Blood Quantum

"A Pūrākau approach to understanding the impact of 'Blood Quantum' in Māori Identity"

A thesis submitted in fulfilment

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by

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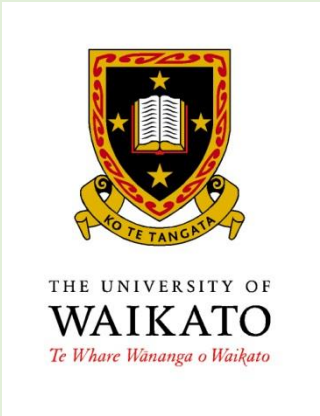

2019

Abstract

> "The master's tools will never dismantle the master's house" (Lorde, 1984, p.94)

This thesis begins and ends with being Ngāi Tahu, the two fundamental questions that generated this topic are: Who determines Indigenous legal identity? Who defines tribal membership and affiliation? Although the idea of defining Indigenous Peoples, for political purposes originated in colonial times, the complications, and complexities of defining who an Indigenous individual remains a truly contentious issue. This thesis will draw on the Indigenous Māori methodology of pūrākau, or story work for its structure and method to explore the above questions relating to Indigenous identity. The pūrākau approach enables the research to harness mātauranga Māori knowledge such as whakapapa and korero tuku iho alongside western thought, which is now inked in academic disciplines such as in the study of law. This thesis explores notions such as Indigenous 'blood' and our Indigenous 'DNA.' It is argued that to understand the history, the politics, the laws of blood quantum and DNA, it is important to understand the mind of the coloniser and the tools they continue to use.

The study of blood quantum has become an important aspect of the tino rangatiratanga (self-determination) of many Indigenous peoples. From a historical and cultural perspective, blood quantum standards divide and alienate communities, and perpetuate a discourse that promotes internalised self-hatred, alienation, and fractionation. This research will develop pūrākau as a pedagogy through creating learning tools. These new learning tools will counteract the possibility of our Indigenous Peoples from being trapped within these social constructions. The thesis will explore possible self-determination techniques which emphasize pūrākau in establishing identity through creating a journey of recovery through the application of pūrākau in decolonising blood quantum ideology. Ultimately, Indigenous Peoples of Canada, New Zealand and the United States of America need to be the ones in control of their identity, tribal affiliation, cultural continuity, destiny, and the way they are legally defined.

Let's reclaim our stolen tools (Lorde, 1979)

Dedication

This thesis is dedicated to:

Michael Allen Wilkinson [Mike- my eldest brother]

1955-2013

Materoa Lovell Ropata-Edwards [Dad]

1934-2013

Montero James Daniels [Uncle Mont]

1929- 2016

Callum James Edwards [Cali- my beautiful nephew]

1990-2017

Desmond Max Heard [Des – our eldest cousin on mum's side]

1947-2017

Pollyann Panirau [Aunty Pol]

1939- 2019

He Mihi: Acknowledgements

Puritia tāwhia kia ita Te mana tīpuna
Te mana whenua
Te mana tangata (Ngāi-Tahu Vision Plan, 2009, p. 3)

Hold fast and firm
To my inherited authority, to my right to this land
To my freedom and right to self determination

Tēna koutou katoa
Tēnei te tuku mihi, kia koutou katoa i raro i ka ahuataka o te wa.

The pūrākau of whakapapa is flowing through this thesis. This has been an academic journey during an intellectual period of much turbulence, pain, and loss. However, huge growth and learnings have nevertheless been possible.

Firstly, I acknowledge my tūpuna for carrying me in their arms, when times were dark, when I became so tired that I almost gave up, and who in turn, empowered my whānau and academic friends to walk with me. I am the embodiment of the past. My tūpuna have been persistently present in every element of my thesis. My tūpuna survived the Ōnawe massacre, the Kāi Huānga feud. I am their mokopuna.

Next, I recognise all those that passed, my eldest brother, my dad, my youngest nephew, my eldest cousin on my mums' side, and my uncles and aunties from Wairewa. I acknowledge you, Aunty Pol, so recent that my heart aches. To those whānau, whānau whānui who became unwell, who recovered, or who are in the stage of waiting, waiting to be with my tūpuna, Ngā mihi.

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My whānau, mum I love you to the moon and back, even when you asked me how my assignment was going and what exactly was, I doing up there, my brothers and sisters who I constantly asked me to get a job – so they didn't have to loan me money.

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Whakapapa

Whakapapa speaks to more than our relationships with each other; it links us with the land, the sea, the environment, our world, and our universe. It permeates all things Ngāi Tahu, helping us understand who we are and where we come from. It lies at the core of Ngāi Tahu knowledge and understanding, it provides an unbroken link and chain of descent between the spiritual and the material, the inanimate and the animate. (Te Runanga o Ngāi Tahu, 2013, p.11).

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Glossary [Te Reo Māori]

Āhuatanga	Way, aspect, likeness, circumstance, characteristic, property, feature, function, attribute, trait, phenomenon.
Ariki	Lord - a name for God.
Aotearoa	North Island - now used as the Māori name for New Zealand.
Ao	World, globe, global.
Atua	Ancestor with continuing influence, god, demon, supernatural being, deity, ghost, object of superstitious regard, strange being – although often translated as 'god' and now also used for the Christian God, this is a misconception of the real meaning.
Ahau	I, me - unlike other pronouns and personals, does not take a when following ki, i, kei and hei.
Anā	Behold! - calling for immediate attention.
Ata	Reflected image, reflection.
Aroha	(-ina, -tia) to love, feel pity, feel concern for, feel compassion, empathise.
Auē	Heck! - Expression of surprise.
Aratakina	(-na) to conduct, lead, point out, guide.
Ake	Upwards, in an upwards direction - used with verbs which designate perception or attitude.
Aha	(-tia) to do what? Treated in what fashion? To do anything.
Awa	River, stream, creek, canal, gully, gorge, groove, furrow.
Ahau	I, me.
Aoraki	Aotearoa/New Zealand's highest mountain.
Āu	Your (one person when referring to more than one thing) - a possessive determiner.
Ēnei	These (near me).
E	Used in commands before verbs of one long vowel or two short vowels.

Hoki	(-a) to go back, return.
He mihi / Ngā mihi	To greet, pay tribute, acknowledge, thank.
Hukarere	Snow.
Haere	(-a, -hia, -tia) to go, depart, travel, walk, continue, come (when followed by *mai*).
Haruru	Roar, continuous noise, rumble, thud.
Hōaka / Hōanga	Sandstone, grindstone, sandpaper - sandstone is used in cutting and grinding stone implements.
Hoea	Paddle your canoe, go on then and do it, go ahead then, go for it, please yourself, you're on your own - an idiom to support or criticise someone's proposed action or idea.
Huakina	(-na) to open, uncover, rise (of the moon), dawn.
Hukarere	Snow.
Hīnaki	Eel trap, wicker eel basket, wire eel pot.
Hei	At, in, on, with - sometimes used of future time or place.
Hui	Gathering, meeting, assembly, seminar, conference.
Hapū	Kinship group, clan, tribe, subtribe - section of a large kinship group and the primary political unit in traditional Māori society. It consisted of several *whānau* sharing descent from a common ancestor, usually being named after the ancestor, but sometimes from an important event in the group's history. Several related *hapū* usually shared adjacent territories forming a looser tribal federation (*iwi*).
Īnanga	Īnanga, whitebait, *Galaxias maculatus* - a small silvery- white native fish with a slender body.
Iho	Down, downwards, from above, in a downwards direction – indicates direction downwards towards the speaker, away from the speaker, away from a group, or from someone other than the speaker.
I	Used before verbs and statives to indicate past time.

Iwi	Extended kinship group, tribe, nation, people, nationality, from a common ancestor and associated with a distinct territory. race - often refers to a large group of people descended
Karakia	(-tia) to recite ritual chants, say grace, pray, recite a prayer, chant.
Kei	At, on, in - particle marking present position or time.
Kia	When, until - used for future time.
Koutou	You (three or more people)
Kahurangi	Blue.
Kōwhai	Kōwhai of various species including *Sophora* *microphylla*, *Sophora tetraptera* and prostrate kōwhai, *Sophora prostrata* - small-leaved native trees common along riverbanks and forest margins and noted for their hanging clusters of large yellow flowers in early spring.
Kite	(-a) to see, perceive.
Kaitiaki	Guard, custodian, guardian, caregiver, keeper, steward.
Ko	A particle with no English equivalent used when talking about something specific and used before proper names, pronouns and common nouns preceded by a definitive.
Kaua	Do not, don't, had better not - for negative commands. Other dialectal forms include *aua*, *kauaka* and *kauraka*.
Katoa	All, every, totally, wholly, completely, without exception - used to indicate that something is all-encompassing, all-consuming or all-conquering.
Kanohi Kitea	To have a physical presence, be seen, represent.
Kaupapa Māori	Māori approach, Māori topic, Māori customary practice, Māori institution, Māori agenda, Māori principles, Māori ideology - a philosophical doctrine, incorporating the knowledge, skills, attitudes and values of Māori society.
Kaupapa	Topic, policy, matter for discussion, plan, purpose, scheme, proposal, agenda, subject, programme, theme, issue, initiative.

Kaitiakitanga	Guardianship, stewardship, trusteeship, trustee.

Kawakawa	Kawakawa, pepper tree, *Macropiper excelsum* - a small, densely branched tree with heart-shaped leaves.
Kahurangi	Blues
Koro	Elderly man, grandfather, grandad, grandpa - term of address to an older man.
Kotahi	Be one, single, alone, 1.
Kātahi	Then, and then - when used with this meaning, the verbal particle preceding the verb will be *ka*.
Karanga	(-hia, -tia) to call, call out, shout, summon.
Kākā	kākā, *Nestor meridionalis* - large native forest parrot with olive-brown and dull green upperparts and crimson underparts.
Kererū	New Zealand pigeon, kererū, *Hemiphaga novaeseelandiae* - a large green, copper and white native bush pigeon which was eaten by Māori. Kererū were one of two foods harvested during the Māori new year.
Kāhu	Swamp harrier, harrier hawk, Australasian harrier, *and Circus approximans gouldi* - a large brown hawk with long-fingered wings which feeds on prey and carrion and is common on farmland, tussock land and swamps.
Kai Huānga	The Kai Huānga feud
Kāore	No, not - a negative word used on its own or in a variety of sentence types.
Ki	To, into, towards, on to, upon - indicates motion towards something.
Karo	Presently, shortly, by and by, soon.
Kōhanga	Nest, nursery.
Kōrero	(-hia, -ngia, -tia) to tell, say, speak, read, talk, address.
Kāhui	Swarm, flock, cluster, herd, company.
Kapa Haka	*Haka* group, Māori cultural group, Māori performing group.
Kaumātua	Elderly, old, aged.

Kai	(-ngā, -ngia) to eat, consume, feed (oneself), partake, devour.
Kāinga / Kāika	Home, address, residence, village, settlement, habitation, habitat, dwelling.
Kaiwhakahaere	Administrator, boss, director, organiser, manager.
Kore	Nil, none, nothing, not, no longer, zero, zilch, nought - used in negatives after verbal particles, e.g. *e, ka, kei, kua, me, i* or *ki te.*
Koro	Elderly man, grandfather, grandad, grandpa - term of address to an older man.
Kohu	Fog, mist, haze, smog.
Koe	You (one person) - like all pronouns and personals, takes *a* when following *ki, i, kei* and *hei* but does not take *a* when used as the subject of the sentence.
Ka	Used before a verb to name an event as occurring or a state existing. No tense is implied so it may be past, present or future.
Māori	Māori, indigenous New Zealander, indigenous person of Aotearoa/New Zealand.
Mana	Prestige, authority, control, power, influence, status, spiritual power, charisma - *mana* is a supernatural force in a person, place or object.
Mai	From, since.
Maringi	Be spilt, flow, pour down.
Mea	Thing, object, property, one, reason, thingumajig, thingy, thingummy, whatcha-me-call-it, what-d'you-call-it, the one, that thing, whatsit - a word used to replace the name of something, often when a speaker has momentarily forgotten the correct word.
Maunga / Mauka	Mountain, mount, peak.
Mano	Thousand, large number, multitude.
Moana	Sea, ocean, large lake.
Mouka	Mountain.

Mokopuna	Grandchild.
Manaaki	(-tia) to support, take care of, give hospitality to, protect, look out for - show respect, generosity and care for others.
Me	And - when used to join noun phrases.
Mātua	Parents.
Mātauranga	Knowledge, wisdom, understanding, skill – sometimes used in the plural.
Mōhio	(-hia, -tia) to know, understand, realise, comprehend, recognise.
Marae	Often used to include the complex of buildings around the *marae.*
Mokemoke	Loneliness, solitude, isolation.
Muri	The future, after, afterwards, the time after, the sequel - often modified by *mai*, *iho* or *atu.*
Mauri	Life principle, life force, vital essence, special nature, a material symbol of a life principle, source of emotions - the essential quality and vitality of a being or entity.
Māhaki	Humility, h u m b l e n e s s , m o d e s t y , u n a s s u m i n g n a t u r e , meekness, tolerance.
Mōteatea	Lament, traditional chant, sung poetry - a general term for songs sung in traditional mode.
Maniapoto	Tribal group of the King Country area.
Maranga	To rise up, get up, arise.
Mitimiti	(-a, -hia) to lick, lick up, lap up.
Mehemea	If - often implies the reverse of what is stated.
Māoritanga	Māori culture, Māori practices and beliefs, Māoriness, Māori way of life.
Moriori	Chatham Islander, indigenous person of the Chatham Islands.
Manaaki	(-tia) to support, take care of, give hospitality to, protect, look out for - show respect, generosity and care for others.

Mania	Be soft, smooth, silky - of hair.
Makō	Rig, spotted dogfish, gummy shark, smooth-hound, *Mustelus lenticulatus* - a shark, pale golden brown to grey above with numerous small blue-and- white spots, white below.
Ngāti / Ngāi / Kāti	Prefix for some tribal groups' names with an ancestral name usually beginning with 'T', now written as a separate word, e.g. Ngāi Tahu.
Noho	(-ia, nōhia, -ngia) to sit, stay, remain, settle, dwell, live, inhabit, reside, occupy, located.
Nō	Of, belonging to, from - indicates achieved possession. Used when the possessor did not, or does not, have control of the relationship or was/is subordinate, passive or inferior to what was/is possessed.
Ngaro	(-mia) to be hidden, out of sight, covered, disappeared, absent.
Noa	Only, solely, just, merely, quite, until, at random, idly, fruitlessly, in vain, as soon as, without restraint, freely, unimpeded, unbridled, casually, easily, without any fuss, suddenly, unexpectedly, spontaneously, instinctively, intuitively, by accident, unintentionally, without restriction, without conditions, randomly, without knowing why, to no avail, for no good reason, very, exceedingly, absolutely, already, right up until - a manner particle following immediately after the word it relates to.
Nei	Here - used after nouns, location words, pronouns and personal names to indicate position or connection with the speaker or the principal character in a narrative.
Ngā	The - plural of *te*.
Ohonga	Waking, rousing from sleep.
Ōu	Your (one person when referring to more than one thing).

o	Of, belongs to, from, attached to - used when the possessor has, or had, no control of the relationship or is subordinate, passive or inferior to what is possessed.
Ōtautahi	Christchurch.
Ōnawe	The Ōnawe Peninsula is a volcanic plug inside Akaroa Harbour, on Banks Peninsula in Canterbury, New Zealand.
Papatūānuku	Earth, Earth mother and wife of Rangi-nui - all living things originate from them.
Papatipu	Traditionally owned, customary title, ancestral (of land).
Pūrākau	Legendary, mythical.
Pā	Fortified village, fort, stockade, screen, blockade, city (especially a fortified one).
Pepeha	Tribal saying, tribal motto, proverb (especially about a tribe), set form of words, formulaic expression, saying of the ancestors, figure of speech, motto, slogan - set sayings known for their economy of words and metaphor and encapsulating many Māori values and human characteristics.
Poutini	Coastal and sea area along the west coast of the South Island.
Papatipu	Traditionally owned, customary title, ancestral (of land).
Pō	Darkness, night.
Pūkana	To stare wildly, dilate the eyes - done by both genders when performing *haka* and *waiata* to emphasise particular words and to add excitement to the performance.
Puritia tāwhia kia ita Te mana tipuna Te mana whenua Te mana tangata	Hold fast and firm To my inherited authority to my right to this land To my freedom and right to self-determination.
Pōua	Grandfather, aged.
Pāpā	Father, uncle, dad.

Pou Tuna	Large female eels, old lady.
Pounamu	Greenstone, nephrite, jade.
Pākehā	English, foreign, European, exotic - introduced from or originating in a foreign country
Raki	The sky fathers.
Rawa	Eventually, finally, as soon as, by the time, only when, right up until - indicates a significant time lapse or effort and often follows verbs without verbal particles in subordinate clauses.
Raro	The underneath, below, beneath, downwards, down, down below.
Rangi	Day, sky.
Roimata	Tear (of crying).
Ruru	Morepork, owl, *Ninox novaeseelandiae* - a native owl common throughout Aotearoa/New Zealand in wooded areas including suburbs, roosting by day and active at night.
Rangi-nui	*Atua* of the sky and husband of Papa-tū-ā-nuku, from which union originate all living things.
Rūnanga	Council, tribal council, assembly, board, boardroom, iwi authority - assemblies called to discuss issues of concern to iwi or the community.
Rangahau	(-a, -tia) to seek, search out, pursue, research, investigate.
Rangatiratanga	Kingdom, realm, sovereignty, principality, self-determination, self-management - connotations extending the original meaning of the word resulting from Bible and Treaty of Waitangi translations.
Rā	Over there, there, yonder - used after nouns, location words, pronouns and personal names to indicate position or connection not near or connected with the speaker or listener or the principal characters in a narrative.
Rākaihautū	Collective name for all the lakes along the Southern Alps and in Fiordland.

Roto	The inside, in, within, interior - used to refer to the space physically inside another defined space, e.g. a house, box, etc.
Tapu	Restriction, prohibition - a supernatural condition.
Tangiwai	Translucent v a r i e t y o f g r e e n s t o n e , o l i v e -green w i t h streaks of white - found at Piopiotahi (Milford Sound) and Te Wai Pounamu (Greenstone Valley).
Tēnā	Well then, now then, very well then, match that - used at the start of a sentence to focus attention on what follows. Often preceded by *a*.
Tūranga / Tūraka	Stand, position, situation, site, foundation, stance.
Tino	Importance, m a i n , b e s t , t o p , principal, pre-eminent, favorite, staple, real, true, absolute - when used before a noun to indicate something is unrivalled or is true or genuine.
Takiwā	District, area, territory, vicinity, region.
Tā moko	Traditional tattooing.
Tekateka	Be vain, conceited, confounded.
Tuohu	To stoop, bow the head, cower, crouch, bow down, give in, submit.
Tātou	We, us, you (two or more) and I - like all pronouns and personals takes *a* when following *ki, i, kei* and *hei* but does not take *a* when used as the subject of the sentence. Never occurs after *he, te* and *ngā*.
Ture	(-tia, -a, -ngia) to make laws, make legal, protect legally.
Taiao	World, Earth, natural world, environment, nature, country.
Ture	(-tia, -a, -ngia) to make laws, make legal, protect legally.
Tonu	Still, continues, unceasing, continuously, simply - a manner particle that denotes continuance, permanence or exactness and follows immediately after the word it applies to.

Tuku	(-a, -na) to release, let go, give up, leave, resign, put off, descend, get off, let down, download (computer), set free, allow, send, pass, serve, bowl, submit - reflects the notion of transfer.
Teitei	High, tall, lofty.
Taiao	World, Earth, natural world, environment, nature, country.
Taringa	Ear.
Te Kōhanga Reo	Māori language preschool.
Te Reo	Māori language.
Teketeke	Be vain, conceited, confounded.
Titiro	(tirohia) to look at, inspect, examine, observe, survey, view.
Tūpato	To be cautious, careful, wary, suspicious, alert, and vigilant usually followed by *kei* before a verb and *ki* or *i* before a noun phrase.
Tōpuni	Be completely covered.
Taha	Side, margin, edge, bank (of a river), beside.
Tuohu	To stoop, bow the head, cower, crouch, bow down, give in, submit.
Takahi	(-a) to trample, tramp, stamp, tread, abuse, disregard.
Tikanga	Correct procedure, custom, habit, lore, method, manner, rule, way, code, meaning, plan, practice, convention, protocol - the customary system of values and practices that have developed over time and are deeply embedded in the social context.
Tēnei	This (near or connected to the speaker) - may be followed by a noun or stand alone.
Titiro	(tirohia) to look at, inspect, examine, observe, survey, view.
Tahu / Kai Tahu	Tribal group of much of the South Island, sometimes called Kāi Tahu by the southern tribes.

Tūturu	To be fixed, permanent, real, true, actual, authentic, and original.
Tuna	Eel of various species, including the longfin eel (*Anguilla dieffenbachii*) and shortfin eel (*Anguilla australis*).
Taniwha	Water spirit, monster, dangerous water creature, powerful creature, chief, powerful leader, something or someone awesome - *taniwha* take many forms from logs to reptiles and whales and often live in lakes, rivers or the sea.
Tuku	(-a, -na) to release, let go, give up, leave, resign, put off, descend, get off, let down, download (computer), set free, allow, send, pass, serve, bowl, submit - reflects the notion of transfer.
Taonga / Taoka	Treasure, anything prized - applied to anything considered to be of value including socially or culturally valuable objects, resources, phenomenon, ideas and techniques.
Tēnā koutou katoa	Hello! (Speaking to three or more people), thank you.
Te Wai Pounamu	South Island - sometimes written as Te Wāhi Pounamu or Te Wāi Pounamu.
Tamariki	Young, youthful, immature (of people).
Tēnei	This (near or connected to the speaker) - may be followed by a noun or stand alone.
Takā	(-hia, -ngia) fasten (a fishhook) to a line.
Tūrangawaewae	Domicile, standing, place where one has the right to stand - place where one has rights of residence and belonging through kinship and *whakapapa*.
Tūpuna / Tīpuna	Ancestors, grandparents - western dialect variation of tīpuna.
Tupuna	Ancestor, grandparent.
Tohu	(-a, -ina, -ngia, -tia) to instruct, advise, save the life of, spare, guide, direct, instruct, appoint.

