated.

Humanitarian governance worked to reframe Māori practices and engagement with the state as an individual process, conducted in terms of a single citizen interfacing with state apparatus rather than making a claim for resources as part of a collective authority. The law as a guarantor of individual rights could be slowly adopted and diffused through indigenous intermediaries. Instead of allowing the continuation of customary law as the preserve of an ancient past, the Native Circuit Courts were to act as a buffer and slowly accustom Māori to the widespread adoption of British legal institutions.

### **The Native Territorial Rights Act**

<sup>68</sup> This view, that of promoting Māori cultural assimilation through new and integrative institutions, was opposed by the Native Secretary, Donald McLean.

A perennial difficulty faced by New Zealand's colonial government was managing uncertainty about land ownership.<sup>69</sup> Decades of irregular purchases, overlapping claims, and poor record keeping made determining tenure according to English concepts of landholding both protracted and expensive.<sup>70</sup> Māori practices of landholding were more communal and communities could range in size from a single extended family to large groupings of families - hapu – a subdivision of an iwi that could number over 500 individuals.<sup>71</sup> The hapu also functioned as the main unit of territorial authority.<sup>72</sup> Māori established claims on resources through occupation, use, or conquest. Geographically, the whole country was divided into units - rohe - that were associated with a particular hapu or iwi.<sup>73</sup> The presence of contested ownership meant the rate at which the government brought land into public circulation was frustratingly slow to some settlers.

The Native Territorial Rights Act, passed in 1858, emerged from this perennial question about land in New Zealand. The law referred to the expedience of Māori land being “ascertained and defined” in contrast to existing practice where land was only surveyed and titled at the moment of its sale to the colonial state.<sup>74</sup> The Native Territorial Rights Act allowed the Governor, upon application of any “tribe, community, or individual” to issue a Certificate of Title delineating the boundaries and scope of that individual's or community's land. Applications

<sup>69</sup> The “pre-emption” era of Crown land purchases lasted from the signing of the treaty in 1840 to the establishment of the Native Land Court in 1865. Under the provisions of pre-emption the Crown, as the sole entity allowed to purchase land from Māori, could pay (artificially) low prices for land then sell the alienated tracts to colonists with the difference in purchase and sale price ostensibly funding the colonial bureaucracy and infrastructure. Particularly in the 1840s, government policy fluctuated about the capacity and authority of Māori to sell or lease their land with the central questions engaging the Crown's monopoly on land purchase against calls from both Māori and settler groups desiring an expedited means to alienate land.

<sup>70</sup> AJHR, 1858, “Sale and Transfer of Land,” Session 1, D-1, 5-7.

<sup>71</sup> Michael King, *The Penguin History of New Zealand* (Auckland: Penguin Books, 2003), 84.

<sup>72</sup> Atholl Anderson, “Origins, Settlement and Society of Pre-European South Polynesia,” in *The New Oxford History of New Zealand* (Oxford: Oxford University Press, 2009), 44.

<sup>73</sup> King, *The Penguin History of New Zealand*, 80; Anderson, “Origins, Settlement and Society of Pre-European South Polynesia,” 43; Ian Kawharu, *Maori Land Tenure* (Oxford: Oxford University Press, 1977), 38.

<sup>74</sup> “Native Territorial Rights Act,” 21 August 1858, 21 & 22 Vict., c80 (New Zealand), Preamble.

had to be surveyed, certified with the names of Māori who possessed useage and occupational rights, and recorded as a means of fixing indigenous title.<sup>75</sup> There was an annual limit of 50,000 acres per year alienable under this type of grant, a total set by a legislature anxious to prevent the governor from legitimating (to European eyes) and confirming vast swathes of land as under Māori ownership. The capacity of the governor to issue grants under the act was also temporally limited with authorization expiring on December 31, 1861. Some Māori, seeing an opportunity to receive secure title to land, requested a certificate of title as a way to recognize and establish their own rights to particular territories at the expense of other Māori claimants.<sup>76</sup>

A Māori movement advocating restricting the sale of land to Europeans, referred to as the Land League, emerged in the 1840s and became more widespread – especially in Waikato and Taranaki – by the 1850s. Robust agricultural prices in the mid 19<sup>th</sup> century caused an increase in European and Australian immigration to New Zealand. A convergence of a surging settler population and increasing reticence by some Māori to alienate land meant a high demand for agricultural properties encountered a relatively decreased supply of land.<sup>77</sup> Tabulating indigenous ownership, therefore, served as a mechanism through which the government might render visible networks of Māori land tenure and provide a useful record for expediting the transfer of land into settler hands.

In addition to regulating the parameters and scope of Māori land-holding, the Native Territorial Rights Act proposed government intervention originally conceptualized as part of the humanitarian mission of the Reserves Act by authorizing the governor to make a crown grant –

<sup>75</sup> “Native Territorial Rights Act,” 21 August 1858, 21 & 22 Vict., c80 (New Zealand), Sections 7 and 8 reserved cognizance on requisitions of Native Title for the exclusive consideration of the Governor in Council in questions of land and concentration of this important component of indigenous policy in the hands of the executive.

<sup>76</sup> The Waitara case marked a moment when Waikato Māori used the European court system to recognize and edge out a rival Taranaki iwi.

<sup>77</sup> Keith. Sinclair, *The Origins of the Maori Wars* (Auckland: Auckland University Press, 1974).



giving ownership and recognized title to the land – to individual Māori. The act empowered the governor to make the grant inalienable by whomever received it. The inalienability was enforced with a fine of up to £100 that could be levied against Europeans tenanted or occupying land granted to Māori and, if Māori sold the land to Europeans, they were to pay ten shillings per acre to the government.

Arguing before the Legislative Council during debate about the law, the colony's attorney-general argued that “nothing interfered so much with the advance of civilization as these tribal rights.”<sup>78</sup> By equipping Māori with individual title, the responsible ministry argued that indigenous landowners would devote more energy and attention to developing agricultural production than they otherwise would under continued collective ownership. The goal of the Native Territorial Rights Act was breaking up tribal tenure and providing individual Māori with land so that they could become active participants in a colonial economy or sell their excess land. Māori made eager application for recognized individual title as a way to enter the land market.

The Native Territorial Rights Act developed a process through which native title, previously held collectively, could begin to be broken up into individual parcels. The insertion of restrictive clauses about prioritizing Māori ownership and possession, however, reflected a continuity with a sense of trusteeship. The responsible ministry endeavored to characterize alienated and individualized land as part of a larger set of programs for “improving” New Zealand's indigenous populations. Officials in London, however, disagreed. Unlike colonial legislation establishing Native Courts and Native Districts, the Native Territorial Rights Act was disallowed by the imperial government and never became law. While Governor Gore Browne “earnestly desired the means of individualizing native title,” he wrote to his superiors in London

<sup>78</sup> New Zealand. Legislative Council. 1858. *Parliamentary Debates*. 12 July 1858, 5. Frederick Whitaker.

that he could not recommend its approval because of limitations regarding the limited scale of land that could be alienated.<sup>79</sup>

Browne's objections were also made on a practical level contrasting the 150,000 acres alienable over three years under the Territorial Rights Act with the 771,673 acres purchased by the Native Land Purchase department over the preceding eighteen months. Furthermore, the governor worried that a ten-shilling per-acre tax on transferring land from indigenous to European tenure would not be welcomed by Māori who already felt aggrieved by receiving a sub-market price from the government – the only entity authorized to purchase land from Māori – for their land.<sup>80</sup> Browne was also attuned to the possible dangers of a future governor enabling Europeans to establish farms and settlements within exclusively Māori spaces. These settlements formed potential zones of friction.

Holding to the constitutional principle that placed responsibility for Māori within the executive, Browne wrote that he had “always considered the representative of the Crown in the light of a trustee for the native race” and that the provisions of the Native Territorial Rights Act ran the risk of causing greater injury to the colony's future success.<sup>81</sup> The principle of trusteeship trumped confidence in indigenous decision-making. Disallowing the law reveals that British opinion about governance in New Zealand retained an interest in balancing humanitarian principles with the consolidation of colonial control and devolution of representative governance.

The Colonial Office agreed with objections raised by the governor and expressed concerns that shifting the general process of land purchases from one conducted by the

<sup>79</sup> GBPP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Governor Thomas Gore Browne to the Right Honorable Sir E. Bulwer Lytton, 15 October 1858, 61. One of the provisions in Section 9 of the bill stipulated grants being made by the Governor in Council. Browne objected to this provision based on it obliging the executive to consult with his responsible advisers instead of acting on his own assessment.

<sup>80</sup> *Ibid.*, 61.

<sup>81</sup> *Ibid.*, 63.

government to one pursued by individuals would be injurious to relationships between settler and Māori who might be swindled out of their land. In the opinion of the Secretary of State for the Colonies, disagreeable land sales could inspire Māori to resist the local government's decisions and result in armed violence. Since it would fall to the imperial government to supply the military force required to quell an uprising, decisions risking a violent consequence were not be undertaken by the local legislature. Instead, the Secretary of State for the Colonies advocated that collective and individual title be pursued as a regulation operative as part of the Native Districts Act. Insulating Māori landowners from the acquisitive impulses of European settlers by placing control over the location and scale of land transfer in the hands of the governor and concentrating the location of settler communities would reduce the possibility of confrontation or deceit.

There were also moral considerations at stake. In addition to the “revolution” in patterns of land sales that would accompany the ability of individual colonists to purchase land from Māori, the proposed act could not guarantee fairness of the terms of contract or the purchase price if the process of alienating land transpired between individual settlers and Māori, rather than through the local government as a mediating force.<sup>82</sup> Unregulated speculation in land that had caused so much difficulty for local government in the 1840s, the Colonial Office presumed, would return to haunt New Zealand if individuals were empowered with the authority to purchase directly. In not recommending the proposed act, the Colonial Office restated the desire of the imperial administration to “give the fullest effect to the system of responsible Government” and the priority of settlers acquiring land while continuing to “pav[e] the way towards that complete civilization and colonization of the native race with the English colonists”

<sup>82</sup> GBPP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Lord Carnarvon [on behalf of the Colonial Secretary] to Governor Thomas Gore Browne, 18 May 1859, 172-173.

which had been a “a very remarkable success[.]”<sup>83</sup> The prospect of significant military expenditure in the event of war, a preference for the geographic concentration of settler populations, and a confidence in the capability of the local government to mediate land sales meant that the imperial government could not condone the Native Territorial Rights Act.

### **The Bay of Islands Settlement Act**

If the previous three acts created a regulatory environment fostering the development of English legal institutions and patterns landholding, the Bay of Islands Settlement Act continued an assimilationist policy that had characterized humanitarian governance in the years before responsible government. Passed in August of 1858, this act recalled the purposeful interspersing of Māori and European land proposed during New Zealand’s earliest years of colonization. Located 120 miles north of the colonial capital in Auckland, the Bay of Islands was the site of first sustained contact between Māori and European, had been a provisioning station for whalers and traders in the years following Cook’s 1769 visit, and remained the seat of the powerful Ngāpuhi iwi. Rev. Samuel Marsden’s arrival in 1814 and subsequent establishment of a Church Missionary Society station meant the area was the oldest site of permanent European settlement in New Zealand. The first colonial capital had also been situated at Russell in the Bay of Islands until a disastrous fire in 1842 and the disruptions of the Northern War (1845-46) shifted the government’s focus south to Auckland. By the mid-1850s the Bay of Islands was perceived as economically backward.<sup>84</sup>

<sup>83</sup> GBPP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Lord Carnarvon [on behalf of the Colonial Secretary] to Governor Thomas Gore Browne, 18 May 1859, 173.

<sup>84</sup> New Zealand. House of Representatives. 1858. *Parliamentary Debates*, 11 June 1858, 515-16. Christopher William Richmond. The Bay of Islands district only exported goods worth £43 in 1855.

Blending elements of social and economic improvement, the Bay of Islands Settlement Act featured a spatial approach to Māori assimilation, in that a particular area of New Zealand would be equipped with the apparatus of a tutelary state with instruction coming from European settlers. The intentional intermingling of Pākehā and Māori, officials hoped, could aid in the diffusion of British forms of socialization, economic organization, and other institutions among Māori with a desire to jumpstart the area's once robust economy. The legislation empowered the governor to designate up to 250,00 acres in the northwest of the Bay of Islands to "advance the prosperity and welfare of the inhabitants generally, and especially to promote the civilization of the Aborigines."<sup>85</sup> Also authorized was the appropriation of land for the settlement from its owners who would be compensated with a grant of waste land (land acquired from Māori by the government but yet unsold) of equivalent value elsewhere in the Province of Auckland.<sup>86</sup> Funds raised from the sale of land within the special settlement would provide compensation to previous owners, improve roads and other public works of the settlements, endow public schools and institutions, and promote the "efficient colonization" of the settlement.<sup>87</sup>

Debate about the provisions of the bill reveals how legislators conceptualized the continued presence of Māori populations within colonial New Zealand. Christopher William Richmond, a representative from the main Taranaki settlement of New Plymouth and also Colonial Treasurer, argued in the House of Representatives that New Zealand was comprised of four different types of districts differentiated by the degree to which they had adopted British institutions. Ranging from "Old Maori" districts characterized by limited engagement with the

<sup>85</sup> "Bay of Islands Settlement Act," 19 August 1858, 21 & 22 Vict., c79 (New Zealand), Preamble.

<sup>86</sup> There is perhaps an additional motivation for this district to be declared in that it would allow the government, through acting with the type of eminent domain authority, to consolidate European landholding.

<sup>87</sup> The failure of the New Zealand Company did not mean the end of planned settlements in New Zealand. The Free Church of Scotland's Otago settlement established in 1848 and the Anglican-backed Canterbury Association's settlement in Christchurch established in 1850 were undertaken without the explicit financial involvement of the colonial government.

state, to “progressive” districts in which Māori “were striving to advance themselves in civilization by the adoption [of] English practice,” and “mixed” districts of European and Māori, and then purely “European” districts, Richmond’s concept of space and race was measured against a metric of progress characterized by the adoption of European social and economic practices.<sup>88</sup> In Richmond’s view, the most difficult category of governance were mixed districts. Including both the Bay of Islands and his home district of Taranaki, since these spaces were in limbo since they lacked the authority of the “old chiefs” while not fully following the authority of European law. A goal of the Bay of Islands Act was to move places of “mixed” habitation and land ownership toward a “progressive” adoption of European institutions.

Conversation about the Bay of Islands bill focused on Māori social and economic development as a mechanism to ensure the security and authority of the settler state. By designating the Bay of Islands as a special area open for settlement, with the government empowered with the authority to take land, the state could sweep away existing uncertainty over land claims.<sup>89</sup> Equipped with the power to resurvey and sell land, a new economic future for the Bay of Islands might begin. Richmond thought that the settlement would also benefit from a large amount of Māori labor. He was also of the opinion that it was equally important to tend to the temporal welfare of the Māori as part of a comprehensive native policy as well as moral and social questions.<sup>90</sup> With the European population largely situated on to the district’s coastline, the responsible ministry anticipated that the Bay of Islands Act would be mutually beneficial

<sup>88</sup> New Zealand. House of Representatives. 1858. *Parliamentary Debates*, 11 June 1858, 515-16. Christopher William Richmond.

<sup>89</sup> New Zealand. House of Representatives. 1858. *Parliamentary Debates*, 11 June 1858, 516. John Williamson. Legislators noted that the Auckland provincial government sometimes had difficulty carrying out improvements “on account of the objections sometimes offered by those Natives who possessed lands in the districts where those improvements were necessary” and that an act of the General Assembly could facilitate the appropriation of land that was being prevented from being developed by virtue of uncertain ownership.

<sup>90</sup> New Zealand. House of Representatives. 1858. *Parliamentary Debates*, 11 June 1858, 525. Christopher William Richmond.

through allowing Māori to settle among Europeans and have access to the coast while the latter would “be enabled to advance further into the interior for the purposes of settlement.”<sup>91</sup> Though the Bay of Islands Act recalled earlier efforts to encourage the economic development of Māori, its function asserted the ability of the settler colonial state to intervene through appropriating land from both settler and Māori and direct the growth of the region in a way that made non-productive land and Māori labor more accessible to local farmers and entrepreneurs.

In addition to economic and social development, part of the bill’s appeal was the prospect of concentrating loyal Māori, like the Nga Puhi leader Tamati Waka Nene, as a bulwark supporting the settler-colonial state. Alongside European settlers, Māori in the Bay of Islands settlement could be relied on to help defend Auckland from attack.<sup>92</sup> The presence of significant Māori groups to the south and north of the capital meant that the city, in the words of one parliamentarian, lay “between two fires.”<sup>93</sup> The concentration of European colonists in a newly designated district, rather than scattered around a broad area “to be only at the mercy of the natives” meant that the proposed settlement could also develop the security and safety of the state. Sufficiently well-planned, a mixed European and Māori presence would help “to carry out a system of indoctrinating the Native race in those social institutions to which Europeans attached so much importance” and by teaching Māori the meaning of English law and required “consistent course of action to teach them to value and appreciate the English social system.”<sup>94</sup> A concern for security and efforts to “indoctrinate” Maori into settler-colonial society reveals the tenuous position of the government in the northern North Island. Efforts of the colonial

<sup>91</sup> New Zealand. House of Representatives. 1858. *Parliamentary Debates*, 11 June 1858, 524. Christopher William Richmond.

<sup>92</sup> New Zealand. House of Representatives. 1858. *Parliamentary Debates*, 11 June 1858, 517. John Williamson.

<sup>93</sup> New Zealand. House of Representatives. 1858. *Parliamentary Debates*, 11 June 1858, 519. Hugh Carleton.

<sup>94</sup> *Ibid.*, 11 June 1858, 519.

government to promote European institutions drew from a continuing interest in Maori education and integration while recognizing the balance of power in the Bay of Islands remained in indigenous hands.

In forwarding the legislation to the Colonial Office for approval, Governor Browne thought that the legislation “would tend materially to elevate the [Māori] into a condition of complete civilization, always provided that means were taken to preserve morality and good order therein.”<sup>95</sup> Browne’s expression of concern reveals the continuing aspiration for directing the vector and intensity of social change and the Colonial Office concurred in the governor’s positive assessment.<sup>96</sup> Browne conceptualized Maori as capable of achieving European metrics for what constituted a civilized population.

Social questions as much as economic ones framed the possibilities legislators and the governor saw in the district. From a place that was both a birthplace of European authority in New Zealand as well as a source of strong Māori resistance - most symbolically through Hone Heke’s repeated cutting down of the British flag at Russell in 1844 and 1845 - the desire to enhance the settler presence and provide a mixed social context to assimilate Māori stands as a continuation of an assimilationist thread of humanitarian governance. The implementation of humanitarian governance in the Bay of Islands presented the spatial intermixing of populations as a mechanism by which to incorporate and acculturate indigenous into settler New Zealand while at the same time promoting the demographic and economic growth of the region. The Bay of Islands Act suggests spatial organization as a central tool of promoting social change and

<sup>95</sup> GBPP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Governor Thomas Gore Browne to Sir E. Bulwer Lytton Forwarding a Report of Debate in the Legislative Council on Native Bills, July 1858, 14 September 1858, 15.

<sup>96</sup> GBPP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Lord Carnarvon [on behalf of the Colonial Secretary] to Governor Thomas Gore Browne, 18 May 1859, 172.



furthering or encouraging a quality of engagement with the colonial state that was geared toward developing a vision of Māori relevance to a colonial economy and contribution to the security of the settler-colonial state.

### **Kaiapoi: Individualization and Native Reserves**

Reframing the nature of Maori engagement with the colonial state on an individual basis also impacted native reserves. The Kaiapoi Reserve, on the east coast of the South Island, comprised a 2,640-acre parcel on the alluvial Canterbury Plain. Situated thirteen miles north of the province's main European settlement at Christchurch, the reserve was designated by the government in 1848 and was one of the province's oldest.<sup>97</sup> In the first third of the 1800s, Kaiapoi had been a significant center of Ngāi Tahu, the largest South Island *iwi*. An 1831 attack by the rival Ngāti Toa and their allies drove most Ngāi Tahu further south but in the late 1850s Kaiapoi was still home to the Ngāi Tuahuriri and the Ngāi Teraki - two of the ten principal Ngāi Tahu hapu. An 1859 report written before individualization identified nearly 200 Ngāi Tahu individuals with claims on Kaiapoi of which roughly 100 were absentee claimants.

In December of 1859, the colonial government sent Walter Lawry Buller, a 19-year old son of missionary parents who was then serving as an interpreter in the Wellington magistrate's court, to the South Island to begin negotiations for a new arrangement at Kaiapoi. Buller was to undertake an experiment in disaggregating land from the collective control of resident hapu in favor of individual titles assigned through surveyed, measured, and mapped lots.<sup>98</sup> Kaiapoi was

<sup>97</sup> The total amount of reserve land in Canterbury was 7,001 acres distributed across fifteen reserves. AJHR, 1862, "Report on the Partition and Individualization of the Kaiapoi Reserve," Session I, E-05, 4.

<sup>98</sup> Ross Galbreath. 'Buller, Walter Lawry', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand, updated 5-Jun-2013, <http://www.TeAra.govt.nz/en/biographies/1b46/buller-walter-lawry>.

chosen because, unlike much the North Island, there was a low density of claimants, the colonial government enjoyed a monopoly of force, and a significant European population lived nearby.<sup>99</sup>

Kaiapoi was a safe place to pilot a policy of individualizing Maori tenure.

Arriving at Kaiapoi, Buller noted the quality of the land, its location along the main road connecting Christchurch with the northern South Island, and the reserve's close proximity to European settlement established the site as an exceedingly "eligible place in which to try the experiment of individualization."<sup>100</sup> Convening a runanga, a meeting of adult males favored as a type of consultation for its reliance upon consensus decision-making, Buller anticipated that involving local Māori in the process of allotment would legitimize any findings.

Following a few days of debate, the runanga reached a decision to divide the open land (constituting 80 percent of the total reserve) into 122 lots of roughly fourteen acres each. Each man over the age of fifteen was to receive a lot without reference to chiefly status or family size. Nine non-Ngāi Tahu, mostly from other South Island iwi who had married Ngāi Tahu women and who were permanently resident at Kaiapoi, received a share as did five individuals identified as of mixed Māori-European parentage. Four widows, Kakahi, Heni Hinewahia, Rina Te Wainapunahau, and Kotiohio also received sections, though only of three or five acres. The runanga also set apart land for public purposes. Awards benefitted the Church of England for a church and school, the Wesleyans for a chapel, and the runanga retained five acres around the old *pa* as a burial ground.<sup>101</sup> The scheme, Buller noted, aspired to be "fair and equitable division of the land with a view to immediate occupation and industrial improvement."<sup>102</sup> Instead of

<sup>99</sup> AJHR, 1858, "Reports Relative to Land Purchases and the Condition of the Natives in the Middle Island," Session I, C-3.

<sup>100</sup> AJHR, 1862, "Report on the Partition and Individualization of the Kaiapoi Reserve," Session I, E-05, 4.

