

7-7-2023

Aotearoa New Zealand, the Forcible Transfer of Tamariki and Rangatahi Māori, and the Royal Commission on Abuse in Care

David B. MacDonald
University of Guelph

Follow this and additional works at: <https://digitalcommons.usf.edu/gsp>

Recommended Citation

MacDonald, David B. (2023) "Aotearoa New Zealand, the Forcible Transfer of Tamariki and Rangatahi Māori, and the Royal Commission on Abuse in Care," *Genocide Studies and Prevention: An International Journal*: Vol. 17: Iss. 1: Article 5.

DOI:

<https://doi.org/10.5038/1911-9933.17.1.1926>

Available at: <https://digitalcommons.usf.edu/gsp/vol17/iss1/5>

This Article is brought to you for free and open access by the Open Access Journals at Digital Commons @ University of South Florida. It has been accepted for inclusion in *Genocide Studies and Prevention: An International Journal* by an authorized editor of Digital Commons @ University of South Florida. For more information, please contact digitalcommons@usf.edu.

Aotearoa New Zealand, the Forcible Transfer of Tamariki and Rangatahi Māori, and the Royal Commission on Abuse in Care

Acknowledgements

Ngā mihi maioha to Claire Charters, Lara Greaves, Fleur Te Aho, Dominic O'Sullivan, Moana Jackson, Tracey MacIntosh, Anaru Erueti, Coral Shaw, Ali'imuamua Sandra Alofivae, Survivor Keith Wiffin, Donna Matahaere-Atariki, Georgina Tuari Stewart, Makere Stewart Harawira, Sir Anand Satyanand, Andrew Woolford, Tony Barta, Aaron Smale, A. Dirk Moses, Oliver and Ulla Sutherland, Steve Winter, Hilary Stace, Rosslyn Noonan, Judith Aitken, Clare McKendry, and Sheryl Lightfoot. Thank you also to Survivors and Royal Commission staff. This research is funded by SSHRC Grant 430413 and was conducted at the Auckland University School of Law during my time as a visiting scholar. I am a member of the Royal Commission Forum which has an MOU with the Royal Commission on Abuse in Care. This article represents my views only and does not represent the views of the Royal Commission Forum or any of the people I have thanked above. This article is written from the positionality of an Indo-Trinidadian mixed race settler from Treaty 4 lands in Regina, Saskatchewan.

Erratum

Corrections have been made to the citation of the "Te Ara Takatū. Report from a Wānanga on a Tikanga Māori Based Approach to Redress for Māori Abused in State or Faith-Based Care" The revised citation includes the names of all authors of the report: Louis Coster, Paora Crawford Moyle, Karl Tauri, Dr. Rawiri Waretini-Karena, Hera Clarke, Dr. Carwyn Jones, Prof. Tracey McIntosh, Denise Messiter, David Stone, Annette Sykes, Dr. Rawiri Taonui, Dr. Juan Tauri, and Dr. Rebecca Wirihana.

Aotearoa New Zealand, the Forcible Transfer of Tamariki and Rangatahi Māori, and the Royal Commission on Abuse in Care

David B. MacDonald

University of Guelph
Guelph, Ontario, Canada

Introduction

There is a lack of published work analyzing genocide in Aotearoa New Zealand (Land of the Long White Cloud). Other than one article I have published in the *Journal of Genocide Research* (2003), and one by André Brett on Moriori in the same journal (2015),¹ Māori, as targets of genocidal action by the state is an underexplored topic. This article adds more to the conversation, investigating to what extent the forcible transfer of *tamariki* and *rangatahi* Māori (Indigenous children and youth) can be considered genocide. First, I engage with precedents for recognizing Indigenous genocides established by commissions in Canada (2015 and 2019) and Australia (1997). I then explore the history around Indigenous child removal in Aotearoa from the onset of colonization to the present day. Third, I explore the potential of New Zealand's Royal Commission of Inquiry into Abuse in Care (RCIAC, or The Commission, 2018–2024) to engage with the concept of genocide in its deliberations.² The Commission covers the period from 1950–1999, when as many as 655,000 children were in state or faith-based care. Of these, an estimated 250,000 may have been abused.³ Between 60 and 80 percent of those taken were Māori, who were transferred from their families, communities, and nations (respectively, *whānau*, *hapū*, and *iwi*). Many were adopted out into *Pākehā* (white settler) homes or sent to foster homes, group facilities, and psychiatric or carceral institutions. Racism, both individual and systemic, was endemic, and there was a demonstrable pipeline between these institutions and the network of prisons which expanded over the twentieth century.⁴ I conclude with some reflections as to why the issue of genocide is not widely discussed in Aotearoa, and has not played an important role in The Commission's work, in contradistinction to commissions in other settler states.

There is an important caveat: This article reflects Eve Tuck's (Unangā, St. Paul Island) injunction to avoid "damage-centered research" and "deficit models," which see Indigenous peoples as "broken," and Indigenous communities as "sites of disinvestment and dispossession."⁵ Instead, she calls for research which centers on the strength and "survivance," and self-determination of Indigenous peoples within a context of colonialism, occupation, and genocide. This larger context, which is often made invisible, is highlighted here.⁶

¹ David B. MacDonald, "Daring to Compare: The Debate About a Maori 'Holocaust' in New Zealand," *Journal of Genocide Research* 5, no. 3 (2010), 383–403; André Brett, "'The Miserable Remnant of this Ill-Used People': Colonial Genocide and the Moriori of New Zealand's Chatham Islands," *Journal of Genocide Research* 17, no. 2 (2015), 133–152.

² "Abuse in Care," *Royal Commission of Inquiry into Abuse in Care* (RCIAC), accessed June 28, 2023, <https://www.abuseincare.org.nz>.

³ "Questions and Answers," RCIAC, accessed June 28, 2023, <https://www.abuseincare.org.nz/for-survivors/faqs/>.

⁴ "Scope of Investigation into Māori Experiences of Abuse in Care," RCIAC, accessed June 28, 2023, <https://www.abuseincare.org.nz/our-progress/library/v/129/scope-of-investigation-into-maori-experiences-of-abuse-in-care>.

⁵ Eve Tuck, "Suspending Damage: A Letter to Communities," *Harvard Educational Review* 7, no. 3 (2009), 409, 412.

⁶ *Ibid.*, 415, 422.

Part I: Assessing the Risks of Genocide and Mass Violence

Forcibly transferring children from one group to another is prohibited under Article 2(e) of the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) if there is a specific intent to destroy the group. The UN Declaration on the Rights of Indigenous Peoples also prohibits forcible transfer (Articles 7 and 8). For Raphaël Lemkin, this was considered a form of biological genocide, as he outlined in 1951, “committed either by destroying the group now or by preventing it from bearing children or keeping its offspring.” He further responded to the question, “[c]an genocide be committed by kidnapping children?” by stating emphatically, “[t]he answer is yes!”⁷ Kurt Mundorff reinforces this perspective, outlining both physical and biological aspects to transfer: “It does so biologically, by preventing children from reproducing within the group, and physically, by discouraging children from returning to their group.”⁸

This article foregrounds the contested nature of the UN definition within the field of genocide studies. At one level, the Genocide Convention was the product of self-serving negotiations by states, many committing the very acts the Convention could have prevented, while other crimes (those defined as *cultural genocide*) were removed from the 1947 draft because they could easily incriminate state parties. With respect to settler colonialism, many aspects of Indigenous group identity and connections were outside of the Convention’s framework. Animals, plants, lands, and waters, which were all aspects of Indigenous group identity, were not included in the Convention. The fluidity and connections between Indigenous groups were likewise ignored by the Convention’s creators, in a process that denied Indigenous peoples any influence or participation.⁹

However, despite frequent critique, the Genocide Convention is widely used in Indigenous writing as the standard by which genocide is understood and claims are made.¹⁰ As discussed below, the Genocide Convention is an important lens through which to interpret settler colonialism in Western settler states, in particular Australia and Canada. In both countries, commissions were established to investigate the forcible transfer of Indigenous children and had some degree of latitude in the application of the Convention, and subtly reinterpreted the definition of genocide to suit a domestic context. These countries have set precedents for recognizing genocide, and have laid the basis for similar recognition to take place in Aotearoa.

Australia

Genocide in violation of Article 2(e) of the Genocide Convention was the focus of the 1997 Australian Human Rights Commission’s report, *Bringing Them Home*. The Australian Human Rights Commission focused on the history and legal significance of Aboriginal and Torres Strait Islander child removals. Processes of removal initially began with mixed or “half-caste” children, after which, in 1940, moved to all Indigenous children. These children were removed to either white settler families or boarding schools via processes which were coordinated through a range of state and federal legislation.¹¹ Additionally, marriage between “full-bloods” and “half-castes” was prohibited in favor of “half-caste” / white marriages as a means

⁷ Raphaël Lemkin, “Manuscript on Genocide,” February 2, 1951, Raphael Lemkin Collection, American Jewish Archives, The Jacob Rader Marcus Center of the American Jewish Archives, Box 7, Folder 3, n.p.

⁸ Kurt Mundorff, “Other People’s Children: A Textual and Contextual Interpretation of the Genocide Convention, Article 2(e),” *Harvard International Law Journal* 50, no. 1 (2009), 70.

⁹ For a detailed discussion on this, see David B. MacDonald, *The Sleeping Giant Awakens: Genocide, Indian Residential Schools, and the Challenge of Conciliation* (Toronto: University of Toronto Press, 2019), 49–57.

¹⁰ *Ibid.*, 52–57.

¹¹ Elisa Novic, *The Concept of Cultural Genocide: An International Law Perspective* (Oxford: Oxford University Press, 2016), 40.

of “breeding out the color.”¹² Between 20,000–25,000 children were separated from their parents from 1910 to 1970.¹³

The Inquiry made a case for genocide on the basis that the child removals were designed to assimilate Indigenous children into settler society, thus causing Indigenous communities and “unique cultural values and ethnic identities” to disappear. The authors argued: “The objective was ‘the disintegration of the political and social institutions of culture, language, national feelings, religion, and the economical existence of’ Indigenous peoples ... Removal of children with this objective in mind is genocidal because it aims to destroy the ‘cultural unit’ which the Convention is concerned to preserve.”¹⁴ Genocide, however, was reinterpreted here in the sense that *dolus specialis* was not required to prove that genocide had taken place.¹⁵ Rather than clearly stated intentions on the part of the perpetrators, genocide could be inferred through practices and outcomes. The Inquiry noted: “The continuation into the 1970s and 1980s of the practice of preferring non-Indigenous foster and adoptive families for Indigenous children was also arguably genocidal. The genocidal impact of these practices was reasonably foreseeable.”¹⁶ Their understanding of genocide rested on general intent, which was “sufficient to establish the Convention’s intent element.”¹⁷ This was a seminal contribution in the sense that the Commission both applied international law but also slightly reinterpreted it when focusing on domestic crimes in an Australian settler colonial context. *Bringing Them Home* was supported by many Aboriginal and Torres Strait Islander peoples as well as many academics. However, it was hardly universally welcomed nor accepted, with many settlers refusing to accept that genocide took place on Australian soil.¹⁸

Canada

In Canada, a Truth and Reconciliation Commission (TRC, 2009–2015), focused on the Indian Residential Schools (IRS), was a system created as a partnership between the federal government and the four largest Christian churches. The formal IRS system began in 1883 with the establishment of three “industrial schools,” built by the federal government and run by the Catholic and Anglican churches.¹⁹ Overall, approximately 150,000 Indigenous children attended a network of 139 Indian Residential Schools (as recognized under the 2006 Settlement Agreement). The system was but one aspect of a much larger settler colonial project, which made use of coercive instruments, including starvation, forced removal, and the concentration of Indigenous peoples onto small and isolated reserves, often away from the fertile lands that the government opened to European settlement.²⁰

The 2015 *Summary Final Report* outlined how cultural genocide was central to federal government activities, which of course is not in the UN Genocide Convention. The focus was to “eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal,

¹² Paul Bartrop, “The Holocaust, the Aborigines, and the Bureaucracy of Destruction: An Australian Dimension of Genocide,” *Journal of Genocide Research* 3, no. 1 (2001), 75–87.