Timaru	Timaru - a town in South Canterbury on the east coast of the South Island.
Takata / Tangata	Person, man, human being, individual.
Tākitimu	A migration canoe - the crew of this canoe from Hawaiki are claimed as ancestors by Ngāti Kahungunu, Ngāi Tahu and Ngāti Ranginui.
Tāku	My, mine.
Tohunga	Skilled person, chosen expert, priest, healer - a person chosen by the agent of an *atua* and the tribe as a leader in a particular field because of signs indicating talent for a particular vocation.
Tū	(-ria) to stand, take place, set in place, establish, hold, convene.
Tiritiri	To apportion, share out, allocate, allot, distribute.
Te	The (singular) - used when referring to a individual or thing.
Te Pua Wānanga ki te Ao	Faculty of Māori and Indigenous Studies.
Upoko / Ūpoko	Head.
Urunga / Uruka	Act of entering.
Uta	(-ina) to load on, put on.
Uri	Offspring, descendant, relative, kin, progeny, blood connection, successor.
Waikato	Waikato Basin.
Wairewa	Lake Forsyth (Banks Peninsula).
Whāngai	Fostered, adoptive, foster.
Waitaki	Waitaki river.
Whanaungatanga	Relationship, kinship, sense of family connection - a relationship through shared experiences and working together which provides people with a sense of belonging. It develops as a result of kinship rights and obligations, which also serve to strengthen each member of the kin group. It also extends to others to whom one develops a close familial, friendship or reciprocal relationship

Waewae	Leg, foot, footprint.
Wāhine	Female, women, feminine.
Whānau / Whānauka	Extended family, family group, a familiar term of address to several people - the primary economic unit of traditional Māori society.
Weka	Weka, woodhen, *Gallirallus australis greyi*, *Gallirallus australis* - a brown-feathered endemic bird streaked with black with a short bill and legs, able to run fast but flightless.
Whea	Where?
Wai	Who? Whom? Stream, creek, river.
Waihora	Lake Ellesmere (South Island) - also known as Te Kete-ika-a-Rākaihautū.
Waka	Canoe, vehicle, conveyance, spirit medium, medium (of an *atua*).
Whakarongo	(-hia, -na) (whakarangona) to listen, hear, obey.
Waitangi	Place of the singing of the Treaty of Waitangi.
Whakapapa	(-tanga) Genealogy, genealogical table, lineage, descent - reciting *whakapapa* was, and is, an important skill and reflected the importance of genealogies in Māori society in terms of leadership, land and fishing rights, kinship and status.
Wharenui	Meeting house, large house - main building of a marae where guests are accommodated.
Whare	House, building, residence, dwelling, shed, hut, habitation.
Whakamahana	(-tia) to warm, heat up.
Whakarongo	(-hia, -na) (whakarangona) to listen, hear, obey.
Whānui	Generally, broadly, widely, extensive.
Whakataukī	(-tia) to utter a proverb.

Wairua	Spirit, soul - spirit of a person which exists beyond death. It is the non-physical spirit, distinct from the body and the *mauri*.

Whenua	Land - often used in the plural.
Waikato-Tainui	Term used for the tribes whose ancestors came on the *Tainui* canoe and whose territory includes the Waikato, Hauraki and King Country areas.
Warewaretia	(-hia, -ngia, -tia) to forget, forgotten.
Whakairo	(-hia, -tia) to carve, ornament with a pattern, sculpt.
Whakamaru	(-hia, -ngia, -tia) to protect, shelter.
Wāhi	Location, locality, place, part, piece, portion, section, share, segment, allocation.
Waiata	(-hia, -tia) to sing.
Whaikōrero	(-tia) to make a formal speech.
Whanaungatanga	Relationship, kinship, sense of family connection - a relationship through shared experiences and working together which provides people with a sense of belonging.
Wā	Time, season, period, interval, term, duration.

Glossary English words

DNA	Deoxyribonucleic acid

Part 1

My personal journey; the symbolic stories of contemporary Māori and the tales and legends that have circulated among the Ngāi Tahu people for centuries are all woven together, making this thesis much more than the story of the Pākehā law and ideologies, but a pūrākau about whakapapa, pounamu and knowing (Edwards, Pōua tuna, 2018).

Pōua Tuna

> "One day a taniwha, went swimming in the moana.
> He whispered in my taringa,
>
> "Won't you come with me? There's such a lot to see, underneath the deep blue sea." I said, "Kāore, kāore, kāore, I've had to haere, haere, haere.
>
> Although I know we could be friends, my mother waits for me
> Underneath the kōwhai tree
> Taniwha, haere rā" (Hennephof,1991, p.11).

My pūrākau is conveyed in three parts: part one describes the mythology; part two explains the contemporary position, and part three narrates my story. The pūrākau should identify a core message of whakapapa. Our Ngāi Tahu mythology or story from our ancestors involves a tuna who was a taniwha who lived in the stream named Papakura-a-takaroa (Shortland and Tipene, 2019, p.18). Māui and Haere set a trap to catch this taniwha. The tuna was caught in an Hīnaki and cut into pieces. The first piece, consisting of the head and eyes, flew to the rising place of the moon To-Pikopiko-i-rangi (Te Runanga o Ngāi Tahu, 2013, p.11). The second piece flew upwards and contained the heart. The two pieces flew off into the sky and then fell down to earth with a big thump and made marau. The head jumped into the sea and formed the koiro. The tail dived into the river known as Muri-wai-hoata, where it became the 'tuna' (Te Rūnanga o Ngāi Tahu, 2000, p.40.). Next, is a brief discussion capturing a contemporary story of the Tuna.

Te Waihora co-governance tell the contemporary story is told by those caring for and nurturing tuna as a Mahinga kai whenua the migration of tuna and the gathering of tuna from Te Waihora. Te Waihora is known as Te Kete Ika o Rākaihautū – The Fish Basket of Rākaihautū. For generations Ngāi Tahu has lived on its shores harvesting its rich bounty of fish, bird life and raw materials (Te Waihora: Co-Governance, n.d.).

"Mahinga kai practices were integral to the tribe's way of life. That is why these practices became a cornerstone of the Ngāi Tahu Claim" (Wakefield[1],2015). "Mahinga kai defines us. It is who we are, hence, the reason why it is so important to

[1]Joseph Wakefield, Cultural Advisor for the project says the ability to hunt and gather food from the land and sea is part of the Ngāi Tahu DNA.

pass on this knowledge to our future generations", he states (Wakefield, 2015). For Ngāi Tahu, Te Waihora has outstanding significance as a tribal taonga, as it represents a major Mahinga kai and an important source of mana (Te Rūnanga o Ngāi Tahu, 2013). The following is my story about the Pōua tuna – a story I learned of as a five-year-old.

My story begins in the late 1960s when my Dad worked for a fisheries company that gathered tuna from Waihora. My Dad drove the tuna in large tanks on the back of his truck to a depot in Timaru. These tanks became our swimming pools whilst parked up at home, they were as large as today's containers. On one occasion, Dad gathered tuna for his whanau whānui from Waihora. Waihora is on way to Wairewa, a journey which sometimes made me feel like I was in the middle of another country, along a ruddy, gravelly, furrowed road, on the way to nowhere. This place is also where I belong, and it is one of my tribal places or my Tūrangawaewae.

I was 5 years old when my Dad decided to take my second to eldest brother Materoa [2][aka Raymond] and me eeling or should I say, to recover the hīnaki he had laid the day before. I loved the eeling trips, as these were an opportunity to see that old Pōua tuna or the old grandfather eel, which, according to my Dad, had been in the lake, since the beginning of time. My Dad would often say that the Pōua tuna carried our whakapapa. The day before our trip, Dad would spend time checking every section of his hīnaki to ensure there were no breaks or tears. When necessary, he would weave in his string rope to repair the hīnaki and then he would spread it between large poles shaped like walking sticks. He would set these hīnaki in the Waihora and they would be full of eels by the next day. One day Dad came into the bedroom and told us to get up: "We are going to bring those hīnaki up today, they're down at the mouth of the lake, near the whare of Pōua tuna!" The excitement at the possibility of seeing Pōua tuna was enough to wake us, even though it was only dawn and there was an intense sugar coloured sky more typical of an evening rather sky than a morning sky. The horizon was a luminescent sugar-coloured stretch of sky and rising above it were gloomy dense clouds with an eddying pattern of tuna in an hīnaki – I guess it was a sign that we would have a great day. After a quick breakfast, Dad prepared our lunch and flasks and came onto the back deck holding

[2] Materoa, is my father's first name, my first mokopuna has also received this name, and it is in our whakapapa.

a cup of coffee and looked at the change forming in the morning sky. My brother dallied behind, hands in his pockets, looking for gumboots that were far too big. That was how we lived back then; we were often told we would grow into our footwear.

We set off in Dad's old truck, with the backing on (this is another great memory driving up the old dusty cattle stock road from dad's old native school), on Te Puaha Road, which turned into a cattle track. The truck would rattle and jump all the way up to the top, like a slimy twisting tuna, trying to wriggle free from gravel when the hīnaki was emptied. Driving toward Waihora, my father turned his head west to look for the incoming weather. Sometimes he would see what was there, but other times he told us his mind would layer memories over the present and he would see what was there last year, or the decade before. Dad knew that land and the weather, and he lived and worked by his weather reports. He had this old chart; I think it was a Māori lunar chart and he used it to guide him through the moons. If it was a new moon, this meant we would be successful at gathering our kai. Dad would say that this knowledge was passed down and that we had to keep its journey going, just like the migrating tuna.

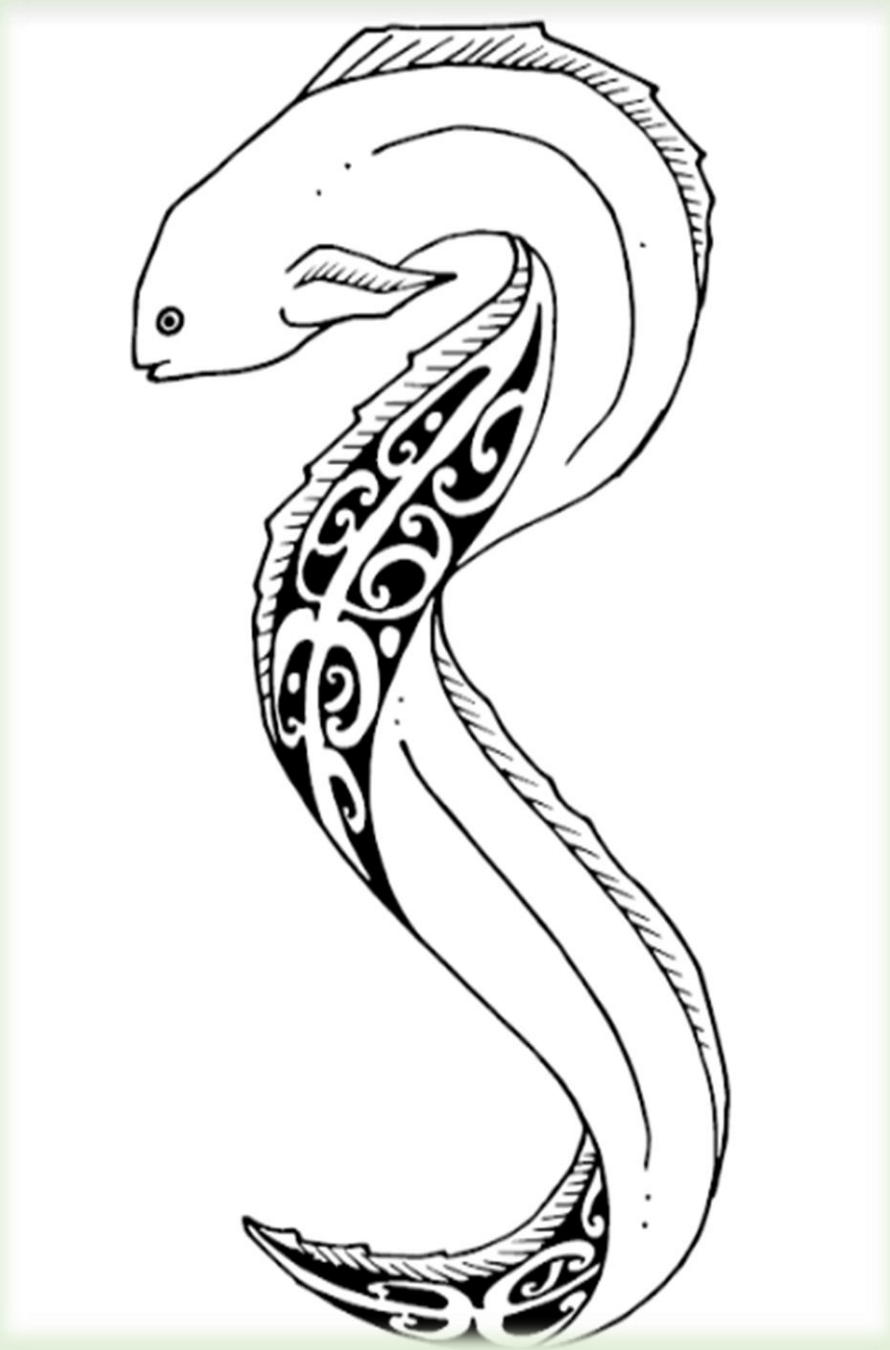
The metal boat, when it was well packed, rattled and snaked through the water, sometimes managing to get up to twenty miles an hour. Dad would motor toward the hīnaki poles and then stop to lift the hīnaki with help from my brother Materoa. On this day, Materoa started to lift the end of another hīnaki but his leg slipped, and he plunged his oversized gumboot into the lake. He looked back at Dad and me, clearly distressed, and shouted "Pāpā, Pāpā, I can't get my leg back in, there is something wrapping itself around my gumboot! Pāpā, I'm scared, I think I'm being pulled into the lake and I don't want to go all the way in there!" Materoa brushed dark hair under his cap. Wondering what it was I leaned over to look at the water to see if I could see what was causing all the concern. "It's Pōua Tuna, its Koro, it's the oldest tupuna tuna in this lake" I said with a loud and excited squeal. Pāpā didn't answer at first as he was still trying to lift the front of the hīnaki in and he was watching for the landmark that indicated we had reached our destination on the lake. He identified the landmark and rolled into the by-pass, then a minute later turned back out, which caused the boat to buck and sway, only because of the drag from the edge of the boat.

The motor idled and we all studied what was taking place. “What the hell!” Dad yelled over the motor. “I don't know, Materoa. Just let him take your gumboot or he will take you”. “That Pōua tuna has the mana in this lake – he has the whakapapa” I squatted beside my brother, resting on my heels, and studied the Pōua tuna with its silver streak up and down its back. The Pōua tuna, in turn, studied me with its round obsidian eyes, with black lines around the perimeter, just like pyrite. The Pōua tuna panted, a swollen, gasping, grotesque netherworld creature which writhed and fought to get my brother’s gumboot! As quickly as the Pōua tuna arrived, he left with the gumboot! The water pooled and spread across the inside of our boat and lake flies swarmed and fluttered, dabbing at the mud and water in the boat. “What did he want?” I asked my Dad. “Nothing”, my Dad replied, “He was just reminding us that he is here. He knows this lake, like his ancestors before him and he is trying to claim it”!

> “Everything in the Universe has whakapapa; people, animals, mountains, lakes and rivers…”
>
> (Roberts, 2006, p.4)

Artist Impression of Pōua Tuna

(Elliot, Pōua Tuna 2019)



Introduction : Ko wai au ? Nō whea āu ?

Ko Aoraki te Mauka

Ko Waitaki te awa.

Ko Tākitimu te waka

Ko Tahu Pōtiki te takata

Ko Kāti Irakehu, Ko Kāti Makō, Ko Kāti Tārewa ngā hapū

Ko Te Rapuwai, Ko Waitaha, Ko Kāti Māmoe, Kai Tahu ngā iwi

Ko Ōnuku ; Ko Wairewa ōku marae tūturu

Ko te whānau Ropata tōku whānau

Ko ēnei taoka, ko ahau

Ko Alvina Edwards ahau

The mountain, Aoraki, is my supreme ancestor under whose mantle the land and all the people living upon it are protected. The Waitaki, the river, also has special significance in the history of my own family. The places that I stand in are Ōnuku and Wairewa. I belong to the Ropata whanau; the name I was given is Alvina Edwards.

Carter (2003) articulates a positioning into her thesis by starting with her whakapapa which she describes as "positioning myself into the dialogue" (2003, p. i). I will begin by following two methods of presenting my own whakapapa as a model as a means of explaining the two interwoven themes of the thesis. Similarly, Coates (2008) writes, while I am discussing identity today, I thought it would be appropriate to begin by identifying myself in the traditional Māori way, by expressing my pepeha (p. 49).

This process is positioning or 'cultural anchoring' is that which I applied when taking papers in Law, History and my Tikanga major. Consider Carwyn Jones when he tells his story in his book, titled, 'New treaty, new tradition: Reconciling New Zealand and Māori law' – his story is told by a fictional father to his son. Jones' stories capture his whakapapa and his connections to Ngāti Kahungunu, which supports his positioning of his discussion within an explicitly Māori framework. Moreover, this strengthens Jones' thesis that traditional tribal understandings and practices are consonant with New Zealand law (Jones, 2017). The next section is about my identity journey.

My story of identity was different when I was growing up as a child from the process of identity development during my adulthood. My earliest memories of being told that I was a quarter caste occurred when I was five years old and attending Wallacetown Primary School, Invercargill. I was sent home one day with homework that required my parents to complete a mathematical equation and explanation of where I belonged.

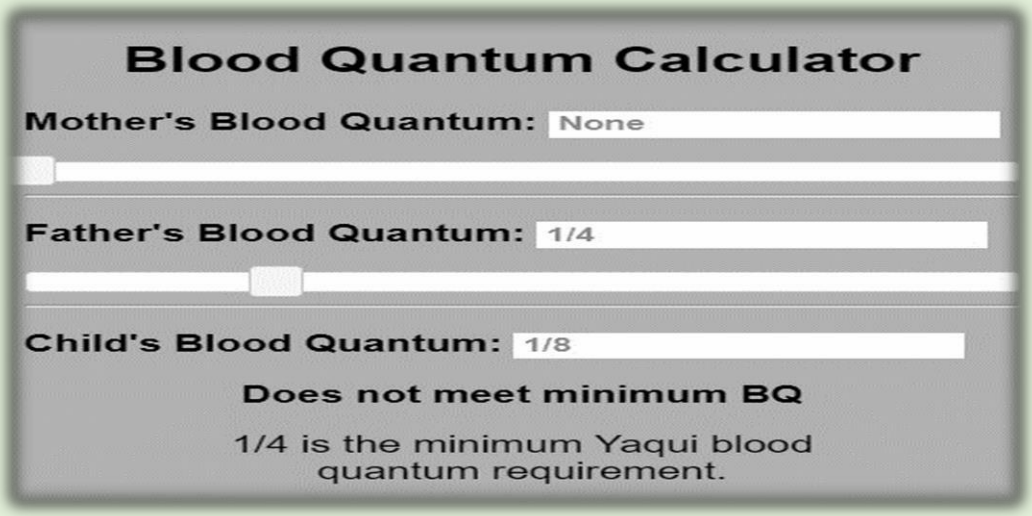


Figure 1: Blood Quantum Calculator. [Adapted from Pascua Yaqui Tribe] Retrieved from http://www.pascuayaqui-nsn.gov/index.php/blood-quantum-calculator.

However, this belonging did not represent my positioning of myself that I would come to understand more fully when I was older. This belonging was a western educational tool to fractionise me as a person. In figure 1 the blood quantum calculator is like the calculation I completed as a 5-year-old. When my father completed the required equation, the teacher returned it to him requesting he rewrite his answer. The teacher said to me "Your father has got this wrong, your father must have made a mistake, and there are no full-blooded Māori anymore in New Zealand". My father had written 'full blooded Māori' as his identity was recorded on his Government-issued birth certificate. The identity that he was nurtured by was, of course, our whakapapa. As a child, I took what the teacher said as meaning that my father was wrong, and that the primary school was right. Following this incident, I was left with the feeling that I was not fully part of something. This quarter-caste classification became embedded in my psyche and subsequently I would often use the term. While I was unfamiliar with the ideology surrounding the use of blood quantum when I was growing up, there was one phrase that stuck in my memory, during these years, that my father often used towards us children and that was, "you mongrel bastard". At the time, I was not aware that the phrase was

offensive, furthermore it matched my quarter caste identity. When I was nine years old, we relocated permanently back to Christchurch. There, my quarter caste brothers and sisters, and I was often the only Māori in our educational institutions and workplaces, or so it seemed. Though I never really referred to myself as part Māori and quarter caste, the world around me certainly did.