<sup>101</sup> AJHR, 1862, "Report on the Partition and Individualization of the Kaiapoi Reserve," Session I, E-05, 6-9.

<sup>102</sup> AJHR, 1862, "Report on the Partition and Individualization of the Kaiapoi Reserve," Session I, E-05, 9.

being hampered by the slow deliberations of collective decision-making, Buller hoped, individual title would promote efficient and industrious habits among its residents and facilitate their economic and social progress.

The importance of individual ownership derived from a concern held by colonial officials about how to best bring land, and the produce of that land, onto the market. That the occupiers and future improvers, in this case, were Māori and not European did not seem to trouble Buller. His concern, one shared by the ministry in power at the time, was how to encourage Māori participation in the colonial economy in light of what they perceived as persistent communalism at reserves like Kaiapoi. Despite calling a perceived resistance to individual tenure as a “low Maori habit,” Buller still subscribed to a vision of Maori assimilation into European colonial society.<sup>103</sup> Māori were capable of becoming like Europeans. The mechanism of a Crown grant, Buller thought, would cement the association between a single individual and an identifiable plot of arable land within a larger context of a reserve. Ownership would promote the productive use of that land and encourage Kaiapoi Maori to adopt the culture of their European neighbors.

Ngāi Tahu voices also spoke in favor of individual tenure. A delegation of Kaiapoi Maori, welcoming the Governor Browne to Canterbury in early 1860, petitioned that in addition to designating a place at Christchurch’s port at which they could land their canoes and sell supplies of firewood, potatoes, wheat, pigs, and fish, they also requested “our land reserves in various places be subdivided, so that each may have his own portion. We ask you to give to each man a title in writing ... our reason for urging the subdivision of our lands is, that our difficulties

<sup>103</sup> Ibid., 10.

and quarrels may cease.”<sup>104</sup> Encouraged by both the colonial state and Ngāi Tahu, Buller’s plan for subdividing Kaiapoi went ahead with survey work beginning in May of 1860.<sup>105</sup>

The ostensible precision and egalitarian allocation of resources proposed by the runanga, however, did not come to fruition in quite the manner that the government might have expected. The survey called for in initial plans recommended a series of individual blocks, divided by a central avenue connecting the main trunk road to the site reserved for a school, access to the Rangiora River, and the forested area called the Tuahini Bush. Given the scarcity of timber and firewood on the Canterbury Plain, the forest resources of this 400-acre parcel was worth nearly half of the reserve’s overall assessed value of £45,000.<sup>106</sup> The abstract rationality of the Kaiapoi’s twelve neat orthogonal blocks, however, concealed lingering affinities between landholders. Instead of individuals being assigned lots distributed randomly, Buller allocated lots to individuals while paying consideration of their hapu. He justified this decision with the argument that the “willingness of near relatives to meet each other in a spirit of mutual accommodation” would be useful for bringing land into cultivation.<sup>107</sup> Thus, the individual allotments so desired by the colonial government were mediated through the type of local, contextualized, extended-family network that were, to official eyes, a lamentable a manifestation of collectivism. It was not a triumph of liberal individualism that allowed the breakup of collective tenure at Kaiapoi. Land was simply reorganized around the hapu and not, as the central government might have hoped, the individual.

<sup>104</sup> AJHR, 1862, “Despatches from the Secretary of State and the Governors of New Zealand: Address of Canterbury Natives to Governor Gore Browne 6 January 1860” Session I, E-01, 4. Later that year, at a large meeting of Maori notables in July 1860, only one, Hori Te Whetuki, opposed proposals to facilitate individualization of land title.

AJHR, 1862, “Report on the Partition and Individualization of the Kaiapoi Reserve,” Session I, E-05, 12.

<sup>105</sup> AJHR, 1862, “Report on the Partition and Individualization of the Kaiapoi Reserve,” Session I, E-05, 12.

<sup>106</sup> Alexander Mackay, *A Compendium of Official Documents Relative to Native Affairs in the South Island*, vol. 2 (Wellington: Government Printer, 1872), 96.

<sup>107</sup> AJHR, 1862, “Report on the Partition and Individualization of the Kaiapoi Reserve,” Session I, E-05, 5.

In describing a process of individualization, Buller's report promoted a vision of native reserve administration imbued with ideals of industrious small-scale yeoman production. Without individual tenure, he argued, the Māori would have "little encouragement to industry or incentive to ambition" and that the schools, hospitals, and other eleemosynary institutions that had characterized an earlier mode of humanitarian government would not bring "any real progress in civilization, or any improvement in their worldly circumstances, without the previous individualization of their lands."<sup>108</sup> His commitment to conceptualizing Māori society as adopting a capitalist model can be seen through his analogizing the *runanga* that initially divided the reserve to "a General Meeting of Shareholders" with the "younger and more intelligent men ... virtually ruling the decisions of the meeting" at the expense of the established chiefs. Progress, therefore, might be found in overturning the old social order alongside sowing the fields and cutting the timber of Kaiapoi. Though Buller expressed regret about the lengthy deliberations constituting the central format of runanga decision-making, in a report submitted the year following his survey he expressed hope that the runanga would "be able to induce the Natives to adopt a plan of systematic settlement, with other improvements in their social and domestic economy" and be able to cultivate local expertise in judicial practices and other elements of governance.<sup>109</sup>

Like previous efforts at reforming administration of the colony's reserves, progress in drafting, approving, and conveying change – in this case individual Crown Grants – was slow. In August of 1862, Walter Mantell, a veteran of many land deals in the South Island, noted that the government had failed to live up to its promise of continued support in the form of education,

<sup>108</sup> AJHR, 1862, "Report on the Partition and Individualization of the Kaiapoi Reserve," Session I, E-05, 11.

<sup>109</sup> AJHR, 1862, "Report on the State of the Natives: Walter Buller, Canterbury, September 19 1861," Session I, E-10, 33-34.

medical facilities, and “general hospitable care” with the consequence that the Maori inhabitants of Kaiapoi “were going to the bad as fast as possible, simply for the want of fulfillment of those pledges made [at the time of the reserve’s establishment] on behalf of the Government.”<sup>110</sup> Three years later, grants were still not finalized with 120 14-acre sections still classified as being in preparation.<sup>111</sup> Part of this delay resulted from disputes and claims from Ngai Tahu who had been absent, excluded or overlooked in the initial runanga with intra-*iwi* debate about access to land involving overlapping claims made based on kinship, purchase, and occupation.

A perceived lack of progress by Kaiapoi’s residents continued to vex the central government who in 1865 encouraged a newly appointed Commissioner of Native Reserves to try and convince European settlers to lease land at Kaiapoi as a way to break through what officials saw as the insularity of the Kaiapoi Māori and “to do away with the communism which pervades their other relations in life, and which forms the chief barrier between the two races.”<sup>112</sup> The stubborn persistence of Māori community was an obstacle to establishing a vision of indigenous New Zealanders as industrious farmers happily integrated into the community through networks of production and exchange.

Finally, in April 1868, the government issued grants to the last forty-nine Kaiapoi Māori. Continuing a longer tradition of restriction, one which lasted until the early 20<sup>th</sup> century, while individual lots could be leased by their owners for periods of up to 21 years, a condition of the grants noted that the land could not be sold without special approval from the governor.<sup>113</sup> The continuity of trusteeship and a reticence to fully invest Māori with rights to the reserves suggests

<sup>110</sup> New Zealand. House of Representatives. 1862. *Parliamentary Debates*. 30 August 1862, 357, Walter Mantell.

<sup>111</sup> AHJR, 1865, “Return of All Grants of Land and Other Endowments Made for the Benefit of the Native Race,” Session I, E-07, 4-6.

<sup>112</sup> W. Rolleston (Under-Secretary of the Native Department) to H. J. Tancred. October 26 1865 in Mackay, A *Compendium of Official Documents Relative to Native Affairs in the South Island*, 2:109.

<sup>113</sup> AJHR, 1870, “Schedule of Native Reserves in the Province of Canterbury,” Session I, D-16, 20.

a lingering discomfort with treating Māori as autonomous agents trusted to oversee their own economic future.

In 1873 James Stack, an Anglican missionary and occasional correspondent to the Native Department who ministered to congregations at Kaiapoi, wrote to the Native Department about life at the reserve.<sup>114</sup> In contrast to the optimistic future Buller had seen in 1859, Stack's letter relayed a story of economic hardship that was now a feature of life at the reserve. The 400 acres of timber at Tuahini Bush had all been sold or consumed, half the population was incapable of manual labor due to age or infirmity, and the small size of individual allotments made them uneconomic to farm and precluded any significant rental income. These reduced circumstances had, in Stack's view, badly disrupted Māori social hierarchies with former chiefs now reduced to the level of their former slaves with result "that the character of the people is decreasing" though the population were pressing for stronger attention to be paid to the management of native reserves.<sup>115</sup> The Kaiapoi Māori would have to wait a long time for this stronger attention.

The larger process of conceptualizing, instantiating, and ultimately dismantling Native Reserves as emblematic of what appear to be deeply contradictory and mutually incompatible processes at the confluence of New Zealand experience of imperial expansion - blending a self-consciously humanitarian inheritance with the frequently violent dispossession of indigenous people. Through Kaiapoi we can see the shift toward reframing the nature of Maori engagement from one based on a collective level to one that recast indigenous New Zealanders as autonomous subjects of the colonial state.

<sup>114</sup> Janet E. Murray. 'Stack, James West', Dictionary of New Zealand Biography, first published in 1990. Te Ara - the Encyclopedia of New Zealand, <https://teara.govt.nz/en/biographies/1s21/stack-james-west> (accessed 13 January 2018).

<sup>115</sup> AJHR, 1873, "Reports from Officers in Native Districts," Session I, G-01, 20.

Reserves are particularly emblematic of the contradictions inherent to practices of “humanitarian empire” in a settler colony by virtue of their attachment of a vision of political, economic, and cultural ideas to a particular, platted, and mapped space. The British government and public alike had lauded the idea of reserves intended to maintain an indigenous presence even as the larger settler project sought to erase that presence from the colonial landscape or strictly limit the boundaries in which indigenous elements could remain preeminent. The countervailing, though not entirely contradictory, forces of preservation and elimination, explain the general confusion that characterized the native reserves administration in the first decades of colonization. As a whole, instead of fulfilling their initial purpose in support of Māori autonomy, a lack of bureaucratic attention and dearth of administrative resources meant that the various programmatic goals established for reserves never fully gained traction.

Instead, colonial governments turned to Native Reserves as a vector for spreading British legal culture, ways of organizing production, and social forms among Māori communities. Reserves also served as spaces in which to experiment with techniques of indirect rule, as mutable bargaining chips to satisfy rival claimants, or in the case of being used as a site for a school or hospital that was open to Europeans, to benefit a generic notion of the public good. Politicians and lobbyists within New Zealand portrayed Native Reserves as emblematic of the government’s commitment to the humane treatment of Māori even as *de jure* policy and *de facto* governance increasingly curtailed indigenous autonomy.

## **Conclusion**

The suite of laws proposed by Governor Browne’s responsible advisers confirmed that the newly-empowered settler government would pursue what they characterized as a “policy of



fusion.”<sup>116</sup> Instead of preserving Māori autonomy, the goal of government sought to “bring the aborigines as speedily as may be under British institutions.”<sup>117</sup> Efforts to govern Māori bodies and lands in regulatory, judicial, and economic forms therefore became increasingly paternalistic and tutelary during the late 1850s. Retaining a humanitarian commitment to social improvement and trusteeship, legislation and the individualization of reserves constrained the ability of Māori to opt out of laws designed to incorporate Māori authority into English administrative institutions

New Zealand’s settler politicians adopted the premise that because the European population in New Zealand was dispersed through the islands, the very nature of colonization would make it exceptionally difficult to maintain distinct territorial divisions between native and European space in the long-term. The creation of Native Districts and Native Circuit Courts applied a layer of colonial government on top of what was exclusively Māori space. The designation of Native Districts and the extension of English law into Māori lands took one step toward the formal erasure of indigenous lands. Developing, though still nascent, institutions employed Native Assessors and Native District runangas that drew Māori into closer contact with British authority. The Bay of Islands Act accomplished a parallel goal with the intentional intermingling of Māori and European populations. This contact would be the mechanism, in the eyes of the governor’s advisers, through which social change might transpire. Civilization and settlement became “ultimately inseparable.”<sup>118</sup>

The process of incorporating Māori through the regulation of Māori space was to be a mixture of both reactive and prescriptive forces. The government was able to outline a set of

<sup>116</sup> PP 1860 (492) *Despatches Relative to the Management of Native Affairs*, Governor Thomas Gore Browne to Right Honorable Sir E. Bulwer Lytton: Memorandum by Responsible Advisers on Native Affairs (September 29 1858), 14 October 1858, 21.

<sup>117</sup> *Ibid.*, 21.

<sup>118</sup> *Ibid.*, 21.

requirements ostensibly guiding the incorporation of indigenous lands into the colonial system. Grey's re-assertion of Crown operated to control and regulate in a settler frontier that was in danger of coming into open conflict with local Māori. Nevertheless, the control that the government was able to exercise only grew slowly with the long process of surveying grants, establishing reserves, and building infrastructure delayed by limited resources, Māori resistance, and confusion over who owned what land. Despite finding that Māori were entitled to their lands, the appropriative potential of stronger government control accompanied expressions of land hunger characteristic of other colonial economies dependent upon pastoralism.

Anxiety about control and authority over resources was tied-up with response to the activities of ambitious settler populations on the matter of land confiscation. As it evolved, the government's approach to Māori land tenure refused to acknowledge full individual or customary rights to the land. A bifurcated logic that utilized protectionist rhetoric positing the protective aspects Crown-controlled land sales and made claims to legal justification was subverted by the ability of the Māori to keep and use the lands that the Treaty had guaranteed to them. The issue of contested access rights to lands thus underpins the story of colonial New Zealand and situates it as a settler colonial space.

## **Chapter 5: A Shadow of Responsibility Humanitarian Governance at War (1860 - 1872)**

The outbreak of widespread, sustained, and intense armed conflict in the early 1860s transformed the relationship between Māori and the colonial state. While preceding decades had witnessed episodic violence, an atmosphere of imminent, erupting, or continuing crisis characteristic of the years following 1860 caused the colonial and British governments to reconsider practices of humanitarian governance. The period of warfare between 1860 and 1872, called the New Zealand Wars or the Maori Wars, underscored the centrality of land to colonial policy. Rebellion against the settler state, and the consequences of the military response to that challenge, shaped discussions about how humanitarian governance should be part of both punitive measures and reconciliatory strategies.

A shift from pursuing policy goals through negotiation towards a slate of more directive administrative practices during 1860s allowed the government to set the terms and priorities of humanitarian governance with a degree of authority it had not before invoked. The combination of a significant imperial military presence in the colony and the effects of legislation passed by an increasingly authoritative representative government made conditions difficult for many Māori to maintain authority outside of the colonial government. In the aftermath of rebellion, officials and settlers saw large swathes of Māori as an unknowable threat, as a hindrance to colonial progress, or as latent menace. Once legitimized through the actions of a new judicial apparatus, land seizures in the aftermath of rebellion also impacted humanitarian governance by reframing native reserves as a paternalist trusteeship of Māori resources by the state.

Adding coercion or the threat of coercion to existing practices of negotiating for land allowed a sweeping scope of interventions focused on land ownership - a central concern of settler colonial societies. The acquisition of Māori land during these years went hand in hand with individualizing collective tenure and formed central features of colonial native policy between 1860 and 1872.<sup>1</sup> Individualization was contingent upon the use of military force supporting a series of mass confiscations of land held by those Māori who took up arms against the colonial state. Following the end of hostilities, the colonial state was able to channel confiscated lands into a marketplace eager for land.

Confiscation, in this context, intensified existing pressure to shift land ownership away from collective control and toward a contractual connection between a single person or small group of people and a designated plot. Rather than simply an effort to circumscribe Māori autonomy, limiting the ability of communal holding incentivized and at times compelled Māori to bring their land into circulation. With language promoting the agricultural potential of Māori, while underscoring the need to punish rebellious hapu and iwi, the colonial state argued increased availability of land would also be good for the colony's economy and political stability. If the two decades following 1840 and the Treaty of Waitangi can be characterized by Europeans acquiring Māori land in a piecemeal fashion largely predicated on purchase agreements, then confiscations of the 1860s dramatically accelerated the pace at which Māori land came under control of the colonial state.

On the North Island in particular, appeals from newspapers and municipal representatives to preserve the safety of settler and kūpapa<sup>2</sup> communities, a desire to limit resources available to

<sup>1</sup> Richard Boast and Richard Hill, *Raupatu: The Confiscation of Māori Land* (Wellington: Victoria University Press, 2009).

<sup>2</sup> Māori allied to the Crown

future rebels, and continuing pressure to provide land for European farmers and pastoralists combined to inform government practices targeting the ownership and stewardship of Māori land. Legislation regulating Māori land continued earlier government policies expressing amalgamation as a policy goal. Laws facilitating the disruption of collective tenure had the effect of disaggregating Māori communities.<sup>3</sup> The restructuring of Māori patterns of land holding would, in the eyes of the colonial government, be justified by increased wealth and the adoption of European social and cultural forms stemming from implementing European modes of agriculture. Collective tenure had long frustrated both the government and settlers due to its perceived hindering of social and economic change. Confiscation and individualization created a means for the colonial government to accomplish that end.

Individualization took legal form through decisions of the Native Land Court. Formed in 1862 and further empowered in 1865, the court's mandate was determining ownership and documenting possession of Māori land. The government intended individualization as a means to integrate Māori land, rather than labor, into a wider colonial economy through registering Māori claimants. Confirmed ownership would facilitate the ability of Māori to sell, lease, or transfer land. Another argument for individual tenure postulated that linking the prosperity of Māori proprietors closely to the success of the colonial state would secure the political loyalty of those landowners. Individualized landholding, therefore, became a cure for multiple ills by incorporating previously indigenous land and furthering a political goal of linking Māori success (or at least the success of individual proprietors) closely with the colonial state

Enabling a wider degree of local government action in New Zealand was the 1863 devolution of control over native affairs from the "home" government in London to the "local"

<sup>3</sup> "Native Reserves Amendment Act," 9 September 1862, 26 Vict., c14 (New Zealand); "Native Lands Act," 15 September 1862, 26 Vict., c42 (New Zealand); "Native Lands Act," 30 October 1864, 29 Vict., c71 (New Zealand).

government in New Zealand. As part of the 1856 Constitution Act, London had retained veto power over the colony's indigenous policy. When London waived this right, the local government could adopt a more forceful line if it chose to do so. Shaping native policy in the 1860s emerged from a feeling of insecurity toward continuing Māori resistance to the colonial government's goal of individualized landholding, an enhanced capacity to exert military superiority, and an unhindered authority to legislate on native affairs. Consequently, the need to frame governance as humanitarian or conducted in the best interest of Māori was no longer an external requirement. Though outside obligations to practice humanitarian governance towards its indigenous subjects lapsed, the colonial government nevertheless continued to use humanitarian rhetoric to maintain the colony's standing as a site of humane empire and to mollify defeated Māori who were still capable of disturbing New Zealand's fragile peace.

Though 1872 did not mark the end of Māori resistance to colonial rule, the assertion of military supremacy by the colonial government meant the state developed practices of humanitarian governance that aligned with its own goals of individualized tenure. An increased exposure of Māori to market forces, however, carried with it a heightened risk of dispossession. Land with an alienable title confirmed by the Native Land Court could be sold or mortgaged much easier than property held in common. An apprehension of possible penury motivated an increasingly paternalist gloss to humanitarianism. Paternalism, a form of humanitarian action based on the presumption of an incapacity or inability to act in their own best interest, shaped the development of a reinvigorated system of native reserves. Paternalist humanitarianism deployed a concept of care and precarity, an ethic of consequences, and handling of power to direct action.<sup>4</sup>

<sup>4</sup> Michael Barnett, *Paternalism Beyond Borders* (Cambridge: Cambridge University Press, 2017), 12–18.

Through transferring reserved land into a trust, paternalism characterized a new system of native reserve administration that evolved in the 1870s. Invoking humanitarian language by articulating trusts as protecting Māori from the loss of land, the government's reserve system prioritized the conveyance of Māori reserves into trusts overseen by the Native Reserve Commissioner. The seeming contradiction of needing to protect Māori from the forces that were putatively to bring about their prosperity suggests the government recognized the contradictions of their policy even as legislation pursued individual tenure as a policy goal. Visions of an easily integrated population did not align with Māori realities of refusing to sell land or wholeheartedly adopt European "civilization." The government's approach to reserves, therefore, echoed larger policies of confiscation and individualization but unlike land brought before the Native Land Court reserves they did not have to be individualized. In contrast to the administrative techniques applied to native reserves developed in the 1840s that held out the possibility for Māori to largely control the uses thereof, by the 1870s native reserve policy derived from an ethos of a paternalist administration based on European trusteeship – and therefore control – of remaining reserve land.

This chapter traces humanitarian governance through the tumultuous decade following military action at Waitara, a coastal settlement in Taranaki, and examines how changes in the structures of New Zealand's native policy, the colonial legislature's reaction to widespread armed conflict, and a shift in the relationship between New Zealand and Great Britain worked to accelerate a process of individualizing native title to land. Part of this process also shifted justifications of the administration of reserve land away from supporting Māori communities and toward individual responsibility for their economic and political futures. Two pieces of legislation in particular, the Settlements Act of 1863 authorizing confiscation and the Native

Lands Act of 1865 that established the Native Lands Court, were significant not only for their role in consolidating the political economic consequences of the “settler boom,” but also for their inclusion of humanitarian elements. The chapter concludes with the establishment of a new form of reserve administration in the late 1860s and early 1870s. This chapter shows how military conflict, colonial laws, and shifts in the nature of the relationship between an imperial center and a colonial periphery brought about the transformation of humanitarian governance to be a program tied closely to the priorities and position of the colonial state.

### **Waitara and the Beginning of the New Zealand Wars**

Waitara, meaning “mountain stream,” sits on the west coast of the North Island where a river of the same name joins the Tasman Sea. With the volcanic cone of Mt. Egmont/Taranaki visible on a clear day and the province of Taranaki’s main European settlement at New Plymouth located ten miles to the south and west, Waitara was strategically located, contained rich soil, and possessed one of Taranaki’s few viable harbor sites. Historically home to the Te Āti Awa, to the north of Waitara lay the lands of the Ngāti Tama and beyond them the iwi of the Waikato. During the Musket Wars in the 1830s, these neighbors had invaded Taranaki and displaced many Te Āti Awa including those residing at Waitara. Consequently, many Te Āti Awa migrated to the southern end of the North Island in search of refuge.