¹³ *Ibid.*, 77.

¹⁴ Australian Human Rights Commission (AHRC), *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Sydney: AHRC, 1997), 237.

¹⁵ *Ibid.*, 237–238.

¹⁶ *Ibid.*, 238.

¹⁷ *Ibid.*

¹⁸ Dirk A. Moses, *Genocide and Settler Society: Frontier Violence and Stolen Indigenous Children in Australian History* (New York: Berghahn Books, 2004), 18.

¹⁹ Truth and Reconciliation Commission of Canada (TRC), *Honoring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (Toronto: Lorimer, 2015), 83.

²⁰ James Daschuk, *Clearing the Plains: Disease, Politics of Starvation, and the Loss of Aboriginal Life* (Regina: University of Regina Press, 2013), 183.

social, cultural, religious, and racial entities in Canada.”²¹ The TRC was not an official commission of inquiry and was proscribed under its mandate from making a finding of genocide. Nevertheless, TRC Chair Murray Sinclair made frequent and public conclusions that the UN Convention was violated, noting in 2017: “I had written a section for the report in which I very clearly called it genocide and then I submitted that to the legal team and I said, ‘Can I say this, or, can we say this?’ And the answer came back unanimously, ‘No, we can’t as per our mandate, because we can’t make a finding of culpability, and that’s very clear.’ So, we did the next best thing.”²² Here, but for the nature of the mandate, the TRC would have concluded that Article 2(e) of the UN Genocide Convention was violated.

Less constrained, the National Inquiry into Missing and Murdered Indigenous Women and Girls (2017–2019) drew a very clear conclusion that the UN Genocide Convention had been violated,²³ deploying the term widely to encompass the history of colonization and its ongoing practices and processes, including contemporary problems of “increased rates of violence, death, and suicide in Indigenous populations.”²⁴ As in Australia, *dolus specialis* was not a focus of this Inquiry and they referenced the “Crimes Against Humanity and War Crimes Act” (2000), which sets aside specific intent in favor of seeing genocide as “an act or omission committed with intent to destroy.”²⁵ The Inquiry, as Umut Özsu describes, promoted a “living interpretation” of genocide, “consistent with the evolution of customary international law,” where the *mens rea* of the crime is thus recontextualized to go beyond the smoking gun to “a clear and identifiable pattern of behavior, quite possibly consisting of omissions as well as acts, that culminates in the final instance in a genocide whose possibility has been contemplated in advance.”²⁶

Following widespread media coverage of hundreds of unmarked graves and burial sites of Indigenous children in 2021, discussion of genocide increased in Canada. The federal House of Commons, in October 2022, unanimously passed a non-binding motion recognizing that “what happened in Canada’s Indian residential schools was genocide, as acknowledged by Pope Francis and in accordance with article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.”²⁷ Signally, there was no discussion by Parliament of the need to prove *dolus specialis* for recognition to take place. In 2022, an Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools was created in Canada, with a two-year mandate to locate the graves of all missing Indigenous children from this era. Genocide is invoked frequently by the Office in its official gatherings and publications.²⁸

In both Australia and Canada, commissions have highlighted examples of genocide against Indigenous peoples. While using the UN Genocide Convention as the basis of analysis, they have moved away from proving a *dolus specialis* to focusing on process and structure-based

²¹ TRC, *Honoring the Truth*, 1.

²² MacDonald, *The Sleeping Giant Awakens*, 106.

²³ National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG), *Reclaiming Power and Place: The Final Report of the National Enquiry into Missing and Murdered Indigenous Women and Girls, Vol. 1a* (Canada: MMIWG, 2019), 52–53, accessed June 29, 2023, <https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final-Report-Vol-1a-1.pdf>.

²⁴ National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG), *A Legal Analysis of Genocide: Supplementary Report of the National Enquiry into Missing and Murdered Indigenous Women and Girls* (Canada: MMIWG, 2019), 1, accessed June 29, 2023, <https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Supplementary-Report-Genocide.pdf>.

²⁵ Umut Özsu, “Genocide as Fact and Form,” *Journal of Genocide Research* 22, no. 1 (2020), 67–68.

²⁶ *Ibid.*

²⁷ “NDP Motion to Recognize Residential Schools as an Act of Genocide Gets All Party Support” (press release, Ottawa, October 27, 2022), NDP, Leah Gazan MP, Winnipeg Center, accessed June 29, 2023, <https://www.leahgazan.ca/ndp-motion-to-recognize-residential-schools-as-an-act-of-genocide-gets-all-party-support>.

²⁸ Genocide is frequently discussed in the Special Interlocutor’s “Interim Report” (2022) and “Submission to the UN Expert Mechanism on the Rights of Indigenous Peoples” (2023). See the website of the Office of the Independent Special Interlocutor for downloads, <https://osi-bis.ca>.

forms of genocide. This reflects the prevailing view, as Elisa Novic observes, that settler state policies against Indigenous peoples were rarely spelled out clearly and were often disguised under a veneer of liberal paternalism. The disappearance of Indigenous peoples was often taken as inevitable.²⁹ Commissions in Canada, as Pauline Wakeham observes, have recognized the ways settler states have sought to destroy Indigenous ways of life, using persistent structures which “accumulate and compound” over time, and which facilitate settler state denial of “relations between cause and effect,” while at the same time naturalizing Indigenous “‘disappearance’ through racist narratives of inherent ‘Indigenous deficiency’.”³⁰ Commissions of inquiry can and have reinterpreted genocide domestically, drawing on local histories of colonization, including land theft, population displacement and removal, massacre, and discriminatory social policy. Definitions can focus on how Indigenous genocide was largely something seen as inevitable, with destruction not as the overt and explicit center of government policy, but accompanying the taking of land and the exercise of supremacy over Indigenous peoples.

History of Colonization in Aotearoa New Zealand

To what extent did genocide take place in Aotearoa New Zealand? Certainly, there was a revolutionary shift in the balance of power during the nineteenth century colonization of the country. Before the 1700s, there were over twenty *iwi* (analogous to nations/tribes/governance units) in Te Ika-a-Māui (North Island) and three or four in Te Waipounamu (South Island), each possessing their own territory, government, and self-sustaining economy. For Māori, primary forms of identity are based on *whānau* (family), *hapū* (community) and *iwi* (nations). As such, “Māori” would identify most prominently as *whānau*, members of a *hapū*, and traditionally, to a lesser extent, membership in an *iwi*.³¹

Initial contact between European explorers and Māori took place in the seventeenth and eighteenth centuries, followed soon after by slow British colonization, which accelerated in the nineteenth century. The 1840 *Te Tiriti o Waitangi* (The Treaty of Waitangi) was signed between the British crown, over 500 North Island Māori chiefs, and several South Island chiefs, formally making the North Island a British colony, while paving the way for the direct annexation of the South Island.³² A predominant Māori perspective is that sovereignty was never surrendered, and that *Te Tiriti* signatories only agreed “to share power and authority with Britain.” As such, *iwi* and *hapū* remain, in principle, self-determining governance entities.³³

There were differences in terminology between the *Te Reo* (*Te Tiriti*)³⁴ Māori and English translations, which were used to favor the British. Dominic O’Sullivan (*Te Rarawa, Ngāti Kahu*) explains that while Britain sought to “acquire sovereignty and therefore the power to make and enforce laws over both Māori and Pākehā ... it did not explain this intention to the rangatira (chiefs).” Rather, the *Te Reo* translation proposed a British “right to exercise authority over its own settlers,” translated to “*kāwanatanga* (governorship).” Māori signatories understood that “*Rangatiratanga*, or chieftainship over their own affairs, was to remain as the chiefs ‘full exclusive and undisturbed possession of their Lands and Estates, Forests, Fisheries and other

²⁹ Novic, *The Concept of Cultural Genocide*, 73.

³⁰ Pauline Wakeham, “The Slow Violence of Settler Colonialism: Genocide, Attrition, and the Long Emergency of Invasion,” *Journal of Genocide Research* 24, no. 3 (2022), 339–340.

³¹ Roger Maaka and Augie Fleras, *The Politics of Indigeneity: Challenging the State in Canada and Aotearoa New Zealand* (Dunedin: University of Otago Press, 2005); Margaret Mutu and Moana Jackson, *He Whakaaro Here Whakaumu Mo Aotearoa: The Report of Matike Mai Aotearoa* (Auckland: Independent Working Group on Constitutional Transformation, 2016).

³² Claudia Orange, *The Treaty of Waitangi* (Wellington: Allen & Unwin, 1987), 2.

³³ Māori Law Review, “Waitangi Tribunal Finds Treaty of Waitangi Signatories did not Cede Sovereignty in February 1840,” November 2014, accessed June 29, 2023, <https://maorilawreview.co.nz/2014/11/waitangi-tribunal-finds-treaty-of-waitangi-signatories-did-not-cede-sovereignty-in-february-1840/>.