You have to understand that throughout my teen years to adulthood the conversations about caste, fractions, percentages and 'parts' was a discussion that would flare up around me but not at me. This situation changed when I came to live in the Waikato in 1996. The matter of parts and equations would constantly come up in the Māori spaces that I immersed myself in such as Te Kōhanga Reo, Māori Women's Welfare League, the bi-cultural law school and the Māori students support group called Te Whakahiapo. Later, terms such as white Māori, Pākehā Māori and 'not Māori enough' emerged in academic settings. I was told by those around me what the criteria of being a Māori was and this included a checklist according to which whakapapa was not enough. To be Māori you had to speak te reo Māori and you had to be a great kapa haka performer. I did not take this on board. Nevertheless, when you hear your own learned friends publicly justify their fair hair and skin colouring, or you are told by Indigenous visitors at a law conference that they were horrified to find that blond hair and blue eyed Ngāi Tahu students from Otago University were being questioned about their blood quantum percentages were challenged with such statements as "they must only be a third Māori". It was not uncommon to hear visitors to Christchurch proclaim, "I went to Christchurch and there I did not see one Māori". Evidently, everyone was looking for brownness, for skin colour. There are many more instances and I will come back to these later in my thesis.

Consequently, I decided that I would theorise this matter from the perspective of the coloniser's understandings and from the experience of the psyche of Indigenous peoples. I thought to myself, what are the 'Māori' aspects of my character that are the markers of a race[3] but that do not correlate with my own idea of myself? On many occasions I have been told that it is impossible to tell that I am Māori; that is, until I 'open my mouth', and then apparently it becomes blatant! It is acknowledged that the "spectrum of shades of visible difference point to an increasingly hybrid populace in which classifications of black and white no longer carry the same power of representation, yet the universal hegemony of one over the other persists" (Yazdiha, 2010, p. 39).

The disempowerment and marginalisation lodged in 'Māoriness' is well- documented and as such could be viewed as a burden. (Lobo, 2001, p. 11) On the other hand, so-called white Māori are described as obtaining privileges and advantage conferred on them by their 'whiteness'. Whilst my view may not necessarily accord with that of other Māori, it is contended that whiteness is the 'heavy burden' and Māori whakapapa is an 'inestimable privilege' (Lobo, 2001, p.11). The intention is that in traversing the elusive and complex trajectories experienced by the part-Māori, my journey will not only illuminate the specificity of those complexities but facilitate understanding and appreciation, and generate theory for what I have discovered is an enigmatic construct within blood quantum ideologies (Robertson, 2013, p.131). The subsequent section

[3]Race: is a categorisation, it was constructed. Consider this discussion by Tahu Kukutai, when she states that, "Indigenous peoples such as Māori exemplify the problem that policy makers face in dealing with heterogeneity. High rates of intermarriage and institutional pressures to assimilate mean they comprise persons with diverse lifestyles, socio-economic circumstances and identities. Yet, for reasons of history and contemporary politics, public policy tends to treat them as homogeneous. Typically, Indigenous peoples are the only ethnic groups with government agencies to monitor their outcomes, and deliver policies designed to improve their poor group-level status. Their claim as original or sovereign peoples also confers specific legal rights relating to ownership of land and natural resources, cultural preservation, and political representation. Given this, Indigenous peoples tend to figure prominently in national debates on race, ethnicity, and resources. Certainly, in New Zealand there is growing disquiet about the appropriateness and fairness of policies and practices that would appear to assist individuals based on ethnicity. Indeed, at the time of writing a host of targeted policies and programmes were under review, including several major ones aimed at Māori. It is timely, therefore, to give closer scrutiny to some of the issues that have been central to domestic debates about ethnic data and policies. Underlying the debate is the fundamental question of how to define an ethnic or racial group in contexts where rewards and resources are involved. While this is a matter of consequence for all ethnic groups in New Zealand, it has implications for Māori. This paper considers emerging approaches to defining ethnic or racial group membership generally, before turning to the specific context of New Zealand. Related to the issue of definition is the matter of entitlement, and which Māori ought to benefit from public policy interventions. Comparisons are drawn with other Indigenous populations regarding definition and policy entitlement (Kukutai, 2004, pp87-88).

involves a discussion on the principal focus of this thesis and, as such, begins to introduce Ngāi Tahu identity.

Principal focus

The principal focus of the thesis is to explore and theorise Indigenous identity. Traditionally, tribes did not determine membership by blood quantum but by custom and relationships. "In the Māori World, everything has a whakapapa that explains the relationships that exist between all entities and the environment in which we reside" (Carter, 2003, p.iii) and Coates (2008) writes, "[W]ho is to plumb the depths of the human heart when people choose what they want to be?" (p. 55).

According to Coates (2008), "the issue of identity in general is very broad ... the law in New Zealand has defined who "Māori…." are. The primary reason that Coates has focused on the law is that identity becomes more controversial and complex when identification with a group is attached to economic or political rights, the law being one of the primary mechanisms for conveying these types of rights (p. 49). Te Rūnanga of Ngāi Tahu articulate the following as being Ngāi Tahu, "Whakapapa is the ancestral link which binds all Ngāi Tahu whānau. Ngāi Tahu means "people of Tahu" and all registered tribal members can trace their ancestry back to this man, the tribe's founder Tahu Pōtiki". Furthermore, Coates (2008) writes that, "Whakapapa speaks to more than our relationships with each other; it links us with the land, the sea, the environment, our world and our universe" (p.49). It permeates all things Ngāi Tahu, helping us understand who we are and where we come from. It lies at the core of Ngāi Tahu knowledge and understanding – it provides an unbroken link and chain of descent between the spiritual and the material, the inanimate and the animate (Te Rūnanga o Ngāi Tahu, 2018).

However, consider the 'Blue Book,' which is a manuscript that was collated from a Census' that was done in 1848. This publication records statistics on the original Ngāi Tahu Kaumātua, that were alive in 1848. (Blue Book, 1967). The account of the reality at the time provided by the Blue Book is supported in law by such legislation as Te Rūnanga o Ngāi Tahu Act 1996 (New Zealand Government Legislation, 1996), in particular, pursuant to Section 7. This section defines members of Ngāi Tahu Whānui and members of Papatipu Rūnanga of Ngāi Tahu Whānui, where each member of Ngāi Tahu

Whānui is entitled to be a member of each Papatipu Rūnanga of Ngāi Tahu Whānui if he or she can establish entitlement by descent. Furthermore, the issue of adoption is governed by Te Rūnanga o Ngāi Tahu policy and government legislation such as Te Rūnanga o Ngāi Tahu Act 1996 (see Appendix 3). The policy reminds us that enrolments are only accepted from direct bloodline[4] descendants of the Kaumātua in the 1848 Ngāi Tahu Census. Adopted persons are therefore not eligible to enroll as Ngāi Tahu beneficiaries unless they are of Ngāi Tahu descent.

On the other hand, this thesis is not just about Ngāi Tahu and New Zealand, it will also report on research done on discourse concerning the legitimacy of claims to identity distinctiveness, which is an ongoing debate today, according to many Indigenous Canadian, Native American and Māori Peoples. Archuleta (2005) states that "Blood quantum laws and policies are responsible for the eradication and erosion of all elements that make a people distinct including their history, languages, laws and customs" (p. 1). Further, Archuleta (2005) continues to explain that the study of blood quantum has become an important aspect of the preservation of many Indigenous Peoples and tribal groups (p.1). Therefore, from an historical and cultural perspective, blood quantum standards divide and alienate communities and perpetuate a discourse that promotes internalised self-hatred, alienation, and fractionation. For instance, we can see in the political climate, in New Zealand, when Don Brash states in his infamous Orewa speech of 2004, when he repeats his comments about the Treaty being "associated with a grievance industry, and that there has been a divisive trend to embody racial distinctions into large parts of our legislation, extending recently to local body politics" (Brash, 2004, para.5). He then mentions that "Māori-ness explains very little about how well one does in life, and ethnicity does not determine one's destiny" (para.17). Finally, another part of his speech states that there are no full-blooded Māori left in New Zealand. (para.70). In this section, I introduced you to my thesis subject and how I am positioning myself in relation to the discussion that ensues. The next section provides an overview of this thesis.

[4] Direct Bloodline: you must have a sequence of direct ancestors, Ngāi Tahu is clear about whāngai, that they must have a direct bloodline, therefore all members must have whakapapa to Ngāi Tahu Kaumatua of 1848.

Overview

To summarise, in Part 1, I will discuss the research, the research aims, questions and hypotheses followed by a dialogue about theory, methods, my application of a Kaupapa Māori methodology with the use of pūrākau and whakapapa. I will present my 'Conceptual Identity Framework for Ngāi Tahu Whānui'[v] and weave the threads of mythology, belonging and identity together. This section of the research addresses the right to self-identify and name oneself both as individuals and as a member of a collective.

Part 2 will critique the meaning and importance of blood quantum laws and policies regarding Indigenous Canadian, Native of American and Māori Peoples' identities as has been described in over 200 years of historical accounts. Furthermore, I have woven the story of the Jewish people into my thesis. This aspect of my discussion has to do with how blood quantum was promoted by Adolf Hitler in the legal system in Nazi Germany in the form of Eugenics. Such an historical event as what occurred in Europe during this period should be a reminder of how evil things can get if we do not address the evil when it first raises its head. The ideology that surrounds blood quantum is insidious and, as such, we must speak of it, teach to it, and discuss it using pūrākau. Furthermore, where appropriate, we should continue to retell these pūrākau until everyone around us understands. The conceptual and theoretical foundations of blood quantum standards will be explored by way of a comparative, chronological framework that is applied in this project to Indigenous Canadians, Native Americans and Māori.

This part of the investigation will involve an analysis of blood quantum theories, legislation, policies, and laws used to govern Indigenous Canadians, Native Americas and Māori. Accordingly, I will draw upon studies of blood laws, concepts of colonisation, imperialism, assimilation, and will also consider racial anthropology and scientific racism. The study of ideologies related to the use of blood quantum is an emerging area of research that brings together science and culture. "Such theories draw upon historical phenomena such as state-sponsored genocide, forced settlement, relocation, political marginalisation, and various other formal attempts at cultural destruction" (Niezen, 2003, p. 17). I will discuss the history of such policies and introduce blood quantum laws; products of white racism and conclude with a reflection on this pernicious discourse related to these subject areas in USA and New Zealand.

Indigenous Canadians, Native Americans and Māori are all communities that have been subjected to the unethical, illegal and the social impact of theories of half-blood peoples who are reduced to being identified as half-identifiable, half-legitimate, and half-human.

From the evidence of my personal vignette, we see that the contemporary impact of blood quantum theories, policies and laws continues. In this research project, I explore pathways that might prevent Indigenous Peoples from being trapped by these social constructions. Indigenous Canadians, Native Americas and Māori, for instance, "were perceived by explorers, traders, and later by coloniser's, as being uncivilised, savage, of lower intelligence and physical prowess" (McCreanor, 1997, p. 38). Such traits were expressed in opposition to the civilised and intellectually mature European (Niezen, 2003, p. 20). "The racial binary was one of black versus white, Christian versus Natives [and] civilised versus uncivilised. Although not necessarily black in pigmentation, Indigenous Canadians, Native Americans and Māori are the ethnic binary to the white" (Niezen, 2003, p. 35). In this context, and by way of an example, 'ethnic binary to the white' can represent what the "American society [does when it] has no social technique for handling partly colored races. We have a place for the Negro and a place for the white man: the Mexican is not a Negro, and the white man refuses him an equal status" (Perea, 1997, p. 127). TallBear (2003) states that,

> as the theory of blood quantum affects many Indigenous Peoples and it is therefore "crucial to strengthen Indigenous communities against the modern eugenics discourse; that is, the use of biological testing [DNA analysis test for certain genetic markers] which claim to measure who is Indigenous" (p. 82).

Furthermore, TallBear (2003) writes that most " Indigenous Peoples in her study either hold letters of tribal enrolment or enrolment cards that prove their indigeneity" (p. 82). My research will develop new tools to prevent Indigenous Peoples from being trapped within these social constructions. Today most Indigenous Peoples are setting their own blood quantum limits for the facilitation of recognizing their ethnicity, even though these requirements were initially determined by their coloniser's. Those (as in non-Indigenous Peoples, the invaders, the coloniser's, those that are white) who consider themselves superior white people have not had to define themselves (Niezen, 2003). "Historically, they have not defined themselves due to the powerful political and economic positions

they have created. Boyes (2006) states that, by creating a government and legal systems based on their beliefs and systems, they have placed themselves in a position which allowed them to remain unquestioned in terms of their identity" (p.13).

For this reason, the study of blood quantum has become an important aspect of the self-determination of many Indigenous Peoples. In Part 3, I consider the journey for our Indigenous 'Blood' and our Indigenous 'DNA.' Specifically, I will consider what is beyond blood quantum such as DNA and ask what needs to change. To understand regarding the history, the politics, and the laws concerning blood quantum and DNA, that you need to understand the perspective of coloniser's and the tools they use. From a historical and cultural perspective, blood quantum standards divide and alienate communities and perpetuate a discourse that promotes internalised self-hatred, alienation and fractionation (Archuleta, 2005).

In Part 4, moreover, this thesis will encourage that we determine what is right and relevant for Māori as a people. It will explore possible self-determination techniques, which emphasis pūrākau in establishing identity; can create a journey of recovery through the application of pūrākau in decolonising ideology concerning blood quantum. Some of the tools considered are about knowledge management in Wānanga and workshops. This research is about designing tools such as the Conceptual Identity Framework for Ngāi Tahu Whānui[5], which will stimulate and disseminate our Indigenous knowledge. Ultimately, Indigenous Canadians, Māori and Native Americans need to be the ones in control of their identity; tribal affiliation; cultural continuity; destiny and the way in which they are legally defined.

"Whakapapa is our identity, our feet on the ground…"

(Te Rūnanga o Ngāi Tahu, 2013)

Research aims, questions and hypotheses

My research topic and intentions are to explore and review the current state of the laws based on ideologies concerning blood quantum, the theories underpinning these, and propose alternatives that lie beyond these forms of thinking.

[5] Appendix 1.

The fundamental issues at hand are:

1. Who is Indigenous?
2. Who determines Indigenous identity?
3. What does Indigenous identity mean?
4. What is beyond blood quantum?

Although the project of defining Indigenous, dates to the seventeenth century, the complications and complexities of defining who is an Indigenous individual continues to be a contentious issue. From a personal perspective of an Indigenous person of New Zealand, past implications of such historical policies, legislation, and governmental procedures that affect, define, and validate one's Indigenous identity have always been a part of my life; that is, since I was born in 1962 to a Māori father of Ngāti Irakehu descent and a Pākehā/ Irish mother, as my early school experience attests. We must move outside of what has been imposed and away from blood quantum. Although we face obstacles beyond the internal debates concerning change, it is no longer an option to simply remain passive in maintaining our own Ngāi Tahu criteria, concepts, and practices. Indigenous Peoples have these inherent rights by virtue of their right to self-determination as peoples and nations. However, while these rights have been acknowledged by the State, their Indigenous peoples do not belong to the States. The subsequent section will involve a journey engaging the theory and methodology that was considered, identified, applied and created during the development of this thesis. Furthermore, strong emphasis has been placed on pūrākau and the conceptual framework that I have created through consideration of my Ngāi Tahu whakapapa.

Theory and Methodology

The objective of this section is to provide a discussion on the theory and methodology that has informed the research. The discussion will provide a viewpoint and a philosophical stance in relation to research and its theoretical foundations. This thesis is woven together using the pūrākau and whakapapa; both Kaupapa Māori methods. In addition, entwined into this thesis are the historical, conceptual, and theoretical foundations of the ideologies concerning blood quantum and DNA used in defining Indigenous identity. This exploration will involve an examination of the contextual differences with respect to Indigenous Peoples in Canada, for Māori of New Zealand and

Native Americans. When considering blood quantum and the Jewish people, it is about the discussion on how far a theory can be taken. The Blood Quantum laws of Hitler were the invincible evil.

Lastly, I will present my conceptual framework *Conceptual Identity Framework for Ngāi Tahu Whānui,* an approach which weaves together different threads of inquiry and knowledge, such as mythology, belonging, identity, through the application of whakapapa and pūrākau, and draws on the pūrākau of pounamu, which has been handed down by our tūpuna and considers contemporary responsibilities of protection for Kaitiakitanga. Ngāi Tahu people see us as having a responsibility to look after, use and be able to manage our pounamu, our taonga; all of which has whakapapa. The final part of this aspect is the mātauranga of pounamu (traditional understandings), concerns the practices and values for future generations. Each of the parts of the conceptual framework, resonate with how all Ngāi Tahu descendants come to understand their ancestral belonging.

In this thesis, I will explore my thoughts prior to abandoning doing a law thesis, and my thinking whilst 'reframing' (Smith, 1999, pp. 153-154) my thesis back into an Indigenous space – my cultural space – my space of learning, and the concept of reframing. We must understand reframing a thesis, according to Smith (1999) as being about "taking a much greater control over the ways in which Indigenous issues and social problems are discussed and handled" (p. 153). Further, "reframing occurs in other contexts where Indigenous people resist being boxed and labelled according to categories which did not fit" (p. 154). Finally, "reframing occurs also within the way Indigenous people write or engage with literatures, theories and accounts of what it means to be Indigenous" (p. 154).

Smith (1999) argues that it is important that Indigenous scholars take charge of theorising Indigenous experiences and developing methodologies that help us make sense of our realities. Theory involves organising ideas that, as Smith (1999) argues, "enables us to make assumptions and predictions about the world in which we live" (p. 41). Further suggests that, *"theory enables us to deal with contradictions and uncertainties. Perhaps more significantly it gives us space to plan, to strategize, to take greater control over our resistances…. It helps us interpret what is being told to us and to predict the consequences*

of what is being promised" (p. 40). A danger is that if theory it does not evolve and respond to change, it can become ideological, like the ideologies in this thesis concerning blood quantum. The fake theories surrounding blood quantum and now with the use of DNA testing to prove 'Indigenous Identity,' are being imposed on our Indigenous communities to eradicate their belonging, too often it is about the means to take land and resources. Under the conditions of internal colonisation the colonised can also impose such definitions. The methodology describes the extensive ethical foundation of my preferred research methods. The methodology is the scaffolding around which the main issues are described and examined, whereas the methods are the tools used to do the research. In this thesis, the methodology applied is Kaupapa Māori methodology, and the tools between this scaffolding are pūrākau and whakapapa. Then the historical, conceptual and theoretical foundations of both blood quantum standards and DNA for Indigenous identity will be explored in a comparative context involving an examination of Indigenous Canadians, Māori and Native Americans.

Concluding this segment, the following section will present Kaupapa Māori as a methodology, then Conceptual Identity Framework for Ngāi Tahu Whānui, pūrākau and whakapapa as the theoretical tools used in this research project, which, as such, will be applied to enlighten the core thread that anchors this thesis. Next, I will present my methods of reviewing relevant literature and comparing ideologies, theories and legislation supporting blood quantum, historically and contemporary in Canada, New Zealand and United States of America.

My story: It took me some time to understand Kaupapa Māori as a methodology. As an undergraduate student, I studied law and so the Western legal system dominated my thinking. For this reason, I did not consider a Kaupapa Māori methodology for my doctoral proposal or my application for ethics approval. Once I came to consider methodological issues more deeply, I concluded that the socio-political aspirations of Ngāi Tahu (for example, to assert self-determination in relation to rights over our resources, language and culture, self-governance, and indeed our wellbeing) are benchmarks against which ideologies, theories and practices relating to blood quantum could be unraveled from our own older notions of what it means to belong to a people and a place.

In time, I became immersed in the Faculty of Māori and Indigenous Studies, and Kaupapa Māori methodologies to becoming a core part of my thesis as a way for representing and theorising everyday Ngāi Tahu aspirations. At the time of my thesis confirmation process in the Faculty of Law, my title included the term, 'Blood Quantum, 'which was challenged by the Law academics, who suggested that I remove the term from the title. Some staff from the Law Faculty suggested that my topic of 'Blood quantum' was redundant and irrelevant, and that there was no place for this topic in the Faculty of Law. That doubt was short-lived and dispelled when a prominent businessman Sir Bob Jones argued in his column in the *National Business Review*'s (NBR) website, "that instead of a day in which Māoritanga comes to the centre, we should have a day in "appreciation" of the Brits[6]" Why? Because Sir Bob believes there are **"*no full-blooded Māori's in existence*"** (Jones, 2018).

When I began to write my thesis, staff from the Faculty of Māori and Indigenous Studies encouraged me to position myself as part of the introductory section within my thesis. Though I was told that I would need to write more 'Law' into the thesis, which caused some confusion, it was not until I realised that applying pūrākau or story-telling to an analysis of the law regarding blood quantum that I was in uncharted waters and faced a challenging journey ahead. I will write more on this aspect of my journey in the next part of this thesis. How does the previous dialogue relate to Kaupapa Māori? Well as a methodology, Kaupapa Māori allows you to explore narrative using procedures by storytelling/pūrākau and with whakapapa, which has to do with how we should treat people and the knowledge that is imparted. Taking a Kaupapa Māori approach gives one the sensation of being anchored or having a scaffolding placed around the Kaupapa/topic, after which one becomes able to use pūrākau and whakapapa which are the tools used to explain and strengthen all that follows. Here, I need to affirm what Mane (2009) states: that

> 'Kaupapa Māori initiatives have emerged as significant features of Māori development. These initiatives are not only Māori-led but have actively sought to advance Māori aspirations from a context in which Māori thinking, values, knowledge, language, cultural protocols and

[6]A column calling for a day in which Māori serve the British has been deleted from the *National Business Review*'s (NBR) website.

> views of the world provide the basis of action for Kaupapa Māori" (p. 1).