Between 1843 and 1845, the New Zealand Company, eager to acquire arable land near its settlement at New Plymouth, looked to purchase Waitara from the Waikato iwi who now claimed control of the land. The Company’s efforts were ultimately unsuccessful when George Clarke, the Protector of Aborigines, revealed to the governor that the Company had neglected to negotiate with Waitara’s Te Āti Awa claimants. Not wishing to disturb the peace, Governor



FitzRoy forbade the sale. Three years later, in 1848, several hundred Te Āti Awa under Wiremu Kīngi Te Rangitāke returned to Waitara and established themselves on the north bank of the river. Soon thereafter, worried about a possible attack from Waikato Māori to the north, Te Rangitāke and his followers crossed over to the south side of the river and there joined other Te Āti Awa under Te Teira Mānuka. The displacements of the Musket Wars had created a situation in which competing claims to land had to be negotiated between different iwi. The resulting web of claims and counterclaims provided a means for iwi and hapu to gain government recognition of territory. Recognition of conquest or occupation could result in a legitimate claim to the land which entitled claimants to part of the purchase price.

Waitara's significance as a turning point in New Zealand history derives from its being the spark that began a decade-long period of warfare. Though Waitara was particular in that it marked a shift from largely peaceful to largely violent disagreement, the causes of the outbreak were decades in the making. Conflict that emerged from divergent and unresolved perspectives about land contested by iwi and hapu, argued about by European governors and settlers, and debated between Māori and European constituencies about who had the right to sell land and what entities were empowered to buy. Conflict at Waitara also stemmed from Māori frustration with what they saw as the failure of the colonial government to adhere to a program of humanitarian governance. By being unresponsive in the face of continued requests to intervene in episodes of inter-iwi violence and doing little to promote a program of intervention in areas of health and welfare, Taranaki Māori had little reason to believe the colonial government would pursue beneficial policies in the future. If the settler state only intervened in matters connected to the acquisition of land, claims by the government to pursue policies of humanitarian governance rang hollow in many Māori ears.

In March 1859, after twelve years living at Waitara, Te Teira met with Governor Thomas Gore Browne to discuss selling 600 acres to the government.<sup>5</sup> Land transactions of this sort were common during the 1850s as growing settler demand for arable land pushed the colonial government to negotiate with Māori for blocks throughout the North Island. Compounding settlers' frustration and heightening their demand was Taranaki's relative paucity of land under European tenure. An 1861 survey of ownership in the North Island found Europeans controlling just under a quarter of the total landmass, but in Taranaki that figure was barely 2.5 percent, roughly 60,000 of the province's 2.4 million acres.<sup>6</sup> The speed of acquiring Māori land compared unfavorably, in settler eyes, with nearly universal European ownership of the South Island and upwards of sixty-percent possession in the North Island province of Hawke's Bay.

Aware of the growing clamor for land voiced by Taranaki settlers, Governor Browne welcomed Te Teira's offer as an opportunity to acquire a fertile coastal tract that could easily be surveyed for settlement. Browne, however, declared his determination to only go through with the purchase if all parties holding an interest in the proposed sale gave their consent.<sup>7</sup> The governor believed he occupied the ethical and legal high ground and that Te Teira had authority to sell the land. Browne decided to go ahead with the purchase despite objections made by Te Rangitāke about Te Teira's lack of adequate standing to alienate the land.<sup>8</sup>

Inconsistent protocols governing the purchase of Māori land, drawn-out processes of establishing title, and lingering contention about which groups had claims to what territory

<sup>5</sup> Parliamentary Papers of Great Britain [GBPP] 1861 (2798) *Papers Relating to the Recent Disturbances in New Zealand*, Governor Thomas Gore Browne to Sir E. Bulwer Lytton, 29 March 1859, 1.

<sup>6</sup> GBPP 1862 (3040) *Further Papers Relative to the Recent Disturbances in New Zealand*, Map Showing ... Ceded Lands, 5 April 1861, 40-43.

<sup>7</sup> GBPP 1861 (2798) *Papers Relating to the Recent Disturbances in New Zealand*, Governor Thomas Gore Browne to Sir E. Bulwer Lytton, 29 March 1859, 2.

<sup>8</sup> Kenton Storey, "Colonial Humanitarian? Thomas Gore Browne and the Taranaki War, 1860–61," *Journal of British Studies* 53, no. 1 (2014): 129. GBPP 1861 (2798) *Papers Relating to the Recent Disturbances in New Zealand*, Governor Thomas Gore Browne to Sir E. Bulwer Lytton, 29 March 1859, 2.

contributed to confusion about who had the authority to sell Waitara. This opacity made Governor Browne's efforts more difficult and he wrote to London lamenting the variability of Māori practices pertaining to land transfer. Browne was frustrated that "the exception is wider than the rule" and the locus of authority was too variable since in "some tribes, the different hapus must be consulted, in others, the Chiefs."<sup>9</sup> Overlapping claims to land that evaded easy determination was a concern that had vexed hopeful purchasers since Europeans first sought to acquire land in New Zealand.

Browne's frustration, a recurring one for colonial administrators, was not only caused by debates internal to Māori communities about the scale and nature of selling land but also derived from a vacillating set of purchase policies undertaken by individual European purchasers, officials of entities like the New Zealand Company, and the colonial government. The government's focus on pursuing a plan of consensual purchase changed dramatically following Waitara when compelled acquisition through confiscation became a keystone of government land policy. Browne, who stood strong in his conviction that the purchase offer was legitimate and based on precedent, was prepared to pursue a more forward policy that encountered an equally principled resistance by Māori. Waitara was the spark that brought the longstanding question of government authority to purchase land to a crisis moment and by incorporating overt violence required the colonial state to reconsider its commitment to and practices of humanitarian governance.

On the other side of European frustration with a slow rate of land sale was mounting concern expressed by many North Island iwi about the rate at which land was passing from indigenous into European hands. By 1860, considering growing settler demand for land, Māori in

<sup>9</sup> Appendix to the Journal of the House of Representatives [AJHR] 1861, "Further Papers Relative to the Native Insurrection," Session 1, E-01, Governor Thomas Gore Browne to Duke of Newcastle, 4 December 1860, 6.

the Waikato formed a coalition – the Land League - to try and stem the speed and scope of land sales and consolidate the locations in which Māori would sell land to Europeans. Though never as widespread in practice as colonial officials feared, the prospect of an active and organized effort to limit the supply of land concerned the government. The Land League also inspired Māori decrying the sale of Waitara. Further complicating matters was the overlap between the land league and a political movement, the Kīngitanga (the King Movement), favoring the establishment of a Māori monarch who could provide a rallying point for iwi who had otherwise antagonistic relationships with each other.

In 1858, Kīngitanga supporters proclaimed the Waikato chief Pōtatau Te Wherowhero as the first Māori king. Though many Māori did not see Te Wherowhero's position as incompatible with British sovereignty, the existence of a locus of sovereignty apart from the Crown caused alarm within the colonial government who saw Kīngitanga as a threat. Another source of distrust emerged in the early 1860s in the form of Pai Mārire, a spiritual movement that began in Taranaki.<sup>10</sup> Pai Mārire espoused a fusion of Christian and Māori spirituality and promised deliverance from European colonization. Though the Land League, Kīngitanga, and Pai Mārire were not an organized and unified indigenous threat to the settler state, the specter of the potential fusion of a messianic threat to European sovereignty and economy in the colony concerned officials in the early 1860s. Anxiety about the colony's future contributed to a heightened sense of concern and alarm about Waitara.<sup>11</sup>

In justifying his approach to the “Taranaki Question,” referring to Waitara, Browne wrote to his London superiors that every land purchase in Taranaki for the previous fifteen years had

<sup>10</sup> Also called Hauhau

<sup>11</sup> Ann Parsonson, “The Pursuit of Mana,” in *The Oxford History of New Zealand* (Oxford University Press, 1981), 140–67.

been based on the principle of negotiating with relevant hapus rather than larger iwi. He supported the right of hapu to sell land and in negotiating with Te Teira the governor had also consulted representatives from other Taranaki Māori - the Ngāti Tuaho, Ngāti Hinga, and the Puketapu branch of Ngāti Awa.<sup>12</sup> During a second effort at purchasing Waitara in 1847, Governor Grey had balked at recognizing exclusive Ngāti Awa title over the district. Instead, Browne looked to designate native reserves as a way of allowing competing claims to be resolved within Māori communities rather than have the colonial state take a leading role. By paying for land and ensuring that “ample reserves [were] made for the resident and absentee Native claimants[,]” the state might avoid having to make a final decision regarding ownership and instead diffuse rival claims through granting a shared interest in the land.<sup>13</sup> Politically, Browne was aligning his response with gubernatorial precedent. Referring to similar policies followed by Grey, Brown justified his creation of reserves as part of purchasing land as part of a longer tradition of land purchase.

After paying a deposit of £100 pounds to Te Teira in February of 1860, the government went ahead with a survey of Waitara. Ngāti Awa loyal to Te Rangitake disrupted surveying work and later that month Governor Browne declared martial law throughout Taranaki.<sup>14</sup> Tensions remained high and an armed skirmish in March marked a shift to overt violence. In 1860, the land at Waitara impacted by the sale was occupied by about 200 men, women, and children loyal to Te Rangitake who were forcibly removed by soldiers of the 65<sup>th</sup> Regiment. The soldiers then razed three of the four pās within the purchase area.<sup>15</sup> Through a year of fighting, surveyors had

<sup>12</sup> AJHR 1861, “Further Papers Relative to the Native Insurrection,” Session 1, E-01, Governor Thomas Gore Browne to Duke of Newcastle, 4 December 1860, 6.

<sup>13</sup> *Ibid.*, 24.

<sup>14</sup> GBPP 1861 (2798) *Papers Relating to the Recent Disturbances in New Zealand*, Proclamation of Martial Law, 22 February 1860, 7.

<sup>15</sup> AJHR 1863, “Papers Relative to the Waitara,” Session 1, E-02, Memorandum from Governor Grey to the Native Minister, 17 April 1863, 6.

been able to complete their work under close military protection and by March 1861 the two sides had established an uneasy ceasefire. No European occupation of Waitara, however, could go forward in light of continued assertion by Te Rangitake that the sale of land was invalid. Arguments deployed in favor of the government pointed to the payment of a deposit and promise of further payment as allowing the legitimate occupation by settlers. Opposing voices claimed that the government had not completed its due diligence in resolving claims. Furthermore, by resorting to military force, Māori argued, the government deprived claimants of any possible means of redress and applied a blanket policy to all Māori even those who had been amenable to the sale.

The destruction of Māori settlements constituted an un-nuanced response to resolving complicated networks of local land tenure. Removing whole communities, even if not large ones, from an area required categorical assertions of the entire group as “loyal” or “disloyal.” Warfare marked a change in how the government conceptualized Māori political participation toward more binary assessments of loyal or disloyal rather than remaining attuned to the diverse and frequently competing strains of opinion within the various scales of indigenous social organization. By forgoing a more graded policy in favor of a clear demonstration of power, the decision to deploy soldiers at Waitara frustrated many Taranaki iwi who saw the decision as rash and preemptory. In addition to characterizing the use of military force as disproportionate, Taranaki Māori made clear their frustration that after years of neglecting indigenous welfare and incidences of inter-iwi conflict, the government was only belatedly addressing Māori concerns. Māori were cognizant of the irony that it was only at the moment of trying to purchase land that the government showed an interest in the area.<sup>16</sup>

<sup>16</sup> GBPP 1864 (3277) *Further Papers Relative to the Affairs of New Zealand*, Minute by Governor George Grey, 22 April 1863, 7.

Confusion persisted before and during the conflict about whether or not reserves were to be included within the planned sale. In an interview following the war with Francis Dillon Bell, the colony's Native Minister, Te Teira mentioned that he had anticipated a 200-acre reserve would be established within the land offered for sale. Additionally, Te Teira mentioned that he had intended to exclude from the sale the four villages – Te Whanga, Te Kuikui, Hurirapa, and Herohia – cleared by British soldiers.<sup>17</sup> Governor Grey, who had returned from the Cape Colony to succeed Browne and serve a second term as New Zealand's governor, only came to know about the reserves in April 1863, years after the purchase was to have taken place and was surprised at the continued ambiguity about the purchase parameters.

On further investigation, Bell could find no reference to a reserve within the deed of sale which struck him as odd since it was “almost invariable practice to name reserves in any deeds of sale.”<sup>18</sup> Robert Parris, the Assistant Native Secretary who had been active in negotiations to purchase Waitara since 1857, stated Te Teira had said nothing at the time of the original offer to show his intention of excepting the pās from it, and that Parris had never heard of an intended reserve of 200 acres.<sup>19</sup> What the Government had promised, Parris wrote, was that Māori reserves would be made on the water frontage at a planned harbor development and the sites of the pās exchanged for town allotments that were anticipated to rise in value and receive some other land in lieu. The war, however, “had prevented any plan for the benefit of the Natives

<sup>17</sup> Ibid., 8; GBPP 1864 (3277) *Further Papers Relative to the Affairs of New Zealand*, Native Minister Francis Dillon Bell to Governor George Grey, 17 April 1863, 5.

<sup>18</sup> AJHR 1863, “Papers Relative to the Waitara,” Session 1, E-02, Memorandum from Governor George Grey to Native Minister Francis Dillon Bell, 17 April 1863, 6.

<sup>19</sup> GBPP 1864 (3277) *Further Papers Relative to the Affairs of New Zealand*, Minute by Governor George Grey, 22 April 1863, 7.

being carried out.”<sup>20</sup> Warfare complicated the development and implementation of humanitarian governance.

That the colonial government did not seem to make more robust efforts to publicize or point to reserves during negotiations about Waitara is puzzling. If an unintentional oversight, the omission even for an important a bloc of land as Waitara speaks to the administrative neglect that the reserve system experienced during the 1850s. If it was an intentional omission the absence of reserves could speak to a shift in government policy away from reserves within land purchases and moving toward confiscation, a policy that would become codified as law in the mid 1860s. Confusion about the extent and placement of reserves thus contributed to the reticence of Māori to vacate the land.

A turn to overtly coercive power by the colonial government reflected a hostility between European and Māori that was mapped onto grievances between particular iwi or hapu and colonial administrators. In an effort to soothe lingering tensions at Waitara, George Grey visited Taranaki in early 1863. There, he inquired into the possibility of going through with the sale and reported the high level of frustration still present in the province. Despite the violence of the previous year, the language of humanitarian governance and a perception of British administration as having to maintain a higher moral calling remained on the mind of the governor.

In a letter to the Secretary of State for the Colonies, Grey wrote that many had “taken up [Waitara] as a question of race” with opinions favoring or disapproving the occupation largely

<sup>20</sup> AJHR 1863, “Papers Relative to the Waitara,” Session 1, E-02, Memorandum from Governor George Grey to Native Minister Francis Dillon Bell, 17 April 1863, 6.



falling along racial lines.<sup>21</sup> Grey was also aware of the importance of his legacy and perceived the colonial governance of New Zealand as standing “at the bar of history” and that it was the colony’s “duty to set a good example for all time in such a most important affair.”<sup>22</sup> The importance of governing from a principled stance, of being able to present a “good example” suggests the continued perception of New Zealand as a site of settler empire and that even in moments of crisis the importance of humanitarianism – or at least the rhetorical significance and power of humanitarian discourses – endured.

While Grey personally thought Māori skepticism regarding Waitara was well justified, his observations about how Europeans and Māori reacted to Waitara reflect a growing atmosphere of hostility more symptomatically along racial lines rather than as an isolated grievance stemming from the colonial state’s effort to purchase Waitara from the Ngāti Awa. Grey’s suggestion that Māori were correct in their understanding about Waitara – that the colonial state had indeed not fulfilled its obligations - couched the government’s actions not as a retreat from a point of potential conflict but instead as a policy that cast the recognition of Māori authority as reflecting a heightened moral plane. In an act the governor hoped Māori would see as magnanimous and as a “good example,” by April 1863 the governor decided not to pursue the Waitara purchase and instead set aside the long-overdue reserves.

The promised reserves for Waitara Māori, evidently unknown to the colonial executive until that month, were to contain 200 acres and land around the native villages. Additionally the government “publicly and clearly renounce[d] all right and title” to the land.<sup>23</sup> In light of the

<sup>21</sup> AJHR 1863, “Papers Relative to the Waitara,” Session 1, E-02, Governor George Grey to the Duke of Newcastle, 24 April 1863, 2. Though this was Grey’s evaluation of the situation at Waitara many Anglican clergy in New Zealand vocally opposed the Waitara purchase.

<sup>22</sup> *Ibid.*, 2.

<sup>23</sup> GBPP 1864 (3277) *Further Papers Relative to the Affairs of New Zealand*, Memorandum by Governor George Grey, 19 April 1863, 6.

government's failure to establish reserves, Grey recommended that the government forfeit the hundred pound deposit it had paid as compensation for destroying the Māori settlements.<sup>24</sup> The commitment to admitting wrong and giving up title to the land worked to resolve a crisis the governor felt was both morally dubious and a conflict that the local administration could not win without alienating significant numbers of Māori.

Confirming reserved land at Waitara as under the ownership of Taranaki Māori formed a concrete gesture of relinquishing the government's claim to land. In addition to presenting his administration as one informed by higher principles, Grey was also of the position that the pursuit of a military solution would receive a cold welcome even from Māori loyal to the government. At Waitara, the colonial state's reliance upon loyal Māori to supplement local colonial militia and professional soldiers would be impossible as "leading native after leading native had told the Governor that they will under no circumstances aid the Government in any attempt to hold the land at the Waitara[.]"<sup>25</sup> Māori who stayed loyal, kūpapa, did so for strategic, economic, or political reasons and were central to the plans of the colonial government.<sup>26</sup>

Waitara marked a turning point toward the use of a more coercive register of government strategies. Disputes between Māori and the government, within government and representative circles, and between Māori voices highlight that though Waitara marked the beginning of a new chapter in New Zealand history, it did not reduce New Zealand politics to a binary of European versus Māori. Nor did it mark the emergence of a robust and omnipotent colonial government. Ongoing negotiations between the regions and between the colonial and imperial governments

<sup>24</sup> GBPP 1864 (3277) *Further Papers Relative to the Affairs of New Zealand*, Minute by Governor Grey, 22 April 1863, 9.

<sup>25</sup> *Ibid.*, 7.

<sup>26</sup> James. Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*. (Auckland: Auckland University Press, 1986).

about expenditure and the goal of colonial governance meant that European voices were far from united.

Even as settlers and officials of the settler state pushed strongly for a show of force and the pursuit of the Waitara purchase, the relative weakness of the colonial government and the importance of interpretation – a need to put on a show of principled governance rather than simply relying on armed violence – reveals continuities with earlier decades. Creating a reserve at Waitara, two-hundred acres set aside for Māori use, was one way of establishing the good faith of government and a commitment to maintain a form of Māori presence in New Zealand. That commitment would come under increasing pressure during the remainder of the decade as continued military conflict became a justification for the settler colonial government to pursue a policy of alienating Māori land.

### **Māori Attitudes After Waitara**

Though lasting less than a year, armed conflict in Taranaki caused anxiety for colonial administrators. In addition to questions of land ownership, Māori also critiqued the inadequacy of their representation within the colonial legislature. To determine the impact conflict at Taranaki had caused among Māori and to gather information for the consideration of the government, the colonial government requested reports from local officers around the country about the state of Māori feeling at this time.

Henry Halse, resident magistrate in the Waikato, wrote that “New Zealand for the New Zealanders” was a common refrain in light of what Waikato Māori perceived as the unmitigated influx of Europeans.<sup>27</sup> H.T. Kemp, the District Commissioner in the Bay of Islands, noted Māori

<sup>27</sup> AJHR 1862, “Reports on the State of the Natives,” Session 1, E-07, Waikato: Henry Halse, 16 October 1861, 10.

in the north of the North Island were generally amenable to the government and that the Ngāpuhi would have helped put down any Waikato tribes that took up arms against the government.<sup>28</sup> At Mongonui, near the far northern tip of New Zealand, the Resident Magistrate W. B. White characterized the local Rawa as loyal. White reported that the Rawa looked to the government not only as a source of protection from other Māori but also as a source of financial largess.<sup>29</sup> Herbert Wardell, writing from the Wairarapa, relayed that the Ngāti Kahungunu had consistently refused to alienate any land and were divided in their loyalties calling themselves “Queen’s” and “King’s” natives with the latter composing “violent nationalists” who “repudiate the obligations contracted by the Treaty of Waitangi.”<sup>30</sup> Replies sent in from around New Zealand by interpreters, resident magistrates, and district revealed that Māori held range of grievances and range of reactions to events in Taranaki.

Māori were not uniformly opposed to the structures of the settler state and made known their concerns about the uneven application of its power. While Māori attitudes toward the government represented a range of loyalties and positions, assessments of strengths, and histories, a near universal concern among North Island Māori was the imprecise, deferred, and confused capacity to secure title to land. Wairarapa Māori, for instance, shared a grievance with residents of Taranaki that expressed frustration with the government for not enforcing the law in their respective districts. Both loyal, “Queen’s” Māori, and those supporting the Kīngitanga movement in the Waikato, “King’s” Māori, complained to the local resident agent “that great delay takes place in surveying their Reserves, and in the completion of the purchase of lands

<sup>28</sup> Ibid., Bay of Islands: H. T. Kemp, 28 September 1861, 20.

<sup>29</sup> Ibid., Mongonui: W. B. White, 21 August 1861, 24.

<sup>30</sup> Ibid., Wairarapa to Turanga: H. S. Wardell, 23 August 1861, 31.

sold, by which they are kept in debt.”<sup>31</sup> Secure title could establish Māori as landowners with the consequent broadening of their economic horizons. The deferral of that prospect caused widespread frustration. It was not necessarily the alienation of land per se that bothered Wairarapa Māori but rather the inability of the colonial state to determine and maintain property rights made use of their land (through rental, improvement or sale) difficult.

Officials heard analogous set of grievances among nineteen hapu in the Wellington District who expressed concern about rental income from reserves assigned to their respective hapus. Instead of accumulating in nineteen separate accounts, the government was directing income sourced from the leases of reserves granted to particular tribes into a single account. Wellington hapu took exception to this conglomeration of resources since they did not conceptualize themselves as singular and unified. While wanting to preserve their own revenues the hapu were also troubled that “several years been paid into the account of the Commissioners of Native Reserves should be unaccounted for to them.”<sup>32</sup> Māori inquired about how funds purported to be collected for their benefit were actually being distributed and advocated their perspective with the colonial government as active critics of the government’s capacity to effectively administer humanitarian governance.

In contrast to the state of affairs characterized by lingering uncertainty on the North Island, reports from the South Island noted the relative success of native reserves there. In Canterbury, the 600 Ngāi Tahu resident in the province cultivated about 200 acres and raised cattle. Their reserves comprised nearly 7000 acres of “excellent quality” land of which a third

<sup>31</sup> AJHR 1862, “Reports on the State of the Natives,” Session 1, E-07, Wairarapa to Turanga: H. S. Wardell, 23 August 1861, 32.