³⁴ Throughout I used the *Te Reo* term in place of *Te Tiriti* to denote my support for this version of the treaty.

properties’.”³⁵ Māori would soon understand that *Te Tiriti* facilitated rather than limited colonization. Alan Ward explains: “British settlement was taken by the Crown as a given, and Māori were expected to make way for it. If they did not, the Treaty guarantees were watered down or set aside.”³⁶

The biggest threat to Māori interests was the theft of land, on which their self-sustaining economies and key aspects of their identity depended. The 1863 New Zealand Settlements Act, and the creation of the Native Land Courts in 1865, paved the way for the alienation of iwi and hapū from their lands. A succession of wars instigated by the British against iwi and hapū had devastating effects. By 1900, 95 percent of Māori land was stolen by the British colonial authorities, who asserted the right to rule over the entire country.³⁷ Much of the remainder would follow in the twentieth century, leaving Māori with but 4 percent of the North Island by 2010.³⁸

Genocide Discussions

Genocide scholarship in Aotearoa is beginning (when compared with many decades of focused attention on this topic in Australia, Canada, and the United States). Prominent Māori scholars, such as Margaret Mutu (*Ngāti Kahu*, *Te Rarawa* and *Ngāti Whātua*), Linda Tuhiwai Smith (*Ngāti Awa* and *Ngāti Porou*), and Leonie Pihama (*Te Ātiawa*, *Ngāti Māhanga* and *Ngā Māhanga ā Tairi*) see much of settler colonization as genocidal in method and impact. Mutu, for example, identifies the British colonization strategy as consisting of “genocide; land and other resource theft; usurpation of our authority, power, and sovereignty; marginalization; banning and denial of our language, institutions, and intellectual prowess; and social and cultural dislocation through the systematic ripping apart of our communities, urbanization, incarceration, and relocation offshore to Australia.”³⁹ In a more recent publication, Mutu adds to this timeline the deliberate introduction of diseases and the refusal of health services to Māori; creating illegitimate settler power structures in violation of the Treaty, arrogating power over Māori governance entities while simultaneously dissolving them.⁴⁰

Smith also references genocide in her celebrated *Decolonizing Methodologies*, describing a common four stage process of colonization which comprises “(1) contact and invasion, (2) genocide and destruction, (3) resistance and survival, [and] (4) recovery as Indigenous peoples.”⁴¹ Work by Pihama et al. has focused on comparing historical trauma in Aotearoa to that existing in other settler colonial contexts. They write: “In order to utilize the framework of historical trauma theory within New Zealand there is a need to firstly understand that notions of genocide and ethnocide are valid in articulating analysis.”⁴² They conclude: “Such definitions locate acts of colonial invasion and intentional acts that sought to annihilate or destroy Indigenous peoples as acts of genocide.”⁴³ Their focus has been on the very high rates of intergenerational trauma within Indigenous communities.

³⁵ Dominic O’Sullivan, *“We Are All Here to Stay”: Citizenship, Sovereignty and the UN Declaration on the Rights of Indigenous Peoples* (Canberra: ANU Press, 2020), 159.

³⁶ Alan Ward, *An Unsettled History: Treaty Claims in New Zealand Today* (Auckland: Bridget Williams Books, 1999), 167.

³⁷ Margaret Mutu, “The Treaty Claims Settlement Process in New Zealand and its Impact on Māori,” *Land* 8, no. 10 (2019), 3, accessed July 3, 2023, <https://doi.org/10.3390/land8100152>; Ranginui Walker, “The Māori People: Their Political Development,” in *New Zealand Politics in Perspective*, ed. Hyam Gold (Auckland: Longman Paul, 1990).

³⁸ Vincent O’Malley et al. (eds.), *The Treaty of Waitangi Companion: Māori and Pākehā from Tasman to Today* (Auckland University Press, 2010), 263.

³⁹ Margaret Mutu, “Māori Issues,” *Contemporary Pacific* 27, no. 1 (2015), 274.

⁴⁰ Margaret Mutu, “Mana Māori Motuhake Māori Concepts and Practices of Sovereignty,” in *Routledge Handbook of Critical Indigenous Studies*, ed. Brendan Hokowhitu (Abingdon: Routledge, 2021), 275.

⁴¹ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London: Zed Books, 2021), 101.

⁴² Leonie Pihama et al., “Positioning Historical Trauma Theory within Aotearoa New Zealand,” *AlterNative* 10, no. 3 (2014), 257.

⁴³ *Ibid.*, 258.

While the term is often used briefly (and without detailed engagement with genocide scholarship or international law), specific instances of genocide and cultural genocide have been highlighted by the Waitangi Tribunal, a judicial body formed in 1975 to investigate breaches of *Te Tiriti*. The Tribunal is tasked with making non-binding recommendations to the Crown, which then, through the Office of Treaty Settlements, ultimately negotiates political settlements with hapū and/or iwi.⁴⁴ Each settlement brings with it a detailed historical accounting of what crimes were committed against iwi, hapū, and whānau. Very brief references to cultural genocide, genocide, and the Holocaust have been (sporadically) used to frame historical events, such as in the Orakei (1987) and Taranaki (1996) reports. However, in these two seminal examples, genocide is not defined, and the UN Genocide Convention is not referenced in the Tribunal's analysis.⁴⁵

The Decline and Rise of Māori Numbers and Māori in “Care”

Given the general lack of genocide discussion in Aotearoa, which makes it an outlier when compared with Canada, Australia, and the United States, how might one investigate whether genocide took place? One method is to focus on the overall impact of British colonization on whānau, hapū, and iwi (the topic of some Māori academic studies: for example, by Mutu, Smith, Pihama), while also highlighting specific massacres, displacements, and other colonial atrocities (referenced in some Waitangi Tribunal reports). Another complementary understanding of genocide is through the forcible transfer of children (Article 2(e)). I argue here that the state sought to reduce the number of Māori children *as Māori*, in part to deprive governance units (hapū and iwi) of sufficient people (and especially leaders) who could exercise their rights under *Te Tiriti*. Fewer tamariki and rangatahi meant less opposition to state plans to exercise supremacy over the territory, resources, and peoples of the country. Those who retained Māori identity as adults would be integrated into settler society, with some cultural attributes remaining, but for most intents and purposes, as a “British brown proletariat” or as “brown Pākehā.”⁴⁶

During the nineteenth century, it appeared for several decades to Pākehā observers that Māori would inevitably disappear. The precise number of Māori before 1840 is unclear, but the population went into decline sometime before 1850; it was about 60,000 by 1860, and then dropped to 40,000 in 1896.⁴⁷ Conversely, Pākehā numbers grew, from being roughly comparable with Māori in 1858, to rapidly accelerating due to higher birthrates and immigration through the 1870s and after. By 1901, Pākehā outnumbered Māori by a ratio of 16.5:1. For Māori, pathogens, warfare, natural disasters, loss of lands to grow good food as a result of land alienation, and other problems, led to decline.⁴⁸ During this period, a number of Pākehā academic and political figures hypothesized the seemingly inevitable “passing of the Māori” (for example, missionary John Wohlers’ 1881 prophesy that “[a]s a race they had outlived their time”).⁴⁹

Assessing the number of Māori was inherently political, and Pākehā demographers initially measured the population according to biological fractions (from full to “half-caste”).⁵⁰ Māori who were deemed to be living as Europeans were also folded into the European side of

⁴⁴ Robert J. Miller et al., *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies* (Oxford: Oxford University Press, 2010), 228. See, in particular, chapter 9 of the book.

⁴⁵ Waitangi Tribunal, *The Taranaki Report: Kaupapa Tuatahi WAI 143* (Wellington: Ministry of Justice Aotearoa New Zealand, 1996), accessed July 3, 2023, https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68453721/Taranaki%201996.compressed.pdf.

⁴⁶ Ranginui Walker, “Reclaiming Māori Education,” in *Decolonization in Aotearoa*, ed. Jessica Hutchings and Jenny Lee-Morgan, (NZCER Press: 2016), 23, 32.

⁴⁷ Len Cook, “A Statistical Window for the Justice System: Putting a Spotlight on the Scale of State Custody across Generations of Māori,” Working Paper 20/02 (Institute for Governance and Policy Studies, Victoria University of Wellington, January 2021), 7–8.

⁴⁸ Ian Pool, *Te Iwi Māori: A New Zealand Population, Past, Present and Projected* (Auckland University Press, 1991), 61–63.

⁴⁹ *Ibid.*, 17–18.

⁵⁰ Cook, *A Statistical Window*.

the census. Māori forms of identity, ties to ancestors and lands were ignored. Donna Cormack and Tahu Kukutai put it that: “The power to define the boundaries of Māori identity was firmly under settler control and pursued largely for the benefit of the nation-state.”⁵¹ A focus of government policy was to reduce the official number of Māori as a means to legitimate and facilitate the taking of Māori lands.

The 1953 Māori Affairs Act defined Māori as “a person belonging to the aboriginal race of New Zealand; and includes a half-caste and a person intermediate in blood between half-castes and persons of pure descent from that race.”⁵² The “half or more” equation was softened in a 1961 Act to include “any descendant of a Māori.”⁵³ It was only in 1986 that racial descent in the New Zealand census was replaced with a question on ethnic origins. By 1991, Māori could self-identify by cultural affiliation and ancestry. Until this time, whānau, hapū, and iwi had no political power to recognize those below “half-caste” as Māori, as understood by their *whakapapa* (or genealogy), their membership in Māori family, community, and larger units, or their knowledge of language and culture.⁵⁴ This had a measurable impact on the state’s ability to reduce the number of people counted as Māori, thus reducing the number of those who could claim rights under *Te Tiriti*.

Consonant with a slow expansion of who could be classified as Māori for census purposes was also a dynamic demographic increase as the twentieth century progressed.⁵⁵ Māori populations (defined as “half-caste” or greater) grew in the twentieth century, tripling from about 46,000 in 1901 to almost 135,000 in 1951.⁵⁶ Recalling a century of data, statistician Len Cook notes: “Over a period of 100 years, the distinct fertility, mortality and migration dynamics of Māori have underpinned one of the most powerful demographic engines in New Zealand.”⁵⁷ This reached a high-water mark in 1966, when “the share of the Māori population aged 14 and under exceeded 50 percent. At that time, for every Māori person aged 65 and over, there were 25 children aged under 15 years.”⁵⁸

While it might seem counterintuitive to discuss genocide during periods of population growth, it was arguably this growth that precipitated a Pākehā view that Māori, rather than inevitably declining, now constituted a threat to the stability and dominance of Pākehā society. Cormack and Kukutai trace a surveillance culture in Aotearoa, where Māori were constructed as both different and deviant, with deviance equaling danger. Danger took a range of forms, including “biological threat from diseased or unsanitary bodies,” a “moral threat,” at other times a “physical threat” to Pākehā “property and life,” and even when Māori were productive on their lands, which was perceived as a threat to trade and economic ambitions.⁵⁹

Ultimately, the Māori share of the urban population began to grow. Māori were 9 percent urban in 1926, 35 percent by 1956, and 62 percent by 1966. While there was a pull for work and other opportunities, the loss of tribal land on which to make a living was a central push factor.⁶⁰ The increase in population reflected higher Māori birthrates and better healthcare. Before the 1930s, Māori were primarily rural, and Pākehā urban. Vincent O’Malley et al. trace an informal but nevertheless very real “color bar” against Māori in “shops, hotels, cinemas, and

⁵¹ Donna Cormack and Tahu Kukutai, “Indigenous Peoples, Data, and the Coloniality of Surveillance,” in *New Perspectives in Critical Data Studies*, ed. Andreas Hepp et al. (Cham: Palgrave Macmillan, 2022), 124–125.

⁵² *Māori Affairs Act 1953*, no. 94, (1953, New Zealand Government), 1078.

⁵³ Pool, *Te Iwi Māori*, 17–18.