Where does a Māori academic go to comprehend Kaupapa Māori methodology? I started the journey of transforming my understandings through reading 'Decolonising Methodologies' by Professor Linda Smith (Smith, 1999, p.194) a guide for Māori researchers for pursuing research and actions that align their development to the aspirations of iwi and Māori communities. I adopted a Kaupapa Māori methodology to consider how the discourse surrounding 'blood quantum' produces an altered reality that is subsequently adopted and internalised by communities as the 'norm', as a hegemonic instrument to interfere with the cultural substance of tikanga. A Kaupapa Māori methodology enables researchers to speak back to a discourse like that surrounding blood quantum by establishing key principles or elements for the world we seek to 're-search' into being. For this thesis, the principles include Ngāi Tahu aspirations for tribal and Rūnanga development. In Chapter 10, titled 'Towards Developing Indigenous Methodologies: Kaupapa Māori Research', I will provide a comprehensive discussion on this subject.

Linda Smith (1999) emphasises that "those writing about Kaupapa Māori are not always involved in just research" (p.184). For example, some Māori make be working in organisations, enterprises and other seemingly unrelated projects. However, it has almost become a cliché to state that your business entity fits within a Kaupapa Māori framework (the scaffolding), an idea that is supported by Linda Smith when she states that a Kaupapa Māori framework is that "…which is undertaken by a Māori researcher, not a researcher who happens to be Māori" (p.184). What reverberates through this chapter is the idea that those who practice Kaupapa Māori are Māori. This explains the need to anchor or position yourself within your thesis, to start with, our 'whakapapa', and then to tell our story. We speak and write from a whakapapa that connects us to places and a context.

Dr Graham Smith (1990) has articulated some core principles of Kaupapa Māori that apply to research and practice. These principles were identified in a series of publications that were drawn from his PhD thesis *The Development of Kaupapa Māori: Theory and praxis* (1997) and *Beyond Political Literacy: From Conscientization to*

Transformative Praxis (2005) and have been reiterated in the writings of other Kaupapa Māori researchers. I have taken these principles as described in the Rangahau website and have added descriptions of how each principle applies to my research:

> *Tino Rangatiratanga: The Principle of Self-determination:*
>
> Tino Rangatiratanga relates to sovereignty, autonomy, control, self-determination and independence. The notion of Tino Rangatiratanga asserts and reinforces the goal of Kaupapa Māori initiatives: allowing Māori to control their own culture, aspirations and destiny. In this thesis having tino rangatiratanga over identity is seen as fundamental to being who we are.
>
> *Taonga Tuku Iho – The Principle of Cultural Aspiration*
>
> This principle asserts the centrality and legitimacy of te reo Māori, Tīkanga and Mātauranga Māori. Within a Kaupapa Māori paradigm, these Māori ways of knowing, doing and understanding the world are considered valid. In this thesis, taonga tuku iho is embedded in our identity, our pūrākau and whakapapa.
>
> *Ako Māori – The Principle of Culturally Preferred Pedagogy*
>
> This principle acknowledges teaching and learning practices that are inherent and unique to Māori, as well as practices that may not be traditionally derived but are preferred by Māori. Pūrākau and story work is used in the thesis as both a method for research and a pedagogy for moving beyond blood quantum. Kia piki ake i ngā raruraru o te Kāinga – The Principle of Socio-Economic Mediation
>
> This principle asserts the need to mediate and assist in the alleviation of negative pressures and disadvantages experienced by Māori communities. This principle asserts a need for Kaupapa Māori research to be of positive benefit to Māori communities. This thesis addresses the real impact of the partitioning of our identities and its production of the social marginalization and exclusion of most Indigenous Peoples in colonized settler societies.
>
> *Whānau – The Principle of Extended Family Structure*
>
> The principle of Whānau sits at the core of Kaupapa Māori. It acknowledges the relationships that Māori have to one another and to the world around them. Whānau and the process of whakawhanaungatanga are key elements of Māori society and culture. This thesis has been a journey in and out of, from and to whānau, hapū and iwi. It has also been a journey into the whānau of Māori and Indigenous Studies where I have had support and mentoring.
>
> *Kaupapa – The Principle of Collective Philosophy*

> The 'Kaupapa' refers to the collective vision, aspiration and purpose of Māori communities. Larger than the topic of the research alone, the Kaupapa refers to the aspirations of the community. The principle of Kaupapa has driven, motivated and helped me bring together the threads of the argument about blood quantum that still permeates discourses about Māori identity.

The next section of this discussion explores a selection of texts related to Kaupapa Māori. I have prudently selected writings, with the intention of providing clarity and creating lucidity with respect to my understanding of what Kaupapa Māori is as a set of ideals and as a way of understanding and undertaking research. Like many cultural constructs, these ideas can be difficult to implement in real life and therefore it becomes important to look for the foundational ethics and intentions of Kaupapa Māori. In her review of Kaupapa Māori, Mane (2009) describes it "as an academic approach with a particular attention to its relevance to Māori communities" (p. 1). She cites Eketone (2008), who comments that, "Kaupapa Māori continues to evolve, there are currently several positions understanding concerning what it represents" (Mane, 2009, p.2). Furthermore, Mane (2009) states "[a]lthough the term "Kaupapa Māori' was coined by Māori academics, it is nevertheless drawn from Tikanga Māori, from Māori cultural protocols, values, practices and views of the world (p. 2).

Mane (2009) continues the review by discussing Bishop (1996) and Durie (1998), who state that, "at the centre of any discussion of the collective group is the concept of 'whanaungatanga' which may be described as kinship, relationships or connectivity" (p.3) Mane concludes this part of the dialogue with the thought that "in the Māori world, knowing one's relationship to people and land holds high significance and is usually apparent in the protocol and oratory of cultural gatherings" (p. 3). Mane suggests that "sometimes it is not always about whakapapa, genealogical associations, but by being like-minded people coming together for a common cause" (p. 4). Iterating what Linda Smith (1999) said earlier in this discussion, we might ask, "are you a Māori researcher, not a researcher who happens to be Māori", a question that is echoed by Law, who asks "[a]re you a Māori lawyer, or a lawyer being Māori". Mane goes on to suggest that not all researchers understand Kaupapa Māori, which is to say, Kaupapa Māori is not that clear. Furthermore, there are challenges in the sculpting of inexperienced researchers. I can relate to this as I have had to come to grips with moving my research from the legal ambit to that of Indigenous Studies.

Bevan-Brown (1998) identifies ten components in Kaupapa Māori research that gave me additional encouragement, understanding and guidance in carrying out my research:

1. It must be conducted within a Māori cultural framework. This means stemmed from a Māori worldview, based on Māori epistemology and incorporate Māori concepts, knowledge, skills, experiences, attitudes, processes, practices, customs, reo, values and beliefs;
2. It must be conducted by people who have the necessary cultural, reo, subjects and research expertise required;
3. It should be focused in areas of importance and concern to Māori peoples, and of self-identified needs and aspirations;
4. It should remain in some positive outcome for Māori;
5. It should involve the people being researched as active participants at all stages of the research process;
6. It should empower those being researched;
7. It should be Māori controlled;
8. It should be accountable to the people they research the Indigenous communities;
9. It should be of a high quality, assessed by culturally appropriate methods and standards;
10. The methods, measures and procedures used must take full cognisance of Māori [Indigenous cultures]. (pp. 231-246)

The ensuing dialogue has been created by extracting relevant discussions from another literature review, which was primarily created to provide an overview of the principles and practices of Kaupapa Māori. Relevant here refers to framed traditional associations and the linking of whakapapa. In the conclusion, Bevan-Brown (1999) notes that;

> what became clear from the literature review is that Māori people across the sectors are engaging Kaupapa Māori and seeking to define what may be fundamental values and concepts inherent in such a notion" (p. 41). What is motivating is the in-depth defining of the term 'Kaupapa', which was explained by Taki in parts, stating that "Kaupapa is derived from key terms, words and their conceptual bases. 'Kau' is often used to describe the process of 'coming into view or appearing for the first time, to disclose …papa is used to mean 'ground, foundation base.' Together Kaupapa encapsulates these concepts (p. 33).

Likewise, Walker discusses Kaupapa Māori, stating that it is a, "…foundation of Te Ao Māori, it positions Māori into that cultural space, place, and anchor, and Kaupapa is the explanation that gives meaning to the 'life of Māori" (Walker el et al, 2016, p.3).

Similarly, Bevan-Brown raises the argument made by Charles Royal (2006) discussion, when he writes that Mātauranga Māori was created by Māori to "explain their experiences with the world" that it was traditionally created, that Kaupapa Māori is not new. That it was created and maintained for centuries in Aotearoa (p. 5). Royal also wrote that whakapapa as a research model and explained his definition of Mātauranga Māori is created using whakapapa (p. 5). Equally, Pipi et al. (2004) explored and examined the practices of successful Māori and iwi providers. Pipi's article opens asserting that Kaupapa Māori "is an emancipatory theory that has grown up alongside the theories of other groups who have sought a better deal from mainstream society" (Pipi et al., 2004, p.216). next, "Kaupapa Māori research operates out of this philosophical base and is guided by practices that reflect a Māori, "code of conduct" (Pipi et al., 2004, p.216). In the same way, the article speaks to the catch-cry, "[t]o be Māori is normal" (Pipi et al., 2004, p.216). In my opinion, this part in the conclusion of this article is paramount, as it sends a strong message to a Māori researcher: that,

> one walks alongside the community that is being researched with the responsibility to ensure that Māori research by, with and for Māori is about regaining control over our knowledge and our resources. We are acting our tino rangatiratanga over research that investigates Māori issues (Pipi et al., 2004, p.216).

Taki (1996) states that Kaupapa Māori is a network of iwi knowledge frameworks that have transformed iwi specific knowledge paradigms in response to forced colonial education (p.16). Similarly, Mahuika (2008) succinctly asserts that, "[i]its greatest potential may lie in its ability to challenge Māori to develop a greater awareness of who we are, what it is we really want, and how we want to go about achieving that" (p. 11). In the search for resources, where the focus was on defining or explaining Kaupapa Māori, more so in the area of identity and whakapapa. However, it is also interesting how the criteria of Kaupapa Māori evolved and the discussion around these criteria, for example the need to be immersed in tikanga through te reo Māori, although I acknowledge that this criterion does shift, pending on the discipline. The next two documents are also valuable references, which complement and add to the richness of the

augment developed in this discussion. Because it was necessary to reframe my thesis, I can relate and connect to the comment in the following overview of Kaupapa Māori, which states that "the concept of Kaupapa implies a way of framing and structuring how we think about those ideas and practices" (Nepe, 1991, p. 15) . Nepe goes on to argue "that Kaupapa Māori is a conceptualisation of Māori knowledge" (Pihama et al., 2004, p.153). Another example is, when the Pihama et al. echo that "[t]here is a growing body of literature regarding Kaupapa Māori theories and practices that assert a need for Māori to develop initiatives for change that are located within distinctly Māori frameworks" (p. 10). As I have stated previously, I see Kaupapa Māori as the framework and/or scaffolding needed to keep ones work or discipline culturally anchored; that is, keeping it 'pono'. Thus, the procedure of sharing Indigenous information involves the transfer of knowledge within the framework and/or platform of Kaupapa Māori using such tools such as pūrākau and whakapapa.

The final resource that I would like to discuss, in this journey of understanding Kaupapa Māori is *Kaupapa Rangahau: A Reader, which is a collection of readings* Pihama, L., Tiakiwai, S.-J., & Southey, K. (Eds.). (2015). This collection of articles interconnects various features of Kaupapa Māori. This journey has strengthened my understanding and knowing of Kaupapa Māori. In my opinion, it has been a journey of transformative understandings through the readings of Kaupapa Māori. In her chapter, 'Kaupapa Māori Theory: Transforming Theory in Aotearoa' Pihama sees Kaupapa Māori as a transformative vehicle, "…. Kaupapa Māori theory is a powerful force in the future creation of a range of Kaupapa Māori expression" (p. 16). Pihama defines Kaupapa Māori theory as a theoretical framework that ensures that cultural integrity is maintained when analysing Māori issues (p. 13). She also emphasises the notion that Kaupapa Māori represents a continued assertion of tino rangatiratanga (p. 16). Then in 'Understanding and Doing Research: A Māori Position' (Tiakiwai, 2015) "uses the notion of weaving to draw together the methodological and theoretical frameworks on which the study is based" (p. 75).

Finally, in 'Decolonising Māori Narratives: 'Pūrākau as Method', which I will draw on more in the next section in relation to pūrākau, Lee (2005) sets out the way in which pūrākau was shaped as a methodology and describes the "engagement with decolonising methodologies and Kaupapa Māori as the work of the Indigenous

bricoleur" (p. 92). I expect that applying Kaupapa Māori processes to my thesis will enable me to capture our Indigenous Peoples realities regarding the concept of blood quantum. This is because the review of Kaupapa Māori literature suggests that ... [i]t becomes paramount to consider whether my research might contribute towards the further exclusion of the thoughts of Indigenous Peoples on this topic matter.

Therefore, I will come back to what Smith (1999) has stated in 'Decolonising Methodologies', with regards to, "…. the word itself 'research' is probably one of the dirtiest words in the Indigenous world's vocabulary" (p. 1). It is dependent on how I approach and frame my research, and furthermore on the tools that I use to address my research aims, questions and hypothesis.

To conclude this section, in addressing the literature on Kaupapa Māori, I have introduced the nature of the methodology that I will be applying in discussion that follows. I am using this methodology as the scaffolding; the concept of reframing becomes the central thread of my thesis. Next, I will explore pūrākau as a Kaupapa Māori method. My approach will then be to weave this strand in accordance with Kaupapa Māori methodology; the discussion of which becomes the core part of my thesis.

Pūrākau

In this section, I will explain my application of the method of pūrākau, which is a specific method of Kaupapa Māori and of other Indigenous methodologies. I have selected and referenced mātauranga Māori ideas from our waiata, whakataukī, and mōteatea, when describing techniques of applying pūrākau. I have also used sources from Irish story-telling and song [which draws on my genealogy on my mother's side], to recall the history and events that are relevant on that side of my family, alongside Māori and the Indigenous Peoples of the other countries in this study – Canada and the United States of America. I have added the first peoples from Australia, due to their very long history of storytelling and dreamtime.

Aotearoa: Māori

A good place to begin this section would be ask the question: what is pūrākau? According to Lee (2005), pūrākau refers to storytelling that has "derived its meaning

in Māori language from words that relate to the tree and bush, since the imagery of tree often reflect our cultural understandings of social relationships, our interconnectedness with each other and the natural environment" (p. 7). This statement is repeated in the Universal Declaration of the Rights of Mother Earth[7], "Papatūānuku [Mother Earth] is a living dynamic system made up of the undivided community of all living beings, who are all interconnected, interdependent and complementary, sharing a common destiny" (2010). Papatūānuku cements the idea that everything is interrelated and that all things have an impact on all relationships. Therefore, when someone is telling a story of identity/pūrākau, they are reaffirming that interconnectedness of the elements of their identity. Furthermore, Lee (2005) explains that "pūrākau theory is one form of Māori narrative that originate from oral literature traditions" (p. 7). Furthermore, Lee states that "other narrative forms include mōteatea (traditional song), whakapapa (genealogy) whaikōrero (speechmaking) and whakataukī (proverbs) each with their own categories, style, complex patterns and characteristics" (p. 7). Earlier in the thesis I discuss the reframing of my thesis, from Law to Indigenous studies, this action allowed me to anchor the thesis culturally, formerly this was legally. Being able to reframe the thesis, gave me the permission to tell the pūrākau and the ability to reflect.

The next project Smith (2006) explores is, 'story telling', about which she writes that, "for many Indigenous writers, stories are ways of passing down the beliefs and values of a culture in the hope that the new generations will treasure them and pass the story down further" (pp. 144-145). Smith writes that the, "story and the storyteller both serve to connect the past with the future, one generation with the other, the land with the people and the people with the story" (p. 145). This thesis utilises pūrākau to explore possible tino rangatiratanga (self-determination) techniques; changing the narrative of identity; creating a journey of recovery through narrative knowledge management; eliciting and disseminating knowledge, encouraging collaboration, and generating new ideas to ignite change that may protect Indigenous Peoples from the inexorable use of this concept of Pūrākau . Pūrākau assists my investigation of potential changes that could serve to replace the already established concepts of blood quantum found in the discourses and practices of Indigenous peoples, in Australia, Canada and New Zealand.

[7]Draft Universal Declaration of the Rights of Mother Earth:
https://www.iucn.org/content/draft-universal declaration-rights-mother-earth.

The more often that we recount the stories of our ancestors of who we are and where we came from, the more we begin to expose discourses of blood quantum and critique associated legislation concerning Indigenous identities. This statement refers to the creating important links through time, place and people. In the same vein, Lee (2005) discusses "pūrākau as a fundamental methodology for distributing knowledge, values, protocols, and world views" (p.7). Lee suggests that pūrākau can "challenge dominant discourses that continue to de-centre Māori experiences, cultural notions and aspirations in ways that resonate and connect to our people" (p. 13) and goes on to suggest that "pūrākau is not limited to traditional stories but includes storying in our contemporary contexts" (p. 8). Being Māori, then, is not about skin or hair colour but is about whakapapa. We Māori already know this: I have grown up with my children and mokopuna – where the colour of your skin and who you are does matter.

My daughter Tia

Figure 2: Alvina and Tia (Source: Christchurch Airport, 1987).

Let me tell you about my daughter, Tia Rangiwhakahaere Ngahere Barrett. I have always told her that, "I love you, you're special, beautiful, you're Māori, unique and strong, do not ever forget that, anyone who calls you names because you are Māori or because of the colour of your skin is weak and lost". When Tia was three years old, we were parked at Addington petrol station in Christchurch getting petrol when a member of a White Power group shouted "Black bitch" at Tia out the back window of their car. When Tia was four years old and attending kindergarten in Christchurch she came home upset because the kindergarten allowed the other children to wash so-called 'dirt' off her skin.

Tia was the only Māori at the kindergarten – all the other children were Pākehā. Following this incident, I transferred Tia to a playgroup, after which Tia came home and said "Mummy they're having a New Zealand day, but I'm not to do anything Māori. They asked me to tell you". When Tia was seven years old and attending primary school in Hamilton, she said, "Mum I told the teacher when she asked what you want to be when you grow up". I said, "I want to go to University". The teacher told me "not to think too high or I might be disappointed".

When Tia graduated in 2011, that same teacher happened to be at the graduation ceremony and looked very surprised when Tia was capped! When Tia was eleven years old and attending a school in Ngāruawāhia, every morning she was told to stand to tell the class how dumb she was – that she wasn't good at math's and scored low marks. All the other children who were Māori, were also made to stand and tell the class that they were dumb. When Tia was fifteen years old and at a high school in Hamilton, the teacher told the class that Captain James Cook discovered New Zealand, but Tia said, "No that's wrong" after which she received a note to take home, which said, "student causing concern". When she was twenty-one years old and waiting at a bus stop in Fairfield, Hamilton, and a car pulls up carrying 'white power' members and they shouted, "black bitch". When she was twenty-two years old, the neighbours horrible son was chasing one of our cats with a sword, during which Tia told him to stop, the mother came running out and called her a "black bitch".

In 2018 Tia is now twenty-nine years old. She finished her seventh form [year 13], after which she completed a certificate in Performing Arts, and was capped with a Bachelor of Arts – majoring in Screen & Media. Then she began an Honours degree and worked for Te Wānanga O Aotearoa and she is now in her seventh year. Tia is now a short-story filmmaker. Her last film, 'Mrs. Mokemoke', of which she was the producer, was entered in WOW[8] film festival, and much more…. This year, Tia will be trekking to the South Base Camp in Nepal … What's changed? Not the behaviours of others! My daughter, for her part, now says "I'm Waikato-Tainui, Maniapoto, Ngāi Tahu, and it is whakapapa that matters"

[8] 'World's Wearable Arts New Zealand'.

Consider Lee (2009) when the author states that, "[t]o make methodological space for a culturally responsive narrative approach was fueled by the knowledge that our own cultural narratives also offer legitimate ways of talking, researching and representing our stories" (p. 8).

In the following, I would like to discuss some other examples of pūrākau; for instance, waiata, Te Hā o Tahu Pōtiki which was born from the desire of Kāi Tahu whānui to strengthen and develop a Kāi Tahu identity through waiata and kōrero. Te Rūnanga o Ngāi Tahu acted as the Kaihautū to steer this waka through its journey of discovery. He aha tēnei mea, Te Hā o Tahu Pōtiki? "It is a waka in which we place our waiata, whakapapa and kōrero for our Kāi Tahu whānauka. It is a tohu which reminds us of our links, and it is what binds us together." (Te Runānga o Ngāi Tahu- Kotahi Mano Kāika, n.d). This was an early initiative of Te Rūnanga o Ngāi Tahu (1998), which complemented and augments the development of our language programme, 'Kotahi Mano Kāika.' A specific example of one of the first waiata in this collection is, 'Tahu Pōtiki', which was composed by Taua Ruahine Crofts. Ruahine says that this song "was written as a waiata to identify ourselves as uri of Tahu Pōtiki from whom our tribal lineage stems and to acknowledge our link to our sacred mountain, Aoraki, and our ancestral canoe, Tākitimu" (p. 6):

Tahupōtiki tāku tupuna
Hoki wairua mai arohaina
e Ki ō uri e karanga ake
rā Aratakina tō iwi aue
Aoraki te maunga ariki
Hei whakamaru te iwi kei
raro Tākitimu waka whakairo
Hoea hoea rā te moana
Auē e koro e
Hei whakamahana
Kore rawa koe e
warewaretia Huakina mai ra
ki ō tamariki Ngā tikanga o
ngā mātuā tipuna
Ngāi Tahu te iwi ki Te Waipounamu, Maranga mai (p. 7).