<sup>32</sup> Ibid., Wellington: E. Baker, 21 August 1861, 24.

was well-forested, a valuable asset given the scarcity of timber on the Canterbury Plains, with the total being valued at over £67,000.<sup>33</sup>

Further south, in Otago, the Assistant Native Secretary Alfred Strode was happy to report the “satisfactory state of the Natives” who had not been impacted by events at Waitara “or any of the various questions which have of late years agitated the Native mind in the Northern Island” despite being visited by an emissary from the Kīngitanga seeking their support.<sup>34</sup> Even after this representative had encouraged Otago Ngāi Tahu to join anti-government forces in the Waikato, Strode reported that “they steadily refused to do, declaring their loyal sentiments, and attachment to British authority.”<sup>35</sup> Strode also mentioned the participation of Otago’s civil society in promoting Māori education with work conducted by the Society for Elevating the Condition of the Natives.<sup>36</sup> This organization supported a missionary teacher named Charles Baker who resided on the Native Reserve at the head of the Otago Harbor. His work included instructing Ngāi Tahu at the head of the harbor as well as travelling to other coastal districts.<sup>37</sup> Collaboration with religious and civil bodies – especially in education – continued to be part of the colonial humanitarian governance.

Several district officers pointed to the inclusion of Māori elites within the government as a measure that would promote loyalty to the state. In the Bay of Islands, Resident Magistrate H. T. Kemp thought a system of appointing members of the chiefly strata to local offices with a stipend would invest Ngāpuhi elites in the project of administration. He noted that through these

<sup>33</sup> AJHR 1862, “Reports on the State of the Natives,” Session 1, E-07, Canterbury: Walter Buller, 19 September 1861, 33.

<sup>34</sup> Ibid., Otago: A. C. Strode, 20 December 1861, 37.

<sup>35</sup> Ibid., Otago: A. C. Strode, 20 December 1861, 37.

<sup>36</sup> Angela Wanhalla has shown how native reserves in Otago were often sights of transgression and hardly formed hermetically sealed spaces. Angela Wanhalla, “My Piece of Land at Taieri,” *New Zealand Journal of History* 41, no. 1 (2007): 45–61; Richard Hill, “Maori and State Policy,” in *The New Oxford History of New Zealand*, ed. Giselle Byrnes (Oxford: Oxford University Press, 2009), 513–36.

<sup>37</sup> AJHR 1862, “Reports on the State of the Natives,” Session 1, E-07, Otago: A. C. Strode, 20 December 1861, 37.

means “their influence might be in a beneficial way kept up” with the added benefit that chiefs would be “personally interested in its continuance and success” and act to secure peace and portray the government in the role of a benefactor.<sup>38</sup> A multifaceted approach to securing loyalty saw the government pursue land, education, and support traditional Māori social structures as a way of moving the government and Māori on friendly footings.

Divergent experiences among North and South Island iwi reveals the divergent experience of Māori interactions with the colonial state. In contrast to Taranaki where settler demand for land brought about a violent conflict, in Otago where Europeans had already alienated land and demographic changes meant that the British population outnumbered local Ngai Tāhu, the efforts of humanitarian governance did not need to adopt a coercive approach. South Island Māori – though perhaps cognizant of the difficulties they would encounter if adopting armed resistance – found ways to work within the system.

An example of pursuing legal claims through European courts came in the 1860s and concerned a lawsuit about ownership of a valuable plot of land, the Prince’s Street Reserve, in central Dunedin. John Topi Patuki, a Ngāi Tahu leader, petitioned the colonial government for £6,000 in lost rental income derived from the provincial government’s occupation of the reserve.<sup>39</sup> Despite the concern of central government about a growing and consolidating negative attitude toward the government, attitudes among Māori were not uniformly hostile to the Crown in the aftermath of Waitara. Iwi and hapu in many regions of the country were frustrated by the absence of European governance, expressed of a desire to clear up discrepancies regarding land titles, and voiced a wish for a more developed system of education.

<sup>38</sup> AJHR 1862, “Reports on the State of the Natives,” Session 1, E-07, Bay of Islands: H. T. Kemp, 28 September 1861, 20.

<sup>39</sup> AJHR 1868, “Further Despatches from the Governor of New Zealand,” Session 1, A-01, Petition of John Topi Patuki, 17 August 1867, 4.

## Devolved Authority

Preserving control over native affairs composed a critical feature of Britain's grant of responsible government to New Zealand in the 1856 Constitution. A decision to maintain veto power stemmed from the British government's assessment that the personal, economic, and political proximity of settler politicians to indigenous questions made it difficult for the latter to administer to the whole population rather than prioritizing the interests of European settlers. Following Waitara and considering persistent armed conflict over the rest of the decade, imperial bureaucrats grew increasingly skeptical of the colonial state's ability to effectively administer New Zealand's native affairs.

The onset of military conflict and the consequent expense of sustaining troops in New Zealand entailed revisiting the relationship between the Colonial Office in London and the local administration. In 1862 and 1863, the home government granted further powers to the New Zealand government. The high costs of ongoing warfare, however, allowed London leverage over a colony still trying to find financial stability. Nevertheless, the devolution of authority represents an acknowledgement of the metropolis's failure to secure the rights of New Zealand's native peoples, a failure that military conflict brought into strong relief.

During 1861 and 1862, as Governor Grey gathered information on the state of native affairs in the colony, he penned a series of dispatches expressing his wishes about the course the imperial government might pursue in terms of New Zealand's indigenous peoples. Overall, Grey felt that the British government had not "fully realized the truly anomalous position of affairs" in New Zealand.<sup>40</sup> Downplaying a perception of rampant chaos, the governor also expressed skepticism about the real power of the Māori king movement and instead identified a vacuum of

<sup>40</sup> GBPP 1862 (3049) *Papers Relative to Affairs of New Zealand*, Governor George Grey to Duke of Newcastle, October 15 1861, 14.



local control and absence of government institutions as the main source of trouble in the colony. What was “really wanted” in the Waikato, according to Grey, was the “establishment of law and order.”<sup>41</sup> Fortunately for the British government, Grey also proposed himself as having the best solution.

Continuing his focus on the formation and consolidation of institutions, Grey advocated dividing remaining Māori land in the North Island into twenty native districts overseen by a European commissioner, a clerk, an interpreter, and a surgeon. These officials would be assisted in their work by twelve local Māori also paid from colonial coffers. These councils, called district runangas, would have authority to pass regulations relating to local affairs including managing livestock, weed control, preventing cattle disease, and regulating the sale of alcohol.<sup>42</sup> Runangas were also to be invested with authority to inspect schools, maintain jails and hospitals, oversee road construction and be vested with “providing for the adjustment of disputed land boundaries of tribes, of hapus, or of individuals, and for deciding who may be the true owners of any native’s lands” and of recommending the terms on which grants of land might be issued.<sup>43</sup> Each runanga could also sell one farm to a pre-approved European settler as a way to “promote the welfare of the two races inhabiting this country, and to lead to a community of interests, and the frequent interchange of friendly officers, as well as with the view of fostering the development of the interior.”<sup>44</sup> Through direct Māori involvement, district runangas had the potential to develop Māori loyalty to the colonial state while establishing or reinforcing

<sup>41</sup> Ibid., 14.

<sup>42</sup> GBPP 1862 (3049) *Papers Relative to Affairs of New Zealand*, Enclosure in George Grey to Duke of Newcastle, 2 November 1861, 16.

<sup>43</sup> Ibid., 17.

<sup>44</sup> GBPP 1862 (3049) *Papers Relative to Affairs of New Zealand*, Enclosure in Governor George Grey to Duke of Newcastle, 2 November 1861, 16. The Purchaser would have to be resident and have a three-year probationary period after which they would receive a Crown grant for the land and ten years of conditions of not being absent for more than six weeks in the whole year.

government institutions. By including health and education, the development of Māori administrative capacity formed part of humanitarian governance's interest in reducing precarity and establishing stability.

These institutions would not come cheap. To fund the initial £49,000 required to build council houses and establish the infrastructure, Grey asked the imperial government to foot the bill. To address growing Māori skepticism about the forms and implementation of humanitarian governance, Grey advocated further devolution of powers from British to colonial governments. Local clerics supported the idea in principle, but advocated a more gradual integration of Europeans into Māori life rather than imposing an administrative structure from the top.<sup>45</sup>

Grey argued that distributing the administration of native affairs accomplished two goals. First, recognizing the fractured nature of Māori politics, twenty runangas would allow regulations to be adapted to suit local contexts. Second, encouraging a pedagogical approach to governance would encourage Māori to actively adopt and generate ideas of constitution and administration within an indigenous framework based on English forms. Recognizing the difficulty of governing Māori as a single unit, and the strategic advantages provided by multiple sources of indigenous authority, Grey thought his system would “break the native population up into small portions, instead of teaching them to look to one powerful native Parliament as a means of legislating for the whole native population of this island.”<sup>46</sup> He also thought runangas could accomplish the goal of amalgamating Māori land and labor into the colonial state without resorting to violence.<sup>47</sup> By delegating power to local councils, the governor thought, Māori

<sup>45</sup> GBPP 1862 (3049) *Papers Relative to Affairs of New Zealand*, Statement from the Responsible Ministry (William Fox), 1 November 1861, 21.

<sup>46</sup> GBPP 1862 (3049) *Papers Relative to Affairs of New Zealand*, Governor George Grey to the Duke of Newcastle, 30 November 1861, 26.

<sup>47</sup> *Ibid.*, 26.

communities would be less focused on the potential of a Māori king as a counterbalance to the colonial legislature.

Given that there was no “paramount authority” among Māori, Grey thought any systematic attempt to end hostilities would be useless and instead advocated for negotiations with a range of Māori representatives. The governor observed that since large numbers of Māori who had never joined the Kīngitanga were interspersed with those who had it would be difficult to “separate them, or to attack one party without injuring the other.”<sup>48</sup> Grey’s proposal echoes many of the themes he had put forward during his first term as governor that focused on using “English institutions” to bring Māori into European society. A dispersed mode of governance that divided Māori populations and shifted the locus of indigenous loyalties to the state would preclude violence and facilitate the peaceful, humanitarian administration of Māori and settler.

If runangas addressed some of the governor’s concerns about how the local government administered Māori affairs, Grey also advocated structural shifts in the distribution of power between the imperial and the local governments. The position of native affairs as the exclusive purview of the governor and native minister meant policies affecting Māori were insulated from the responsible government. This separation, Grey argued, ran the risk of creating two sources of authority – a colonial one controlled by settlers and an imperial one controlled by the governor and the British government – that could potentially act at cross purposes with each other. Since the 1852 Constitution Act, gubernatorial convention had been to consult the responsible ministers in all decision making. Any attempt to set up either the governor or a special body as a “protective power” mediating between Māori concerns and the General Assembly, the governor feared, would prejudice Māori against the General Assembly.

<sup>48</sup> Ibid., 25.

Grey saw another disadvantage of making the governor chiefly responsible for native affairs because the arrangement connected the imperial government, instead of colonial representatives, with any decision to declare war. If ultimate responsibility for conflict lay with the governor and the Colonial Office, the governor thought it would be difficult to compel the General Assembly to pay for the costs of that war. Grey wrote that his proposal to empower the governor and General Assembly with authority over native affairs would make the latter more sensitive to any war which their acts would cause, a restraining force that might “indirectly prove a protection for native interests.”<sup>49</sup> By making native policy a matter for public inquiry that would be publically censured or supported by the British government, Grey hoped granting the local government control over native affairs might advance policies or protections that were beneficial to Māori.

Devolved power, organized through a model of local government institutions, framed humanitarian governance as pedagogical though in an increasingly paternalist light. The simple provision of land was not sufficient to ensure Māori loyalty to the colonial state. Māori, in Grey’s eyes, had to be invested in the success of the state and derive some share of “the dignity and emoluments which arise from holding office.”<sup>50</sup> Though his second term as governor spanned the fiercest fighting of the New Zealand Wars, Grey did not wholeheartedly argue in favor of military conflict. He saw the power of investing and engaging Māori in a process of governance that included them but was still predicated on their integration into a system of administration from which they could derive some benefit. Practices of humanitarian governance in the 1860s became more strongly integrative and at the expense of previous strains of

<sup>49</sup> GBPP 1862 (3049) *Papers Relative to Affairs of New Zealand*, Governor George Grey to the Duke of Newcastle, 30 November 1861, 27-28.

<sup>50</sup> GBPP 1862 (3049) *Papers Relative to Affairs of New Zealand*, Governor George Grey to the Duke of Newcastle, 6 December 1861, 32.

humanitarian governance and isolation as avenues of protection. Grey, for instance, could have easily designated interior tracts as off limits to European settlement but his proposals to establish district runanga throughout remaining indigenous territory formed a model of gradual assimilation metered out in a structured fashion.

Kīngitanga, to Grey, represented an effort to set up a focus of loyalty for Māori outside of the settler state. The governor thought Kīngitanga had about thirty-thousand adherents concentrated in the Waikato. Supporters of a Māori king would, in Grey's vision, be happy to administer local laws if those laws were drafted and administered in consultation with indigenous authority. Though it threatened the stability of the colonial government the governor also thought the movement represented Māori "capacity for self-government, and their desire to see law and order established[.]"<sup>51</sup> Grey also underscored the importance of carefully considering future land purchase and observed military incursions by the colonial state would be forcefully resisted.<sup>52</sup> If institutions of local government could direct that energy into channels characterized by local administration, the power of the king movement, the governor hoped, would be superseded by the colonial state. Grey's proposals echo attempts during his first term as governor to establish native districts in which customary law would apply. In this case, however success was measured by policies that integrated Māori into European institutions rather than let them develop autonomously.

As Grey waited for a reply from the Colonial Office about his proposals, he addressed the Legislative Council in July of 1862. His speech highlighted the difficulty that Māori encountered in their land deals with the Crown, particularly when it came to "the administration of Native

<sup>51</sup> GBPP 1862 (3049) *Papers Relative to Affairs of New Zealand*, Governor George Grey to the Duke of Newcastle, 6 December 1861, 32.

<sup>52</sup> *Ibid.*, 32.

reserves, the individualization of Native title, and the issue of crown grants to Natives.”<sup>53</sup>

Legislative councilors wanted a solution that was financially and politically viable. Francis Dillon Bell, a fluent speaker of Māori and a veteran of many land deals, expressed that the representative government still held it “to be at once the interest and the duty of the colonists to preserve and civilize the Native people” and that the General Assembly should take all possible measures to speedily bring Māori “under British institutions.”<sup>54</sup> A recurring conversation about the concentration of power in the hands of the colonial executive reveals that though the local legislature was divided about the form humanitarian governance would take at least some maintained a commitment to the continued presence and assimilation of the colony’s indigenous peoples.

Grey received a reply to his letter from the Duke of Newcastle, Britain’s Secretary of State for the Colonies, on August 5<sup>th</sup> 1862.<sup>55</sup> In his evaluation of native affairs in New Zealand, Newcastle observed that while he believed Grey to be personally aware and interested in the welfare of Māori, the efforts of the British government to keep control of native affairs had failed. In conceding the inability of the Colonial Office to protect the indigenous peoples of New Zealand, Newcastle thought it best to place the management of native affairs entirely in the hands of the colonial legislature rather than “retain a shadow of responsibility when the beneficial exercise of power ha[d] become impossible.”<sup>56</sup> Contested claims to land, overlapping spheres of indigenous and European influence, loggerheads between the governor and the

<sup>53</sup> New Zealand. Legislative Council. 1862. *Parliamentary Debates*. 14 July 1862, 391. Governor’s Speech to the Legislative Council.

<sup>54</sup> New Zealand. House of Representatives. 1862. *Parliamentary Debates*. 6 August 1862, 498. Francis Dillon Bell, Minister of Native Affairs.

<sup>55</sup> GBPP 1863 (467) *Correspondence Between the Secretary of State for the Colonies and the Government of New Zealand*, Governor George Grey to the Duke of Newcastle, 9 August 1862, 27.

<sup>56</sup> GBPP 1862 (3049) *Papers Relative to Affairs of New Zealand*, Duke of Newcastle to Governor George Grey, 26 May 1862, 80.

representative General Assembly had made intercessions by the British government on behalf of Māori mostly rhetorical. During a period when the colony was threatened by armed conflict, the Colonial Office thought it best for New Zealand to be fully responsible for its own actions. A hybrid exercise of government authority harmed rather than it helped. The transfer of authority from the British Colonial Office to the colonial General Assembly marked the end of an experiment in humanitarian governance from afar as a failure.

The abdication of veto power, Newcastle concluded, was a “concession” and that the home government wanted to support “the important and hopeful attempt ... to introduce such civilizing institutions among the native tribes” that would relieve New Zealand from the miseries of what he characterized as a civil war.<sup>57</sup> Newcastle made clear, however, that New Zealand colonists were not putting in an “immediate, general, and lasting sacrifice.”<sup>58</sup> Settlers relied instead on an annual expenditure of a half-million pounds charged against the home government. The admission of the British government’s failure to regulate and protect native interests in New Zealand was linked to an effort to instead provide financial support for humanitarian programs benefitting Māori. Since the establishment of British sovereignty in 1840 the geographic distance between the United Kingdom and New Zealand had made administering New Zealand during a time crisis a difficult proposition. Newcastle may well have apprehended the devolution of power would not be an unalloyed good for indigenous New Zealanders even if the oversight of Māori welfare created a burden the British government was no longer willing to bear.

Considering rife unrest in New Zealand and the colony’s precarious financial position, Newcastle authorized New Zealand’s government to reclassify as “military contributions” all expenditure on “native purposes” that exceeded the existing £26,000 annual appropriation for

<sup>57</sup> *Ibid.*, 81.

<sup>58</sup> *Ibid.*, 79.

native purposes.<sup>59</sup> This slight of actuarial hand allowed money spent on native affairs to count toward what the colony owed the British government as payment for the stationing of imperial troops in New Zealand. Newcastle's offer provided a temporary three-year bridge allowing the finances of the colony to recover, provide funds for Grey's proposals, incentivize expenditure on native affairs, and hold the local government more responsible for its financial outlays. Governor Grey, confident in his knowledge of his government and the native and European residents of New Zealand, moved quickly to implement his proposals.<sup>60</sup>

One of the interventions Grey wanted to make in the administration of humanitarian governance concerned native reserves. In September 1862, the governor approved an act vesting the powers of the Commissioners of Native Reserves, then held by local officials as part of their other portfolios, to the governor.<sup>61</sup> With the passage of a Native Reserves Amendment Act the governor could issue "grants, leases, licenses, and other instruments of disposition of land" in a way that he saw fit. This legislation allowed the governor to issue land directly to Māori as a reserve rather than relying on the representative General Assembly to do so.<sup>62</sup> The text of the Native Reserves Amendment Act had been introduced only the previous month and occasioned little debate from either the House of Representatives or the Legislative Council, and went from proposal to law in less than two weeks.<sup>63</sup> Though not accompanied by lengthy prescriptions about how reserves created by gubernatorial fiat should be used, the lack of debate suggests that both chambers of the settler legislature were comfortable with locating this aspect of

<sup>59</sup> BPP 1862 (3049) *Papers Relative to Affairs of New Zealand*, Duke of Newcastle to Governor George Grey, 26 May 1862, 81.

<sup>60</sup> GBPP 1864 (177) *Correspondence Relating to the Abandonment of Control over Native Affairs*, George Grey to Duke of Newcastle, 26 August 1862, 3.

<sup>61</sup> "Native Reserves Amendment Act," 9 September 1862, 26 Vict., c14 (New Zealand).

<sup>62</sup> "Native Reserves Amendment Act," 9 September 1862, 26 Vict., c14 (New Zealand).

<sup>63</sup> *New Zealand Parliamentary Hansard*, 1861-1863, (Wellington: G. Didsbury, Government Printer, 1886) 591, 659, 668, 672.



humanitarian governance in the hands of the executive. A streamlined and efficient system for administering reserves posed little threat of disruption to the status quo while promising support for the governor's anticipated runangas. Late 1862 was also a moment between the stalemate of Waitara and before the outbreak of violence in Waikato, so it was possible to conceptualize plans during an uneasy peace.

In the last week of its 1862 session, the House of Representatives was still uneasy about the Duke of Newcastle's instruction that the local government would take full responsibility for governing New Zealand's indigenous peoples.<sup>64</sup> Expressing concern at the additional expense governance entailed, in a petition to Queen Victoria the House of Representatives also claimed the British government's vacillation had been the root cause of much turmoil. Native policy, the petition went on to argue, was also a matter for an imperial audience. The "duty of educating, civilising, and governing" Māori was a burden to be carried by the whole empire rather than "be wholly charged upon the European inhabitants" of New Zealand.<sup>65</sup> The petition asserted that native affairs had been under the control of the governor and the Secretary of State for the Colonies since 1840. Consequently, this state of affairs meant the "settlers, as a body, seem to have been viewed as objects of suspicion and distrust, to preserve the natives from whom, it was necessary to pass peculiar enactments, and to establish especial protectorates."<sup>66</sup> In categorizing the current warfare in New Zealand as a question for a wider imperial world, rather than as a purely local concern, the House of Representatives opined that without support from Britain conflict could lead to the abandonment of those districts that that could not be controlled. A lack

<sup>64</sup> New Zealand. House of Representatives. 1862. *Parliamentary Debates*. 13 September 1862, 723. Address to Her Majesty.

<sup>65</sup> GBPP 1864 (177) *Correspondence Relating to the Abandonment of Imperial Control*, Memorial from the House of Representatives to the Queen's Most Excellent Majesty, October 1862, 4.

<sup>66</sup> GBPP 1864 (177) *Correspondence Relating to the Abandonment of Imperial Control*, Memorial from the House of Representatives to the Queen's Most Excellent Majesty, October 1862, 4.

of control meant Māori would be left to their own devices or the country would instead descend into a “guerilla war and become a life and death struggle of races.”<sup>67</sup> Invoking financial arguments, the legacy of humanitarian governance, and a fear of racial violence, the petition pursued a broad range of strategies arguing for Britain’s continued support.

The House of Representative’s petition also noted Governor Grey did not obtain the consent of the General Assembly when he accepted an increased level of responsibility on the colony’s behalf. Furthermore, political conditions prevailing in New Zealand precluded the local government from being able to fulfil its obligations to both Māori and European. Given what they saw as an impossible task the settler legislators thought the “honour of your Majesty’s throne, and the interests of humanity” alike precluded them from accepting the imposed task. Even during a period of armed conflict, humanitarian language remained present in arguments made by both settler legislators and colonial governors. Humanitarianism became about protecting Māori (and settlers) from abandonment or becoming decimated through violence rather than inspiring a progressive trajectory. War, and the threat of systemic warfare, reframed the terms on which humanitarianism could proceed.<sup>68</sup>

The Legislative Council joined the lower House in petitioning Queen Victoria. While they concurred that the previous system of government vis-à-vis the native peoples had been a failure, the upper chamber identified the cause of the failures as stemming from the local government’s lack of control. As an example they pointed to the imperial government’s disallowing the Native Territorial Rights Act (discussed in the previous chapter).<sup>69</sup> The

<sup>67</sup> Ibid., 4.

<sup>68</sup> Ibid., 4.