⁵⁴ Awanui Te Huia, “Perspectives Towards Māori Identity by Māori Heritage Language Learners,” *New Zealand Journal of Psychology* 44, no. 3 (November 2015), 18–19.

⁵⁵ Len Cook, “Examining the Overrepresentation of Māori in Prisons: 1910 to 2020,” Working Paper 21/18, (Institute for Governance and Policy Studies, Victoria University of Wellington, December 2021), 5.

⁵⁶ Bradford Haami, *Urban Māori: The Second Great Migration* (Auckland: Oratia, 2018), 18–19.

⁵⁷ Cook, *Examining the Overrepresentation*, 7.

⁵⁸ Cook, *A Statistical Window*, 9.

⁵⁹ Cormack and Kukutai, *Coloniality of Surveillance*, 125–126.

⁶⁰ Haami, *Urban Māori*, 18–19.

hairdressers” that remained until the 1970s. This predated and continued during the urbanization phase resulting in widespread “racism in housing, employment, and at schools,” which was compounded by a lack of “the whānau support networks that had previously sustained them.”⁶¹

The Forcible Transfer of Māori Children

Within this expanding demographic context, the state transfer of Indigenous children accelerated. Māori, particularly children, were objectified as a problem by and to the Pākehā state, and public policies were implemented to reduce the social impact of their growing population, while the state turned a blind eye to mistreatment. A range of different views emerged during this period. The best solution for Māori was seen to be their assimilation and intermarriage into the Pākehā mainstream, a process which would be accompanied by the withering of Māori governance institutions. As Cook notes: “The characterization of Māori as a dying race underpinned public policy, certainly until the 1970s. It would have fueled the long history of indifference by the majority in New Zealand to the racism, discrimination, and prejudice that Māori have endured.”⁶² He also quotes Anglican Bishop of Aotearoa Manuhua Bennett (*Ngāti Whakaue*, *Ngāti Pikiao*, and *Ngāti Rangitīhi*), who noted in 1986: “[M]ost of the neglect of things Māori by those who developed the basis for our modern-day New Zealand system ... was based on the earlier belief that the Māori would ultimately disappear as an entity.”⁶³

Traditionally, and into the present, tamariki and rangatahi were raised collectively by whānau, surrounded by their relatives and community. As well, Māori families continue to practice “informal” forms of adoption known as *whāngai*, designed to keep children within family groupings, their identity intact, while retaining lands, language, and socio-political nationhood. The child’s extended family raises the child. This often involves grandparents or other close family members. Whāngai is customary or informal in the sense that the birth parents remain the child’s legal guardians.⁶⁴

Those raising the child are known as *matua whāngai*, the child as a *tamaiti whāngai*. Whāngai practices have numerous benefits, including supporting very young parents, orphans, children from large families who are struggling, grandparents who want to impart tribal traditions, and for those who want to facilitate clear lines of succession for land inheritance.⁶⁵ Those unable to conceive could also raise children with the consent of the families involved. An early study from 1948 was clear that “such adoptions are made to ensure the retention in the family group of such children, thus to preserve their tribal identity; and therefore the succession to land and tribal rights.”⁶⁶ Karyn McRae and Linda Nikora note that whāngai as an institution, “while being cognizant of the interests of the child, is weighted more towards establishing, nurturing and cementing relationships between individuals, families and broader relational networks.”⁶⁷

Central government legislation was instrumental in dismantling whāngai and introducing Eurocentric policies which directly impacted on child removal. Whāngai continued, and still does, below the radar of public policy. Section 161(1) of the 1909 Native Land Act was clear that: “No Native shall, after the commencement of this Act, be capable of adopting a child in accordance with Native custom whether the adoption is registered in the Native Land Court

⁶¹ O’Malley et al., *The Treaty of Waitangi Companion*, 266.

⁶² Cook, *A Statistical Window*, 7.

⁶³ Ibid.

⁶⁴ “Whāngai,” *New Zealand Government* (webpage), last updated April 2, 2020, accessed July 3, 2023, <https://www.govt.nz/browse/family-and-whanau/adoption-and-fostering/whangai/>.

⁶⁵ Basil Keane, “Story: Whāngai—Customary Fostering and Adoption,” *Te Ara: the Encyclopedia of New Zealand*, May 5, 2011, accessed April 29, 2022, <http://www.TeAra.govt.nz/en/whangai-customary-fostering-and-adoption>.

⁶⁶ Geo Graham, “Whangai Tamariki,” *Journal of the Polynesian Society* 57, no. 3 (1948), 268–278.

⁶⁷ Karyn Okeroa McRae and Linda Waimarie Nikora, “Whāngai: Remembering, Understanding and Experiencing,” *MAI Review* 1 (2006).

or not.”⁶⁸ The 1925 Child Welfare Act led to the creation of the Child Welfare Division, housed within the Department of Education. This increased the state’s influence over Māori forms of child raising, and state surveillance increased during the 1930s.⁶⁹

By the 1940s, there was an acceleration of state interference in Māori families and communities. Child welfare officers became particularly attentive to “Māori juvenile delinquency as a problem,” with “sexual delinquency” problematized as a salient issue among young Māori women. Fears of delinquency and the official policies were highly racialized. Bronwyn Dalley notes: “A perception of growing Māori juvenile delinquency was one consequence of the expansion of the network of child welfare and voluntary officers into the rural and outlying areas where most Māori resided.”⁷⁰

A key focus of the state during the 1950s was assimilating rural Māori into urban Pākehā society. This often involved the dispersal of Māori populations so that they would constitute numerical minorities, (and avoiding collective living or “ghettoization”), what became known as “pepper potting.” The result in many cases was isolation and deculturation, loss of language and collective identities, and the breakdown of traditional forms of family and community.⁷¹ Based on close reading of civil service records, Richard Hill notes that “Pākehā believed almost all Māori customs and behavioral characteristics should be phased out, not just those deemed to be ‘primitive’. Māori progress depended, in both the popular and official view, on mixing closely with Pākehā and learning their ways.”⁷²

The undermining of Māori cultural and governance structures and networks, the taking of lands, led to poverty and poor health outcomes, which justified in the eyes of the state the taking of large numbers of Māori tamariki into care. Racism, poverty, poor prospects for employment, and the breakdown of traditional family and social units all contributed to problems. Māori children were most likely to be targeted by police harassment and discrimination, most likely to be taken to Children’s Courts, more likely to be given harsher sentences, and most likely to be taken from their families and placed in foster homes or for adoption out of their communities, or institutionalized in borstals (workhouses), youth justice facilities, and hospitals and psychiatric facilities. In these state institutions, Māori children were more likely to be severely punished, held for longer periods of time, and subjected to torture and other abuse (including electrical shocks and prolonged periods of isolation).⁷³

Kim Workman (*Ngāti Kahungunu* and *Rangitaane*) documents a consistent process of police targeting Māori youth, who were more likely to be coerced into confessing crimes they did not do, were more likely to lack legal representation in court by counsel, and were more likely to be charged with marginal offences. Rates of Māori convictions for crimes increased by 50 percent between 1954 and 1958, which Workman attributes primarily to discrimination.⁷⁴ Māori journalist and survivor Aaron Smale recalls: “Starting in the 1950s and escalating in the 60s thousands of these Māori kids were scooped up by social workers who deemed them to be

⁶⁸ *Native Land Act 1909* (9 EDW VIII 1909 No. 15), (New Zealand Government), 198, accessed June 29, 2023, http://www.nzlii.org/nz/legis/hist_act/nla19099ev1909n15206/.

⁶⁹ Hector Kaiwai et al., *Ko Te Wā Whakawhiti, It’s Time for Change: A Māori Inquiry into Oranga Tamariki—Report* (Whānau Ora Commissioning Agency, February 2020), 25.

⁷⁰ Bronwyn Dalley, *Family Matters: Child Welfare in Twentieth-Century New Zealand* (Auckland: Auckland University Press, 1998), 119–120.

⁷¹ Gael Ferguson, *Background Report for the Wai 60 Claim* (Waitangi Tribunal, May 1995), 49–54, accessed June 29, 2023, https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_94029549/Wai%2060%2C%20A002.pdf.

⁷² Richard Hill, “Māori Urban Migration and the Assertion of Indigeneity in Aotearoa/New Zealand, 1945–1975,” *Interventions* 14, no. 2 (2012), 264.

⁷³ RCIAC, “He Purapura Ora, he Māra Tipu: From Redress to Pūretumu Torowhānui” (Wellington: RCIAC, December 2021), 29–35, accessed July 3, 2023, <https://www.abuseincare.org.nz/our-progress/reports/from-redress-to-puretum/>.

⁷⁴ Kim Workman, *Journey Towards Justice* (Wellington: Bridget Williams Books, 2018), 49.

‘not under proper control.’” Institutions like *Kohitere*, *Epuni*, and *Owairaka* were overtly carceral, with little emphasis on academic education.⁷⁵

Forcible Transfer Through Closed Adoption

In 1955, a new Adoption Act laid the basis for a “closed stranger” adoption process. Article 19 prohibited legal recognition of any adoption “in accordance with Māori custom ... whether in respect of intestate succession to Māori land or otherwise.”⁷⁶ Article 16 ensured that adoption was permanent and that transfer from Māori parents to what were most often Pākehā parents was permanent and irreversible. Article 16(2) was clear that “the adopted child shall be deemed to become the child of the adoptive parent, and the adoptive parent shall be deemed to become the parent of the child, as if the child had been born to that parent in lawful wedlock.” Further, to provide additional clarity, “the adopted child shall be deemed to cease to be the child of his existing parents ... and the existing parents of the adopted child shall be deemed to cease to be his parents.”⁷⁷ As Annabel Ahuriri-Driscoll (*Ngāti Porou*, *Rangitāne*, *Ngāti Kahungunu*, *Ngāti Kauwhata*) has noted of the severity of the legislation: “Birth relationships were legally erased and new relationships were created in their place ... giving rise to silence, pretence and denial.” She later references the term “legalized cultural genocide” to describe this process of removing Māori children.⁷⁸

The increase in urbanization meant that many more children were adopted outside of hapū and iwi-based kin networks. Maria Haenga-Collins gives a total figure of 45,000 closed stranger adoptions between 1955 and 1985, noting that “a significant proportion ... involved children who could claim Māori ancestry through at least one of their birth parents.” Most of these children were placed into Pākehā homes or institutions.⁷⁹ Using blood quantum definitions allowed the state to disregard the whakapapa (Māori lineages) of many children. Further, the removed child’s hapū and iwi were not recorded severing their official link with their home communities.⁸⁰

An independent report commissioned by the Crown Response to the Abuse in Care Inquiry (2021) provides further detail on the process. As they put it, removal and/or closed adoption, deliberately undermined “the responsibilities and rights of whānau, hapū and iwi with respect to their children ... resulting in the ‘near-destruction of the Māori social fabric’.”⁸¹ Additionally, the state discouraged Māori from adopting children, through the belief that Māori were inferior parents to Pākehā. Many Māori applicants “were often unable to afford court costs and/or legal representation.”⁸² Grandparents who sought to adopt their *mokopuna* (grandchildren) were generally refused on the basis that that were too old or had insufficient financial means.⁸³

⁷⁵ Aaron Smale, “Aaron Smale: The Māori Problem,” *Newsroom*, June 19, 2019, accessed June 29, 2023, https://www.newsroom.co.nz/2019/06/19/641770/aaron-smale-the-maori-problem?fbclid=IwAR1W4VRJAuXBldPYnf3S33r977jUa0FkHM8oFd_eTT18tIXS2COPwx5ur1E#.

