

NGĀ TOKI WHAKARURURANGA

LEGAL IMPERIALISM AND THE DOCTRINE OF DISCOVERY



- **WHAT IT IS**
- **HOW IT SHAPED
AOTEAROA**
- **WHY WE MUST
DISMANTLE IT**



THE SECOND IN A SERIES OF PAPERS ON
CONSTITUTIONAL TRANSFORMATION OF TREATY MAKING

NGĀ TOKI WHAKARURURANGA

WHAT IS LEGAL IMPERIALISM?

IT'S THE IDEA THAT ONLY ENGLISH
LAW IS VALID — AND THAT MĀORI LAW
(TIKANGA) IS NOT “REAL LAW”

THIS DENIES MANA MOTUHAKE AND WAS
USED TO ERASE MĀORI AUTHORITY AND
RIGHTS

IT STILL SHAPES HOW THE CROWN
BEHAVES INTERNATIONALLY TODAY



NGĀ TOKI WHAKARURURANGA

ENTER THE DOCTRINE OF DISCOVERY

THE “DOCTRINE OF DISCOVERY” WAS A
RACIST LEGAL FICTION

IT SAID THAT EUROPEANS COULD TAKE LAND
FROM NON-CHRISTIAN PEOPLES BY
“DISCOVERING” IT

THIS WAS USED TO JUSTIFY COLONISATION,
WAR, LAND THEFT, AND GENOCIDE.



NGĀ TOKI WHAKARURURANGA

TIKANGA IS LAW

MĀORI ANCESTORS HAD CONSTITUTIONAL
SYSTEMS, DIPLOMACY, AND RIGHTS

THESE WERE ALL ASPECTS OF MANA,
RANGATIRATANGA, AND TIKANGA – A PART
OF THE MĀORI ESTATE, WHICH MĀORI HAVE
AN INHERENT RIGHT TO RETAIN,
REGARDLESS OF COLONIAL INVASION

**BUT COLONISERS REFUSED TO RECOGNISE
THESE SYSTEMS AND REDEFINED TIKANGA
AS “CUSTOM” IN ORDER TO IMPOSE THEIR
OWN LEGAL SYSTEMS**



NGĀ TOKI WHAKARURURANGA

LEGAL IMPERIALISM IS A KEY COMPONENT OF THE COLONIAL PROJECT

ENGLISH LAW WAS PERCEIVED BY ENGLISH COLONISERS AS THEIR "BIRTH-RIGHT". THEY BELIEVED THEY HAD A RIGHT TO LIVE UNDER ENGLISH LAW, **EVERYWHERE THEY WENT.**

ADDITIONALLY, THE ESTABLISHMENT OF COLONIES UNDER ENGLISH LAW LEGITIMISED THE PRACTICE OF LAND THEFT, AS WELL AS THE RETENTION OF STOLEN LAND.

.....➤

NGĀ TOKI WHAKARURURANGA

SOVEREIGNTY WAS DESIGNED FOR EUROPEAN DOMINATION

EUROPEANS INVENTED THE CONCEPT OF SOVEREIGNTY AS A “RIGHT TO RULE” THAT RESTED UPON A HIERARCHY OF “PROGRESS” AND “CIVILISATION”.

AT THE TOP OF THE HIERARCHY WAS THE CROWN, AS THE MOST RATIONAL AND CAPABLE TO GOVERN (BOTH DOMESTICALLY AND INTERNATIONALLY). INDIGENOUS PEOPLES WERE AT THE OTHER END OF THE SPECTRUM, DEEMED PRIMITIVE AND IRRATIONAL.



NGĀ TOKI WHAKARURURANGA

THE DOCTRINE OF DISCOVERY AND DOMINATION

AT ITS EARLY STAGES, THE DOCTRINE WAS
EXPLICIT IN ITS AIM TO BENEFIT
MONARCHS AND THE CHURCH.

IN LATER STAGES, PARLIAMENTARY SYSTEMS
WERE DEVELOPED TO ADDRESS TENSIONS
BETWEEN SOCIAL CLASSES AND CHURCH.

THROUGH EMBEDDING THE IDEA OF THE
“SOVEREIGN IN PARLIAMENT”, RACE AND
CLASS BASED SUPREMACY WAS RETAINED IN
THOSE SYSTEMS.



NGĀ TOKI WHAKARURURANGA

IT'S STILL HAPPENING

THE N.Z. GOVERNMENT STILL HASN'T
REPUDIATED THE DOCTRINE OF DISCOVERY

THE DOCTRINE REMAINS THE BASIS OF
WESTERN (AND NEW ZEALAND) JURISPRUDENCE

A 2021 CABINET PAPER ON THE DOCTRINE WAS
HALTED AT THE SOLICITOR GENERAL LEVEL

IN A 2023 INTERNATIONAL FORUM, NZ
ABSTAINED FROM VOTING TO RECOGNISE AND
REPUDIATE THE DOCTRINE

NGĀ TOKI WHAKARURURANGA

REAL CHANGE DEMANDS DISMANTLING COLONIAL FICTIONS

LEGAL AND POLITICAL IMPERIALISM
CONTINUES TO UNDERPIN THE FICTION OF
CROWN SOVEREIGNTY IN AOTEAROA.

TRANSFORMATION WILL REQUIRE:

- REPUDIATION OF THE DOCTRINE OF DISCOVERY
- RECOGNITION OF TIKANGA AS LAW
- RESTORATION OF MĀORI AUTHORITY IN
INTERNATIONAL RELATIONS
- STOP PRETENDING THE CROWN SPEAKS FOR US



NGĀ TOKI WHAKARURURANGA

WANT TO LEARN MORE?

READ THE FULL PAPERS:

MANA AND CONSTITUTIONAL
TRANSFORMATION OF
TREATY MAKING



LEGAL IMPERIALISM & THE
“DOCTRINE OF DISCOVERY”

FURTHER PUBLICATIONS AND
RESOURCES