<sup>69</sup> GBPP 1864 (177) *Correspondence Relating to the Abandonment of Imperial Control*, Memorial from the House of Representatives to the Queen’s Most Excellent Majesty, October 1862, 7. The disallowed bill was the “Native Territorial Rights Act,” 21 & 22 Vict., c80 (New Zealand). John Martin, “Refusal of Assent: A Hidden Element of Constitutional History in New Zealand,” *Victoria University of Wellington Law Review* 41, no. 1 (2010): 51–84.

councilors house thought the devolution of administrative responsibility would be more appropriate once the colony was at peace. During wartime, the capacity for a young colony to educate, govern, and “civilize” the natives was limited. Thus, it would be both “unfair” to the Colonists and “productive of ruinous consequences to the Maories [sic]” for the colonial government to assume that responsibility.<sup>70</sup> Warfare and political instability could be used flexibly by settler representatives as both a reason for informed and responsive local control during a period of crisis but requiring the financial and military support from the United Kingdom. Settler representatives wanted both local autonomy and the financial and martial guarantee provided by a global empire.

The Duke of Newcastle received these petitions in January and the following month penned his reply. Referring to the “two great questions at issue between the Home and Colonial Governments – who shall govern the natives, and who shall pay the expense of governing them,” the Duke discussed the relative burden of wars waged largely for the advantage of local settlers but paid for by the imperial government.<sup>71</sup> Since Britain was shouldering the full cost of the military stationed in New Zealand, Newcastle wrote that the imperial government should be allowed “paramount control over the causes of which these wars were always liable to arise – that is, over Native Affairs.”<sup>72</sup> The duke’s reply also took time to observe that settler accusations of imperial abandonment were hard to sustain in light of the sustained British military presence in New Zealand and the hundreds of thousands of pounds expended on the colony’s behalf.

<sup>70</sup> GBPP 1864 (177) *Correspondence Relating to the Abandonment of Imperial Control*, Memorial from the House of Representatives to the Queen’s Most Excellent Majesty, October 1862, 7.

<sup>71</sup> GBPP 1864 (177) *Correspondence Relating to the Abandonment of Imperial Control*, Duke of Newcastle to Governor George Grey, 26 February 1863, 10.

<sup>72</sup> GBPP 1864 (177) *Correspondence Relating to the Abandonment of Imperial Control*, Duke of Newcastle to Governor George Grey, 26 February 1863, 11.

Furthermore, the legacy of humanitarian governance had been a successful one. Successive governors and officers of the Native Department had helped create a system whereby “the Maories have made advances in intelligence and civilisation unparalleled in the history of uncivilized tribes.”<sup>73</sup> Newcastle gave much credit to ministers and teachers, but thought that some of the success was a “system of Imperial trusteeship, which before the year [of the New Zealand Constitution being passed in] 1856, was real and effective” and that the duty of subjecting Māori to foreign law lay with those who had moved there and not with the country from which they emigrated. Newcastle suggested it might not be prudent to abandon efforts to impose European authority in native districts and that the decision to fully abandon imperial government still stood.<sup>74</sup> On the topic of New Zealand’s wars, disagreement about the purpose of empire and the responsibilities of imperial rule invoked both financial and moral questions with the final decision reflecting a sense that the colonists had to make the best of the situation they had created.

The humanitarian legacy of New Zealand’s annexation was a strong enough reason to maintain a robust British presence in the colony despite devolving self-governance to settlers. London was willing to support a large degree of expenditure in New Zealand based on the premise that by annexing New Zealand the British Empire had

become bound to secure to the utmost of its power that the rights thus obtained [through responsible government] should not be used (as they have been elsewhere) to the injury of the natives. The Home Government has therefore been anxious to preserve an effectual authority in the management of native affairs, either until the amalgamation of races had proceeded so far as to break down the sharp division of colour which at present exists, or until a system of government had taken root in the Colony which, by assigning to the Maories some recognized constitutional position, would furnish some

<sup>73</sup> Ibid., 15.

<sup>74</sup> Ibid., 15.

guarantees against oppressive treatment of the less educated race, and would thus at once satisfy and protect them.<sup>75</sup>

The influence of the humanitarian vision that had inspired New Zealand's colonization continued as a motivating force for treating the colony with largess. Newcastle's focus on protection and the prevention of injury restates the enduring perception of indigenous communities as in need of protection from settler populations empowered with responsible government. While Britain maintained a supervisory role, the duty to "civilize and control" was the responsibility of the colonists who were interested in promoting order and prosperity. The colonists' duty, in the eyes of the British government, was to use their power to further institutions that would achieve amalgamation or prevent oppressive treatment through legislation and taxation.

Newcastle characterized the existing system as a "failure" and placed blame squarely on the shoulders of the colonists themselves – stemming "from the inadequacy of those powers [exercised by the home government], and the refusal of the colonial community to confer, or submit to them" even though the Duke admitted the local government's refusal to do more for Maori was perfectly constitutional.<sup>76</sup> Newcastle also noted that the insistent pressure from the responsible government and the policies pursued especially at Waitara was "adopted at the advice not of the Native Department, but of the Executive Council."<sup>77</sup> Responsibility for the decision to pursue an armed response and the choice to begin martial law, therefore, was promulgated by the settler government and not Governor Browne. The use of force, Newcastle wrote, was "in a direction opposite to that which a purely Imperial policy would have

<sup>75</sup> GBPP 1864 (177) *Correspondence Relating to the Abandonment of Imperial Control*, Duke of Newcastle to Governor George Grey, 26 February 1863, 11-12.

<sup>76</sup> *Ibid.*, 13.

<sup>77</sup> GBPP 1864 (177) *Correspondence Relating to the Abandonment of Imperial Control*, Duke of Newcastle to Governor George Grey, 26 February 1863, 13. The Secretary of State for the Colonies observed that in March of 1861 New Zealand's responsible government to secure their own authority in the matter of native affairs.

dictated.”<sup>78</sup> New Zealand’s responsible government pursued a course of action that, while legal, ran counter to principles of humanitarian governance as understood by the British government. Granting authority over native affairs to the settler legislature acknowledged the difficulties of administering humanitarian governance from afar.

Growing incompatibility between the actions of the local government and the prospect of the British government having to foot the bill confirmed the Colonial Office’s decision to fully devolve responsibility in native affairs. Bureaucrats in London understood the policies of New Zealand’s representative government as, if not inimical to the amalgamation or constitutional protection of Māori, then at least not actively forwarding a vision of humanitarian protection. By reformulating the British government’s encouragement of humanitarian governance in New Zealand as a financial incentive rather than through formal political control, the Colonial Office hoped the power of the purse would be more effective than a veto power in realizing practices of humanitarian governance. The Secretary of State for the Colonies informed Grey that while he could now work with responsible ministers without oversight from London, he should still use the negative powers of his office, indeed was bound by them, to prevent any step “marked by evident injustice towards Her Majesty’s subjects of the native race” and in decision-making could also work with the officer commanding British troops as a way to direct policy.<sup>79</sup>

The British government’s devolution of authority over native affairs to New Zealand’s representative institutions originated from frustration with London’s ineffectual oversight of any substantial form of humanitarian governance. Devolution, in this case, was an admission of failure that sought to firmly establish responsibility for ongoing and expensive armed conflict

<sup>78</sup> GBPP 1864 (177) *Correspondence Relating to the Abandonment of Imperial Control*, Duke of Newcastle to Governor George Grey, 26 February 1863, 13.

<sup>79</sup> GBPP 1864 (177) *Correspondence Relating to the Abandonment of Imperial Control*, Duke of Newcastle to Governor George Grey, 26 February 1863, 16.

with the settler legislature. Transferring native policy out of the hands of the home government reflected the acknowledgement of the Britain's failure to act as a successful interlocutor on behalf of indigenous Māori. Personal confidence in Governor Grey's attitude toward Māori allowed the Colonial Secretary to hand off responsibility, but removing the counterweight of having native affairs remain the ring-fenced responsibility of the executive meant that colonial legislators could pursue a wider range of action.

Grey's efforts to devolve authority to Māori institutions sought to draw on and channel Māori enthusiasm into forms productive for the future success of the colonial state. Control over the distribution and ownership of Māori lands would not ultimately vest in a predominantly Māori runanga but instead became part of the Native Land Court. Like Grey's earlier proposals for Native Districts as a form of tutelary humanitarianism that would enable Māori to develop elements of civilization so too did the runanga plan never come to fruition as New Zealand entered a period of sustained conflict.

### **Confiscation, the Land Court, and Humanitarian Governance at War**

In the uneasy period of calm that followed the conflict at Waitara, both Māori and settler communities were divided about what course of action to pursue. Rewi Maniapoto, a member of the Kīngitanga and a Ngāti Maniapoto rangatira<sup>80</sup> advocated confrontation. Maniapoto saw continued road building by Europeans and deployment of armored steamers on the crucial transit artery of the Waikato River as aggressive. Counselling peace, Wiremu Tamihana, a Ngāti Hauā rangatira, advised both Māori and European politicians that the Kīngitanga was not necessarily a

<sup>80</sup> Chieftan

threat to the colonial state and that the two communities did not need to go to war to resolve their disputes.

Conflict over the government's Waitara purchase had ended in a stalemate with little done to resolve underlying concerns about land alienation. Te Āti Awa accepted peace on the condition that the Waitara purchase would be further investigated and the Waikato iwi who had joined the fight against the colonial government returned northward accepting neither the sovereignty of the Queen nor restoring goods taken from Taranaki's European settlers. Tensions about how to proceed continued unresolved as the General Assembly, governor, and Colonial Office debated how to adapt their policies to reflect the possibility of further violence. Sharpening the concern of local officials was the strengthening of Kīngitanga, Pai Mārire/Hauhau, and the Land League within Māori communities that featured deliverance from colonial rule.

Land formed a focus point for disagreements about economic access and political management. Some of these disagreements, notably at Wairau in 1845, had also ended in violence but the mid-1860s saw an increase in the scale and intensity of warfare. Lingering instability after Waitara next erupted into armed conflict in the Waikato, a fertile area between Auckland and Taranaki, home to some of the most populous regions of Māori settlement, and residence of the Māori King. The Waitara (1862) and Waikato (1863-64) campaigns contextualized and motivated a series of legislative interventions authorizing the confiscation of Māori land. These acts, passed while the colony was grappling with war, established a model of individualized tenure as the main goal of native administration.<sup>81</sup>

<sup>81</sup> Richard Boast, *Buying the Land, Selling the Land: Governments and Maori Land in the North Island 1865-1921* (Wellington: Victoria University Press, 2008), 7; Donald Denoon, *The Cambridge History of the Pacific Islanders* (Cambridge: Cambridge University Press, 1997), 169–70.



On May 4 1863, the same week as Governor Grey agreed to give up the effort to purchase Waitara, a group of Ngāti Ruanui ambushed and killed eight European soldiers at Oakura, a settlement in Taranaki. Their deaths sparked outrage amongst the settler population and in July 1863 Governor Grey issued an ultimatum to the Waikato Māori requiring they swear allegiance to Queen Victoria. Receiving no response, Grey then ordered Lieutenant General Duncan Alexander Cameron to lead his soldiers into the Waikato and thereby cross an *autaki* (ceremonial border) into lands loyal to the Māori King. The invasion of the Waikato marked the beginning of a period of warfare that ranged widely over the North Island until May of 1872 and provided the most serious challenge to European colonial rule in New Zealand.<sup>82</sup>

The local government, supported by troops from the United Kingdom who had been sent to support colonial forces in Waitara, worked to suppress the insurrection. Uneven terrain, the superior capacity of Māori to fight in forested terrain, and the advanced defensive works of fortified pas made military progress difficult. British and colonial soldiers experienced significant setbacks though Governor Grey, eager to represent a feeling of strength, wrote favorable reports to his superiors in London.<sup>83</sup>

In October 1863, amidst the first year of war in the Waikato, the General Assembly took a significant step forward with land confiscation. Two bills, passed as the Suppression of Rebellion Act and the Settlements Act, authorized extraordinary powers during a time of war.<sup>84</sup> The Suppression of Rebellion Act gave the governor broad authority to pursue “vigorous and effectual measures for suppressing the said rebellion” that could not be questioned in any court.<sup>85</sup>

<sup>82</sup> Vincent O’Malley, “Choosing Peace or War: The 1863 Invasion of Waikato,” *New Zealand Journal of History* 47, no. 1 (2013): 39–58.

<sup>83</sup> Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*.

<sup>84</sup> “Suppression of Rebellion Act,” 3 December 1863, 27 Vict., c7 (New Zealand); “New Zealand Settlements Act,” 3 December 1863, 27 Vict., c8 (New Zealand).

<sup>85</sup> “Suppression of Rebellion Act,” 3 December 1863, 27 Vict., c7. (New Zealand).

Empowering the governor with a broad swathe of responsibilities that were not subject to judicial review suggests that the General Assembly perceived warfare as not simply an imagined threat but one that posed real peril to the colonial state and required a robust response.

Passed the same day as the Suppression of Rebellion Act, the Settlements Act created a mechanism for confiscating land. This act originated from an understanding that ongoing Māori insurrection required the government to establish “permanent protection and security,” work to ensure the “prevention of future insurrection,” and for the “establishment [of] ... Law and Order throughout the Colony.”<sup>86</sup> To realize these goals, the colonial legislature empowered the governor to declare areas in which he could “take any land within such district” to open for settlement. Seizure, rather than having to negotiate for land, both punished rebel Māori and provided a quick way to make more land available for settlement. The government would offer compensation for land taken, but no payments would be made to those who had rebelled since January 1, 1863 or to anybody who “aided, assisted, or comforted” any such rebel or even “counseled, advised, induced, enticed, persuaded, or conspired ... to make or levy war.”<sup>87</sup> Failure to hand over weapons upon request and not showing up before a magistrate when summoned were also grounds for forfeiting compensation. Land taken under the auspices of the act could then be given to soldiers with the remaining balance of land authorized to be laid out into town, suburban, and rural sections and sold to willing buyers. Unlike previous government policies containing some measure of reserving land for Māori use, no such guidelines for making reserves within confiscated land appear within the Settlements Act. Rebellion made Māori unfitting subjects of humanitarian governance.

<sup>86</sup> “New Zealand Settlements Act,” 3 December 1863, 27 Vict., c8. (New Zealand).

<sup>87</sup> “New Zealand Settlements Act,” 3 December 1863, 27 Vict., c8. (New Zealand).

When British and colonial troops crossed into Waikato in July of 1863, the majority of the North Island was still under Māori title. The Waikato, with its eponymous navigable river, rich alluvial soil, and proximity to Auckland was especially attractive as a buffer insulating the colony's largest city from Māori districts. By categorizing Māori in arms against the Crown as "rebels" and sanctioning the seizure of their land and its redistribution, policy toward Maori acquired an overtly coercive aspect. Without much pretense of humanitarianism, the use of a combined force of British and colonial soldiers, alongside legal interventions allowed by the devolution of native affairs, accelerated the process of shifting customary tenure based on collective ownership to freehold grant governed by English common law.

The most intense fighting in the Waikato was over by April 1864. Localized conflict, however, continued for the next eight years. Following the end of major hostilities, the colonial government faced a dilemma about how to behave in victory. A desire to preclude future rebellion by disrupting Māori economic and military strength had to be weighed against the risk of excessive penalties resulting in the alienation of all Māori from the colonial state. The divided loyalties of iwi during the fighting and overlapping patterns of land ownership meant that a simple territorial annexation of exclusively rebel land was not feasible. The government decided to pursue a policy of land confiscation, *raupatu*, with total seizures amounting to more than 3.2 million hectares. Some confiscated land was ultimately returned to rebel Māori while other sections were awarded to loyal Māori or made their way into settler hands. Confiscations occurred in three large areas: coastal Taranaki, the Lower Waikato, the Bay of Plenty, and Hawke's Bay. These locations were chosen for their fertility and suitability for settlement rather than a close connection with rebellious or disloyal communities. Ngāti Maniapoto, the iwi of Rewi Maniapoto who had supported the use of arms, lost none of their rugged hills and forested

lands.<sup>88</sup> Individualizing land was intertwined with warfare and the widened scope of interventions allowed during a time of military crisis. Confiscated Maori land sold to settlers financed the wars waged against those Māori. Indigenous land paid for its own colonization and settlement.<sup>89</sup>

Consolidating confiscations made during the Waikato campaign was the creation of Native Land Court empowered to supervise and ascertain title to land. The topic of an extensive historiography in its own right, the Native Land Court formed part of the legal infrastructure for the rapid diminution of Māori territory. The court's remit was to determine the ownership of land still subject to Māori proprietorship and "to encourage the extinction of such proprietary customs" by converting indigenous title into Crown titles with clear mechanisms for determining ownership and inheritance.<sup>90</sup> The establishment of the Native Land Court enshrined a conception of land ownership that was based on the individual ownership of land. The Court implemented an assumption that patterns of collective Māori ownership no longer had a place within New Zealand's political economy.

The Native Land Court formed the central mechanism through which large areas of Māori land became individualized. Constituted by appointed European judges and Māori assessors, any one judge and two assessors could make decisions. Any Māori could make a claim before the court requesting the investigation of title and the subsequent issuing of a certificate in their favor. Up to ten individuals could be listed on a title claim and the extent of each claim was limited to five-thousand acres. All claims also had to be surveyed, an expensive process, and the terms of any grant were subject to conditions imposed by the governor. Tribes or sections of a

<sup>88</sup> Michael King, *The Penguin History of New Zealand* (Auckland: Penguin Books, 2003), 216.

<sup>89</sup> Boast and Hill, *Raupatu: The Confiscation of Māori Land*.

<sup>90</sup> "Native Lands Act," 30 October 1865, 29 Vict., c71 (New Zealand).

tribe could also apply to have a dividing line drawn between their claims, which the court could investigate if the Governor-in-Council determined that no political difficulties would arise out of such an investigation. The structure of the Native Land Courts and the limitations on the number of claimants endeavored to simplify land ownership but often overlooked or oversimplified the complex relationships of Māori tenure.<sup>91</sup>

The governor could also compel the responding tribe to accept the order. Once in receipt of a title issued by the Native Land Court, the title-holder could receive unencumbered title to the land and effectively remove any legacy of indigenous claim or ownership thereof.<sup>92</sup> Though the court's focus was on individualizing title to facilitate its sale to settlers, Māori made frequent use of the court over the late 19<sup>th</sup> and early 20<sup>th</sup> centuries as a way to bring land up for sale and to prove the validity of their claims to land over rivals.<sup>93</sup>

The 1865 Native Lands Act made no reference to reserves or any interest in having the land be earmarked for the support of humanitarian institutions. Clauses allowing the governor to put conditions on alienability, or determining how the land might be conveyed, retained a measure of possible protection by controlling the possibilities of fraudulent sale. A degree of security was also established through regulating that every conveyance or other signing away of property "made by a Native to a person of European race or to another native shall be interpreted to the conveyor ... and shall be executed by him in the presence of a Judge or Justice of the Peace" as a provision for preventing fraud and ensuring accurate translations.<sup>94</sup> Furthermore, to capture revenue, a ten-percent fee was to be paid to the local government upon the initial sale of

<sup>91</sup> Bryan Gilling, "The Maori Land Court in New Zealand: An Historical Overview," *Canadian Journal of Native Studies* 13, no. 1 (1993): 17–29; Alan Ward, *A Show of Justice: Racial "Amalgamation" in Nineteenth Century New Zealand* (Oxford: Oxford University Press, 1973); Phillipa Mein Smith, *A Concise History of New Zealand* (Cambridge: Cambridge University Press, 2005), 73.

<sup>92</sup> "Native Lands Act," 30 October 1865, 29 Vict., c71. (New Zealand).

<sup>93</sup> King, *The Penguin History of New Zealand*, 216.

<sup>94</sup> "Native Lands Act," 30 October 1865, 29 Vict., c71 (New Zealand), Clause 74.

each plot of land. This fee directed a substantial revenue stream into colonial coffers. Though the fee was to be paid to the government, the legislation did not earmark those funds for native purposes. By treating land as a contractual exchange, the social purposes of reserves as a buttress to Māori institutions or the provision of payment as compensation for land taken by the government disappeared.

The absence of setting aside a tenth of purchased land for the benefit of Māori, like the program implemented by the New Zealand Company, suggests that a spatial component of humanitarian governance was no longer prioritized as part of the colonial administration. The historian Alan Ward has used the term “pseudo-individualism” to describe the outcome of the proceedings of the 1865 Native Lands Act. He notes the court’s failure to either provide either genuine tribal title or secure individual land holdings complicated government efforts to locate Māori individual title.<sup>95</sup> Furthermore, land confiscations often only made a pretext of punishing rebels with arable non-rebel areas retained by the Crown for purposes of settlement.

Individualization was not inherently alien to Māori goals or aspirations but the confiscation policy and implementation of the Land Court prioritized settler concerns and timetables. In the early 1860s, a district magistrate in the North Island reported that he had been “preparing the Natives to consider the propriety of individualizing their lands; but the subject is so mixed up as a tribal and hapu right, that very few can be got to acknowledge that it is possible, though admitting its desirability.”<sup>96</sup> At Kaiapoi, on the South Island, where individualization had been largely successful, Walter Buller observed in the early 1860s that Ngāi Tahu were “fully alive to the advantages to be secured by the individualization of their Reserves [and] they have already given evidence, in their increased industry and eager desire for improvement, to warrant

<sup>95</sup> Ward, *A Show of Justice: Racial “Amalgamation” in Nineteenth Century New Zealand*, 267.

<sup>96</sup> AJHR 1862, “Reports on the State of the Natives,” Session 1, E-07, Mongonui: W. B. White, 21 August 1861, 24.

the belief that their admission to individual freehold tenure will lead to a most important change in their social condition.”<sup>97</sup> Directing questions to land title through the Native Land Court could frustrate both Māori and colonial officials. At a meeting at Kokohinau, in the Waikato, a dispute between the boundaries of land held by Ngāti Pukeko and Ngāti Awa was unsatisfactorily received by the former and resulted in a petition to Parliament rather than be mediated by the local resident magistrate.<sup>98</sup> The fusion of confiscation and individualization made the latter a coercive undertaking while the operation of the Native Land Court precluded other possible arrangements for land ownership.

Following an uneasy peace established in 1868 between rebel groups in the Waikato and the colonial government, a new governor, George Bowen, observed continuing divisions between the European and Māori populations. Like previous governors Bowen requested information on the state of Māori from resident magistrates and officials from across the North Island to help him gain a sense of the country’s political situation. The relatively calm portrayal they returned presented a less anxious impression of indigenous affairs on the local level than that presented by the colonial government to London. Their reports reflected that the violence of the 1860s represented a fractured and internally divided colony. In contrast to letters from the Wellington Premier Issac Featherston who felt that his part of the colony was on the brink of collapse, officials in places as far afield as the Bay of Islands and Taranaki described a largely war-weary population with the dangers of Hauhau on the decline and Māori ready to embrace the modes of the Land Court. Following almost a decade of warfare and the prospect of a wary

<sup>97</sup> Ibid., Canterbury: Walter Buller, 19 September 1861, 33.

<sup>98</sup> AJHR 1872, “Reports on Settlement of Confiscated Lands,” Session 1, C-04, J. A. Wilson to Native Minister Donald McLean, 29 March 1872, 5.

peace, the colonial government once again turned to the question of how to administer native reserves.