⁷⁶ Adoption Act 1955 (Law No. 93), (Aotearoa New Zealand), accessed July 3, 2023, http://www.nzlii.org/nz/legis/hist_act/aa19551955n93134/.

⁷⁷ Ibid.

⁷⁸ Annabel Ahuriri-Driscoll, “Ka Tū te Whare, Ka Ora: ‘The Constructed and Constructive Identities of the Māori Adoptee: Identity Construction in the Context of Māori Adoptees’ Lived Experiences” (PhD diss., University of Canterbury, 2020), 11, 25, <https://ir.canterbury.ac.nz/handle/10092/101208>.

⁷⁹ Maria Haenga-Collins, “Creating Fictitious Family Memories: The Closed Stranger Adoption of Māori Children into White Families,” *Journal of New Zealand Studies* 29 (2019), 37–47.

⁸⁰ Ibid., 13–14.

⁸¹ Catherine Savage et al., *Hāhā-uri, Hāhā-tea: Māori Involvement in State Care 1950–1999* (Christchurch: Ihi Research, 2021), 213.

⁸² Ibid., 14.

⁸³ Haenga-Collins, *Creating Fictitious Family Memories*, 38.

In practice, Māori were more likely to be put into institutional care rather than adopted in stable family environments.⁸⁴ Moana Jackson (*Ngāti Kahungunu and Ngāti Porou*) provided detailed testimony to the NZ Commission (RCIAC) about the key links between iwi and hapū identity, and intergenerational transmission of identity, culture, and ties to the land. As he put it in 2019: “the taking of Māori children has been a cost that has been both intensely personal and inherently political.”⁸⁵ Jackson’s seminal framing of the political harms of child removal is valuable:

The rites of birth associated with naming and blessing the child were not just a cultural celebration but a legal affirmation of the rights or entitlements that would vest in the child as he or she grew into adulthood. They established the child’s turangawaewae and the interests in title or land that went with his or her whakapapa. At the same time, they were a public declaration of the collective’s obligation to care for and protect the child.⁸⁶

This theme is not uncommon. During the NZ Commission’s Māori hearing in March 2022, Ms AF (a pseudonym) recalled how closed adoption had obvious legal consequences:

The moment my adoption happened was the minute I lost my legal Treaty rights as a Māori. This is the one thing that broke my heart. Under the law, I have no rights succeed to my mother’s Māori land interests because I was legally adopted out of the whānau. Technically under Te Ture whenua Māori Act and the Adoption Act 1955 I do not belong as an Indigenous person in this country and that’s what I find the hardest.⁸⁷

Is this a violation of Article 2(e)? We can see state legislation and government practices targeting Māori governance institutions, taking lands, impoverishing Māori, and using the diminished capacity of whānau as a pretext to remove tamariki from their communities. Pihama (*Te Ātiawa, Ngāti Māhanga, Ngā Māhanga ā Tairi*) has seen forced removal of Māori children as genocide, in violation of Article 2(e) of the Genocide Convention.⁸⁸ Similarly, Haenga-Collins references genocide in her PhD thesis (2017), which compares Indigenous experiences of removal in Canada, Australia, and Aotearoa. She presents a range of possibilities for interpreting settler state policy, “which at its best was brought about by well-intentioned, if not misguided, ideals of ‘saving’ children from their Indigenous communities, while at its worst, was genocidal in its motivation.”⁸⁹

Cook notes the massive number of Māori children being taken into care during the 1950s, 60s, and 70s, which he compares to other settler states. As with the earlier forced removal of babies from unmarried teenage mothers, both Canada and Australia had parallel experiences,

⁸⁴ Savage et al., *Hāhā-uri, Hāhā-tea*, 194.

⁸⁵ Moana Jackson, “Statement of Moana Jackson,” RCIAC Contextual Hearing October 29–November 8, 2019, para. 48, accessed July 3, 2023, <https://www.abuseincare.org.nz/our-progress/library/v/82/statement-of-moana-jackson>.

⁸⁶ *Ibid.*, para. 62.

⁸⁷ Ms AF, “Witness Statement of ‘Ms AF’ for the Maori Public Hearing, RCIAC, August 13, 2021, para. 14.9, accessed July 3, 2023, <https://www.abuseincare.org.nz/our-progress/library/v/394/witness-statement-of-ms-af-at-the-maori-public-hearing>.

⁸⁸ Leonie Pihama, “Colonization & Systemic Violence in Aotearoa,” University of Otago, 2018, accessed June 29, 2023, <https://www.otago.ac.nz/news/events/otago689674.html>.

⁸⁹ Haenga-Collins, *Creating Fictitious Family Memories*, 17.

in their case, with an intense focus on placing indigenous children with European parents. In Canada, this is referred to as the “Sixties Scoop,” and in Australia “the Stolen Generation.”⁹⁰

During the 1970s, organizations like *Ngā Tamatoa* (The Warriors) and the Polynesian Panthers sought to end the disproportionate targeting of Māori and Pacific children. They were joined by other groups like ACORD (Auckland Committee on Racism and Discrimination), which documented widespread and systemic discrimination in the social welfare, police, and judicial systems. Between 1964 and 1974, of the 3,500 children sent to prisons and detention centers (some as young as 8 years old), approximately 50 percent were Māori or Pacific. Māori were also disproportionately held in custody by police and sent to adult prisons when awaiting trial.⁹¹ There is a well-documented pipeline between care institutions, gangs, and the penal system. Gangs often became the new form of collective identity for some Māori survivors who had been subject to systemic racism and abuse.⁹² The Royal Commission, to which I now turn, offers an opportunity for further discussions on genocide in the context of Aotearoa, although it has largely been an opportunity missed.

Origins of the Royal Commission on Abuse in Care

Activists and academics have been documenting severe problems of abuse in care and the targeting of Māori and Pacific children since the 1970s. Physical and sexual abuse were highlighted in a 1988 report by a Ministerial Advisory Committee “on a Māori Perspective for the Department of Social Welfare.” The report highlighted systemic abuse and institutional racism within the Department of Social Welfare, as well as NZ society as whole. They identified problems of “a profound misunderstanding or ignorance of the place of the child in Māori society and its relationship with whanau, hapū, iwi structures.” Thirteen recommendations followed, all of which were ignored, and the problems of Māori child removal continued.⁹³

From 2008–2015, the Department of Internal Affairs established a Confidential Listening and Assistance Service, an independent agency focused on assisting those who were abused in state care prior to 1992. Of the 1,103 people who came forward, a large proportion (411) were Māori.⁹⁴ The Service concluded in their 2015 final report: “It was a common theme that Māori children were often placed with Pākehā foster families.” The upshot was that “some Māori children were denied their heritage and whanau connections. Iwi, hapū and whanau ties were overridden without thought or recognition.”⁹⁵

The incoming Labour government, in late 2017, in response to growing demands for justice, including a petition by survivors, agreed to set up a Royal Commission to investigate abuse in care. The Commission began operations in February 2018, and by February 2019, initial meetings began. Private sessions began in May, preliminary hearings in June, and procedural hearings later in the year. Further hearings were held throughout 2020, 2021, and 2022, although work was disrupted by COVID-19. A series of interim reports was released in December 2020,

⁹⁰ Cook, *A Statistical Window*, 34.

⁹¹ Oliver Sutherland, *Justice and Race: Campaigns Against Racism and Abuse in Aotearoa New Zealand* (Paraparaumu: Steele Roberts, 2020), 11, 21, 56, 73.

⁹² RCIAC, “Care to Custody: Incarceration Rates Research Report,” (Wellington: RCIAC, August 2022), accessed May 17, 2022, <https://www.abuseincare.org.nz/Survivors/people-in-prison/>.

⁹³ Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare, *Puao-te-ata-tu: The Report of the Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare* (Wellington: New Zealand Government, 1986), accessed July 3, 2023, <https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/archive/1988-puaoteatatu.pdf>. See recommendation on pages 26–54 of report.

⁹⁴ Department of Internal Affairs, *Final Report of The Confidential Listening and Assistance Service 2015* (Wellington: Confidential Listening and Assistance Service New Zealand, 2015), 9, 12, 18, 28, accessed June 29, 2023, [https://www.dia.govt.nz/diawebsite.nsf/Files/Confidential-Listening-and-Assistance/\\$file/Confidential-Listening-and-Assistance-Service-Final-Report-Some-Memories-Never-Fade.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Confidential-Listening-and-Assistance/$file/Confidential-Listening-and-Assistance-Service-Final-Report-Some-Memories-Never-Fade.pdf).

⁹⁵ Ibid.

with further reports and hearings in 2021 and 2022. The NZ Commission must, under its mandate, complete operations and make a final report to the government by early 2024.⁹⁶

Survivor is used to denote anyone who was abused in state or church care, irrespective of their Indigenous or other identities. By “in care,” the Commission includes, as examples, “in a children’s home; fostered or adopted out; in a youth justice placement; in psychiatric care; in any disability care or facility; at a health camp; at any school or special school; at any early childhood center; in police cells, court cells or police custody; in transport between different care facilities; in a church or with a religious group (can be any religion or faith).”⁹⁷

There are many Māori aspects to the NZ Commission, which could translate into a strong representation of Māori views and experiences. One commissioner is Māori, Andrew Erueti (*Ngā Ruahinerangi* and *Ngāti Ruanui* and *Te Āti Haunui-a-Pāpārangi*), as well as a large proportion of the legal, research, and administrative staff. Julia Steenson (*Ngāti Whātua* and *Waikato*) also served as a commissioner before her resignation in 2022. The Commission’s work is centered on eight *pou* (or pillars), one of which prioritizes *Te Tiriti* and consequently highlight collective harms “not only [to] individuals but also the tino rangatiratanga [sovereignty] of the whanau, hapū, and iwi to which they belong.”⁹⁸ Adding to the Commission’s work is a senior advisory group of Māori leaders, *Te Taumata*, established to provide strategic advice, especially as it relates to Treaty commitments and *tikanga* (appropriate practices and procedures).⁹⁹

Unlike truth gathering processes in Canada and Australia, the NZ Commission does not maintain an exclusive focus on Indigenous survivors. Māori survivors (known as *ngā mōrehu* in *Te Reo Māori*) share their survivor status with other groups (and survivors may be members of several groups at once).¹⁰⁰ In their 2021 report, the Commission noted many types of survivors: “Māori whanau, Pacific families, Deaf and disabled people, children from impoverished backgrounds, and women and girls.”¹⁰¹ The focus then is on many groups and a wide scope of negative attitudes which precipitated members of these groups being placed into “care.”¹⁰²

This wide scope has created a difficult balancing act for the Commission because they cannot focus only on Indigenous experiences. This can effectively dilute the Commission’s truth collection and support procedures for *ngā mōrehu*, and can in practice create problems for how *tikanga* is implemented. These issues were raised recently by a gathering of *ngā mōrehu* held at the University of Auckland in June 2021. The *Te Ara Takatū Report* on the gathering, prepared by the NZ Centre for Indigenous Peoples and the Law noted: “Large numbers of Māori survivors are disengaged from the Royal Commission process. They face institutional impediments in accessing their records. Many say the process lacks trauma-informed support and care, including from a Te Ao Māori perspective. Consequently, their experiences are humiliating and re-traumatizing.”¹⁰³

⁹⁶ “About the Royal Commission,” RCAIC (webpage, n.d.), accessed May 17, 2022, <https://www.abuseincare.org.nz/about-us/>.