Next, Carter (2015) from Ngāi Tahu explains that waiata function as "oral traditions [and] are spatial and temporal tools that build multidimensional layers of data across the landscape so we can build knowledge frameworks that intersect and provide structure as to how we understand our place" (Wai 38, 1992, p.62). In addition, Carter states, that "the landscape then can help with planning for the future through the utilising of the layers of information and data contained within the tools. The connections between things past and things present is the element which gives … pride and identity" (cited in *The Waitangi Tribunal Te Roroa Report*, Wai 38, 1992, p.62). Furthermore, Carter explains that the, "words of the waiata open the memory and place people within the landscape; the sounds of the waiata are also important to connecting place with the singers…" (Carter, 2015, p. 7). In other words, the waiata transfers one from one landscape to another and names "the places as they go … providing reasons for the names and the connections, which act as an indicator of belonging, thus creating a cultural landscape that is imbued with identity" (Carter, 2015, p. 9). The following waiata speaks of the aroha (love and respect), for Aoraki, the Maunga ariki (supreme ancestral mountain) that embodies Ngāi Tahu mana in its tribal landscapes.

Kātahi au ka kite ai
I a Aoraki e tū mai ra
e E ngaro ana koe i
roto i Te kohu me te
hukarere Auē ra e
Aoraki
Te maunga ariki
Maringi ai ōu
roimata Ki roto o
Pūkaki
Kātahi ra ka haruru
mai Ki te awa o
Waitaki
Ka ata titiro
Ngā mania tekateka o
Waitaha Mehemea au ka
tuohu ai

Me maunga teitei
Noho mai ra kei te hoki ahau
Ki te ohonga o te ra e I. (Manawatu, n.d)

This waiata opens acknowledging our Maunga Aoraki, which is the "sacred mountain for Ngāi Tahu" and likewise our tūpuna, and is a marker used for our identity. In the next passage, when the tears of Aoraki, "flow into Lake Pūkaki, then it moves into the Waitaki river and at that moment it voyages down the river and out across the Canterbury Plains", the waiata is "used as a marker for identity, thus anyone reciting the name Aoraki within their whakapapa is connected automatically to the Ngāi Tahu territories in the South Island" (Carter, 2015, p. 8). Carter (2015) recognising that this is recalled in the story by Herries Beattie by Wi Pokuku (p.8).

Next, whakataukī, which is defined as a proverb, significant saying, formulaic saying, cryptic saying, aphorism, and quote (Māori Dictionary, n.d.). Like whakataukī and pepeha, they are essential ingredients of whaikōrero (Māori Dictionary, n.d.). In 1849, Matiaha Tiramōrehu wrote a petition to Queen Victoria, which signed by all the leading Ngāi Tahu chiefs of the time, asking the Crown to put aside adequate reserves of land for the iwi, as agreed to under the terms of its land purchases. During the 20-year period following 1844, Ngāi Tahu signed land sale contracts with the Crown for some 34.5 million acres, approximately 80% of the South Island, Te Waipounamu (Ngāi Tahu, n.d.). The Crown failed to allocate one-tenth of the land to the iwi and nor did it pay a fair price, as it had originally agreed. Over the ensuing seven generations, individuals, whānau and hapū tirelessly pursued the vision of Tiramōrehu through petitions and a series of commissions of inquiry to seek redress from the Crown. This work became known as Te Kerēme: The Ngāi Tahu Claim.

The protracted labours of Ngāi Tahu people in pursuit of redress and compensation against the Crown lasting nearly 150 years is alluded to in the following Ngāi Tahu whakataukī; "He mahi kai takata, he mahi kai hōaka – It is work that consumes people, as greenstone consumes sandstone" (Ngāi Tahu, n.d.). Lee (2009) writes that, "[s]storytelling has always been one of the keyways knowledge was sustained and protected within Indigenous communities" (p.2). Lee also remarks, that "reclaiming story-telling and retelling our traditional stories is to engage in one form of decolonisation" (p.

2). I believe that when one goes through the changes that I have had to make, when moving faculties and chief supervisors, the reclaiming feels like a process of decolonisation, in that it ignites the sensation of freedom. When you write, you become more connected to your work, and this involves a holistic transformation.

Finally, in relation to the previous mentioned techniques are all part of pūrākau, in that they both tell the story of our ancestors and describe our cotemporary story. They capture what is important such as our whakapapa, which is the fundamental principle of being Māori. Next, I will explore pūrākau/storytelling as it is studied in Canada, the United States of America and Ireland; the cultures of which I engaged in my thesis. Smith (1999) states that, "…. for many Indigenous writers, stories are ways of passing down the beliefs and values of a culture in the hope that the new generations will treasure and pass the story down further" (p. 145).

Ireland

> The people in the mountains are very superstitious and relate many marvellous and absurd stories of St. Patrick, as also about fairies, enchantments, ghosts. The old women and men will tell these stories to any person if they will listen to them and to express any doubt as to their veracity is considered a sure indication of ignorance. (Ordnance Survey Memoirs of Ireland (1830s), 1992, p.40)

My genealogy links me to Ireland through my great grandparents who travelled from Ireland to Cape Town, South Africa, then to New Zealand, arriving here in 1853 on the boat 'Māori'. I have found it fruitful to compare the history of the Irish and Māori; peoples who have endured colonisation, genocide, assimilation, loss of land, loss of language and even loss of identity. Recently, with the intention of confirming this genealogy, and inspired by television show 'DNA detectives', my mother and sister decided to waste their good money on 'Ancestry.com' – DNA testing. Who would have thought that this little Māori girl in Hamilton, had whānau who would reveal their ancestral and future DNA in a single spit? I am uncertain what they wanted to experience. Maybe they wanted to be told who they are with the precision that fractionated their individual person into percentages rather than according to what we already knew about our whakapapa and genealogy.

Nevertheless, they were excited to be told that mum was 86% Irish and my sister was 16% Irish. This is to say; my sister has a different mother, or that I am adopted - something I did not believe because my mother was always reminding me that my arrival into this world was a painful. She would say, "I had to walk to the hospital, up a steep mountain, and upon arrival, the nurses made me stand upright and walk the corridor, and not push, until the doctor who was playing golf arrived". Remember, I am 25% Māori according to my primary school teacher at Wallacetown, so according to mum's test, I must be 43% Irish which was a great surprise to me. Who could have guessed this? This also means that I must be 32% Tahitian, since my great- grandfather Pāpē, who was Tahitian, married into our Ropata/Robinson whānau from Wairewa.

However, this is not all about me, but about the Irish and their storytelling, folklore and dreaming. Irish storytelling according to Lindová (2014), "was a familiar feature of life in the Irish speaking districts of Ireland up to two or three generations ago. There was a distinction between the folktale narrator and the narrator of everything else – legends, lore etc." *(*p. 42). Furthermore, "[s]eanchas was the word for lore in general, the Irish for story is scéal and a storyteller is known as a scéalaí. The scealaí was a conscious literary artist" (p. 42). Further, Lindová (2014) comments that, "the story tellers appear to have a deep commitment to their art and respect for the tradition on which they drew or of which they were a part" (p. 42). Therefore, Lindová (2014) writes that, "…folklore and particularly oral narratives play an important role in [the] lives of the Irish" (p. 9).

To close this part of the Irish section, these old-style Irish storytellers remained the guardians of tradition and history and, as such, they have been known for centuries in Ireland as the Seanchaí. The Seanchaí Irish were, by definition, the earliest form of entertainment in Ireland, and held the fundamental right or key to all Irish folklore, myth, and legend, just like we had Tohunga who were selected and trained in the Whare Wānanga of each discipline. The following focuses on the Irish and their storytelling. this poetic statement by Benjamin in Arendt (1968) "the storyteller joins the ranks of the teachers and sages. The storyteller: he is the man who could let the wick of his life be consumed completely by the gentle flame of his story" (p. 84).

Then O'Connell (1968) describes storytelling in the following way; the more natural the process by which the storyteller forgoes psychological shading, the greater becomes

the story's claim to a place in the memory of the listener, the more completely is it integrated into his own experience, the greater will be his inclination to repeat it to someone else someday, sooner or later (p. 61). Then he argues that, "the cinema [is] the place where we gather in the dark together to witness the story and participate emotionally in the sharing of the projection" (p. 27). Furthermore, O'Connell states that according to, "[d]ifferent societies, that they give shape to any culture's world picture is to be found in the characteristic arrangements of time and space in the texts that each society nominates as art" (p. 35). Finally, he argues that, "[i]f you are telling a story, then the human mind, as it's working along with you, is perceiving your thrust, both consciously and, more importantly, subconsciously" (p. 142). To conclude this part, the following quote sums up the Irish experience and their uniqueness in storytelling, The quote from Best (as cited in McKendry, 2006) states that"[t]he ancient traditions of the Celtic peoples, which on the Continent have been almost completely obliterated by successive invaders have, in Ireland, survived and been handed down as the particular inheritance of the nation"(p. 5).

In Canada, storytelling by the First Nations Peoples is the foundation of their holistic knowledge, connecting, relationships, and theoretical scholarship. Hanna and Henry (1995) state that;

> the same descriptions, which resonates with the other Indigenous Peoples in this thesis, such as, "Teachings in the form of stories are an integral part of our identity as a people and as a nation. If we lose these stories, we will do a disservice to our ancestors – those who gave us the responsibility to keep our culture alive (p. 201).

Their storytelling encompasses, "expert use of the voice, vocal and body expression, intonation, the use of verbal imagery, facial animation, context, plot and character development, natural pacing of the telling, and careful authentic recall of the story" (First Nations Pedagogy, n.d) which is echoed in the idea that "listening involves more than just using the auditory sense. Listening encompasses visualizing the characters and their actions and letting the emotions surface. Some say we should listen with three ears: two on our head and one in our heart" (Archibald, 1997, p. 10). In Campbell et al. (2003), they state that, according to the relationship between the living world and the spirit world, it is vital for the First Nations cultures. In many First Nations' traditions, dreaming involves the making of a connection to the other world. Ridington (1988) states

that in Tahitian culture, for example, hunters often dream into the future in order to discover things about their next hunt. Dreams can contain messages from late ancestors, provide teachings, warn of danger, and bring together the many psychic realms of our existence (p.100). Ridington (1988) then acknowledges the narrative by 'Aku' who talks about honouring and maintaining his relationship with his ancestors and learning songs that he will in turn teach to his children. He is humbled and grateful in receiving his gift:

> **Aku, of the Dunne-za culture**
> One time I dreamed about a Trail to
> Heaven. I went halfway up, and someone
> met me. The person gave me something
> white. He was one of my relatives.
> I knew him a long time
> ago. I was worrying.
> How could I sing as well as he did?
> He sang this song to me in the
> dream. The next morning, I woke
> up. I had this song.
>
> I could sing it the way he did.[9] (Ridington, 1988, p. 291).

Next, I will now turn to the review of the 'Blond Indian' written by Ernestine Hayes, an Alaska native memoir (2006) to illustrate the role of storytelling. The narrative moves from storytelling and reflection from the child position, into a discussion on protocols, cultural practices, and what her own clan believes. For example, she says that, when I was a girl growing up in the village, my grandmother taught me songs, Blonde Indian, Blonde Indian, she sang, while I danced and sang and shook my hands, Blonde Indian, Blonde Indian. I had light-colored hair when I was a girl…. (p. 5). Blonde Indian, Grandmother said, listen to our story, the spiders thoughtfully whispered …. Don't come too close, me bear cousin fondly warned" (p. 7). Repeated throughout the narrative are the clan/tribal protocols for example, "before giving birth, a Lingít woman sings to her child, she talks to the baby, telling the child the history of her clan and the stories of her

[9]Aku talks about honouring and maintaining his relationship with his ancestors and learning songs that he will in turn teach to his children. He is humbled and grateful in receiving his gift.

people…..." (p. 7). Furthermore, she sings "[n]ow the Raven, once he was born of a woman when the world was still dark…" (p. 18), which refers to a style of storytelling that is very much like my section on Kaupapa pounamu, although this story often moves in and out of these realms, most Indigenous peoples still living in an oral culture. Campbell et al. (2003) write that "our histories are contained within the oral traditions of our stories and songs. Our recorded history exists through our crests, house posts, petroglyphs, baskets, blankets, and paintings. Children are taught at a very young age to listen. They are taught to listen to stories as they weave, carve, and knit, and as they dance" (p. 8). "The whole being of the child is involved in hearing the story. Stories are the primary teaching tool in our cultures. The stories have been told for generations and continue to be told today" (p. 9). My favorite story is the Raven. When I went to Canada in 2010, we went to the Museum of Anthropology at the University of British Columbia campus in Vancouver, I took the photo of a huge wooden carving of the 'Raven and the first men'

Figure 3: Raven and the first men – by Walter and Marianne Koerner(Source, A Edwards, 2010).

The following is a poem about the creation of the earth and what the role of the raven in this. First Nations people have always lived on this land. Creation stories often speak of a being that combined both human and supernatural characteristics to bring order to the world and knowledge to the people;

Agnes Edgar, Nuxalk

Now I want to talk about the creation.

In the beginning there was an ocean covering the entire

> [Bella Coola] valley.
>
> This was as Alquntam had planned it.
>
> But Raven did not like it that way, so he changed it around so people could get around in the valley. You can still see mussels upriver at Stuie.
>
> The ocean that used to cover the valley left them there.
>
> This place was ready for human beings after Raven changed it around.
>
> The river flowed then, and Raven came poling upriver in his canoe.
>
> He put a good sign on Nuxalk.
>
> After he was done, he came drifting downriver playing with his pole.
>
> He was pretending to let the pole slide alongside of the canoe.
>
> When he got to the mouth of the river, he threw his canoe pole at the mountain.
>
> It's the upper part of that mountain that is still now called "used to be a canoe pole". (Campbell et al, 2003, p. 9)

During my academic journey to Canada, we went to Ottawa where we were guests of the 'Aboriginal Healing Foundation' (AHF), and from whom we were fortunate to receive copies of all their research. The research, I will refer to now will be from the tour and the AHF's publication *Truth to Reconciliation*, a process that began in 2007. The following is a brief description of the written document, which is a selection of personal reflections on the opportunities and challenges posed by the truth and reconciliation process, which was constituted in the 2006 Indian Residential Schools Settlement Agreement. The work of truth and reconciliation has human relationships at its core. The AHF states that the "Indian residential school system, the policies, that informed it, [are] shaped not only the past, but the present. The AHF shaped relationships between the Canadian Government and Aboriginal peoples, between the abused and their abusers, and between individuals within families and communities…." (Castellano et al, 2008, p. ix).

Each section has a selection of stories such as 'History in our midst'; the stories of which are a collection of strong historical narratives. The first story is from Jose Kusugak (2008)

and is called, 'On the side of the Angels'; a story in which the author provides a vivid descriptive account of his and his brothers' "residential school experiments of being taken and of returning home and concludes by reflecting on good and bad times" (p. 7). Jose writes, "…….one day a "Flyable" took me away from our world through the sky to a dark and desolate place……I do not remember saying goodbye to the puppies…" (p. 19). Part of the healing process involves the telling of their stories, talking about the trauma, which is about truth telling.

This brief discussion considered storytelling from the position the Indigenous Peoples of Canada. It referred to poems and art. Like all other communities, there is a wide array of mediums outside of what I have mentioned. Next, I will focus on *Native in America*, a story about academic communities.

> It doesn't end.
> In all growing from all earths to all skies, in all touching all things
> In all soothing the aches of all years, it doesn't end.
> Simon Ortiz [Acoma Pueblo] (Howe, 1999, p. 1).

The following is from Native America communities[10], it will discuss storytelling from their academic space. Consider the following;

What I suggest is that a native story helped author America, an act of creation. If not acknowledged in the "historical credits," Native people are certainly the ghost writers for the event and story of America. As I said, I have consciously used story, fiction, history, and play, as interchangeable concepts. All histories are stories written down; all stories are the performance of those beliefs, a living theatre. The story you get depends on the point of view of the writer. My story of how America gets created is no different. Neither are the Native stories that take place, after creation, when things go haywire. Which brings me back to my narrative of the native women's playwrights' conference. It was the act of telling, of speaking and performing the story of a Native woman that first turned the worm of affability inside out. (Howe, 1999, p. 7)

Then, Howe (1999) asks the conference participants, "what is the power of native stories? Did they create our people, our tribes, ourselves? Are our stories "a living theatre" that

[10] I discuss Native/s in America, native American, and American Indian in this thesis

connects everything to everything, as we say they do?" (p. 1). Bardill (2011) adds resourcefulness when, in her dissertation, *Beyond Blood and Belonging: Alter-narratives for a Global Citizenry*, she deliberates on, "how communities depict collective identity through the metaphor of blood. "The most recent manifestation of the blood narrative has emerged around DNA and characterizes both stories where genes stand in for belonging to communities and in new work in population genetics that places an emphasis on ancestry" (pp. 1- 2). At this point, Bardill notes that for "centuries, blood has served as a figure of speech (metaphor, metonym, and synecdoche) for nation, nativity, heritage, class, family, kinship, and ancestry, among other referents, and those figures have existed in varying relationship to the literal substance"[11] (pp. 2-3). Bardill takes hold of the reader from the introduction when she presents "the idea of a blood narrative, its definition, how it has circulated in literature, and especially how it informs a narrative of identity on both personal and community-wide developmental levels" (p. 1). Bardill weaves in this blood narrative, the stories and story-telling, to strengthen the, "potential solution to the problems of using blood to understand identity and belonging, telling new stories and the existence of those alter-narratives produces another understanding of identity, leading to new configurations of belonging" (p. 233).

Finally, in *Pathways to Bliss* Joseph Campbell, (2004), uses an analogy to state "that stories function like the second womb of a kangaroo that protects the young after it is born. In that pouch, the infant attaches itself to the mother's nipple until it is able to crawl out and walk" (p. 54). To close, there are several who are creative writers, poets, film makers, artists, weavers, storytellers, and many more in all disciplines. Howe (1999) sums this up by saying, "[n]ative stories are power. They create people. They author tribes. Creation stories, as numerous as Indian tribes, gave birth to our people…." (p. 2).

To conclude this section, I have endeavored to cover a diverse range of material on pūrākau. The purpose of applying pūrākau was to reframe my thesis such that pūrākau might become the central thread in the weave. Therefore, it is my belief that the practice

[11]At least since the move away from the four humors of the body for theoretical and philosophical application, the blood has been biologized, and therefore the conflation had to wait for another scientific discovery.

of pūrākau method, when applied, can provide an analysis, and speak back to the underpinning theories and ideologies of 'Blood quantum.' This is to say, pūrākau, as a tool, can shift the embedded, entrenched impact of blood quantum. Furthermore, that pūrākau has become an important aspect of the preservation of many Indigenous peoples and tribal groups. From a historical and cultural perspective, blood quantum standards divide and alienate communities, and perpetuate a discourse that promotes internalised self-hatred, alienation, and fractionation, could the application of pūrākau heal this? What about the other questions that are frequently presented and are aimed at mixed-blood Indigenous peoples, as in: What part? What percentage? How much, are you exactly? Do you qualify? Therefore, we have to change the narrative, we have to engage with Kaupapa Māori and apply pūrākau with other tools if we are to turn around hundreds of years of fake ideologies that have been created, in part, for the purpose of creating silence and acquiescent subjects and, as such, making many Indigenous peoples invisible.

In this next section, I will examine whakapapa as a method. This approach will continue to weave together the strands that are in accordance with Kaupapa Māori methodology.

Whakapapa

> "Whakapapa is our identity, our feet on the ground…" (Te Runanga o Ngāi Tahu, n. d)

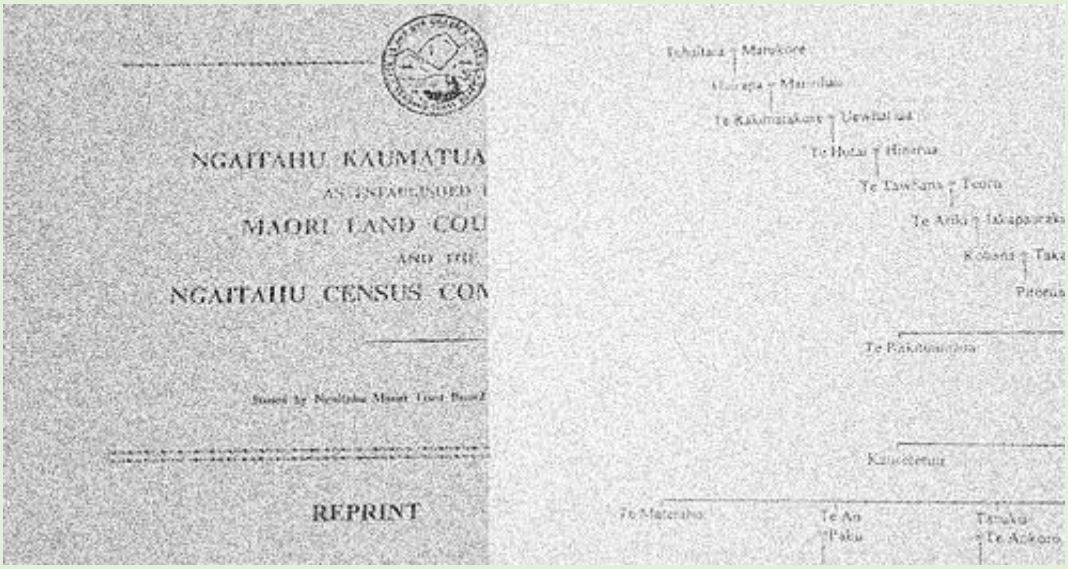


Figure 4: Ngāi Tahu Blue Book. Reprint.