### **Heaphy's Reports: Consolidating Reserve Administration**

Following the Native Land Court's establishment, in the aftermath of extensive confiscation of Māori land across the North Island, and reflecting renewed interest in Native Reserves among members of the General Assembly, the end of widespread hostilities allowed the government to reconsider the humanitarian nature of its interactions with Māori. In October of 1869, Donald McLean, who as the colony's Native Secretary was responsible for policy decisions relating to Māori, wrote to Major Charles Heaphy, a member of the House of Representatives, following up on an earlier conversation regarding the state of Māori affairs in New Zealand. McLean's letter announced Heaphy's selection as the colony's Commissioner of Native Reserves.<sup>99</sup> The years of conflict and growing power of the settler administration had transpired without the appointment of a commissioner or any staff dedicated to overseeing reserves.<sup>100</sup> Heaphy's appointment marked the first concentrated effort since the 1850s at centralizing the management of lands held in some type of trust for Māori.

The conflicts of the 1860s, in which Heaphy had fought and received Britain's highest award for military bravery, revealed in a stark fashion the lengths to which Māori and settler would go to retain or acquire land. In the aftermath of victory, Heaphy was attuned to the sensitive question of how to manage an accelerated and intensified individualization and alienation of indigenous land. Disruptions and displacement due to the war meant a clarified policy of land tenure was central to the colonial government's efforts to bring about stability and

<sup>99</sup> AJHR 1870, "Papers Relating to Major Heaphy's Appointment as Commissioner of Native Reserves," Session 1, D-16, Donald McLean to Charles Heaphy, 13 October 1869, 3. An 1862 act of the General Assembly had vested the Governor with authority over the reserves.

<sup>100</sup> "Native Reserves Act Amendment Act," September 9 1862, 26 Vict., c.14 (New Zealand)



make Māori land subject to European title. If military victory made such a conversion possible, the government nevertheless had to remain sensitive to potential Māori displeasure.

Organizationally, the office of commissioner consolidated what had been a distributed model of reserves administration undertaken by resident magistrates at the provincial level. Heaphy, receiving a salary of 600 pounds for his efforts, was charged with classifying all the various reserves “with a view to the most efficient management of the estates for the future.”<sup>101</sup> Since 1840, the New Zealand Company, the governor, individual Māori, missionary groups, surveyors, and the General Assembly had all created reserved space for Māori but without, following much of an overall management plan. These lands fell into three broad categories derived from the degree of responsibility attached to the government in their operation. The first, and oldest, reserves were “trusts” made by a direct grant by the crown, by the governor, or through legislative enactment for eleemosynary institutions like hostelries, hospitals, and schools. Next were “reserved lands” not under any type of specialized protection other than general restrictions that they could not be sold, mortgaged, or transferred without permission from the governor. A third category of “reserves under the Native Lands Act” covered lands intended to be made inalienable by being conveyed to trustees.<sup>102</sup> Heaphy’s main task for his first months in office was to tabulate the different types of reserves held in trust by the government, determine their extent and ownership, and advise the Native Secretary on the best means of administering the trust estate.

The Native Office was particularly concerned with the category of “reserves to be made under the Native Lands Act” as it was the newest type of reserved land. Since part of the Native

<sup>101</sup> AJHR 1870, “Papers Relating to Major Heaphy’s Appointment as Commissioner of Native Reserves,” Session 1, D-16, Donald McLean to Charles Heaphy, 13 October 1869, 3.

<sup>102</sup> AJHR 1871, “Report from the Commissioner of Native Reserves,” Session 1, F-4, Report on the Native Reserves in the Province of Auckland, 19 July 1871, 3.

Land Court's remit under the act was establishing reserves as part of its larger program of individualizing Māori land tenure, Heaphy's instructions were to work with the court to ensure Māori interests were well represented. In this role, the commissioner occupied an ambiguous position as both an advocate for Māori reserves while aligning with the proceedings of the court in its task of individualization. Heaphy's dilemma of securing the best deal for two often-divergent interests recalled the experience of George Clarke, the Protector of Aborigines in the mid-1840s. Like Heaphy, Clarke was also responsible for acquiring land from Māori while simultaneously advocating their position with the colonial government.

Heaphy's letters with the Native Minister reveal his approach to reconciling this potential conflict of interest by working within the framework of individual title. The commissioner hoped that by furthering the work of the Native Land Court he might ensure Māori received legal possession of land with the imprimatur of colonial courts. With secure title, Māori hapu and iwi would have a secure economic footing. Heaphy's vision of humanitarian governance, therefore, remained allied to the success of the colonial state's tenurial and legal structures. His vision of humanitarian action was one which enmeshed Māori proprietorship securely within a European system of laws and farming practices. Heaphy's job, as he saw it, was to ensure Māori retained access – even if not under their direct control – to land that would facilitate their adoption of European habits of “civilization.”<sup>103</sup> Humanitarianism, therefore, was covalent with assimilation.

While advocating individualization, Heaphy nevertheless cautioned that the transition from collective to individual tenure could be a fraught one for Māori. In the case of Hawke's Bay, a prosperous region on the east coast of the North Island, Native Secretary McLean had received troubling news that the cohesion of lands assigned jointly to several Māori parties was

<sup>103</sup> AJHR 1870, “Papers Relating to Major Heaphy's Appointment as Commissioner of Native Reserves,” Session 1, D-16, Charles Heaphy to Donald McLean, 17 December 1869, 4.

threatened by the sale of partial interests in the land. The Native Land Court allowed a single stakeholder with interest in the land to petition for sale. The danger was that introducing “strangers” (either European or Māori) into the ownership structure weakened the ability of what were often hapu-based networks to maintain control of land traditionally held through ties of kinship.

Heaphy travelled to Hawke’s Bay in May of 1870 where he began a series of reports about the state of reserves in the various provinces of New Zealand. Over the next year, as he travelled around the North and South Islands, his efforts to identify and classify Native Reserves was the first colony-wide effort to tabulate reserves in at least fifteen years. Heaphy focused his energies on conveying land individualized by the Native Land Court into trust arrangements. The structure of a trust prevented the “easy acquisition of the means of living by the rental of land” that could lead to “habits of extravagance and debt” with financiers all-to-keen to loan money with land as collateral.<sup>104</sup> Inalienability would preclude Māori from being reduced to penury, which could occur if Māori too quickly sold off their land. Since receiving Crown title to their lands, Hawke’s Bay Māori had taken out £31,826 in mortgages or sales against the property.<sup>105</sup> To preclude dispossession, Heaphy thought the trust arrangement could have positive social and economic outcomes for Māori by preventing sale or unwise mortgage and thereby preclude both the excesses of plenty from a windfall sale and the dangers of penury. Trusts would protect Māori both from the acquisitive banker and the temptation of immediate wealth.

In Hawke’s Bay, Heaphy accomplished much of his agenda and succeeded in transferring thirteen reserves comprising 36,000 acres into trusts administered by the Native Reserve Office.

<sup>104</sup> AJHR 1870, “Papers Relating to Major Heaphy’s Appointment as Commissioner of Native Reserves,” Session 1, D-16, Report on the Native Reserves in the Province of Hawke’s Bay, May 1870, 12.

<sup>105</sup> *Ibid.*, 12.

He was especially happy with Karaitiana Takamoana, a leader of the Ngāti Kahungunu who occupied the seat in the House of Representatives for Eastern Maori from 1871 to 1879, who was encumbered by large debts partly incurred through his assisting government forces against rebel Māori. Takamoana conveyed 834 acres surrounding the village of Pakowhai into a trust.<sup>106</sup> The rich soil in an area between European settlements at Gisborne and Hastings held great potential for promoting Māori farming. Heaphy hoped he would conduce Māori to adopt an agricultural livelihood by working on the land to improve it. Though skeptical of indigenous patterns of land economy, thinking that the process of exhausting soil and moving onto new territory was wasteful, Heaphy recognized that in places reserves were not efficiently surveyed with long-narrow lots being inefficient to fence and farm and difficult to let to Europeans.<sup>107</sup>

Over the twenty months following his appointment, Heaphy visited each of New Zealand's ten districts and provinces. Reports from these visits served as both a data gathering exercise and as an opportunity to comment about the economic and political circumstances he found in each part of New Zealand. In each place, he classified holdings of land set aside for Māori according to the conditions of its creation and the nature of the government's responsibility regarding the lands. He also noted the state of the reserve finances, and recommended a course of action to the Native Lands Court. On a per capita basis, the amount of reserve land varied widely from 87 acres per capita in Hawke's Bay to 24 acres per capita in Canterbury.<sup>108</sup> These figures are comparable to the amount of land allotted to European settlers.

<sup>106</sup> Angela Ballara. 'Takamoana, Karaitiana', Dictionary of New Zealand Biography, first published in 1990. Te Ara - the Encyclopedia of New Zealand, <https://teara.govt.nz/en/biographies/1t5/takamoana-karaitiana> (accessed 16 February 2018).

<sup>107</sup> AJHR 1870, "Papers Relating to Major Heaphy's Appointment as Commissioner of Native Reserves," Session 1, D-16, Report on the Native Reserves in the Province of Otago, May 1870, 24.

<sup>108</sup> AJHR 1871, "Report from the Commissioner of Native Reserves," Session 1, F-4. The estimated Māori population and the reserves associated with Māori in that province ranged widely. North Island - Auckland: (The 1874 census was the first to include Māori and listed 43,538 in the North Island on 1,307,973); Wellington: 35.5 (5322 inhabitants and 174,366 acres); Hawke's Bay: 87 (1897 inhabitants on 165,105 acres). South Island -

In the case of the Auckland Province it amounted to 40 acres for each adult immigrant and 20 for each child. Military settlers received a grant of 50 acres. This amount of land, Heaphy thought, was sufficient for independent cultivators but the variable quality of the land for agricultural production makes any direct comparison between Māori lands and settler allotments difficult.<sup>109</sup>

The visible work of tabulating reserves and organizing land that had been individualized into enduring trusts, Heaphy hoped, would reassure both loyal Māori and those who had rebelled that the government was not following a program of total alienation. Codifying reserves signaled action by the government to Māori who might have become “disaffect[ed]” had they continued to lose land in an unabated fashion.<sup>110</sup> The South Island province of Marlborough had a relatively small Māori population of the 369 “Ngatiawa [sic],” Ngāi Tahu, Ngāti Kuia, and Rangitāne.<sup>111</sup> Heaphy hoped establishing reserves for Marlborough Māori, who could have been easily conquered by the colonial state, would instill confidence among numerically more numerous Māori on North Island that the government was not pursuing universal dispossession. Marking out reserves and establishing trusts for individualized land was both a means to further the goals of the Native Lands Act and while also functioning as a post-war strategy of engaging Māori support and confidence in the government.

With most South Island land largely in settler hands by the 1850s and an overall higher ratio of land on a per capita basis, South Island reserves were more established and enmeshed within the bureaucracy than those on the North Island. Like their North Island counterparts,

Canterbury: 24.75 acres (406 on 10076 acres); Southland: 32.33 (248 on 11069 acres); Westland: 81.11 (73 on 5930); Nelson: 120 [29.75] (483 [plus North Island Māori] on 58365 [14365]); Marlborough: 58 (369 on 21,404 acres).

<sup>109</sup> AJHR 1871, “Report from the Commissioner of Native Reserves,” Session 1, F-4, Report on the Native Reserves, 31 July 1871, 61.

<sup>110</sup> AJHR 1870, “Papers Relating to Major Heaphy’s Appointment as Commissioner of Native Reserves,” Session 1, D-16, Report on the Native Reserves in the Province of Hawke’s Bay, May 1870, 13.

<sup>111</sup> *Ibid.*, Report on the Native Reserves in the Province of Marlborough, August 1870, 43.

however, reserves served multiple purposes – as sources of revenue derived from rental income, as space for Māori to inhabit, and in some cases maintaining access to fishing grounds, forest resources, or in the case of Stewart Island access to mutton bird and whaling sites.<sup>112</sup> Ensuring access to these resources was calculated to “prevent the possibility of destitution to the local Natives, even in a season of scanty or failing crops.”<sup>113</sup> Heaphy characterized land set aside in the province of Canterbury formed “a magnificent estate for the existing remnant of the people that formerly owned the land” who farmed and raised cattle.<sup>114</sup> Heaphy’s invocation of Canterbury Māori as a lingering “remnant” suggests that at least on the South Island the local Ngāi Tahu were no longer a threat to the government. Instead they could be treated as a conquered people who would maintain access to resources. Land held in trust would then protect them from the impact of larger economic forces.

In Nelson, income from reserves let to tenants was used to purchase agricultural equipment, provide fittings like doors, windows, and chimney bricks for building European-style houses, and also through small interest-free loans to “the most deserving.”<sup>115</sup> The fund also paid for medical attendance and food for the sick and otherwise indigent. Nelson’s history as an early settlement of the New Zealand Company meant its reserves dated from the early 1840s though years of neglect meant that “some reserves had been lost sight of, [and] many unutilized.”<sup>116</sup> Reserves continued to be a source of provisions and rental income to support Māori but Heaphy largely saw their resources as a safety net preventing destitution rather than as Māori land supporting an autonomous Māori people

<sup>112</sup> Ibid., Report on the Native Reserves in the Province of Southland, May 1870, 30. The tīfī, or mutton bird is a species of petrel harvested for its oil, meat, and fat by South Island Māori

<sup>113</sup> AJHR 1870, “Papers Relating to Major Heaphy’s Appointment as Commissioner of Native Reserves,” Session 1, D-16, Report on the Native Reserves in the Province of Southland, May 1870, 30.

<sup>114</sup> Ibid., Report on the Native Reserves in the Province of Canterbury, 23 June 1870, 18.

<sup>115</sup> Ibid., Report on the Native Reserves of the Province of Nelson - Memorandum by A. Mackay, July 1870, 38.

<sup>116</sup> Ibid., Report on the Native Reserves of the Province of Nelson, July 1870, 39.

Reports from other provinces reveal non-standardized administrative practices. If, on the North Island, Heaphy's concerns focused on the process of the Native Land Court issuing title and then his securing those titles within a trust, in Westland, on the South Island, reserves were already well established. The government had purchased the district, a thin, auriferous strip of coast between the Tasman Sea and the Southern Alps, from Ngāi Tahu in 1860. Following the discovery of gold in 1865 local Ngāi Tahu had placed their reserves under the control of the government.<sup>117</sup> By 1870, these reserves generated an annual revenue of about £4,000 which supported building houses for local Ngāi Tahu, making payments to those with a beneficiary interest, remunerating the salaries of the local commissioner of native reserves and an interpreter, undertaking flood mitigation, and developing paving works on reserved land.

In contrast to what Heaphy had observed of the isolated and subsistence state of Westland Ngāi Tahu during his earlier travels in the 1840s, the commissioner's 1870 report noted a significant positive change in their material condition. He thought it worth noting that while "it has been so often written in England that the Māori suffers materially and socially by contact with the settler" in Westland, "in the midst of a gold digging community—proverbially rough, and not disposed to regard a dark skin with much sentiment—the Māori has improved in social condition, and is well cared for."<sup>118</sup> A sensitivity to New Zealand's place in the British imagination suggests that Heaphy was attuned to the colony's reputation abroad and the ways in which government programs might attest to the colony's beneficial treatment of its indigenous peoples.

<sup>117</sup> AJHR 1870, "Papers Relating to Major Heaphy's Appointment as Commissioner of Native Reserves," Session 1, D-16, Report on the Native Reserves in the County of Westland, July 1870, 33.

<sup>118</sup> *Ibid.*, 36. Thirty-four reserves comprising 5,920 acres, most (28) of the reserves were set aside in 1860 for Ngaitahu with the remaining six created by resident Māori ceding the land to the governor under the auspices of the 1856 Native Reserves Act.

A system of rental income and payments to beneficiaries in Nelson and the Westland - supervised by Alexander Mackay who would later go on to become Native Reserves Commissioner in 1882 - contrasted markedly with the neighboring province of Marlborough which had over twenty-thousand acres of reserves on the books but only three of the forty-four designated reserves had been granted. Generally, however, the South Island provinces indicate a heightened intensity of trusteeship over reserves by virtue of local officials maintaining separate bank accounts for the reserves and looking to exchange, survey, and develop reserved lands for what the state saw as the best interest of Māori.<sup>119</sup> The lower densities of Māori on the South Island and a reprieve from the disruptions of the New Zealand Wars, focused on the North Island, meant that aspects of humanitarian governance did not have to address the same intensity of violence, displacement, and confiscation. Social stability and the loyalty of South Island iwi and hapu meant reserve administration did not have to consider Māori as a threat to the survival of the settler colonial state.

Heaphy continued his survey of remaining reserves into the 1870s. In Taranaki, where the violence at Waitara had sparked the beginning of years of warfare in 1860, the Native Minister wrote to the province's civil commissioner, underscoring his desire to "settle" the land question in a way that would "enable the Government to locate in it a numerous body of Europeans [and it] would be advantageous to have all Native reserves within natural boundaries, wherever practicable."<sup>120</sup> This effort to "settle" questions of land ownership through confiscation, the Native Land Court, and reserves marked a return to the structures of earlier

<sup>119</sup> The provincial boundaries that had been established by the colonial government cut across Māori social groupings with Ngāi Tahu on the West Coast contributing to a lawsuit about control of a valuable harborside reserve in Dunedin that was being contested between the provincial council and the native reserves.

<sup>120</sup> AJHR 1872, "Reports on Settlement of Confiscated Lands," Session 1, C-4, Donald McLean to R. Parris, 20 May 1872, 28.



form of humanitarian governance that demarcated lines of what would be European and what would be Māori. The un-tenability of those lines, heavily blurred in the later 1840s and 1850s precluded any meaningful survey and consistent pattern of establishing reserves on a sustainable footing.

### **Conclusion**

In the aftermath of military conflict and the establishment of the Native Land Court, Māori communities on the North Island endured both the confiscation of land and intensified legal processes targeting communal landholding. Acquiring and subdividing land was inextricably linked with settlement and control. This process was especially clear in proposals to establish townships of veterans on confiscated land in the Waikato.<sup>121</sup> Unless local hapu had strong cohesion, there were few options to gain value from land other than submitting a claim to the Native Land Court to gain legal title over it. Paternalism as a form of trusteeship could be used to justify land alienation but it bore little of the spirit of the law that recognized indigenous title to the land. Government policy, therefore, sanctioned land grabs of a significant scale. Through military force and legal facility, the policy of the colonial state from 1860 to the end of the New Zealand Wars in 1872 exhibited little of the concern expressed during an earlier era. Rebellion had obviated responsibility for the colonial state – itself short on resources – to devote to Māori purposes.

Reforming the office of the Commissioner of Native Reserves suggests an interest in reviving the humanitarian governance of an earlier era that sought the efficient administration of reserves through a committee of trustees. By 1872 and the conclusion of hostilities, however, New Zealand's demographic and political contexts were radically different than those of the

<sup>121</sup> Boast and Hill, *Raupatu: The Confiscation of Māori Land*, 6.

1830s when the New Zealand Company had proposed its colonization scheme. The function and mission of those native reserves Heaphy codified in the early 1870s reflected a changed demographic reality. Between 1858 and 1874 the European share of New Zealand's population grew from 50 percent to 85 percent. An increased demand for agricultural land had also pressured the government to pursue increasingly forceful means to acquire land.

With millions of acres transferred from Māori to European control through confiscation, the reserve system Heaphy administered was not a mechanism for preserving Māori autonomy and cultivating an indigenous elite who would constitute a means of encouraging Māori assimilation and economic improvement. The adoption of a trusteeship model where individualized land conveyed into a trust removed Māori from the administration of the reserves and participation in decision making. By shifting authority from Māori to European trustees, the humanitarian element of native reserves in the late 1860s became more paternalist and subject to being run for the economic and political benefit of Europeans.

## Conclusion

In the 1830s, British proponents of humanitarian intervention in New Zealand identified the corrupting forces of visiting Europeans as the main obstacle to Māori progress. Forty years later, at the end of the New Zealand Wars, colonial officials saw the failure of many Māori to readily assimilate into Pākehā society as a problem internal to indigenous communities. No longer a significant military threat to the colony's rapidly growing settler population, in the eyes of the colonial state Māori financial and cultural precarity now formed a social problem to be managed rather than an humanitarian emergency requiring intervention. Consequently, the government's practices of humanitarian governance shifted from engaging and enticing Māori participation through interventions in health, education and legal assimilation to policies that prioritizing the state's role as a trustee acting on behalf of Māori.

The "shadow of responsibility" alluded to by the Duke of Newcastle in 1862 aptly describes the transformation of indigenous protection during the mid-nineteenth century as it recognizes that the quality of humanitarian governance changed even as the state continuously pursued a duty of care toward Māori.<sup>1</sup> It is easy to dismiss the plans of the New Zealand Company and other proponents of humanitarian colonization in New Zealand as either naïve dreamers or Machiavellian schemers. Plans to ameliorate the negative impacts of settlement deserve to be taken seriously as an earnest experiment in imperial rule. Even if the realized infrastructure of humanitarian governance bore only passing resemblance to the ideas from

<sup>1</sup> Parliamentary Papers of Great Britain 1862 (3049) *Papers Relative to Affairs of New Zealand*, Duke of Newcastle to Governor George Grey, 26 May 1862, 80.

which they sprung, New Zealand was an experiment in social organization. What is equally important to remember, however, is that empire, even when undertaken as a humanitarian intervention, creates and consolidates inequality. Descriptions of Māori prevalent in the 1830s as victimized by wicked Europeans positioned British missionaries, colonial theorists, and jurists as a superior, guiding force capable of rescuing indigenous New Zealanders from savagery. Though the subsequent humanitarian intervention did not rely on coercion, British interlocutors had a clear path in mind for how Māori society would change to become like their own. Despite recognizing and validating indigenous autonomy, humanitarianism nevertheless structured the choices available to Māori. By the 1870s, with the settler state in firm political control, colonial administrators largely excluded Māori from participation in the management of their own welfare. Like earlier iterations of humanitarian governance, European officials were confident they knew right path for Māori. Colonial legislation in the early 1870s failed to include Māori representation in the management of indigenous lands.

Charles Heaphy's encouragement of Māori to place their land into trusts overseen by Europeans formed the "shadow" of earlier confidence that Māori could, through the operation of humanitarian governance, achieve social and economic parity with settler communities. The consequence of a turn toward a paternalist implication of humanitarian governance was that it established a trajectory of dependence by making Māori reliant upon disbursements of funds from a trust, rather than as active agents involved in decision making. It is in the loss of Māori autonomy and independence – to choose the degree and nature of their engagement with the colonial state – that the most drastic reorientation of humanitarian governance was located.