⁹⁷ “Q&A,” RCAIC, accessed May 17, 2022, <https://www.abuseincare.org.nz/survivors/places-of-abuse/>. Web URL is unfortunately no longer accessible.

⁹⁸ RCAIC, *Tāwharautia: Pūrongo o te Wā Interim Report, Volume One* (Wellington: RCAIC, December 2020), 35, accessed July 3, 2023, <https://www.abuseincare.org.nz/our-progress/library/v/194/tawharautia-purongo-o-te-wa-interim-report>.

⁹⁹ *Ibid.*, 49.

¹⁰⁰ “What the Royal Commission is About,” RCAIC (webpage, n.d.), accessed May 17, 2022, accessed May 17, 2022, <https://www.abuseincare.org.nz/about-us/what-is-inquiry/>.

¹⁰¹ RCAIC, *Tāwharautia*, 14.

¹⁰² *Ibid.*, 32.

¹⁰³ Louis Coster et al., *Te Ara Takatū. Report from a Wānanga on a Tikanga Māori Based Approach to Redress for Māori Abused in State or Faith-Based Care* (Auckland University School of Law, July 2021), 7.

Genocide Discussion within the Work of the Commission

Institutions can create or hold space for people to articulate claims of genocide, as did commissions in Australia and Canada. In Canada, Commissioner Marie Wilson noted, during a 2017 interview, that the TRC's genocide focus was based on repeated discussion of the topic by survivors: "Very, very definitely I as a commissioner presided over hearings where Survivors who came forward to us talked about it and qualified their own experience as genocide. ... I think we actually heard that referenced in pretty well every region of the country."¹⁰⁴ A number of genocide scholars were employed as academic consultants to assist the TRC with its work. This focus has not been apparent in the NZ Commission's work to date.

Certainly, some discussions of genocide have come through the NZ process. In their submissions, Aaron Smale and Moana Jackson both raised comparisons with genocidal Indigenous child removal policies in Canada and Australia. Smale notes, however, that the legal trail is not so clear in NZ: "Although the separation of Māori children from their whānau wasn't an explicit policy as it was in Australia, a combination of policies led to the same results."¹⁰⁵ He adopts the term "quiet genocide" to describe forcible transfer that took place below the radar of public consciousness and highlights the "uncanny parallels with the institutionalization of Indigenous children in other English-speaking countries built on colonization." He concludes: "the results are the same."¹⁰⁶ Smale framed the Māori situation as genocidal in a three-part series in the NZ online news magazine *The Spinoff*. Here, Canadian, Australian, and NZ experiences were paralleled. The clear implication was that just as the other two cases were genocide, so too did NZ have a genocidal past with continued problems for Māori in the present.¹⁰⁷

In his submission, Jackson weighed a range of factors between Aotearoa, Australia, and Canada. While noting differences, he was also clear that "the intent, and indeed the underlying and purposeful ideologies of colonization have been the same."¹⁰⁸ He continued: "Colonising governments in this country never established residential schools but they shared the same assimilative intentions. They also assumed the same authority to take Māori children from their whānau. Their actions, as pertinent to this enquiry, may equally and properly be described as cultural genocide."¹⁰⁹

So, while colonization in Aotearoa was different, "it has not been 'better'." With a nod to the UN Genocide Convention, he argued: "Colonisation has always been genocidal, and the assumption of a power to take Māori children has been part of that destructive intent. The taking itself is an abuse."¹¹⁰

Despite these initial discussions of genocide, the many public hearings undertaken by the Commission since 2020 have featured very little discussion of genocide. Only two exceptions were found during the research for this article. The first was a brief comment during the concluding panel of the Māori hearing, when panelist and survivor Paora Moyle discussed both cultural genocide and genocide in relation to social workers and the removal of Māori children. She has been writing on this topic for some time, and her MA thesis discussed the

¹⁰⁴ MacDonald, *The Sleeping Giant Awakens*, 106.

¹⁰⁵ Aaron Smale, "Statement of Aaron Smale," (witness statement, October 7, 2019), RCAIC, 10, 12, accessed June 29, 2023, <https://www.abuseincare.org.nz/our-progress/library/v/60/statement-of-aaron-smale>.

¹⁰⁶ Aaron Smale, "A Quiet Genocide: The Legacy of Stolen Indigenous Children," *Al Jazeera*, October 7, 2015, accessed June 29, 2023, <https://interactive.aljazeera.com/aje/2017/quiet-genocide/index.html>.

¹⁰⁷ Aaron Smale, "Our Stolen Generation: A Shameful Legacy," *The Spinoff*, November 14, 2017, accessed June 29, 2023, <https://thespinoff.co.nz/atea/14-11-2017/our-stolen-generation-a-shameful-legacy>; Aaron Smale, "Our Stolen Generation: A Nonchalant Wickedness," *The Spinoff*, November 16, 2017, accessed June 29, 2023, <https://thespinoff.co.nz/atea/16-11-2017/a-nonchalant-wickedness>.

¹⁰⁸ Moana Jackson, "Transcript of Moana Jackson" (RCIAC, October 29, 2019), 228, accessed July 3, 2023, <https://www.abuseincare.org.nz/our-progress/library/v/82/statement-of-moana-jackson>.

¹⁰⁹ *Ibid.*, 232.

¹¹⁰ Jackson, *Statement of Moana Jackson*, para. 56.

cultural genocide of “whanau hapū and iwi resulting from assimilation policies imposed by the Crown between 1847 and 1960.”¹¹¹

The only other example was found in the New Zealand Human Rights Commission’s submission for the hearing on the Lake Alice psychiatric hospital child and adolescent unit. This 62-page document from May 2021 referenced the Canadian TRC’s finding of cultural genocide, then tacitly paralleled this to the “treatment of Māori children at Lake Alice,” which they concluded was “in grave breach of Te Tiriti o Waitangi as it had no regard for tino rangitiratanga, nor did it offer any protection to Māori children through the operation of effective kāwanatanga.”¹¹² The issue is raised in the written submission but was not discussed orally in testimony.

The Commissioners have said nothing publicly (nor to my knowledge privately) about genocide. Of the reports themselves, there is practically nothing on genocide either. The Commission produced a two-volume report in late 2021 entitled *He Purapura Ora, he Māra Tipu: From Redress to Pūretumu Torowhānui*. In the main 444-page Volume I, they do cite Jackson that “Colonization has always been genocidal” but without any follow up of whether the term has any specific meaning in this context.¹¹³

The other exception to this slight treatment of the topic is the 2021 *Hāhā-uri, Hāhā-tea* report commissioned by the Crown Response Unit to the Abuse in Care Inquiry. This is not an official NZ Commission report, although it is available on their website. The report makes two references to genocide. One is historical and somewhat vague, concluding: “Retrospective analysis of the timeline reminds us that the state committed war crimes and acts of genocide within living memory of kaumātua [Māori elders].”¹¹⁴ The other reference is specific and suggests a link between forcible transfer and the applicability of the Genocide Convention: “Tens of thousands of Māori children were either admitted to State Care or adopted into non-kin families between 1950 and 1999. This removal of children from their cultural communities in such number constitutes a significant loss of human capital, described by some as ‘legalized cultural genocide’.”¹¹⁵

Aside from these brief discussions, the *Te Ara Takatū Report* from Auckland University, while not engaging with the topic of genocide, did posit that Indigenous experiences in Aotearoa were a “mirror” to those in Canada and Australia. The removal timelines, as well as legislation, are compared across the three countries. Overseas participants in the conference included TRC Commissioner Wilton Littlechild and former TRC Director of Statement Gathering Ry Moran. The report seems to suggest that as in Canada, more evidence of genocide may emerge in NZ: “The scale and scope of the harm and atrocity that was uncovered during the time of the Canadian commission far surpassed the level of knowledge present at the time settlement was started. Once the stories are gathered, they must then be taken and shaped into what reconciliation means, what it looks like for us here.”¹¹⁶

Concluding Reflections

The NZ Commission appears to have little interest in addressing the genocidal implications of abuse in care and, unlike Canada, few survivors have been asking for this focus. Does forcible transfer here appear to be genocide? It is clear Māori were targeted in disproportionate

¹¹¹ Paora Moyle, “From Family Group Conferencing to Whānau Ora: Māori Social Workers Talk About Their Experiences” (MA thesis, Massey University, 2013), 95, accessed June 29, 2023, <https://mro.massey.ac.nz/handle/10179/296/browse?type=author&value=Moyle%2C+Paora>.

¹¹² J. Hancock, F. Everard, and J. Paenga, “Submission of Te Kahui Tika Tangata, Human Rights Commission on Investigation into Abuse in State Psychiatric Care” (Lake Alice Hearing, May 28, 2021, to June 14–25, 2021), 22. A copy of this document was provided to the author but not available online.

¹¹³ RCIAC, *He Purapura Ora*, 30.

¹¹⁴ Savage et al., *Hāhā-uri, Hāhā-tea*, 187.

¹¹⁵ *Ibid.*, 45.

¹¹⁶ Coster et al., *Te Ara Takatū Report*, 15.

numbers, and we have decades of information on the negative repercussions of removing tamariki and rangatahi from their communities. There are clear signs that the state set out to remove Māori children as a means of weakening and even destroying hapū and iwi and their ties to ancestral lands and governance institutions. Notable Māori academics (Mutu, Smith, Pihema, Jackson) reference make comparisons with other settler states where genocide via forcible transfer demonstrably occurred.

Making an academic case for the application of genocide may help support Māori self-determination. It may signal that where Māori are now in terms of economic and political power is a result of government intervention to reduce their power and agency, and as Ranginui Walker summarizes it: “[P]opulation decline, domination of chiefly mana by a foreign power, political marginalisation, impoverishment, and the erosion of language, culture and self-respect.”¹¹⁷ These were long term structural processes which continue. However, the term is rarely used, which raises an interesting question. Given that Māori are 17 percent of the population, as well as approximately 20 percent of MPs in Parliament (as of the 2020 election), why is the issue of genocide not more discussed in public?