The ability for Ngāi Tahu to accurately trace their whakapapa owes much to systems dating back to the late-1800s when whakapapa and traditions were formally recorded to

progress tribal land claims. The Crown carried out censuses in 1848 and 1853 as a prelude to the land purchases that followed, and in 1879 a Royal Commission and a subsequent Middle Island Native Census were implemented to create a register of Ngāi Tahu Kaumātua. However, it was not until the 1925 and 1929 censuses that Ngāi Tahu Census Committees brought together this work and created the Blue Book containing all the names of those Ngāi Tahu Kaumātua alive in 1848 and 1853 (Ngāi Tahu, n.d.).

Whakapapa Ngāi Tahu: Being Māori is about Whakapapa and Whakapapa is what determines what being Māori signifies. Registering with Ngāi Tahu involves obtaining the appropriate forms and making sure that you observe, what is required. If you can proceed with an application to register, you must be able to apply section 3 of the Act. Then, attention is drawn to sections 7, 8 and 13. Next, you must identify your tūpuna within the 1848 list of Ngāi Tahu Kaumātua of Ngāi Tahu iwi [generally known as the Blue book] These are your blood relatives. You must solemnly and sincerely declare, who you are by providing a birth certificate, and state that you are Ngāi Tahu pursuant to Te Rūnanga O Ngāi Tahu Act 1996. Once you are registered, you will receive a letter, which accepts you as being a direct descendant of the Ngāi Tahu Kaumātua Census of 1848 and it will provide you with all of your whānau file numbers for example my file numbers are 160/40/184/94/246/157. While it is clearly stated in legislation that you must have a direct bloodline, Te Rūnanga o Ngāi Tahu interpretation is that our bloodline is to be unbroken back to our Kaumātua of 1848. This does not entitle whāngai, who cannot prove that they have a Ngāi Tahu bloodline. Remember that if your bloodline is outside of Ngāi Tahu, then you cannot register, as a member. However, if you apply and your application is rejected, you can apply within the following six months, to the Māori Land Court. The Māori Land Court then has the jurisdiction to hear and determine the question and any determinations made by the Māori land Court are final and conclusive.

According to Te Rūnanga o Ngāi Tahu Vision plan of 2025, “Whakapapa is the foundation of our identity as Ngāi Tahu, Ngāti Māmoe and Waitaha, embracing our origins from Tahu Pōtiki and his birthplace on the Tairāwhiti” (Ngāi Tahu, 2001, p.16). Furthermore, the vision plan explains that the Ngāi Tahu census of 1848 (the Blue Book), is defined as:

> ...The Kaumātua recorded therein are the basis for Ngāi Tahu of the present day. It underpins the whanaungatanga that is present at any tribal activity. History and traditions place us on our land and tie us

> together as a unique people. How we engage with our land and its coasts is crucial to our identity, our culture and our tikanga. Our taha wairua flourishes and is emphasised by the passion and energy we must carry our culture forward. (Ngāi Tahu, n.d., p. 16)

Te Rūnanga o Ngāi Tahu, created eighteen [18] Papatipu Rūnanga during settlement and the creation of the 'Charter', however, the order of importance is as follows;

> It begins from the top down. Placed at the very top of the structure are the Ngāi Tahu Whānui defined as: 'the collective of individuals who descend from the five primary hapū of Ngāi Tahu and Ngāti Māmoe, namely Kāti Kuri, Kāti Irakehu, Kāti Huirapa, Ngāi Tuahuriri and Kati Te Ruahikihiki'. (Draft Charter, 1993, cited in Highman, 1997, p. 55)

Furthermore, the charter "defines a Ngāi Tahu beneficiary as anyone who can "trace at least one line of descent back to one of the original Kaumātua alive at the time of 1848", in other words, they can say that they have Ngāi Tahu whakapapa" (Caldwell, Whakapapa, cited in Highman, 1997, p. 92). Whakapapa is usually known and or translated as genealogy. Paipa (2010) acknowledges that there are several definitions of whakapapa in 'Te Whakapapa o te Reo I Roto I te Whānau'. Firstly, the online Māori dictionary states;

> That whakapapa can be used as a verb and a noun. Barlow describes whakapapa as 'to lay one generation upon another' (Barlow, 1991, cited in Paipa, 2010, p, 1) and is a means to organise genealogical knowledge based on blood lines. Tau (1999, cited in Paipa, 2010, p. 1) sees whakapapa as a template, or framework, where the flesh and the divine are connected, whilst Hemara (2000, cited in Paipa, 2010, p. 1) describes whakapapa as "a vehicle for scientific enquiry as well as a social agent that describes a full range of co- generational and inter-generational relationships". Whatever the perspective there is a consensus within Māori circles that whakapapa is an extremely important way of maintaining knowledge about connection. (Paipa, 2010, p.1).

Next, Paipa (2010) references the definition from Hemara (2000) that "Whakapapa as referring to how each member must be responsible for knowing how they are connected to others. He describes a whakapapa continuum which shows how the relevant intimate connections of a tribal group are made" (Paipa, 2010, p.2). Then Paipa refers to a collaboration with Kennedy and Pipi (2009, n.d.) where they describe "how whakapapa, pepehā, and whakawhanaungatanga can act as a personal global positioning system,

for members of a tribe anchoring them to the territories which they occupy and journey through" (Paipa, 2010, p. 2). Furthermore, Roberts (2006) describes the literal meaning of whakapapa, which is, "to lie flat, to place in layers one upon another" (p. 4). Furthermore, Roberts (2006) elegantly explains that "[w]hakapapa takes up the role of legitimating the spiritual and political obligations afforded to each individual through birth" (p. 4), and that, in short, " whakapapa is about belonging, without it an individual is outside looking in" (p. 4).

Whakapapa as identity

Graham (2009) states that whakapapa, "gives the author license to be Māori; whakapapa identifies who I am, where I am from and in doing so identifies a place that I can proudly call my Tūrangawaewae" (p. 1). Elaborating, the author states, my whakapapa and iwi affiliations are my biological and kinship credentials that form my Māori identity and by alluding to my Tūrangawaewae. I have established a connection to my wāhi tapu. Graham then explains that, "as a research framework, a whakapapa research methodology exercises tikanga Māori to guide the research, explicating the inseparable links between the supernatural, land and humanity" (p.1). In addition, Graham adds that, "whakapapa is consequently the all-inclusive interweaving mechanism that provides a legitimate foundation from which Māori research can be conducted and validated today. It is a means of considering the world thereby separating Māori-centered research from Western research perspectives" (pp. 2-3). Furthermore Graham (2009) contends that, "[w]hakapapa is innately woven throughout the fabric of Māori society and inherently relate to both traditional and contemporary Māori society" (p. 6). In summary, identity is about whakapapa, however, it is not always as clear, as stated, that we must consider those that are disconnected from their whakapapa. I still meet our people who have been in limbo, who have just found out, who were whāngai within a Pākehā system and who still do not know their whakapapa. I will come back to this observation at a later point in the thesis.

Whakapapa as a story

Previously, I stated that identity is not about how much blood quantum you have, or the colour of your skin, although sometimes others may consider this reflects to my story on identity, to my daughter's experiences of being called a 'black bitch' throughout her life. Well, this is another conversation to build traction in New Zealand, and not just

among non-Māori, but also among our own people. Social media has been full of activity, with discussions on Simon Bridges [Minister of Parliament] and how he has been elected by his party as the first Māori Leader of the National Party. The main concern raised by many is whether he is really a Māori. Firstly, we should look at Moana Maniapoto when he reports in this article "Let's judge Simon Bridges on his politics, not his whakapapa" (2018).

In this newspaper article which was published by E-Tangata, the question that is sometimes asked of Bridges is whether he was really Māori? Maniapoto (2018) reported that this is the wrong question. The correct question according to Maniapoto is: "Is Simon Bridges an advocate for Māori? That's another matter altogether." I thought that the most effective way to belittle another Māori would be to state, that they are not one. In New Zealand, we self-identify as natives, which is not something that other Indigenous Peoples can do. Some must prove their blood quantum and now their DNA to be registered as tribal. Consider when Hekia Parata, Minister of Education, appeared at Te Matatini, the National Māori cpmpetitions, "the crowd booed Hekia Parata when she unwisely walked on to the stage in Rotorua, they did this due to her policies that she represents. Her whakapapa was never in question. And nor should Simon's be." Then, Morgan Godfrey (2018) reports, 'Is Simon Bridges our first Māori Prime Minister"? Elaborating, Godfrey says, "Columnists are working hard to erase how Bridges is different, questioning his blood quantum, as if it were 1909. But no one is Māori if they lead the National Party, just like no one is Māori if they speak te reo."

This same questioning on Bridges identity, was echoed by Bryce Edwards (2018) when he reports in a *New Zealand Herald* article where, unfortunately, much of the questioning was along the lines of "How Māori is Simon Bridges really? Is he Māori enough?" Edwards went on to raise the same issue on TVNZ's Breakfast show, saying, "he's [Bridges] is not really a 'proper' Māori, questioning his Māori- ness. Edwards went on to state, "I think that won't go down well with the public and I think it will backfire because it's becoming increasingly unacceptable really to question whether someone is Māori or not."

Edwards (2018) goes on to state; "[t]his absurd line of attack seems to draw on two equally as stupid measures: one being what percentage of Māori ancestry they have, and the

other being whether they're either fluent in te reo or able to recite a mihi." The final example is when Jogai Bhat (2018) inscribes that, "I am Māori' – Simon Bridges shuts down talk of 'blood quantum. Speaking to 'The Hui', on Māori television, Bridges said "with three grandparents who hail from England and one who was Ngāti Maniapoto, that they came from rural Oparure, his ancestry should be easy enough to process". Furthermore, he concludes this article by uttering, "[t]hat's my whakapapa. I am Māori. I grew up that way, people have always considered me so. It's fundamentally simple." These types of discussions are unacceptable, however, have been around if I can recall. They are hurtful, especially when you know what matters your whakapapa is. I will return to this conversation later in my thesis.

To conclude, this discussion has been on whakapapa. This discussion started with what are the requirements for being Ngāi Tahu. Next, the conversation shifted to defining whakapapa, then scoping whakapapa as a research framework. Further, this endorses our identity. The final part of that dialogue was on acknowledging whāngai. How the disconnection that can be created if you are not Ngāi Tahu as whāngai. This area of study will be further explored, later in this thesis. The next two sections discuss western thought, jurisprudence, and comparative historical timelines which I have applied in this thesis.

Jurisprudence – legal Philosophy

The following discussion focuses on jurisprudence – legal philosophy. Jurisprudence is the 'grey area' of law, in that it is the space in which about which I think in the most and in which I flourish. Within this grey area, it is not always law, it may in fact be described as the processes of how legislation was created. For example, what was the purpose of creating the *Suppression of Tohunga Act 1907*, which clearly discriminated against Māori? It made it an offence for Tohunga to practice and equally outlawed the 'prophetic telling of Māori futures. For example, the Tohunga and prophet – Rua Kenana, with the support of this Act, was a rebel and was regarded as a hindrance to assimilation. Another example is the *Māori Prisoners Trials Act 1879* and the *Māori Prisoners Act 1879*, pursuant to these Acts, rebels from Parihaka could be held for an indefinite period without trial, unless a date for trial or order for their release was made. This meant that indefinite imprisonment without trial, which was contrary to one of the most basic rights guaranteed to British

citizens under the Magna Carta, known as Habeas Corpus. A succession of changes [amendments] to the Acts eventually led to the *Native Lands Fraud Preventions Act 1870*, which was an attempt to redress some of the earlier issues. However, the amended Act did very little to diminish the speed of estrangement or cease the way settlers were acquiring vast quantities of land. As usual, every time Māori would resist, the Crown would just create more legislation.

Then, consider the philosophy behind such laws implemented in Canada, '*the Indian Act 1876'*. According to this Act, cultural identity was a legal category. Instead of Indigenous communities, determining identity, they have the Indian Act, which historically legislated who is an Indian (p. 1). Equally outrageous, was *the Population Registration Act 1950* in South Africa, which required that each South African citizen of to be classified and registered, in accordance with the system of apartheid; that is, according to their racial characteristics. If the perception of racial classification was not clear or they were borderline cases, then there were tests carried out to determine their category, such as *the Pencil test.* This involved a pencil being placed in one's hair, usually on the top of the head, to see whether it fell out, which if it did mean that he or she was white. If the pencil fell out when they shook their head, then they were categorised as 'coloured', and if it stayed in place, then they were classified as 'black'. There was a case during the apartheid period when Sandra Laing was a black girl born to white Afrikaner parent. Why not question the thinking behind the creation of the '*Brown paper bag principle/test?'* (Kerri, 2006, p. 93). This was a procedural process, which was once used by black sororities and fraternities and other social organisations such as night clubs to determine social ordering based on skin colour. Anyone whose skin was darker than a brown paper bag was ineligible to join (Kerr, 2006, p. 93).

Furthermore, Moore (2008) and other tests like the *'Comb test'*, 'to ensure that one's hair was not too coarse" and the '*Flash light test'* in which the shadows of one's profiles lead to match certain phenotypes associated with Anglo features (p. 222) and then the Jim Crow Laws in the South of America (Packard, 2002). Furthermore, these are those legal, moral, and ethical "grey areas." Consider Martin Luther King's words when he was in Birmingham prison, "Never forget that everything Hitler did in Germany was legal." (Martin Luther King, 1963). The '*German Nuremberg Laws'* were the primary attempt by the Nazi Government, in playing a fundamental role in the process, that lead to the

attempted eradication of the Jewish peoples of Europe. The Nuremberg Laws were adopted by Adolf Hitler's Reich in the Nazi Party on September 15th, 1935. Within these pieces of legislation, they excluded the Jewish peoples from German life, they took away some of their natural civil and political rights.

Arad et al. (1999) states that, first, came the Reich Citizenship Law[12] 1935, also known as the Nuremburg Racial Laws which stated that a "Reich citizen was a person who was of German or related blood and was the sole bearer of full political rights in accordance with the Law. Subjects, on the other hand, were people who enjoyed the protection of the German Reich and who in consequence had specific obligations towards it" (p.152). Since the Jews were not considered by the Nazis to be of 'German blood', this law effectively ended their status as citizens of the Reich and reduced them to subjects. The second law was the Law for the Protection of German Blood and German Honor 1935[13] (see: Appendix 3), which forbade marriages between Germans and Jews, outlawed extramarital sexual relations between Germans and Jews, prohibited Jews from employing Germans under the age of 45 in their household, and denied Jews the right to fly the German flag. (Bonney, 2009, p.39).

Bunikowski (2015) explains that the concept of "jurisprudence is conceptual. It is a general theory of law and state known as a legal theory, legal philosophy, philosophy of law." What is also important is the change of the meaning: in the past, jurisprudence was the science of law, whereas in the present, it is only a general theory of law and state, such as the philosophy of law, legal theory (p.2). In simple terms, Himma (2015) states that it can be said that;

> The defining project of general or conceptual jurisprudence – i.e., the conceptual analysis of law – is to provide philosophically rigorous explications of various concepts that figure prominently in discourse about law. that is, conceptual jurisprudence is concerned with giving an explication of the nature of law and other important legal practices. While many words, such as "chess," do not pick out concepts that seem important enough to merit a deep philosophical analysis, this is not true of the concept of law (p.65).

[12](See Appendix 9)
[13](See: Appendix 3)

Murphy (2004) gives another perspective on jurisprudence, that we mainly study the nature of law, its sources and purpose, and the nature of rights and duties and other questions related to it. Some of the uses of studying jurisprudence are as follows:

> It gives an understanding of the nature of law. It helps in the study of the actual rules of law and in tracing out principles underlying therein. b) It helps in making scientific developments of law. c) It develops the critical faculties of mind and gives the proper understanding of legal expressions and terminologies. d) It throws light on the basic ideas and the fundamental principles of law in each society. e) It helps judges and lawyers in ascertaining the meaning of words and expressions in statutes. f) Jurisprudence supplies an epistemology of law, a theory as to the possibility of genuine knowledge in the legal sphere. It is rightly said that jurisprudence is a house of many mansions, which are distinct but not separate. The catalogue of these thoughts, ideals and schools in different and separate category serves both academic as well as practical understanding regarding their methodology, thought, content and contribution (p.15).

Furthermore, the study of jurisprudence related to other social sciences. Julius Stone (2004) also explains that the function of jurisprudence, in terms of knowledge of other social disciplines, stating that jurisprudence is the lawyer's extraversion. This is due to the lawyer all being closely inter-related with human behaviours in society. Paton (2004) observed that "[m]odern jurisprudence trenches on the fields of the social science and of philosophy; it digs into the historical past and attempts to create the symmetry of a garden out of the luxuriant chaos of conflicting legal systems" (p.15). What is evidenced in most Indigenous communities, is that Indigenous philosophies and tikanga, jurisprudence have become the victim of the Western invasion and conquest in the ongoing colonisation and assimilation. Mikaere (1994) states that "the deliberate destruction of traditional Māori philosophies and values and the attempted replacement of then with those of the missionaries and the settlers, Māori been caught in the contradictions of a colonised reality" (Smith, 1999, p. 99). In that reality, Raz (1971) considers that jurisprudence is primarily used in the "thinking about the law [that is] not in the actual use and application of the law" (p. 795). The author continues, explaining that "a momentary legal system is a legal system at a particular point of time" (p. 798). The author adds that a "legal philosopher may say, and some philosophers have said, what judges do about disputes is the law; but this is unlikely to be of much help to a judge wondering what he should do about a dispute" (p. 798). "Jurisprudence

strives to improve our understandings of the law, and in one way or another, however remotely or indirectly, an improved understanding of the law is affecting the operation of the law and help legal practitioners" (p. 798).

What is interesting in New Zealand is that no matter how long you speak of your own Indigenous philosophies, it is at the whim of politics. Politicians dominant that space. Davidson (2017) reports that a good example would be the giving of legal status of a person to the Whanganui River; a unique Treaty settlement, which was passed into law on March 15th, 2017. The settlement would mean that the river – the third-longest in the country – has all the rights, duties and liabilities that come with personhood. So, my question is, did this occur as an expression of an Indigenous world view, applying tikanga or as the result of a western world view, in that could the river be sued in the courts? For example, what if the river floods and causes damage into the city of Whanganui? Then who is responsible? The river? The Iwi? Or the Crown?

To conclude, law is based on the dominant philosophy of any culture and over time, several schools of thought and theories have developed regarding the governance of our planet. It is important to note that while there have been numerous schools of thought and theories developed throughout the past, it is often the newer thought that revitalises traditional forms of thinking. Theories are constructed. They mean several diverse things; they can be an idea or a concept that depends on the context. No theory is pure, with one theory being more dominant and others can be fluid at any point of time.[14] Gottlieb quotes, Martin Luther King (2003) when he states that:

> "You express a great deal of anxiety over our willingness to break laws. This is certainly a legitimate concern. Since we so diligently urge people to obey the Supreme Court's decision of 1954 outlawing segregation in the public schools, it is rather strange and paradoxical to find us consciously breaking laws. One may well ask 'How can you advocate breaking some laws and obeying others?' The answer is found in the

[14]The conceptual and theoretical foundations of blood quantum from a comparative perspective will be explained, making reference to an earlier paper that I completed in Comparative Law and in Nga Pae o te Maramatanga titled; 1. In the 21st Century, is the theory of 'blood quantum' entrenched into the soul and psyche of Indigenous Peoples? 2. Counting Inclusively: Blood Quantum Theory Among Jewish [Yehudim], Indigenous USA Indians and Māori Peoples.

> fact that there are two types of laws: there are just and there are unjust laws. I would agree with Saint Augustine that 'An unjust law is no law at all.' . . . A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of Saint Thomas Aquinas, "an unjust law is a human law that is not rooted in eternal and natural law" (p.180).

Comparative historical timeline

Little (2009) states that "the aim of comparative history is to achieve a better understanding of historical institutions or ideas by seeing how they differ between societies or across time" (Little, 2009). The comparative study in this thesis is to compare and explore historically the topic of blood quantum and review the current state of the laws based on blood quantum ideologies and the theories underpinning these ideologies. Next, what is beyond quantum in America, Canada, and New Zealand at the same point in time or at different times in the same country? Little (2009) emphasizes that "difficulties lie in controlling the number of variables in such studies (at the same date two countries could be a vastly different levels of economic development), and in avoiding assuming a normal or ideal type to contrast other examples against"(Little, 2009).'The construction of a comparative history has a great many advantages. Comparison helps to establish what is unique and special about individual problems and issues and what they have in common with the same ones elsewhere" (Redgate, 2005, p. 2). I have also researched in this comparative space for almost the entire time I have been at University of Waikato in my three majors done in Laws, History and Cultural studies/Tikanga. I applied this approach to understanding the philosophy of law and where else this was being or had been applied, for example, in New Zealand, where we have many imperial laws that were initially imposed in Ireland.

Little discusses the question of, what is 'comparative history'? Basically, it is the organised study of similar historical phenomena in separated temporal or geographical settings (2009). The comparative historian selects several cases for detailed study and then attempts to identify important similarities and differences across the cases (Little, 2009). Woodward (1968) as cited in Degler (1968) defines the comparative approach very broadly, by including analogies between historical experiences of two or more countries (p. 370) such as is the case in this study. Little (2009) comments that we might

imagine a phenomenon, which may or may not be the effect of 'similar causal processes', enabling a comparison that would identify causal conditions and regularities.

This approach implies that we think of social structures and processes as being part of a causal system, where it is possible to identify recurring causal conditions (Little, 2009). Causal conditions can be a grey area in jurisprudence. Recurring causal conditions are very much the landscape of blood quantum studies, more so in Indigenous landscapes. Consider Degler (1968) when he states that "comparisons can certainly be made between nations, to show differences or even similarities, it is simply ideas to follow an idea across a traditional barrier" (p. 426). Little (2009) mentions that researchers often make use of some variant of methods in attempting to discover significant patterns of co-variation of conditions and outcomes. Our students should certainly increase both their geographical and chronological range of knowledge, as well as their conceptual range. "We all now live in a global village and are involved in, and affected by, events in other parts of the world" (Redgate, 2005, p. 2). Secondly, Little (2009) considers that the *"*purpose of comparison would be to identify some of the sub-types of a general phenomenon."