Initially, reserves of land for benefit of Māori constituted a central feature of indigenous protection in New Zealand. Instead of forming a spatial and economic buttress protecting Māori

against dispossession, reserves instead formed a vector for spreading British legal, culture, and economic frameworks among Māori communities. Politicians and lobbyists portrayed reserves as emblematic of the government's commitment to the humane treatment of Māori even as *de jure* policy and *de facto* governance increasingly curtailed indigenous autonomy. As the literal ground on which British settlers, colonial administrators, and Māori contested the latter's inclusion or exclusion, native reserves exemplified the ways in which colonists expressed humanitarian aspirations even as their practices subverted those same ideals and, by 1872, excluded Māori from the management of reserves altogether.

A map from 1869, an image of which is on the following page, shows New Zealand's North Island as envisioned by the colony's Defence Office. Portraying "Native Tribal Boundaries, Topographical features, and Confiscated Lands" the map presents a reoriented understanding of the role, and possible future, of Māori and Māori land in the colonial state. Alongside swathes of green denoting forests and large patches of yellow marking the 3,884,437 acres confiscated from Māori as a result of the New Zealand Wars, there are also smaller areas of brown intermixed with a few yellow dots. Per the map's legend, these brown areas represent "areas where rocks are found at the surface in which gold veins could alone be expected" and the dots indicate "where gold has actually been found." The inclusion of Māori tribal boundaries, areas of confiscated land, and zones of potential gold fields presents Māori and Māori land as part of the same desired resource base for the settler-colonial state. Gold and Māori land, in this case, were part of the colonial state's aspirations for New Zealand's future.



Humanitarianism as a modality of imperial rule was predicated on ameliorating the impact of British settlement in a colonial space while nevertheless transforming indigenous bodies, landscapes, and legal frameworks to fit British notions of progress. As an implementation of a British impulse toward reform that was ascendant in the mid-nineteenth century, humanitarian governance shaped colonial futures in places as far afield as British Columbia, Australia, and Sierra Leone. Policies officials and advocates classified as humane frequently sought to weaken indigenous social and economic relationships based on existing communal patterns.

Though drawing inspiration from a humanitarian program, government action nevertheless curtailed the autonomy of those deemed in need of protection. In New Zealand, the onset of a decade of intermittent warfare in the 1860s, and the impact of a hardening of racial attitudes toward indigenous peoples throughout the British Empire, reframed the nature of the relationship between the colonial state and Māori. Continued references to colonial administration as humanitarian masked a change in the quality of government policy. If in the 1840s humanitarian governance sought out and relied upon Māori consent and participation, by the 1870s policies prioritized the settler-colonial state as a paternal custodian of indigenous interests.

## BIBLIOGRAPHY

### Primary Sources

#### Archives

- ANZ            Archives New Zealand, Wellington, New Zealand
- RHL            Rhodes House Library, University of Oxford, Oxford, United Kingdom
- TNA            The National Archives, Kew United Kingdom

#### Published Government Records

- AJHR           Appendix to the Journals of the House of Representatives, New Zealand
- GBPP           Parliamentary Papers, United Kingdom

#### Published

- Aborigines' Protection Society. *First Annual Report of the Aborigines' Protection Society*. London: P. White and Son, 1838.
- . *The New Zealand Government and the Maori War of 1863-64*. London: William Tweedie, 1864.
- Alexander, James. *Notes on the Maories of New Zealand With Suggestions for the Their Pacification and Preservation*. London: Aborigines' Protection Society, 1865.
- Brodie, Walter. *New Zealand and the Constitution Act*. [London], 1861.
- . *Remarks on the Past and Present State of New Zealand, Its Government, Capabilities and Prospects, Etc*. London: Whittaker & Co, 1845.
- Brown, William. *New Zealand and Its Aborigines*. London: J & D.A. Darling, 1841.
- . *New Zealand and Its Aborigines: Being an Account of the Aborigines, Trade and Resources of the Colony, Etc*. London: Smith, Elder & Co, 1845.
- Buddle, Thomas. *The Maori King Movement in New Zealand*. Auckland: New Zealander Office, 1860.
- Busby, James. *Colonies and Colonization*. Auckland: Philip Kunst, 1857.
- Carrington, Frederic. *The Land Question of Taranaki*. New Plymouth: Printed at the Office of the "Taranaki News," 1860.
- Clark, Archibald. *A Sketch of the Colony of New Zealand*. Glasgow: James Gibb, 1866.



- Coates, Dandeson. *The New Zealanders and Their Lands. The Report of the Select Committee of the House of Commons on New Zealand, Considered in a Letter to Lord Stanley*. London: Hatchards, 1844.
- Cooper, J. Rhodes. *The New Zealand Settler's Guide*. London: Edward Stanford, 1857.
- Cust, Edward. *The Colonies and Colonial Government*. J. Hatchard & Son: London, 1845.
- Dieffenbach, Ernst, and Foreign Aborigines' Protection Society. *New Zealand and Its Native Population. By E. Dieffenbach. Published Under the Patronage of the Aborigines Protection Society*. London, 1841.
- Fitzgerald, James. *The Native Policy of New Zealand*. Wellington: McKenzie and Muir, 1862.
- Fox, William. *Report on the Settlement of Nelson in New Zealand*. London: Smith, Elder and Co., 1849.
- . *War in New Zealand*. London: Smith, Elder and Co., 1866.
- Gorst, J.E. *The Maori King*. London: Macmillan, 1864.
- Grey, George. *Mythology and Traditions of the New Zealanders*. London: G. Willis, 1854.
- Hawtrey, Montague. *An Earnest Address to New Zealand Colonists, with Reference to Their Intercourse with the Native Inhabitants*. pp. vi. 140. J. W. Parker: London, 1840.
- . *Justice to New Zealand, Honor to England*. London: Rivingtons, 1861.
- Hodgskin, Richard. *A Narrative of Eight Months' Sojourn in New Zealand, with a Description of the Habits, Customs, and Character of the Islanders*. Coleraine, 1841.
- Hursthouse, Charles. *Letters on New Zealand Subjects*. London: Edward Stanford, 1865.
- Ironsides, Samuel. *New Zealand and Its Aborigines*. Sydney: Wesleyan Book Depot, 1863.
- Johnston, Alexander. *Notes on Maori Matters*. Auckland: W. C. Wilson, 1860.
- Johnstone, John Campbell. *The Maories, and the Causes of the Present Anarchy in New Zealand*. Auckland: Printed at the Office of the "Southern Cross," 1861.
- Matthew, Patrick. *Emigration Fields. North America, The Cape, Australia, and New Zealand; Describing These Countries, and Giving a Comparative View of the Advantages They Present to British Settlers*. Edinburgh, London, 1839.
- Merivale, Herman. *Lectures on Colonization and Colonies*. Vol. 2. London: Longman, Orme, Brown, Green, and Longman, 1841.
- Mills, Arthur. *Colonial Policy in New Zealand*. London: Edward, 1864.
- Mackay, Alexander. *A Compendium of Official Documents Relative to Native Affairs in the South Island*. Vol. 2. Wellington: Government Printer, 1872.
- New Zealand Association. *The British Colonization of New Zealand*. London: J. W. Parker, 1837.
- New Zealand Company. *Arrangements for the Adjustment of Questions Relating to Land in Wellington*. London: Stewart and Murray, 1849.
- . "First Report of the Directors." In *Supplementary Information Relative to New Zealand*. London: J. W. Parker, 1840.
- . *Information Relative to New Zealand, Compiled for the Use of Colonists, by John Ward ... The Fourth Edition*. London: J. W. Parker, 1841.
- Paul, Robert. *New Zealand, As It Was and As It Is*. London: Edward Stanford, 1861.
- Polack, Joel Samuel. *New Zealand: A Narrative of Travels and Adventures in That Country*. London: Richard Bentley, 1838.
- . *New Zealand: Being a Narrative of Travels and Adventures During a Residence in That Country Between the Years 1831 and 1837*. London: Richard Bentley, 1838.

- Rudge, James. *An Address to the New Zealand Emigrants, Delivered at Deptford, Oct. 11, 1840*. London, 1840.
- Sewell, Henry. *The New Zealand Rebellion*. London: Macmillan, 1864.
- Swainson, William. *New Zealand and Its Colonization*. London: Smith, Elder & Co, 1859.
- Turton, H. Hanson. *An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand*. Wellington: George Didsbury, 1883.
- Wakefield, Edward Gibbon. *A Letter From Sydney, The Principal Town of Australasia*. Edited by Robert Gourger. London: Joseph Cross, 1829.
- . *England and America: A Comparison of the Social and Political State of Both Nations*. London: Richard Bentley, 1833.
- . *The New British Province of South Australia*. 2nd ed. London: C. Knight, 1835.
- Wakefield, Edward Jerningham. *What Will They Do in the General Assembly?* Christchurch: The Times, 1863.
- Warren, John. *The Christian Mission to the Aborigines of New Zealand*. Auckland: Creighton & Scales, 1863.
- Weld, Frederick. *Notes on New Zealand Affairs*. London: Edward Stanford, 1869.

## Secondary Sources

- Adams, Peter. *Fatal Necessity: British Intervention in New Zealand, 1830-1847*. Auckland: Auckland University Press, 1977.
- Anderson, Atholl. "Origins, Settlement and Society of Pre-European South Polynesia." In *The New Oxford History of New Zealand*, 21–46. Oxford: Oxford University Press, 2009.
- Anghie, Antony. *Imperialism, Sovereignty, and the Making of International Law*. Cambridge: Cambridge University Press, 2004.
- Armitage, David. *The Ideological Origins of the British Empire*. Cambridge: Cambridge University Press, 2000.
- Austrin, Terry, and John Farnsworth. "Assembling Histories: J. G. A. Pocock, Aotearoa/New Zealand and the British World." *History Compass* 7, no. 5 (2009): 1286–1302.
- Ballantyne, Tony. *Entanglements of Empire: Missionaries, Maori, and the Question of the Body*. Durham: Duke University Press, 2014.
- . "Genesis 1:28 and the Languages of Colonial Improvement in Victorian New Zealand." *Victorian Review* 37, no. 2 (2011): 9–13.
- . "Humanitarian Narratives: Knowledge and the Politics of Mission and Empire." *Social Sciences and Missions* 24, no. 2–3 (2011): 233–64.
- . "Moving Texts and 'Humane Sentiment': Materiality, Mobility and the Emotions of Imperial Humanitarianism." *Journal of Colonialism and Colonial History* 17, no. 1 (2016). <https://doi.org/10.1353/cch.2016.0000>.
- . *Orientalism and Race: Aryanism in the British Empire*. New York: Palgrave, 2002.
- . "The Changing Shape of the Modern British Empire and Its Historiography." *Historical Journal* 53, no. 2 (2010): 429–52.
- . *Webs of Empire: Locating New Zealand's Colonial Past*. Wellington: Bridget Williams Books, 2012.

- Ballantyne, Tony, and Judith Bennett, eds. *Landscape/Community: Perspectives from New Zealand History*. Dunedin: Otago University Press, 2005.
- Ballantyne, Tony, and Brian Moloughney. *Disputed Histories*. Dunedin: Otago University Press, 2006.
- Ballara, Angela. *Taua: "Musket Wars", "Land Wars", or Tikanga?: Warfare in Māori Society in the Early Nineteenth Century*. Auckland: Penguin Books, 2003.
- Bank, Andrew. "Losing Faith in the Civilizing Mission: The Premature Decline of Humanitarian Liberalism at the Cape, 1840-60." In *Empire and Others: British Encounters with Indigenous Peoples, 1600-1850*, edited by Martin Daunton and Rick Halpern, 364–83. Philadelphia: University of Pennsylvania Press, 1999.
- Banner, Stuart. "Conquest by Contract: Wealth Transfer and Land Market Structure in Colonial New Zealand." *Law & Society Review* 34, no. 1 (2000): 47–96.
- . *Possessing the Pacific: Land, Settlers, and Indigenous People from Australia to Alaska*. Cambridge: Harvard University Press, 2007.
- Barnes, Felicity. *New Zealand's London: A Colony and Its Metropolis*. Auckland: Auckland University Press, 2012.
- Barnett, Michael. *Empire of Humanity: A History of Humanitarianism*. Ithaca: Cornell University Press, 2011.
- . "Humanitarian Governance." *Annual Review of Political Science* 16, no. 1 (2013): 379–98.
- . *Paternalism Beyond Borders*. Cambridge: Cambridge University Press, 2017.
- Barnett, Michael N, and Thomas George Weiss. *Humanitarianism in Question: Politics, Power, Ethics*. Ithaca: Cornell University Press, 2008.
- Bass, Gary. *Freedom's Battle: The Origins of Humanitarian Intervention*. New York: Alfred Knopf, 2008.
- Bassin, Mark. *Imperial Visions: Nationalist Imagination and Geographical Expansion in the Russian Far East, 1840-1865*. Cambridge: Cambridge University Press, 1999.
- Bayly, Christopher. *Imperial Meridian: The British Empire and the World, 1780-1830*. New York: Longman, 1989.
- Beattie, James. "Colonial Geographies of Settlement: Vegetation, Towns, Disease and Well-Being In Aotearoa/New Zealand, 1830s-1930s." *Environment and History* 14, no. 4 (November 1, 2008): 583. <https://doi.org/10.3197/096734008X368457>.
- . "Recent Themes in the Environmental History of the British Empire." *History Compass* 10, no. 2 (2012): 129–39.
- Beattie, James, and John Stenhouse. "Empire, Environment and Religion: God and the Natural World in Nineteenth-Century New Zealand." *Environment and History* 13, no. 4 (November 1, 2007): 413.
- Beinart, William, and Lotte Hughes. *Environment and Empire*. Oxford: Oxford University Press, 2007.
- Belgrave, Michael. *Historical Frictions: Maori Claims and Reinvented Histories*. Auckland: Auckland University Press, 2005.
- Belich, James. "Colonization and History in New Zealand." In *Historiography*, 5:182–93. Oxford History of the British Empire. Oxford: Oxford University Press, 1999.
- . *Making Peoples: A History of the New Zealanders, from Polynesian Settlement to the End of the Nineteenth Century*. Honolulu: University of Hawai'i Press, 1996.

- . *Paradise Reforged: A History of the New Zealanders from the 1880s to the Year 2000*. Honolulu: University of Hawai'i Press, 2002.
- . *Replenishing the Earth: The Settler Revolution and the Rise of the Anglo-World, 1783-1939*. Oxford: Oxford University Press, 2009.
- Belich, James. *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*. Auckland: Auckland University Press, 1986.
- Bell, Duncan. "Dissolving Distance: Technology, Space, and Empire in British Political Thought, 1770-1900." *Journal of Modern History* 77, no. 3 (September 2005): 523–62.
- . *The Idea of Greater Britain: Empire and the Future of World Order, 1860-1900*. Princeton: Princeton University Press, 2007.
- Bell, Leonard. *Colonial Constructs: European Images of Maori, 1840-1914*. Carlton: Melbourne University Press, 1992.
- Bentley, Trevor. *Pakeha Maori: The Extraordinary Story of the Europeans Who Lived as Maori in Early New Zealand*. Auckland: Penguin, 1999.
- Benton, Lauren. *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900*. Cambridge: Cambridge University Press, 2002.
- Bickers, Robert, ed. *Settlers and Expatriates: Britons Over the Seas*. The Oxford History of the British Empire Companion Series. Oxford: Oxford University Press, 2010.
- Boast, Richard. *Buying the Land, Selling the Land: Governments and Maori Land in the North Island 1865-1921*. Wellington: Victoria University Press, 2008.
- . "The Waitangi Tribunal in the Context of New Zealand's Political Culture and Historiography." *Journal of the History of International Law* 18 (2016): 339–61.
- Boast, Richard, and Richard Hill. *Raupatu: The Confiscation of Māori Land*. Wellington: Victoria University Press, 2009.
- Bridge, Carl, and Kent Fedorowich, eds. *The British World: Diaspora, Culture, and Identity*. London: Frank Cass, 2003.
- Bridge, Karl, and Kent Fedorowich. "Mapping the British World." *Journal of Imperial and Commonwealth History* 31, no. 2 (2003): 1–15.
- Briggs, Asa. *The Age of Improvement, 1783-1867*. New York: Longman, 1979.
- Brown, Christopher. *Moral Capital: Foundations of British Abolitionism*. Chapel Hill: University of North Carolina Press, 2006.
- Buckner, Phillip, and R. Douglas Francis, eds. *Rediscovering the British World*. Calgary: University of Calgary Press, 2005.
- Burbank, Jane, and Frederick Cooper. *Empires in World History: Power and the Politics of Difference*. Princeton, N.J.: Princeton University Press, 2010.
- Burton, Antoinette. *Burdens of History: British Feminists, Indian Women, and Imperial Culture, 1865-1915*. Chapel Hill: University of North Carolina, 1994.
- . "New Narratives of Imperial Politics in the Nineteenth Century." In *At Home With the Empire: Metropolitan Culture and the Imperial World*, edited by Catherine Hall and Sonya Rose. Cambridge (UK): Cambridge University Press, 2006.
- Butterworth, Graham, and Susan Butterworth. *The Maori Trustee*. Wellington: Maori Trustee, 1992.
- Byrnes, Giselle. *Boundary Markers: Land Surveying and the Colonisation of New Zealand*. Wellington: Bridget Williams Books, 2001.
- . "Reframing New Zealand History." In *The New Oxford History of New Zealand*, edited by Giselle Byrnes, 1–18. Oxford: Oxford University Press, 2009.

- , ed. *The New Oxford History of New Zealand*. Oxford: Oxford University Press, 2009.
- Capps, Maura. “Fleets of Fodder: The Ecological Orchestration of Agrarian Improvement in New South Wales and the Cape of Good Hope, 1780–1830.” *Journal of British Studies* 56, no. 3 (2017): 532–56.
- Carey, Hilary. *God’s Empire: Religion and Colonialism in the British World, c.1801-1908*. Cambridge: Cambridge University Press, 2011.
- Cell, John. *British Colonial Administration in the Mid-Nineteenth Century: The Policy-Making Process*. New Haven: Yale University Press, 1970.
- Chatterjee, Partha. *The Nation and Its Fragments: Colonial and Post-Colonial Histories*. Princeton: Princeton University Press, 1993.
- Coombes, Annie, ed. *Rethinking Settler Colonialism: History and Memory in Australia, Aotearoa New Zealand and South Africa*. Manchester (UK): Manchester University Press, 2006.
- Cooper, Frederick. *Colonialism in Question: Theory, Knowledge, History*. Berkeley: University of California Press, 2005.
- Cooper, Frederick, and Ann Laura Stoler, eds. *Tensions of Empire: Colonial Cultures in a Bourgeois World*. Berkeley: University of California Press, 1997.
- Cowen, Michael, and Robert W. Shenton. *Doctrines of Development*. London: Routledge, 1996.
- Crane, Ralph, Anna Johnston, and C. Vijayasree, eds. *Empire Calling: Administering Colonial Australia and India*. Bengaluru: Foundation Books, 2013.
- Crosby, Alfred. *Ecological Imperialism: The Biological Expansion of Europe, 900-1900*. Cambridge: Cambridge University Press, 1986.
- Crosby, Ron. *The Musket Wars: A History of Inter-Iwi Conflict, 1806-45*. Auckland: Libro International, 2012.
- Dalziel, Raewyn. “Southern Islands: New Zealand and Polynesia.” In *The Nineteenth Century*, 3:572–96. Oxford History of the British Empire. Oxford: Oxford University Press, 1999.
- Darwin, John. “Britain’s Empires.” In *The British Empire: Themes and Perspectives*, edited by Sarah Stockwell, 1–20. Oxford: Blackwell Publishing, 2008.
- . “Imperialism and the Victorians: The Dynamics of Territorial Expansion.” *English Historical Review* 112, no. 447 (1997): 614–42.
- . *The Empire Project: The Rise and Fall of the British World-System, 1830-1970*. Cambridge: Cambridge University Press, 2009.
- Daunton, Martin, and Rick Halpern, eds. *Empire and Others: British Encounters with Indigenous Peoples, 1600-1850*. Philadelphia: University of Pennsylvania Press, 1999.
- , eds. “Introduction: British Identities, Indigenous Peoples and the Empire.” In *Empire and Others: British Encounters with Indigenous Peoples, 1600-1850*. Philadelphia: University of Pennsylvania Press, 1999.
- Denoon, Donald. *Settler Capitalism*. Oxford: Oxford University Press, 1983.
- . *The Cambridge History of the Pacific Islanders*. Cambridge: Cambridge University Press, 1997.
- Drayton, Richard. *Nature’s Government: Science, Imperial Britain, and the “Improvement” of the World*. New Haven: Yale University Press, 2000.
- Dunlap, Thomas. *Nature and the English Diaspora: Environment and History in the United States, Canada, Australia, and New Zealand*. Cambridge: Cambridge University Press, 1999.

- Durrer, Rebecca. "Propagating the New Zealand Ideal." *The Social Science Journal* 43, no. 1 (2006): 173–83.
- Edmonds, Penelope, and Anna Johnston. "Empire, Humanitarianism and Violence in the Colonies." *Journal of Colonialism and Colonial History* 17, no. 1 (2016). <https://doi.org/10.1353/cch.2016.0013>.
- Elbourne, Elizabeth. "Indigenous Peoples and Imperial Networks in the Early 19th Century: The Politics of Knowledge." In *Rediscovering the British World*, edited by Phillip Buckner and R. Douglas Francis. Calgary: University of Calgary Press, 2005.
- . "The Bannisters and Their Colonial World." In *Within and Without: Canadian History as Transnational History*, edited by Karen Dubinsky, Adele Perry, and Henry Yu, 61–107. Toronto: University of Toronto Press, 2015.
- . "The Sin of the Settler: The 1835–36 Select Committee on Aborigines and Debates over Virtue and Conquest in the Early Nineteenth-Century British White Settler Empire." *Journal of Colonialism and Colonial History* 4, no. 3 (2003). <https://doi.org/10.1353/cch.2004.0003>.
- Elkins, Caroline, and Susan Pedersen, eds. *Settler Colonialism in the Twentieth Century*. New York: Routledge, 2005.
- Ell, Gordon., and Sarah. Ell. *Explorers, Whalers and Tattooed Sailors*. Auckland: Random House, 2008.
- Etherington, Norman. *Theories of Imperialism: War, Conquest, and Capital*. London: Croom Helm, 1984.
- Evans, Julie, Patricia Grimshaw, Davis Philips, and Shurlee Swain. *Equal Subjects, Unequal Rights: Indigenous Peoples in British Settler Colonies, 1830-1910*. Manchester: Manchester University Press, 2003.
- Fassin, Didier. *Humanitarian Reason: A Moral History of the Present*. Translated by Rachel Gomme. Berkeley: University of California Press, 2012.
- Ferguson, Niall. *Empire: How Britain Made the Modern World*. New York: Penguin, 2003.
- Festa, Lynn. "Humanity without Feathers." *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 1, no. 1 (2010): 3–27.
- Fieldhouse, D. K. *Economics and Empire, 1830-1914*. World Economic History. London: Weidenfeld and Nicolson, 1973. <http://mirlyn.lib.umich.edu/Record/001151506>.
- Fiering, Norman S. "Irresistible Compassion: An Aspect of Eighteenth-Century Sympathy and Humanitarianism." *Journal of the History of Ideas* 37, no. 2 (April 1, 1976): 195–218.
- Ford, Lisa. "Anti-Slavery and the Reconstitution of Empire." *Australian Historical Studies* 45, no. 1 (2014): 71–86.
- Foster, Hamar, Benjamin Berger, and A.R. Buck, eds. *The Grand Experiment: Law and Legal Culture in British Settler Societies*. Vancouver: UBC Press, 2008.
- Galbraith, John. "The Humanitarian Impulse to Imperialism." In *British Imperialism: Gold, God Glory*, edited by Robin Winks, 71–74. Hinsdale (IL): Dryden Press, 1963.
- Gilling, Bryan. "The Maori Land Court in New Zealand: An Historical Overview." *Canadian Journal of Native Studies* 13, no. 1 (1993): 17–29.
- Go, Julian. *Patterns of Empire: The British and American Empires, 1688 to the Present*. New York: Cambridge University Press, 2011.
- Graham, Brian, and Catherine Nash, eds. *Modern Historical Geographies*. Harlow: Longman, 2000.