One plausible reason is a fear of backlash against Māori whenever terms like holocaust or genocide are discussed publicly. In 2000, Associate Māori Affairs Minister Tariana Turia (*Ngāti Apa*, *Ngā Rauru*, and *Tūwharetoa*) delivered a speech to the New Zealand Psychological Society, equating Māori experiences of colonization and trauma with those of European Jews, highlighting common mental health challenges. Healing would come, she posited, once there was, “acknowledgement of the holocaust suffered by many Māori tribes during the Land Wars...”¹¹⁸ While she received support from many Māori academics, politicians, and other leaders, Turia was roundly condemned, including by members of her own party (and Prime Minister Helen Clark), and eventually issued a retraction. The claims provoked a major backlash, including from Jewish community leaders.¹¹⁹ Anecdotally, I have heard palpable and realistic fears that even asking the question “is it genocide?” is to risk trivializing the Commission’s efforts to date, engaging in a debate about definitions which does little to promote empathy for the survivors and support for financial and other redress.

Another persuasive reason genocide may not be widely discussed is that it presents Māori primarily as victims, reducing recognition of their agency, resilience, strength, and cultural and political continuity. *Kanien’kehá:ka* (Mohawk, Haudenosaunee) anthropologist Audra Simpson has critiqued truth commissions for presenting Indigenous peoples as “injured claimant[s] ... who’s ‘prior’ is suffering, rather than sovereignty, or the injustice of stolen land and stolen selves.”¹²⁰ The point here is that while it is accurate in some ways to use terms such as victims and survivors, “they are also nationals of Indigenous political orders.”¹²¹

A victim-centered focus, or deprivation narrative, may detract from the reality that Māori have been active agents in their interactions and relationships with Pākehā institutions and peoples, and have stood up to colonization throughout their history. Māori have a long history of resistance to colonization, from the repulsing of Abel Tasman’s ships in 1642 onward. The 1853 unity movement *Kotahitanga*, the beginnings of the Māori King movement in 1858, and Māori resistance during the Land Wars certainly showed Māori determination, organization, and resolve, as did their quests for self-government through the *Kauhanganui* (King’s Council) and the *Kotahitanga* (Māori Parliament) of the 1890s.¹²² Jacinta Ruru (*Raukawa*, *Ngāti Ranginui*

¹¹⁷ Walker, *The Māori People*, 18.

¹¹⁸ Tariana Turia, “Speech to the NZ Psychological Society Conference, Waikato University,” *Beehive.govt.nz*, August 29, 2000, accessed June 29, 2023, <https://www.beehive.govt.nz/speech/speech-new-zealand-psychological-society-conference-waikato-university>.

¹¹⁹ MacDonald, *Daring to Compare*, 387–391.

¹²⁰ Audra Simpson, “Sovereignty, Sympathy, and Indigeneity,” in *Ethnographies of U.S. Empire*, eds. Carole McGranahan and John F. Collins (Durham: Duke University Press, 2018), 76.

¹²¹ *Ibid.*, 83–84.

¹²² Walker, *The Māori People*, 338.

and *Ngāti Maniapoto*) notes that while Aotearoa's "colonial experiences resonate strongly with Indigenous peoples' experiences in Canada, Australia, and the United States," there are also differences. These include a single overarching Treaty, permanent legal institutions to promote some form of redress (the Māori Land Court and the Waitangi Tribunal), and large proportion of Māori in the population.¹²³ However, attempts by a perpetrator state to commit genocide do not mean that Indigenous peoples do not have agency and did not actively practice and promote their own self-determining rights, or consistently resist colonization. Indigenous peoples in Australia, Canada, and the United States also fought to be the authors of their own destinies. Yet they were targeted by genocidal settler states.

Overall, this article suggests that genocide as violations of Article 2(e) can be seen in the forcible transfer of Māori children from their families and communities, which took place against a larger settler colonial canvas involving the theft of ancestral lands through deception and military violence. The settler legal system sought to deprive Māori of their ability to govern themselves through their own institutions, while police, courts, and social welfare agencies actively and systemically discriminated against Māori families and children. Māori became a particular target as they moved into urban areas during the twentieth century. Traditional forms of child raising through extended family and whāngai were actively discouraged by government legislation and through the actions of government agencies.

The NZ Commission might usefully deploy the lens of genocide to understand the ultimate impacts on Māori through the state systems of abuse in care. They can build on work done in Australia and Canada to see the impacts of state policies of child removal as having genocidal effects on Māori families and communities. This need not detract from their conclusions about the horrors of abuse on the Pacific, disabled, deaf, and rainbow communities as well. The sheer numbers of Māori targeted makes them a unique population in the larger context of transfer into state care and abuse within the institutional structures of those care regimes. Transfer and abuse have had demonstrable and palatably negative effects on the ability of Māori to exert their political, legal, and economic rights as parties to *Te Tiriti* within the state.

Articulating a case for recognizing genocide may help promote Indigenous self-determination, reinforcing the view that the settler state is hardly a neutral actor in the lives of Indigenous peoples and their institutions, even if they display a veneer of benevolence. A finding of genocide by the NZ Commission may buttress recommendations for change, including to encourage state support for whāngai, which continues still but well below the radar of public policy. The state has not developed institutional capacity to encourage the wellbeing and unity of Māori families. Without a major shift in thinking and policy, as well as Māori being in control of their own tamariki and rangatahi, and lands, this is unlikely to change.

Bibliography

- Adoption Act 1955 (Law No. 93). (Aotearoa New Zealand). Accessed July 3, 2023. http://www.nzlii.org/nz/legis/hist_act/aa19551955n93134/.
- AF, Ms. "Witness Statement of 'Ms AF' for the Maori Public Hearing." *Royal Commission of Inquiry into Abuse in Care* (RCIAC), August 13, 2021. Accessed July 3, 2023. <https://www.abuseincare.org.nz/our-progress/library/v/394/witness-statement-of-ms-af-at-the-maori-public-hearing>.
- Ahuriri-Driscoll, Annabel. "Ka Tū te Whare, Ka Ora: 'The Constructed and Constructive Identities of the Māori Adoptee: Identity Construction in the Context of Māori Adoptees' Lived Experiences.'" PhD diss., University of Canterbury, 2020. <https://ir.canterbury.ac.nz/handle/10092/101208>.
- Australian Human Rights Commission (AHRC). *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. Sydney: AHRC, 1997.

¹²³ Miller et al., *Discovering Indigenous Lands*, 209, 227. See also, in particular, chapter 9 of the book.

- Bartrop, Paul. "The Holocaust, the Aborigines, and the Bureaucracy of Destruction: An Australian Dimension of Genocide." *Journal of Genocide Research* 3, no. 1 (2001), 75–87.
- Brett, André. "'The Miserable Remnant of this Ill-Used People': Colonial Genocide and the Moriori of New Zealand's Chatham Islands." *Journal of Genocide Research* 17, no. 2 (2015), 133–152.
- Cook, Len. "A Statistical Window for the Justice System: Putting a Spotlight on the Scale of State Custody across Generations of Māori." Working Paper 20/02, Institute for Governance and Policy Studies, Victoria University of Wellington, January 2021.
- "Examining the Overrepresentation of Māori in Prisons: 1910 to 2020." Working Paper 21/18, Institute for Governance and Policy Studies, Victoria University of Wellington, December 2021.
- Cormack, Donna, and Tahu Kukutai. "Indigenous Peoples, Data, and the Coloniality of Surveillance." In *New Perspectives in Critical Data Studies*. Edited by Andreas Hepp, Juliane Jarke, and Leif Kramp, 121–141. Cham: Palgrave Macmillan, 2022.
- Coster, Louis, Paora Crawford Moyle, Karl Tauri, Rawiri Waretini-Karena, Hera Clarke, Carwyn Jones, Tracey McIntosh, Denise Messiter, David Stone, Annette Sykes, Rawiri Taonui, Juan Tauri, and Rebecca Wirihana. *Te Ara Takatū. Report from a Wānanga on a Tikanga Māori Based Approach to Redress for Māori Abused in State or Faith-Based Care*. Auckland University School of Law, July 2021.
- Dalley, Bronwyn. *Family Matters: Child Welfare in Twentieth-Century New Zealand*. Auckland: Auckland University Press, 1998.
- Daschuk, James. *Clearing the Plains: Disease, Politics of Starvation, and the Loss of Aboriginal Life*. Regina: University of Regina Press, 2013.
- Department of Internal Affairs. *Final Report of The Confidential Listening and Assistance Service 2015*. Wellington: Confidential Listening and Assistance Service New Zealand, 2015. Accessed June 29, 2023. [https://www.dia.govt.nz/diawebsite.nsf/Files/Confidential-Listening-and-Assistance/\\$file/Confidential-Listening-and-Assistance-Service-Final-Report-Some-Memories-Never-Fade.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Confidential-Listening-and-Assistance/$file/Confidential-Listening-and-Assistance-Service-Final-Report-Some-Memories-Never-Fade.pdf).
- Ferguson, Gael. *Background Report for the Wai 60 Claim*. Waitangi Tribunal, May 1995. Accessed June 29, 2023. https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_94029549/Wai%2060%2C%20A002.pdf.
- Graham, Geo. "Whangai Tamariki." *Journal of the Polynesian Society* 57, no. 3 (1948), 268–278.
- Haami, Bradford. *Urban Māori: The Second Great Migration*. Auckland: Oratia, 2018.
- Haenga-Collins, Maria. "Creating Fictitious Family Memories: The Closed Stranger Adoption of Maori Children into White Families." *Journal of New Zealand Studies* 29 (2019), 37–47.
- Hill, Richard. "Māori Urban Migration and the Assertion of Indigeneity in Aotearoa/New Zealand, 1945–1975," *Interventions* 14, no. 2 (2012), 256–278.
- Huia, Awanui Te. "Perspectives Towards Māori Identity by Māori Heritage Language Learners." *New Zealand Journal of Psychology* 44, no. 3, (November 2015), 18–28.
- Jackson, Moana. "Statement of Moana Jackson." RCIAC Contextual Hearing October 29–November 8, 2019. Accessed July 3, 2023. <https://www.abuseincare.org.nz/our-progress/library/v/82/statement-of-moana-jackson>.
- "Transcript of Moana Jackson." RCIAC, October 29, 2019. Accessed July 3, 2023. <https://www.abuseincare.org.nz/our-progress/library/v/82/statement-of-moana-jackson>.
- Kaiwai, Hector, Tanya Allport, Ruth Hard, Jo Mane, Katrina Ford, Helen Leahy, Golda Varona, and Maire Kipa. *Ko Te Wā Whakawhiti, It's Time for Change: A Māori Inquiry into Oranga Tamariki—Report*. Whānau Ora Commissioning Agency, February 2020.
- Keane, Basil. "Story: Whāngai—Customary Fostering and Adoption." *Te Ara: the Encyclopedia of New Zealand*, May 5, 2011. Accessed April 29, 2022, <http://www.TeAra.govt.nz/en/whangai-customary-fostering-and-adoption>.