Thirdly, we might have a fundamentally 'functionalist view of social organization', along with a basic repertoire of social functions that need to be performed (Little, 2009). Comparisons might serve to identify functional alternatives and the multiple ways that different social systems have evolved to handle these functional needs. Another possible purpose at doing comparative history involves the attempt to discover historical and social connections across separate historical settings (Little, 2009). For example, examining the laws applied in the countries examined in this doctoral research. Which attempts to capture other countries, with similar philosophies, that were being implemented at the same time as New Zealand. For example, the Indian Act that defined who was Indian, which was also being applied in New Zealand at the same period, when we were having the same conversations around, who is a half-caste child.

Finally, we could say that there is a social metaphysics that emphasizes *contingency and difference* (Little, 2009). This perception varies from the ideas, in that it uses a structured comparative study as a vehicle for identifying *difference* rather than underlying similarities. For example, if we consider the examining the histories of

New Zealand and South Africa, we know that there were legislation and legal processes that enforced unacceptable practices. In South Africa, the *Population Act* of 1950 was enforced unacceptable practices. Whereas, in New Zealand it has been identified that around the same time, legislation was created which imposed racial profiling. For example, John Hunn wrote his 1960, where he classified Māori who lived in a rural environment as retarded. This form of comparison clearly captures difference rather than the similarities. In fact, Little (2009) explains that this form of comparison may shed some light on the range of social forces and historical contingencies that occurred in these ostensibly similar cases of "classification" (Little, 2009). Here the goal of comparison is more to discover alternatives, variations, and instances of path dependency (Little, 2009).

To conclude, comparative historical timelines, as applied in this thesis, are used to argue that comparison allows the writer to discover what is distinctive about a series of historical developments. In this thesis, it is Blood Quantum ideologies which are about others imposing the idea of who is Indigenous. Likewise, elements that might have been taken to be *sui generis* characteristics of one's national experience may turn out to be widespread in many locations when they are studied comparatively.

Ultimately it seems that there are only two fundamental reasons for being interested in historical comparisons (Degler, 1968). According to Degler, one is the hope of discovering recurring social mechanisms and structures. The second is the hope of discovering some of the differentiating pathways that lead to significantly different outcomes in ostensibly similar social settings. I would consider that this was a process of creating a korowai, which embraces the words that are written after this section. This pathway, this korowai is about a foundation or the knowledge, a process, the one I have developed is a 'Conceptual Identity Framework for Ngāi Tahu Whānui', which is addressed in the subsequent part.

Conceptual Identity Framework for Ngāi Tahu Whānui

> "All pounamu is found in our waters, the waters are healing, that transcends through the generations, does not matter the percentage, of dark nor light, it is still pounamu – our whakapapa remains"
>
> (A. Edwards, 2018)

Initially, I will examine the background to and philosophy of the 'Conceptual Identity

Framework for Ngāi Tahu Whānui' (see: Appendix 1). This conceptual framework is a visual representation of whakapapa [genealogy] using our ancestral maunga, awa, whenua, pounamu and taonga. This framework involves the weaving together of threads, such as mythology, whakapapa, belonging, relationships, identity, tribal legislation, self-identifying with the use of pūrākau. This framework draws on collective relationships, that have been suggested about our ancestors. This framework anchors one's recent ancestral discovery or creates a further connectedness which is about intergenerational belonging, [as highlighted in the as stated in the 'analogy'].

In this framework, the identification of pounamu and its use is explored. Pounamu is a tool of tracking and examining the identification of whakapapa. Identity is demonstrated in the cycle of pounamu, from the creation story to the creation of taonga from that pounamu. The pivotal part of this progression involves recognition of who Ngāi Tahu is, which is about whakapapa, which in turn challenges the concept of skin colour and blood quantum ideologies. Blood quantum is another colonial story, which was imposed by our people. Within this framework, the discussion of identity starts with and ends with pūrākau. The following text which is noted in the publication by Douglas (2019) from Maya Angelou captures this idea, *"If you don't know where you've come from, you don't know where you're going"* (p.21). The development of this framework came from the desire to transform and ignite change. Although this is for our Ngāi Tahu Whānui, and it is transferable, to other Indigenous Peoples. Who can weave together the threads, such as mythology, whakapapa, belonging, relationships, identity, tribal legislation, self-identifying with the use of pūrākau.

The conceptual framework, in fact provides for the development and strengthening of being Ngāi Tahu, through understanding what is ancestrally paramount to us as a people. According to Ngāi Tahu, Aoraki is the supreme ancestor under whose mantle the land and all the people living upon it are protected. The Waitaki is also the river that has special significance in the history of our people (Carter, 2003) and its importance is boundless to the Ngāi Tahu. The Waitaki River is a solitary inseparable being, flowing from Aoraki and merging with the Arahua, Taramakau and Wakatipu Rivers. Our maunga, awa, pounamu and taonga are interwoven into the fabric of the Ngāi Tahu people creating their identity. This sense of connectedness to being Ngāi Tahu is enhanced

through the story telling of our maunga, awa, iwi[15]hapū, and pounamu.

The following dialogue captures the features named in this 'Conceptual Identity Framework for Ngāi Tahu Whānui,' refer to Appendix 1. There are eighteen elements mentioned below, these are woven into the discussion on the 'Conceptual Identity Framework for Ngāi Tahu Whānui'. After this, there are five fundamental stages, which will be defined in this section. The pūrākau part covers the breadth of the framework, which will introduce 'Part 2' of this thesis.

The following are the eighteen elements;

1. Ngāi Tahu in Te Wai Pounamu [stage 1]
2. Aoraki
3. Pūrākau of pounamu [stage 2]
4. Poutini
5. Waitaki
6. Arahua Taramakau
7. Wakatipu
8. Kaitiaki of Pounamu [stage 3]
9. Western transitioning of Pounamu
10. Boulder [not yet identified]
11. Identifying Pounamu
12. Pounamu taonga
13. Who is Ngāi Tahu? [stage 4]
14. Ko āu [stage 5]
15. Ōtautahi
16. Wairewa
17. Opukutahi
18. Ōnuku

[15]Iwi as a construct or the story of developing Iwi.

Next, the following explores the five main stages identified in the creation of this framework. The five stages, which organically evolved are: the establishment of Ngāi Tahu in Te Wai Pounamu from an ancestral perspective. A pinnacle part of this, will be Aoraki as a supreme ancestor. The second phase the ancestral pūrākau of pounamu. The third stage is the role of kaitiaki of pounamu in a contemporary space. The fourth phase is: who is Ngāi Tahu? from the coloniser's census and legislative. Finally, it will conclude with a discussion on whakapapa, Ko āu.

Stage 1: Ngāi Tahu in Te Wai Pounamu

> Ko te Kāhui Mauka, tū tonu, tū tonu, ko te Kāhui takata karo noa, karo noa ka haere – The people will perish but the mountains shall remain (Whaiti, 2012).

According to our Ngāi Tahu creation story, Aoraki is the eldest son of Raki (the Sky Father). Aoraki and his brothers brought the canoe (Te Waka o Aoraki) down from the heavens to visit Papatūānuku (the Earth Mother) their stepmother (Whaiti, 2012). When Aoraki and his brothers saw that they would not be able to separate their father from his new-found love, they decided to return to the heavens to be with their mother Pokoharua-te-pō.[16] However, when Aoraki was reciting the karakia (Whaiti, 2012) for the journey back, he made a mistake in his words. The waka stranded on a rock and he and his brothers were marooned. As time passed, they turned to stone, their hair turned white and they became the highest peaks of Kā Tiritiri o te Moana – the Southern Alps (Whaiti, 2012).

Aoraki legally

Aoraki was part of the Crown's settlement offer in response to Ngāi Tahu Wai 27 claim. This came into effect when both the Settlement and Te Rūnanga o Ngāi Tahu legislations were passed (see: Appendix 1). Aoraki was a recognition of the mana of Ngāi Tahu. The Crown vested the title of Aoraki back to Ngāi Tahu, which is an acknowledgement of the ancestral relationship that Ngāi Tahu have always had with Aoraki. Aoraki was recognised as fundamental to Ngāi Tahu creation stories. When the Crown gifted Aoraki back to Ngāi Tahu, in return Ngāi Tahu conditionally gifted the title to the mountain back

[16] The chairman of West Coast Rūnanga Ngāti Waewae, Francois Tumahai.

to the Nation, upon the need for respect for protection, naming, Co-management mechanisms, Statutory Acknowledgement, a Deed of Recognition, a Tōpuni, and a role as Statutory Adviser (Ngāi Tahu, 1991). The gifting of Aoraki back to the Nation was confirmation of the mana to be able to carry this out. (Ngāi Tahu, 1991).

Stage 2: The second phase the ancestral pūrākau of pounamu.

The pūrākau of Pounamu

Poutini is a Taniwhawho the pūrākau states protected the mauri (the life principal) within pounamu (Ngāi Tahu Pounamu, 2010). On this day, Poutini was resting in the warm mineral waters off from Tuhau, Poutini came upon a Wāhine of great beauty and exquisiteness (much like all Ngāi Tahu Wāhine), whose name was Waitaki (Ngāi Tahu Pounamu, 2010). While she bathed in the sea, the heart of Poutini was consumed by a yearning for Waitaki. Poutini suddenly took her as his companion and fled to Te Wai Pounamu. Waitaki already had a companion who was a powerful and spiritual chief named Tamaahua. Tamaahua lamented the loss of Waitaki. He threw his tekateka – a magic or teka dart – into the air. The tekateka pointed to the path upon which Poutini had taken his partner and so endeavored to pursue Poutini to retrieve her Waitaki.

The pursuit continued across Aotearoa until Poutini and Waitaki took sanctuary on the West Coast of Te Wai Pounamu (Ngāi Tahu Pounamu, 2010). While Tamaahua closed in, Poutini began to fear for his strength and power. Realising that Tamaahua would not rest until Tamaahua had reclaimed Waitaki, Poutini decided the only way to keep Waitaki forever was to turn her into his essence. Pounamu and Waitaki lay in the cold riverbeds of the Arahura River and slipped downstream past the waiting Tamaahua. When the chief rose for battle the following morning he discovered his cold, lifeless wife turned to stone in the riverbed and let out a tangi, a song of grief, which resonates through the maunga to this very day.

Stage 3: The third stage is the role of kaitiaki of pounamu in a contemporary space.

> "It has been sought after and fought for, wept over and treasured, for almost the whole human story of Aotearoa. Its merits as weapon or ornament, as tool or treasure, are the stuff of the proverbial whakataukī and metaphor; and possession of pounamu has long been

> a mark of wealth and prestige, a mark of mana." Sir Tipene O'Regan (Authentic Pounamu, 2010).

The pūrākau on pounamu are about aroha, mana, mātauranga, mōhio, and Rangatiratanga (Authentic Pounamu, 2010). No two pieces are the same; all stones are treated with the utmost respect by those who source and carve it. Ngāi Tahu has a close and ongoing relationship with pounamu. It is strong and resilient, very much like our peoples. It is valued for its mana, resilience, and exquisiteness. However, it is worth exceeds its visual and practical properties. It is considered to have mana and to be tapu. Ngāi Tahu have identified four main types of pounamu according to their colour and translucence: kawakawa, Kahurangi, īnanga and tangiwai. There were many other names for varieties of pounamu (including tribal variations), based on shade and hue. Similarly, just as there are shades and hues, there are also categories associated with who you are?

Legal protection (Te Ture o Pounamu)

> Pounamu is protected by law in New Zealand, "The relationship of Ngāi Tahu with pounamu is embodied in the legislation", of "The Ngāi Tahu (Pounamu Vesting) Act 1997 (see: Appendix 5) and the 2002 Pounamu Resource Management Plan". (Ministry of Business, Innovation and Employment, n.d.)

The interpretation of this Act:

> To give effect to certain provisions of the Deed of "On Account" Settlement, signed on 14 June 1996 by the Crown and Te Rūnanga o Ngāi Tahu as representative of Ngāi Tahu, by vesting, in Te Rūnanga o Ngāi Tahu, pounamu in the Takiwā of Ngāi Tahu Whānui and in those parts of the territorial sea of New Zealand that are adjacent to the Takiwā of Ngāi Tahu Whānui (reference).

The 1996 Deed of On-Account Settlement included an undertaking, as a sign of the Crown's good faith, to return ownership of pounamu to Ngāi Tahu. This was given effect through the passing of the Ngāi Tahu (Pounamu Vesting) Act 1997 (see: Appendix 5) on 25 September 1997. The undertaking recognises that in selling land to the Crown last century, Ngāi Tahu never intended to give up ownership of the highly prized Pounamu resource. The legislation having now been implemented means that ownership of pounamu has returned to Ngāi Tahu. Pounamu is now protected by our Kaupapa Taiao unit and is subject to the Pounamu Management Plan, which was released in 2002.

In September 2002, Te Rūnanga o Ngāi Tahu approved the Pounamu Resource Management Plan: our blueprint for how best to look after pounamu to ensure its sustainability. This plan is of considerable significance to Ngāi Tahu, as it demonstrates our ability to manage this taonga, which is a natural resource and a commercially valuable commodity while, at the same time, upholding its cultural importance along with the mana and rangatiratanga of the iwi. It has taken five years and many Hui, but we now have a positive and powerful tool to move forward, *mo tātou, a mo ka uri muri ake nei* – (For us and our children after us) (Mark Solomon, Kaiwhakahaere, 2002).

Stage 4: The fourth phase: Who is Ngāi Tahu?

The Ngāi Tahu land report 1991 (Wai Claim 27, 1991) suggests that "archaeological evidence provides proof that our ancestors settled in the Te Wai Pounamu at least 1000 years ago" (p. 11). The tribe acknowledges that Ngāti Māmoe originated from Heretaunga. Ngāti Māmoe decided to move to Te Wai Pounamu around the 16th century, at which point they colonised the lands and were absorbed into the existing tribe, the Waitaha. "The last tribal group to arrive in this area was Ngāi Tahu, who migrated from the eastern region of the North Island" (p. 11). "From the seventeenth century Ngāti Māmoe and Ngāi Tahu tribes gradually amalgamated" (Prendergast-Tarena, 2008, p. 108).

One example of this process of amalgamation would be my own hapū Irakehu. Irakehu was a great chieftainess from Ngāi Tahu who married Mania from Ngāti Māmoe to create harmony between the two tribes. The authenticity of this story may have been undermined by the interpretation of these events by Pākehā authors, such as Elsdon Best and Percy Smith. Recently, I have read the research of Eruera Ropata Prendergast-Tarena in which he analyses the literature concerning pre-Ngāi Tahu and Ngāti Māmoe tribal identities, which he did to ascertain not just who they were and where they were from but how their identities have been constructed and modified over time (p. 108). Also, that there is a clear overlap of stories (similarities) from North Island tribal groups. Prendergast-Taren quoted historian Anne Salmond who recognised that scholarly efforts exposing inconsistencies or post- contact alterations have made little impact on Māori society:

> There is evidence to suggest that the mythological account has itself greatly altered since the days of early contact, and that the efforts of later scholars in rationalising many different regional stories has resulted in a single popular version which is largely their creation; but on the marae this is all beside the point. Here scholastic problems do not exist; and mythology is entirely real. (Salmond, 1975, p. 10)

Furthermore, Prendergast-Tarena (2008) writes that "shared characters and templates of events show early oral traditions contain many similar elements that were transported in the minds of settlers and then localised to fit their new environment" (page). Next, that "Waitaha is found in tribal groups where they trace descent from the ancestor Waitaha Nui a Hei" (Prendergast-Tarena, p. 319). Many early writers, such as Canon Stack was later to confuse the North Island Waitaha identities with southern accounts, which trace descent from the eponymous ancestor Rākaihautū, not the Te Arawa ancestor Waitaha" (Prendergast-Tarena, p. 323). The final stages of the Ngāi Tahu claim (WAI 27) "raised much debate among competing internal tribal interests about pre-Ngāi Tahu tribal identities, such as Waitaha. Debate centered upon whether Waitaha were absorbed into Ngāi Tahu or remained as a separate and distinct tribe" (O'Regan, 1992, pp. 16-17). In the 1990s, this debate escalated with the publication of the so-called 'ancient' Waitaha knowledge by Pākehā archaeologist Barry Brailsford (1995) in his book *Song of Waitaha*, "which was widely condemned as a product of creative authorship." (p. 15). Prendergast-Tarena emphasises that:

> Traditions concerning early peoples were heavily influenced by European writers who sought to construct accounts in accordance with their own cultural notions of racial hierarchy. Identities of early peoples were modified in accordance with the prevalent European thinking of the time concerning racial superiority, a view subsequently concreted through publication. Māori were presented as the last wave of settlers of differing racial origin with their predecessors being of 'inferior' races. Māori and constructions of 'inferior' part-Melanesian identities were thereby placed within a continuum of a racial hierarchy based on Social Darwinism. Their publication was to have huge influence on how Māori perceived and constructed their own origins. (Prendergast-Tarena, 2008, p. 350).

Overall, the fourth phase: Who is Ngāi Tahu? clearly emphasises the need to consider the reliability of scholarly work when defining who is Ngāi Tahu. Could scholarly writings influence our tribal whakapapa? The subsequent part of Stage 4 is firstly about the

publication of the Blue book, which lists the original Ngāi Tahu Kaumātua, who were alive in 1848 and furthermore identifies the legislation which was created during settlement, which, in turn, legally defines who is Ngāi Tahu? According to the Te Rūnanga o Ngāi Tahu Act 1996, section 2 of the Interpretation states that, "Ngāi Tahu is the iwi comprised of Ngāi Tahu whanui; that is, the collective of the individuals who descend from the five primary hapū of Ngāi Tahu, namely Kāti Kuri, Ngāti Irakehu, Kāti Huirapa, Ngāi Tuahuriri and Ngāi Te Ruahikihiki, and the iwi of Ngāti Māmoe and Waitaha"[17].

Furthermore, when you can confirm your belonging pursuant to section 7, that you are a (1) member of Ngāi Tahu Whānui because you are the descendant of the following:

(a) the persons, being members of Ngāi Tahu iwi living in the year 1848, whose names are set out in the list appearing at pages 92 to 131 (both inclusive) of the book containing the minutes of the proceedings and findings of a committee (commonly known as the Ngāi Tahu Census Committee) appointed in the year 1929, the book being that lodged in the office of the Registrar of the Māori Land Court at Christchurch and marked "Ngāi Tahu Census Committee Minutes 1929."

(b) Any other person who may, pursuant to the provisions of subsection (4), be determined to be a member of Ngāi Tahu iwi living in the year 1848.

(2) Where any question arises as to whether a person is a descendant of any of the persons who are referred to in paragraphs (a) and (b) of subsection (1), Te Rūnanga o Ngāi Tahu shall have authority to determine that question.

(3) Any person who is not a member of Ngāi Tahu Whānui by virtue of that person being a descendant of any of the persons mentioned in paragraph (a) of subsection (1) and who claims to be a descendant of a member of the Ngāi Tahu iwi who was living in the year 1848 may apply to Te Rūnanga o Ngāi Tahu to have that member determined to be a member of Ngāi Tahu iwi

[17]Te Rūnanga o Ngāi Tahu Act 1996, section 2 of the Interpretation.

living in the year 1848.

(4) The Rūnanga o Ngāi Tahu shall consider any application made under subsection (3) with all convenient speed and shall notify the applicant of its decision and, if the applicant so requests, of the reasons for its decision.

(5) If Te Rūnanga o Ngāi Tahu rejects an application made under subsection (3), the person making the application may, within 6 months after the date upon which that person is notified of the decision of Te Rūnanga o Ngāi Tahu, apply to the Māori Land Court to hear and determine the question.

Therefore, if you cannot confirm the previous pursuant to section (6) the Māori Land Court shall have jurisdiction to hear and determine the question and any determination made by the Māori Land Court shall be final and conclusive[18]. Finally, according to section 13 of the Act, you can confirm that you are a member of a Papatipu Rūnanga of Ngāi Tahu Whānui if,

(1) Each member of Ngāi Tahu Whānui is entitled to be a member of each Papatipu Rūnanga of Ngāi Tahu Whānui to which he or she can establish entitlement by descent.
(2) Where any question arises as to whether a member of Ngāi Tahu Whānui is entitled, by virtue of his or her descent, to be a member of a Papatipu Rūnanga of Ngāi Tahu Whānui, Te Rūnanga o Ngāi Tahu shall have authority to determine that question.
(3) Any member of Ngāi Tahu Whānui may apply to Te Rūnanga o Ngāi Tahu to have that member determined to be a member of a Papatipu Rūnanga of Ngāi Tahu Whānui. Te Rūnanga o Ngāi Tahu shall consider any application made under subsection (3) with all convenient speed and shall notify the applicant of its decision and, if the applicant so requests, of the reasons for its decision.
(4) If Te Rūnanga o Ngāi Tahu rejects an application made under subsection (3), the person making the application may, within 6 months after the date upon which that person is notified of the decision of Te Rūnanga o Ngāi

[18] Te Rūnanga o Ngāi Tahu Act 1996, section 7 (6) Members of Ngāi Tahu Whanui.

Tahu, apply to the Māori Land Court to hear and determine the question.