- Grant, Robert. "New Zealand 'Naturally': Ernst Dieffenbach, Environmental Determinism and the Mid Nineteenth-Century British Colonization of New Zealand." *New Zealand Journal of History* 37, no. 1 (2003): 22–37.
- Greene, Jack, ed. *Exclusionary Empire: English Liberty Overseas, 1600-1900*. Cambridge (UK): Cambridge University Press, 2010.
- Grey, Alan. *Aotearoa & New Zealand: A Historical Geography*. Christchurch: Canterbury University Press, 1994.
- Griffiths, Tom, and Libby Robin, eds. *Ecology and Empire: Environmental History of Settler Societies*. Edinburgh: Keele University Press, 1997.
- Grove, Richard. *Ecology, Climate and Empire: Colonialism and Global Environmental History, 1400-1900*. Knapwell (Cambridge: The White Horse Press, 1997.
- . *Green Imperialism: Colonial Expansion, Tropical Island Edens, and the Origins of Environmentalism, 1600-1860*. Studies in Environment and History. Cambridge ; New York: Cambridge University Press, 1995.
- Haas, Peter. "Epistemic Communities and International Policy Coordination." *International Organization* 46, no. 1 (1992): 1–35.
- Hall, Catherine. *Civilising Subjects: Metropole and Colony in the English Imagination, 1830-1867*. Chicago: University of Chicago Press, 2002.
- . "Culture and Identity in Imperial Britain." In *The British Empire: Themes and Perspectives*, edited by Sarah Stockwell, 199–217. Oxford: Blackwell Publishing, 2008.
- Hall, Catherine, and Sonya Rose. *At Home With the Empire: Metropolitan Culture and the Imperial World*. Cambridge: Cambridge University Press, 2006.
- Halttunen, Karen. "Humanitarianism and the Pornography of Pain in Anglo-American Culture." *American Historical Review* 100, no. 2 (1995): 303–34.
- Harris, Cole. *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia*. Vancouver: UBC Press, 2002.
- Heartfield, James. *The Aborigines' Protection Society: Humanitarian Imperialism in Australia, New Zealand, Fiji, Canada, South Africa, and the Congo, 1836-1909*. New York: Columbia University Press, 2011.
- Hechter, Michael. *Internal Colonialism: The Celtic Fringe in British National Development*. New Brunswick: Transaction Publishers, 1999.
- Hickford, Mark. "Decidedly the Most Interesting Savages on the Globe: An Approach to the Intellectual History of Maori Property Rights, 1837-53." *History of Political Thought* 27 (2006): 122–67.
- . *Lords of the Land: Indigenous Property Rights and the Jurisprudence of Empire*. Oxford: Oxford University Press, 2011.
- . "'Vague Native Rights to Land': British Imperial Policy on Native Title and Custom in New Zealand, 1837–53." *The Journal of Imperial and Commonwealth History* 38, no. 2 (2010): 175–206.
- Hill, Richard. "Maori and State Policy." In *The New Oxford History of New Zealand*, edited by Giselle Byrnes, 513–36. Oxford: Oxford University Press, 2009.
- . *Policing the Colonial Frontier: The Theory and Practice of Coercive Social and Racial Control in New Zealand, 1767-1867*. Wellington: Department of Internal Affairs, 1986.
- Hilton, Boyd. *The Age of Atonement: The Influence of Evangelicalism on Social and Economic Thought, 1795-1865*. Oxford: Clarendon Press, 1988.

- Hochschild, Adam. *Bury the Chains: Prophets and Rebels in the Fight to Free an Empire's Slaves*. Boston: Houghton Mifflin, 2005.
- Holt, Thomas. *The Problem of Freedom*. Baltimore: Johns Hopkins University Press, 1992.
- Hudson, Paul. "English Emigration to New Zealand, 1839–1850: Information Diffusion and Marketing a New World." *The Economic History Review* 54, no. 4 (November 2011): 680–98. <https://doi.org/10.1111/1468-0289.00208>.
- Huzzey, Richard. *Freedom Burning: Anti-Slavery and Empire in Victorian Britain*. Ithaca: Cornell University Press, 2012.
- . "Minding Civilisation and Humanity in 1867: A Case Study in British Imperial Culture and Victorian Anti-Slavery." *Journal of Imperial and Commonwealth History* 40, no. 5 (2012): 807–25.
- Hyam, Ronald. *Understanding the British Empire*. Cambridge: Cambridge University Press, 2010.
- Jellicoe, Roland. *The New Zealand Company's Native Reserves*. Wellington: W. A. G. Skinner, Government Printer, 1930.
- Johnson, Ralph. "The Trust Administration of Maori Reserves, 1840-1913." Rangahaua Whanui. Wellington: Waitangi Tribunal, 1993.
- Judd, Denis. *Empire: The British Imperial Experience from 1765 to the Present*. London: HarperCollins, 1996.
- Kawharu, Ian. *Maori Land Tenure*. Oxford: Oxford University Press, 1977.
- Kennedy, Dane. "Imperial History and Post-Colonial Theory." *Journal of Imperial and Commonwealth History* 24, no. 3 (September 1996): 345–63.
- King, Michael. *The Penguin History of New Zealand*. Auckland: Penguin Books, 2003.
- Kirkby, Diane, and Catharine Coleborne, eds. *Law, History, Colonialism: The Reach of Empire*. Manchester: Manchester University Press, 2001.
- Klonk, Charlotte. *Science and the Perception of Nature: British Landscape Art in the Late Eighteenth and Early Nineteenth Centuries*. New Haven: Yale University Press, 1996.
- Laidlaw, Zoë. "'Aunt Anna's Report': The Buxton Women and the Aborigines Select Committee, 1835–37." *The Journal of Imperial and Commonwealth History* 32, no. 2 (2004): 1–28.
- . "Breaking Britannia's Bounds? Law, Settlers, and Space in Britain's Imperial Historiography." *The Historical Journal* 55, no. 3 (2012): 807–30.
- . *Colonial Connections, 1815-45: Patronage, the Information Revolution and Colonial Government*. Manchester: Manchester University Press, 2005.
- . "Investigating Empire: Humanitarians, Reform and the Commission of Eastern Inquiry." *Journal of Imperial and Commonwealth History* 40, no. 5 (2012): 749–68.
- Lake, Marilyn, and Henry Reynolds. *Drawing the Global Colour Line: White Men's Countries and the International Challenge of Racial Equality*. Cambridge: Cambridge University Press, 2008.
- Lambert, David, and Alan Lester. *Colonial Lives Across the British Empire: Imperial Careering in the Long Nineteenth Century*. Cambridge: Cambridge University Press, 2006.
- Laqueur, Thomas. "Bodies, Details, and the Humanitarian Narrative." In *The New Cultural History*, edited by Lynn Hunt, 176–204. Berkeley: University of California Press, 1989.
- Lester, Alan. "British Settler Discourse and the Circuits of Empire." *History Workshop Journal* 54, no. 1 (2002): 24–48.



- . “Imperial Circuits and Networks: Geographies of the British Empire.” *History Compass* 4, no. 1 (2006): 124–41.
- . *Imperial Networks: Creating Identities in Nineteenth-Century South Africa and Britain*. London: Routledge, 2001.
- . “Obtaining the ‘Due Observance of Justice’: The Geographies of Colonial Humanitarianism.” *Environment and Planning D - Society & Space* 20, no. 3 (June 2002): 277–93. <https://doi.org/10.1068/d42j>.
- Lester, Alan, and Fae Dussart. *Colonization and the Origins of Humanitarian Governance*. Cambridge: Cambridge University Press, 2014.
- . “Trajectories of Protection: Protectorates of Aborigines in Early 19th Century Australia and Aotearoa New Zealand.” *New Zealand Geographer* 64, no. 3 (2008): 205–20.
- Levine, Philippa. *The British Empire: Sunrise to Sunset*. Recovering the Past. New York: Pearson Longman, 2007.
- Magee, Gary, and Andrew Thompson. *Empire and Globalisation: Networks of Goods and Capital in the British World c.1850-1914*. Cambridge: Cambridge University Press, 2010.
- Mar, Tracey Banivanua, and Penelope Edmonds, eds. *Making Settler Colonial Space: Perspectives on Race, Place and Identity*. New York: Palgrave, 2010.
- Martin, John. “Refusal of Assent: A Hidden Element of Constitutional History in New Zealand.” *Victoria University of Wellington Law Review* 41, no. 1 (2010): 51–84.
- McClintock, Anne. *Imperial Leather: Race, Gender, and Sexuality in the Colonial Conquest*. New York: Routledge, 1995.
- McCord, Norman, and Bill Purdue. *British History 1815-1914*. Oxford: Oxford University Press, 2007.
- McHugh, P. G. “A Pretty Gov[ernment]!: The ‘Confederation of United Tribes’ and Britain’s Quest for Imperial Order in the New Zealand Islands during the 1830s.” In *Legal Pluralism and Empires, 1500-1850*, edited by Richard J. Ross and Lauren Benton, 233–58. New York: NYU Press, 2013.
- Mein Smith, Phillipa. *A Concise History of New Zealand*. Cambridge: Cambridge University Press, 2005.
- Michie, Helena, and Ronald Thomas. *Nineteenth-Century Geographies: The Transformation of Space from the Victorian Age to the American Century*. New Brunswick: Rutgers University Press, 2003.
- Mitchell, Katharyne. “Education, Race and Empire: A Genealogy of Humanitarian Governance in the United States.” *Transactions of the Institute of British Geographers* 42, no. 3 (2017): 349–62.
- Mitchell, W.J.T. “Imperial Landscape.” In *Landscape and Power*, edited by W.J.T. Mitchell, 2nd ed. Chicago: University of Chicago Press, 1994.
- Moinz, Amanda. *From Empire to Humanity: The American Revolution and the Origins of Humanitarianism*. Oxford: Oxford University Press, 2016.
- . “Saving the Lives of Strangers: Humane Societies and the Cosmopolitan Provision of Charitable Aid.” *Journal of the Early Republic* 29, no. 4 (December 2009): 607–40.
- Moon, Paul. *A Savage Country: The Untold Story of New Zealand in the 1820s*. Auckland: Penguin Books, 2012.
- . *FitzRoy: Governor in Crisis*. Auckland: David Ling Publishing, 2000.

- . “The Influence of ‘Benthamite’ Philosophies on British Colonial Policy on New Zealand in the Era of the Treaty of Waitangi.” *Journal of Imperial and Commonwealth History* 43, no. 3 (2014): 367–86.
- Moorehead, Alan. *Fatal Impact: An Account of the Invasion of the South Pacific, 1767-1840*. New York: Harper & Rowe, 1966.
- Morgan, Cecilia. *Building Better Britains?: Settler Societies in the British World 1783-1920*. Toronto: University of Toronto Press, 2017.
- Moss, David. “Wakefield, Edward Gibbon (1796–1862).” *Oxford Dictionary of National Biography*. Oxford: Oxford University Press, 2007.  
<http://www.oxforddnb.com/view/article/28415>.
- Nasson, Bill. *Britannia’s Empire: Making A British World*. Stroud (Gloucestershire, UK): Tempus, 2004.
- Olssen, Erik. “Mr Wakefield and New Zealand as an Experiment in Post-Enlightenment Experimental Practice.” *New Zealand Journal of History* 31, no. 2 (1997): 197–218.
- O’Malley, Vincent. “Choosing Peace or War: The 1863 Invasion of Waikato.” *New Zealand Journal of History* 47, no. 1 (2013): 39–58.
- Owens, J M R. “New Zealand before Annexation.” In *Oxford History of New Zealand*, 28–57. Oxford: Oxford University Press, 1981.
- Pallister-Wilkins, Polly. “Personal Protective Equipment in the Humanitarian Governance of Ebola.” *Third World Quarterly* 37, no. 3 (2016): 507–23.
- Park, Geoff. *Nga Uruora: The Groves of Life: Ecology and History in a New Zealand Landscape*. Wellington: Victoria University Press, 1995.
- Parsonson, Ann. “The Fate of Maori Land Rights in Early Colonial New Zealand: The Limits of the Treaty of Waitangi and the Doctrine of Aboriginal Title.” In *Law, History, Colonialism: The Reach of Empire*, edited by Diane Kirkby and Catharine Coleborne, 173–89. Manchester: Manchester University Press, 2001.
- . “The Pursuit of Mana.” In *The Oxford History of New Zealand*, 140–67. Oxford University Press, 1981.
- Pawson, Eric., and Tom Brooking. *Environmental Histories of New Zealand*. Melbourne, Vic.: Oxford University Press, 2002. <http://mirlyn.lib.umich.edu/Record/004276706>.
- Pawson, Eric, and Tom Brooking. *Seeds of Empire: The Environmental Transformation of New Zealand*. New York: I. B. Tauris, 2011.
- Perry, Adele. *Colonial Relations: The Connolly-Douglas Family and the Nineteenth-Century Imperial World*. Cambridge: Cambridge University Press, 2015.
- Petrie, Hazel. *Chiefs of Industry: Māori Tribal Enterprise in Early Colonial New Zealand*. Auckland: Auckland University Press, 2006.
- Pitts, Jennifer. *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France*. Princeton: Princeton University Press, 2006.
- Pocock, J. G. A. “British History: A Plea for a New Subject.” *Journal of Modern History* 47, no. 4 (1975): 601–21.
- . *The Discovery of Islands: Essays in British History*. Cambridge: Cambridge University Press, 2005.
- Porter, Andrew. “An Overview 1700-1914.” In *Missions and Empire*, edited by Norman Etherington. Oxford: Oxford University Press, 2008.
- . “Trusteeship, Anti-Slavery, and Humanitarianism.” edited by Andrew Porter, Vol. 3. *Oxford History of the British Empire*. Oxford: Oxford University Press, 1999.

- Porter, Bernard. *The Absent-Minded Imperialists: Empire, Society, and Culture in Britain*. Oxford: Oxford University Press, 2004.
- Potter, Simon. "Webs, Networks, and Systems: Globalization and the Mass Media in the Nineteenth- and Twentieth-Century British Empire." *Journal of British Studies* 46 (July 2007): 621–46.
- Potter, Simon, and Jonathan Saha. "Global History, Imperial History and Connected Histories of Empire." *Journal of Colonialism and Colonial History* 16, no. 1 (2015). <https://doi.org/10.1353/cch.2015.0009>.
- Reid-Henry, Simon. "Humanitarianism as Liberal Diagnostic: Humanitarian Reason and the Political Rationalities of the Liberal Will-to-Care." *Transactions of the Institute of British Geographers* 39, no. 3 (2014): 418–31.
- Richards, Eric. *Britannia's Children: Emigration from England, Scotland, Wales and Ireland since 1600*. London ; New York: Hambledon and London, 2004.
- Ritchie, John. "Towards Ending an Unclean Thing: The Molesworth Committee and the Abolition of Transportation to New South Wales, 1837–40." *Historical Studies (Melbourne)* 17, no. 67 (1976): 144–64.
- Ronda, James. "'We Have a Country': Race, Geography, and the Invention of Indian Territory." *Journal of the Early Republic* 19, no. 4 (1999): 739–55.
- Russell, Lynette, and Leigh Boucher, eds. *Settler Colonial Governance in Nineteenth-Century Victoria*. Canberra: ANU Press, 2015.
- Ryan, Maeve. "A Moral Millstone?: British Humanitarian Governance and the Policy of Liberated African Apprenticeship, 1808–1848." *Slavery & Abolition* 37, no. 2 (2016): 399–422.
- Salesa, Damon. *Racial Crossings: Race, Intermarriage, and the Victorian British Empire*. Oxford: Oxford University Press, 2011.
- Samson, Jane. *Imperial Benevolence: Making British Authority in the Pacific Islands*. Honolulu: University of Hawai'i Press, 1998.
- Sartori, Andrew. *Liberalism in Empire: An Alternative History*. Oakland: University of California Press, 2014.
- Sasson, Tahlia. "From Empire to Humanity: The Russian Famine and the Imperial Origins of International Humanitarianism." *Journal of British Studies* 55, no. 3 (2016): 519–37.
- Schwarz, Bill. *The White Man's World*. Vol. 1. Memories of Empire. Oxford: Oxford University Press, 2011.
- Shaw, Caroline. *Britannia's Embrace: Modern Humanitarianism and the Imperial Origins of Refugee Relief*. Oxford: Oxford University Press, 2015.
- Shepard, Paul. *English Reaction to the New Zealand Landscape Before 1850*. Pacific Viewpoint Monograph 4. Wellington: Victoria University Press, 1969.
- Simms, Brendan., and D. J. B. Trim. *Humanitarian Intervention: A History*. Cambridge: Cambridge University Press, 2011.
- Sinclair, Keith. *The Origins of the Maori Wars*. Auckland: Auckland University Press, 1974.
- Sivasundaram, Sujit. *Nature and the Godly Empire: Science and Evangelical Mission in the Pacific, 1795–1850*. Cambridge: University of Cambridge Press, 2005.
- Skinner, Rob, and Alan Lester. "Humanitarianism and Empire: New Research Agendas." *Journal of Imperial and Commonwealth History* 40, no. 5 (2012): 729–47.
- Smith, Bernard. *European Vision and the South Pacific*. New Haven: Yale University Press, 1985.

- Smits, Katherine. "John Stuart Mill on the Antipodes: Settler Violence against Indigenous Peoples and the Legitimacy of Colonial Rule." *Australian Journal of Politics & History* 54, no. 1 (2008): 1–15.
- Stocking, George W. *Victorian Anthropology*. New York: Free Press, 1987.
- Stockwell, Sarah, ed. *The British Empire: Themes and Perspectives*. Oxford: Blackwell Publishing, 2008.
- Stoler, Ann. "On Degrees of Imperial Sovereignty." *Public Culture* 18, no. 1 (2006): 125–46.
- Storey, Kenton. "Colonial Humanitarian? Thomas Gore Browne and the Taranaki War, 1860–61." *Journal of British Studies* 53, no. 1 (2014): 111–35.
- . *Settler Anxiety at the Outposts of Empire: Colonial Relations, Humanitarian Discourses, and the Imperial Press*. Vancouver: UBC Press, 2016.
- Strauss, A. L. *Negotiations: Varieties, Contexts, Processes, and Social Order*. San Francisco: Jossey-Bass, 1978.
- Swaissland, Charles. "The Aborigines Protection Society, 1837-1909." *Slavery & Abolition* 21, no. 2 (2000): 265–80.
- Tennant, Paul. *Aboriginal Peoples and Politics: The Indian Land Question in British Columbia, 1849-1989*. Vancouver: UBC Press, 1990.
- Tremewan, Peter. *French Akaroa: An Attempt to Colonise Southern New Zealand*. Christchurch: University of Canterbury Press, 1990.
- . "French Whalers and the Maori." In *Pacific Journeys: Essays in Honour of John Dunmore*, edited by Glynnis M. Cropp, 135–51. Wellington: Victoria University Press, 2005.
- Tusan, Michelle. "Crimes Against Humanity: Human Rights, the Armenian Genocide and the British Empire." *American Historical Review* 119, no. 1 (2014).
- . *Smyrna's Ashes: Humanitarianism, Genocide, and the Birth of the Middle East*. Berkeley: University of California Press, 2012.
- Veracini, Lorenzo. *Settler Colonialism: A Theoretical Overview*. London: Palgrave, 2010.
- Vernon, James. "The History of Britain Is Dead; Long Live a Global History of Britain." *History Australia* 13, no. 1 (2016): 19–34.
- Wake, C. H. "George Clarke and the Government of the Maoris: 1840-45." *Historical Studies: Australia and New Zealand* 10, no. 9 (1962): 339–56.
- Wanhalla, Angela. "Family, Community, and Gender." In *New Oxford History of New Zealand*, edited by Giselle Byrnes, 447–64. Oxford: Oxford University Press, 2009.
- . "My Piece of Land at Taieri." *New Zealand Journal of History* 41, no. 1 (2007): 45–61.
- Ward, Alan. *A Show of Justice: Racial "Amalgamation" in Nineteenth Century New Zealand*. Oxford: Oxford University Press, 1973.
- . *An Unsettled History: Treaty Claims in New Zealand Today*. Wellington: Bridget Williams Books, 1999.
- Ward, John. *Colonial Self-Government: The British Experience, 1789-1856*. Cambridge: Cambridge University Press, 1976.
- Ward, Stuart. "Imperial Identities Abroad." In *The British Empire: Themes and Perspectives*, edited by Sarah Stockwell. Oxford: Blackwell Publishing, 2008.
- Weaver, John C. "Frontiers into Assets: The Social Construction of Property in New Zealand, 1840–65." *The Journal of Imperial and Commonwealth History* 27, no. 3 (1999): 17–54.
- . *The Great Land Rush and the Making of the Modern World, 1650-1900*. Montreal: McGill-Queen's University Press, 2003.

- Weaver, John, and William Coleman. *Empires and Autonomy: Moments in the History of Globalization*. Edited by Stephen Streecher. *Globalization and Autonomy*. Vancouver: UBC Press, 2009.
- Webster, Steven. "Maori Hapu as a Whole Way of Struggle: 1840s-50s before the Land Wars." *Oceania* 69, no. 1 (1998): 4–35.
- Wilson, Richard, and Richard D Brown. *Humanitarianism and Suffering: The Mobilization of Empathy*. Cambridge: Cambridge University Press, 2009.
- Wolfe, Patrick. "History and Imperialism: A Century of Theory, from Marx to Postcolonialism." *The American Historical Review* 102, no. 2 (April 1997): 388–420.
- . *Settler Colonialism and the Transformation of Anthropology: The Politics and Poetics of an Ethnographic Event*. London: Cassell, 1999.
- Woods, Rebecca. *The Herds Shot Round the World: Native Breeds and the British Empire 1800-1900*. Chapel Hill: University of North Carolina Press, 2017.
- Woodward, Llewellyn. *The Age of Reform 1815-1870*. 2nd ed. Oxford: Oxford University Press, 1962.
- Wright, Harrison. *New Zealand, 1769-1840, Early Years of Western Contact*. Cambridge: Harvard University Press, 1959.