- Lemkin, Raphaël, "Manuscript on Genocide," February 2, 1951, Raphael Lemkin Collection, American Jewish Archives, The Jacob Rader Marcus Center of the American Jewish Archives, Box 7, Folder 3, n.p.
- MacDonald, David. B. "Daring to Compare: The Debate about a Maori 'Holocaust' in New Zealand." *Journal of Genocide Research* 5, no. 3 (2010), 383–403.
- . *The Sleeping Giant Awakens: Genocide, Indian Residential Schools, and the Challenge of Conciliation*. Toronto: University of Toronto Press, 2019.
- Maaka, Roger, and Augie Fleras. *The Politics of Indigeneity: Challenging the State in Canada and Aotearoa New Zealand*. Dunedin: University of Otago Press, 2005.
- Māori Law Review. "Waitangi Tribunal Finds Treaty of Waitangi Signatories did not Cede Sovereignty in February 1840." November 2014. Accessed June 29, 2023. <https://maorilawreview.co.nz/2014/11/waitangi-tribunal-finds-treaty-of-waitangi-signatories-did-not-cede-sovereignty-in-february-1840/>.
- McRae, Karyn Okeroa, and Linda Waimarie Nikora. "Whāngai: Remembering, Understanding and Experiencing," *MAI Review* 1 (2006), 1–18.
- Miller, Robert J., Jacinta Ruru, Larissa Behrendt, and Tracey Lindberg. *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies*. Oxford: Oxford University Press, 2010.
- Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare. *Puaoteata-tu: The Report of the Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare*. Wellington: New Zealand Government, 1986. Accessed July 3, 2023. <https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/archive/1988-puaoteatatu.pdf>.
- Moses, Dirk A. *Genocide and Settler Society: Frontier Violence and Stolen Indigenous Children in Australian History*. New York: Berghahn Books, 2004.
- Moyle, Paora. "From Family Group Conferencing to Whānau Ora: Māori Social Workers Talk About Their Experiences." MA thesis, Massey University, 2013. Accessed June 29, 2023. <https://mro.massey.ac.nz/handle/10179/296/browse?type=author&value=Moyle%2C+Paora>.
- Mundorff, Kurt. "Other People's Children: A Textual and Contextual Interpretation of the Genocide Convention, Article 2(e)." *Harvard International Law Journal* 50, no. 1 (2009), 61–127.
- Mutu, Margaret. "The Treaty Claims Settlement Process in New Zealand and its Impact on Māori." *Land* 8, no. 10 (2019). Accessed July 3, 2023. <https://doi.org/10.3390/land8100152>.
- Mutu, Margaret, and Moana Jackson. *He Whakaaro Here Whakaumu Mo Aotearoa: The Report of Matike Mai Aotearoa*. Auckland: Independent Working Group on Constitutional Transformation, 2016.
- . "Māori Issues." *Contemporary Pacific* 27, no. 1 (2015), 273–281.
- . "Mana Māori Motuhake Māori Concepts and Practices of Sovereignty." In *Routledge Handbook of Critical Indigenous Studies*. Edited by Brendan Hokowhitu. Abingdon: Routledge, 2021.
- NDP, Leah Gazan MP, Winnipeg Center. "NDP Motion to Recognize Residential Schools as an Act of Genocide Gets All Party Support" Press Release, Ottawa, October 27, 2022. Accessed June 29, 2023. <https://www.leahgazan.ca/ndp-motion-to-recognize-residential-schools-as-an-act-of-genocide-gets-all-party-support>.
- National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG). *A Legal Analysis of Genocide: Supplementary Report of the National Enquiry into Missing and Murdered Indigenous Women and Girls*. Canada: MMIWG, 2019. Accessed June 29, 2023. <https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Supplementary-Report-Genocide.pdf>.

- . *Reclaiming Power and Place: The Final Report of the National Enquiry into Missing and Murdered Indigenous Women and Girls, Vol. 1a*. Canada: MMIWG, 2019. Accessed June 29, 2023. https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf.
- Native Land Act 1909* (9 EDW VIII 1909 No. 15). (New Zealand Government). Accessed June 29, 2023, http://www.nzlii.org/nz/legis/hist_act/nla19099ev1909n15206/.
- New Zealand Government. “Whāngai.” Webpage, last updated April 2, 2020. Accessed July 3, 2023. <https://www.govt.nz/browse/family-and-whanau/adoption-and-fostering/whangai/>.
- Novic, Elisa Novic. *The Concept of Cultural Genocide: An International Law Perspective*. Oxford: Oxford University Press, 2016.
- O'Malley, Vincent, Bruce Stirling, and Wally Panetito (Eds.). *The Treaty of Waitangi Companion: Māori and Pākehā from Tasman to Today*. Auckland University Press, 2010.
- Orange, Claudia. *The Treaty of Waitangi*. Wellington: Allen & Unwin, 1987.
- O'Sullivan, Dominic. “We Are All Here to Stay”: *Citizenship, Sovereignty and the UN Declaration on the Rights of Indigenous Peoples*. Canberra: ANU Press, 2020.
- Özsu, Umut. “Genocide as Fact and Form.” *Journal of Genocide Research* 22, no. 1 (2020), 62–71.
- Pihama, Leonie. “Colonization & Systemic Violence in Aotearoa.” *University of Otago*, 2018. Accessed June 29, 2023. <https://www.otago.ac.nz/news/events/otago689674.html>.
- Pihama, Leonie, Paul Reynolds, Cheryl Smith, John Reid, Linda Tuhiwai Smith, and Rihi Te Nana. “Positioning Historical Trauma Theory within Aotearoa New Zealand.” *AlterNative* 10, no. 3 (2014), 248–262.
- Pool, Ian. *Te Iwi Māori: A New Zealand Population, Past, Present and Projected*. Auckland University Press, 1991.
- Royal Commission of Inquiry into Abuse in Care (RCIAC). “About the Royal Commission.” Accessed May 17, 2022. <https://www.abuseincare.org.nz/about-us/>.
- . “Abuse in Care.” Accessed June 28, 2023. <https://www.abuseincare.org.nz>.
- . “Care to Custody: Incarceration Rates Research Report.” Wellington: RCIAC, August 2022. Accessed May 17, 2022. <https://www.abuseincare.org.nz/Survivors/people-in-prison/>.
- . “He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānui.” Wellington: RCIAC, December 2021. Accessed July 3, 2023. <https://www.abuseincare.org.nz/our-progress/reports/from-redress-to-puretumu/>.
- . “Q&A.” Accessed May 17, 2022. <https://www.abuseincare.org.nz/survivors/places-of-abuse/>.
- . “Questions and Answers.” Accessed June 28, 2023. <https://www.abuseincare.org.nz/for-survivors/faqs/>.
- . *Tāwharautia: Pūrongo o te Wā Interim Report, Volume One*. Wellington: RCIAC, December 2020. Accessed July 3, 2023. <https://www.abuseincare.org.nz/our-progress/library/v/194/tawharautia-purongo-o-te-wa-interim-report>.
- . “What the Royal Commission is About.” Accessed May 17, 2022. <https://www.abuseincare.org.nz/about-us/what-is-inquiry/>.
- Savage, Catherine, Paora Crawford Moyle, Larissa Kus-Harbord, Annabel Ahuriri-Driscoll, Anne Hynds, Kimiratao Paipa, George Leonard, Joanne Maraki, and John Leonard. *Hāhā-uri, Hāhā-tea: Māori Involvement in State Care 1950–1999*. Christchurch: Ihi Research, 2021.
- Simpson, Audra. “Sovereignty, Sympathy, and Indigeneity.” In *Ethnographies of U.S. Empire*. Edited by Carole McGranahan and John F. Collins, 72–92. Durham: Duke University Press, 2018.
- Smale, Aaron. “A Quiet Genocide: The Legacy of Stolen Indigenous Children.” *Al Jazeera*, October 7, 2015. Accessed June 29, 2023. <https://interactive.aljazeera.com/aje/2017/quite-genocide/index.html>.

- . "Aaron Smale: The Māori Problem," *Newsroom*, June 19, 2019. Accessed June 29, 2023. https://www.newsroom.co.nz/2019/06/19/641770/aaron-smale-the-maori-problem?fbclid=IwAR1W4VRJAuXBIIdPYnf3S33r977jUa0FkHM8oFd_eTT18tIXS2COPwx5ur1E#.
- . "Our Stolen Generation: A Nonchalant Wickedness." *The Spinoff*, November 16, 2017. Accessed June 29, 2023. <https://thespinoff.co.nz/atea/16-11-2017/a-nonchalant-wickedness>.
- . "Our Stolen Generation: A Shameful Legacy." *The Spinoff*, November 14, 2017. Accessed June 29, 2023. <https://thespinoff.co.nz/atea/14-11-2017/our-stolen-generation-a-shameful-legacy>.
- . "Statement of Aaron Smale." Witness Statement, October 7, 2019. RCAIC. Accessed June 29, 2023. <https://www.abuseincare.org.nz/our-progress/library/v/60/statement-of-aaron-smale>.
- Smith, Linda Tuhiwai. *Decolonizing Methodologies: Research and Indigenous Peoples*. London: Zed Books, 2021.
- Sutherland, Oliver. *Justice and Race: Campaigns Against Racism and Abuse in Aotearoa New Zealand*. Paraparaumu: Steele Roberts, 2020.
- Truth and Reconciliation Commission of Canada (TRC). *Honoring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*. Toronto: Lorimer, 2015.
- Tuck, Eve. "Suspending Damage: A Letter to Communities." *Harvard Educational Review* 7, no. 3 (2009), 409–428.
- Turia, Tariana. "Speech to the NZ Psychological Society Conference, Waikato University." *Beehive.govt.nz*, August 29, 2000. Accessed June 29, 2023. <https://www.beehive.govt.nz/speech/speech-new-zealand-psychological-society-conference-waikato-university>.
- Wakeham, Pauline. "The Slow Violence of Settler Colonialism: Genocide, Attrition, and the Long Emergency of Invasion." *Journal of Genocide Research* 24, no. 3 (2022), 337–356.
- Walker, Ranginui. "The Māori People: Their Political Development," in *New Zealand Politics in Perspective*. Edited by Hyam Gold, 379–400. Auckland: Longman Paul, 1992.
- . "Reclaiming Māori Education." In *Decolonization in Aotearoa*. Edited by Jessica Hutchings and Jenny Lee-Morgan, 19–38. NZCER Press: 2016.
- Ward, Alan. *An Unsettled History: Treaty Claims in New Zealand Today*. Auckland: Bridget Williams Books, 1999.
- Waitangi Tribunal. *The Taranaki Report: Kaupapa Tuatahi WAI 143*. Wellington: Ministry of Justice Aotearoa New Zealand, 1996. Accessed July 3, 2023. https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68453721/Taranaki%201996.compressed.pdf.
- Workman, Kim. *Journey Towards Justice*. Wellington: Bridget Williams Books, 2018.