Stage 5: Ko āu. I am Ngāi Tahu

Research shows that cultural practice, tribal structures and whakapapa are all significant in the development of Māori identity (Moeke-Pickering, 1996). Webber (2012) states that who I am today is determined by those who have come before me. I am a product of my history and whakapapa. Kidman (2011) writes that;

> "[i]n the Māori world the knowing 'self' is constituted in relationships with ancestors and kinsfolk…. It is a world in which meaning is created by relational beings interacting with knowledge, memory and place. Here, knowers are historically constructed through taonga tuku iho (ancestral ways of knowing) and their connections with the people around them" (p. 18).

Webber (2012) "[i]n most views of Māori identity, whakapapa is generally agreed to be the key characteristic" (p.18). Karetu (1990) as cited in Townsend (2014) describes whakapapa as the glue that connects individuals to a certain places or marae, locating them within the broader network of kin relations. Karetu furthermore states that "whakapapa is not simply about having 'Māori blood', but also knowing about that descent and having a meaningful relationship to it. Knowledge of whakapapa and sense of identity are very important to Māori" (p. 62). O'Regan (2010) as cited in Townsend (2014) states that the "concept of identity can also be explained as a "person's sense of belonging, of knowing and understanding your individuality and place in the world" (p.62).

In the *Ngāi Tahu vision plan 2025*, it states that, "[o]ur whakapapa is our identity. It makes us unique and binds us through the weaving of the generations, from the atua to the whenua of Te Wai pounamu" (Ngāi Tahu, n.d, p. 5). Also, if you know who you are, you can apply the following, "Ko Ngā Whakapāpātanga tribal communications and participation" (Ngāi Tahu, n.d, p. 14). This process sends a message that "all Ngāi Tahu Whānui who are entitled to be registered, are identified" (p. 14).

Summary of this framework

The conceptual framework encourages knowing your identity, through the examination of pūrākau and whakapapa. That whakapapa is the substance of our identity as Ngāi Tahu. Our Whakapapa is supported by the Ngāi Tahu census of 1848 (the Blue Book). The

blue book is now embedded into legislation. The legislation "underpins the whanaungatanga that is present at any tribal activity" (Ngāi Tahu, n.d, p. 19). History and traditions place us on our land and tie us together as a unique people. "How we engage with our land and its coasts is crucial to our identity, our culture and our tikanga. Our taha wairua flourishes and is emphasised by the passion and energy with which we must carry our culture forward" (p. 16). "Whānau know their whakapapa and are strong in their taha wairua" (p. 19). The next part will summarise my thinking in my thesis to this point

Part 1 Conclusion

In summary, the overall purpose of this part, was to explore and discuss the selection of tools that supports the weaving together of methodologies and theories that are used in this research. This weaving process enabled an effective discussion that is necessary to take place in this research on identity. Firstly, Kaupapa Māori as a methodology, provided an excellent framework for understanding why particular theories are embedded in the everyday studies. Kaupapa Māori contributes to the overall scaffolding in this reflective practice, improving the flow of each part, as well as facilitating the self-study of a researcher's practices. Whakapapa, as part of the scaffolding, provided the joinery which enabled and strengthened the discussion. Furthermore, the openness of pūrākau, waiata, whakataukī were used as tools within the scaffolding. This openness enabled me to consider different perspectives of study through use of both legal philosophy and comparative study, through negotiating and sharing ideas whilst also being critical. The process of decolonising older research on this topic by reframing was accomplished through reflection, which allowed the research to be "open… to new interpretations" (Hamilton & Pinnegar, 1998, p. 2), and then "reinterpret and reframe their situation" (Zeichner & Liston, 1996, p. 16). The process of reframing occurs, through systematic reflection, through "open themselves to new interpretations" (Hamilton & Pinnegar, 1998, p. 2), and then "reinterpret and reframe their situation" (Zeichner & Liston, 1996, p. 16).

Finally, the last discussion introduced and examined the background to and philosophy of the 'Conceptual Identity Framework for Ngāi Tahu Whānui (see: Appendix 1), which is a visual representation of whakapapa [genealogy] using our ancestral maunga, awa, whenua and pounamu. This framework encompasses a weaving together of threads that include, among others, mythology, whakapapa, belonging, relationships, identity, tribal

legislation, self-identifying with the use of pūrākau. This framework draws on collective relationships that are suggested to exist between our ancestors. As stated in the Ngāi Tahu Vision plan 2025, "[o]ur whakapapa is our identity" (p. 5), making us unique and binding us through the plait of the generations, from the atua to the whenua of Te Waipounamu" (p. 5).

Part 2

Tales, legal descriptions, and histories that are unique to Indigenous peoples in Aotearoa, Canada and the United States of America, this part is a document of cultural heritage, a tribute to the ‘Pounamu landscape’, and a moving testament to how going back, in nature and in life, allows us to move forward.

The Story of my Pounamu

He squints and is desperately trying to gauge what time of the morning it is; his eyes are weary, his entire body is fatigued; it must be the rising of the sun – the new dawn has arrived, it washes away the darkness and pain of last night's rest. Lying in his van, parked up at Sulphur Point, he strains to pull his frail sore bones out of his hard-padded pallet bed. It seems more difficult this week and his back feels extremely raw today. He closes his eyes and listens to the blood pulsating through his damaged veins, he knows they are – he has neglected his wellbeing for so long. He tries to clear his tobacco peppered lungs and blemished throat, it feels worse than usual, he clears a lump of phlegm. He feels unwell, he feels like an old man even though he's coming into his 56th year on this earth. His thigh hurts, that sore hasn't healed, for some reason he thought that his spine was going to crumble into small pieces. Screeching like an old gate on worn-out hinges, he hauls himself into a sitting position, but without warning he passes out… December 2009.

My eldest brother 'Mike', Michael Allan Wilkinson, is my mother's first born, she delivered him at Ōtāhuhu in 1955; which was not a good time to have baby out of wed lock, let alone a baby with a Māori. Mike would never meet his father; his father was from Ngāpuhi descent. His Ngāpuhi whānau had travelled to Papakura and offered to buy Mike soon after his birth. My grandfather Tom Wilkinson told them in no uncertain terms to leave and never come back. Later when Mike was three years old, he left the warmth of my mothers' family of Irish lineage. Mum had met dad from Ngāi Tahu, had a whirl wind courtship and married shortly after moving to Akaroa, Banks Peninsula. Mike left Te Wai Pounamu when he was 14 years old, he never felt settled, he was a carver, he loved working with whale bone & pounamu, but he drifted throughout Aotearoa until he could no longer physically move, on that day in December 2009.

On Tuesday 9th December 2009, Mike was found unconscious in his van at Sulphur Point, Tauranga. He was taken to the emergency department, had his blood tested and found to have a huge abscess on his thigh, he was chronically anemic. However, he was later diagnosed with multiple myeloma in his bones, which was particularly prevalent in his ribs, spine, hips and wrists. Throughout his journey with cancer, he was constantly profiled by the medical professionals, which added to his struggle. He was questioned on

why he was admitted to the Kaupapa Māori ward at Tauranga, then when he went for treatment at Waikato Hospital, he was questioned by the Kaitiaki if he was truly Māori, as he sat in his room at that time, paler than normal, with my pale skinned sister Tui and our even whiter Irish mum. This kaitiaki was dripping in pounamu and blackened hair dye. She assessed Mike as being not Māori enough. Mike was returned to Tauranga, to the Kaupapa Māori ward, to be abused by three Māori nurses who decided that he was only in the hospital to get drugs. Our whānau ended up submitting a complaint to the Health & Disability Commission against Tauranga District Health Board. The first part of their apology was a pounamu, the one I wear today. Mike gave it to me because it felt too heavy on his ever-breaking chest, and because I was his voice, I was his advocate, especially in relation to the many concerns that Mike had had while he was in hospital. I didn't notice the image on the pounamu, until I later went to the Tā Moko exhibition, where there was a huge pounamu on display. The image was a Ruru.

I would like the reader to understand that the fundamental thread flowing through the three pūrākau has to do with being Māori in the health system. The three pūrākau are looking at the situation from different perspectives, all are about how we are profiled. My brother received substandard care due to not being or looking Māori enough. I will conclude with the following whakataukī.

'Pounamu has whakapapa, pounamu has mana'[19]

[19] The Chairman of West Coast Rūnanga Ngāti Waewae, Francois Tumahai.

Artist impression of the story of my pounamu

(Cannon, Pounamu, 2019)

Blood Quantum Ideology

What is Blood Quantum?

Many Indigenous peoples, for example Indigenous Canadian, Native American and Māori peoples, have adopted the idea of 'blood quantum' (percentage of 'blood') ideology. According to Blood quantum is a scientific, government-approved method of determining blood purity and race purity. According to Hall (2013) the basic idea of blood quantum has always been based on skin color: the lighter you are, the more "competent" and less "inferior" you are (p.209). Scholars have found that blood quantum is a clinical, inhuman, arbitrary, and careless way to determine the ethnic authenticity of a person, for example in recent research by Hall (2013) he gives a summary to this idea, by stating;

> ...Persons with greater amounts of white ancestry were assumed to be more competent than persons with lesser amounts. In other words, the degree of white blood was much more important than the degree of American ancestry. The white blood entitled an Indian citizen to greater privileges, including being able to have 'wardship' restrictions removed, being able to sell property, acquire the right to vote in state and federal elections, and so on. Thus, it may that many persons chose to exaggerate their amount of white ancestry when enrolling. Persons without white ancestry were restricted persons, with the Bureau controlling their financial lives. It was also expected that when a person became 'competent' (white enough), he [or she] would no longer be an Indian and that process would eventually terminate a tribe's existence (p. 210).

Research carried put by Forbes (2000) states that from a purely mathematical perspective, blood quantum theories are a scientific, government-approved (in those colonised countries that have applied quantum on their Indigenous peoples) method of determining blood and race purity. Thus, the recording of blood quantum is both a product of white racism and of white social science theories (Forbes, 2000). However, the racist origin of this idea is often not known or forgotten (Forbes, 2000). Blood quantum laws started in the Americas in 1705 when Virginia adopted laws which made both a person of the American race and a person of half-American race (a 'half-blood') as legally being inferior persons (Boyes, pp.18-19). In the circumstances of people with mixed blood, Meyer (1999) as cited in Schmidt (2012) observes that,

> "White blood" might uplift darker "blood", but not as quickly as "tainted blood" polluted. And the stain of degeneracy attached to all those of mixed descent for those of the dominant order. It was a contest that might be won only through phenotype and cultural behaviour. Colour lines drawn in the racial caste system remained impermeable unless an individual looked lighter and associated with and behaved like those of "purer blood.

Many Indigenous peoples have had their identities defined by legislation based on the notion of blood quantum. Blood quantum ideology was purported to be a 'scientific' method for determining blood and race 'purity' but as this chapter discusses the idea of blood quantum is rooted entirely in European and colonial ideas about race. Consider, that it as a plan, where ethno-religious groups, and/or the Indigenous nations, are expected to vanish. Such as in the situation of the Jewish (Jews) peoples during the period of Adolf Hitler, where the Jews were expected to be eradicated by a supposedly superior, high white blood quantum race (Forbes, 2000). In this instance, blood quantum was used to define, and dictate, a race of people that did not align to the Aryan race, justifying the murder and genocide of countless people. On a less apparent scale compared to the Jewish people's example given above, Goins et al., (2017) share an example of blood quantum and its affect an Indigenous Peoples. In the Ethnic Fraud and the Quest for Authentically, Gillio-Whitaker discusses the identity scandal of Rachel Dolezal, when she falsely claimed to be of mixed race. Gillio-Whitaker (2015) remarks that, "less quantum, is less authenticity" then discusses that for Indians there is a cultural purity (p.2).

I have heard the same conversation here in New Zealand, questioning Māori identity and what makes one Māori? Some Māori anchor identity with a certain criterion for example you must have whakapapa, fluent in the Te Reo Māori, can perform kapa haka, the tick list goes on. The same people usually set criteria for almost anything to do with being Māori. It is echoed, that the coloniser-imposed blood quantum on Indigenous peoples, and the colonised impose that on their own. It is about *whakapapa* (genealogy). According to Sarivaara et al (2013) when "defining a person as a member of an Indigenous group it can be difficult, for example the assimilation process, history of colonization, or complex legislation regulating membership in an Indigenous people" (p.) However, genetically people of all colour and creeds are not dissimilar. Yet, throughout history, political and academic literature has often equated race with blood (Forbes, 2000). Consider

the 1974 case of *Morton v. Mancari*. In the article by Villazer (2014) the author explains that the, "Supreme Court held that a Federal Agency's hiring preferences of American Indians who met blood quantum requirements did not violate equal protection principles" (p. xx). According to the Court, the adoption of the blood quantum rule was not racially discriminatory, instead it served a political purpose. In Forbes (2000) column on 'blood quantum,' he echoes what other authors are asserting, which is that the Federal governments use of the degree of blood', was used in the latter part of the nineteenth century, especially in relation to the enrolment of persons before the Dawes allotment commission (p.1). The Federal government began to also use 'degree of blood" in the latter part of the nineteenth century, especially in relation to the enrolment of persons before the Dawes allotment commission. According to Hall (2013) the use of "full," "one-half" etc. at that time was both an extension of the previous racist system and a step in terminating Native Americans (p. 209). In other words, the degree of white blood was much more important than the degree of Native American Indian ancestry (p. 209). He then explains that;

> The practice of 'full,' 'one-half' and so on, at that time was both an extension of the previous racist system and a step in terminating Native Americans. Persons with greater amounts of white ancestry were assumed to be more competent than persons with lesser amounts (p.1).

The similarity with most countries who have applied blood quantum, is that when the Indigenous peoples is that it was expected that when a person became "competent" (white enough) he would no longer be an Indian and that process would eventually terminate a tribe's existence (Forbes, 2000, p.1). In New Zealand these ideas played out in the Hunn report (1960), where there are three classifications of Māori, for example if you had not assimilated and remained rural, speaking your language, and engaging culturally you were perceived as retarded.

At the end of this historical discussion, Goins et al., (2017) notes that, one of the worst examples of blood quantum, blood purity in the twentieth century was by Nazi Germany, "when Hitler wanted to create an Aryan master race." Those exterminated were Jewish not Aryan. This is noted as an extreme example, however, "it is not unlike the "ethnic purity" required and encouraged by Indians and non-Indians alike" (p.9). The next part is about theories, concepts and policies relating to blood quantum.

The History of Blood Quantum Ideology

The central theme of, the story of my pounamu is about the entrenched racism towards Māori in the health system. How you are perceived culturally may influence the holistic nature of your care. One of the results of the events was that my brother was profiled, which demonstrates the unconscious bias that exists in the health system. I would like the reader to understand, that this fundamental thread flowing through the three pūrākau is informed by layers of history. The three pūrākau are looking at the situation from different perspectives and all are about how we are profiled. My brother received substandard care due to not being or looking Māori enough. Part Two of my thesis discussions will consider this journey of engagement with the key elements, which are embodied in the ideology of blood quantum. The elements identified and that will be discussed later in this section are Racial and Physical Anthropology; Natural law; Science and Darwinism; Colonisation and Imperialism and Assimilation.

Blood quantum becomes the scaffolding around Indigenous identity from a historical position that, I will argue, remains relevant today. The effects of colonisation are linked to contemporary impacts among Indigenous peoples such as institutional racism, homelessness, poverty, loss of lands, trauma, and other examples that I will not be going into in this thesis. Smith (1999) reminds us, that there are contested histories, 'for Indigenous Peoples, the critique of history, under colonisation Indigenous Peoples have struggled against a Western view of history' (p. 33). Further, Smith states that "we have often allowed our histories to be told and have been reclassified as oral traditions rather than histories" (p. 33). Smith (1999) also emphasises who has the control of history;

> History is about power. It is the story of the powerful and how they became powerful, and how they use their power to reinforce positions in which they can continue to dominate others. It is because of this relationship that the Indigenous Canadian, Native American and Māori Peoples have been socially excluded, marginalised and 'othered (p. 3).

History is also about who is remembering, who is past and who is present. Some histories are dismissed, not remembered, or it is often about the western story. Then you have 'historical classifications of human's races' which have differed from a cycle of history of cultures and over time have been controversial for social, political and scientific raison d'être (the most important reason or purpose for someone or something's

existence). In history white peoples have consistently emphasised their dominance over browner-skinned people and "others" such as Indigenous Canadian, Native American and Māori peoples (Delphine, 2019). As stated earlier by Smith (1999) a theme of racial and cultural discrimination dominates history. TallBear (2012) points out that during the nineteenth century, the American School of Anthropology enfolded Native peoples into their histories, claiming knowledge about and artefacts of these cultures, as their rightful inheritance and property (p. 233). This can be witnessed in Indigenous communities, where all lands were colonised.

In contemporary society, racial classification is commonplace. Many people are content with the racial categorisation as well as their skin colour. However, Linda Smith (1999) writes about contested histories, that under colonisation we Indigenous have had to continually struggle against the western view of our history, which makes us feel like outsiders looking into the stories that have been written (p.33). Linda Smith (1999) goes on to state that Indigenous attempts to reclaim land, language, knowledge, and sovereignty have usually involved contested accounts of the past by colonisers and those colonised (p.33). A good example of this is in the writings of Prendergast-Tarena (2008) when he glares through the window into the past but also the insight this window provides into the minds of the ancestors and how they recollected, interpreted and reconstructed the past to fit with the demands and needs of the present (p. 18).What was interesting in the research by Prendergast-Tarena (2008) was that she writes about some of the early authors like Percy Smith in his establishment of the Journal of Polynesian Society in 1892, when he writes significant changes in Māori accounts of tribal origin and migration (p.18). Prendergast-Tarena (2008) goes on to state that;

> Percy Smith and Elsdon Best were to have a significant impact on Māori traditions as they were prolific writers who often altered and compiled traditions according to their own will. That the approach by Elsdon Best lacked any theoretical analysis of any kind resulting in him publishing unauthentic and modified accounts. Further that another author Beattie summarised earlier manuscripts, combined these elements with new materials, incorporating both authentic and unauthentic traditions, to form a muddled mash of traditions (p.18).

As cited in King (2000) historian Atholl Anderson also noted that Brailsford's Waitaha histories were 'the latest mutation in a virulent myth' of the pre-Māori Moriori with the ascription of separate waves of racial settlement further evidence of the influence of

nineteenth Century colonialist ideals of race. Consider W.A. Taylor (1944) who published five books on Māori subjects including *Waihora: Māori Associations with Lake Ellesmere, Māori Art* (1946) and *Lore* and *History of the South Island Māori* (1952). His interpretation of Ngāi Tahu history was so poor that tribal elders at Tuahiwi verbally abused him (Tau, 2003). Due to his lack of credibility in Ngāi Tahu communities, he was reliant on written sources from the records of the Māori Land Court (Prendergast-Tarena (2008).

Taylor also constructed early tribal identities based upon the popular anthropological theories of his time, as did his contemporaries like Beattie. He was convinced Māori were a hybrid race, composed of both Polynesian and Melanesian descent. Taylor looked to the anatomy of skulls and the oral traditions of Herewini Ira, Tame Parata and Teone Taare Tikao's references to descent from earlier tribes with dark skin, curly hair and a different language to prove his theory (Taylor, 1952).Controversial Pākehā archaeologist Barry Brailsford's accounts of early South Island traditions reflect an evolution of the Pākehā society of New Zealand, namely a break away from the colonial 'Motherland', and a new attempt to establish independent spiritual connections with the New Zealand landscape. Brailsford was well educated from a western perspective and had credibility with Ngāi Tahu due to the success of his earlier publication *The Tattooed Land; The Southern frontiers of the Pā Māori* (1981). However, Prendergast-Tarena (2008) notes that

> in his book 'The Song of Waitaha (1994), Brailsford does not present traditions as they were, or how he perceived them to be like previous scholarship, instead Brailsford constructs his own mythology, intellectually colonising the past to construct an entirely new cultural identity to suit his own purposes (p.66).

The main point is that the western views of history and Māori views of history are often different. That these spaces are often contested. Western views of history have been critiqued by Māori scholars, whereas European histories of Māori have often muddied the waters of Māori genealogical and historical accounts of their own. Through the wider impacts of colonisation such as education and schooling, have had a powerful impact on silencing Māori accounts thus making it difficult and contentious to reconstruct histories. To complete this discussion on history, Soutar (2013) echoes that, "Tribal histories exist only as they are interpreted by their authors during a historical period and that this interpretation is influenced by the author's personal background and

experience" (p.43). Whereas Prendergast-Tarena (2008) emphasises that an analysis of the dynamics of tradition must be based upon study of authentic narratives (p.15). We must know who is writing the History and for what reason.

Racial Sciences

> Biological anthropology has had a long and close association with racialism…. until the Second world war anthropology was the study of race[20]…. the decline in popularity of the concept of race is commonly held to be due to changing politics including the influx of liberal, and women anthropologists after the second World War (Barkan, 1992, p. 381).

Biological Anthropology includes the study of human evolution and human biological variation, as stated in the quote it has always been related to the physical anthropology and race. However, this shifted with the change of who was carrying out these studies. In this part, I will introduce some of the general theories, concepts and policies relating to this topic of blood quantum essentialism but is merely a foundation for further, in- depth research. What does become evident from a cursory review of this topic is the extent to which theories, concepts and policies form an integral part of blood quantum laws. More than being mere items of information, or even devices for learning, the definitions in fact both reflect and contribute to patterns in the lives of the Indigenous Canadian,

[20] Race: is a categorisation, it was constructed. Consider this discussion by Tahu Kukutai, when she states that, "Indigenous peoples such as Māori exemplify the problem that policy makers face in dealing with heterogeneity. High rates of intermarriage and institutional pressures to assimilate mean they comprise persons with diverse lifestyles, socio-economic circumstances, and identities. Yet, for reasons of history and contemporary politics, public policy tends to treat them as homogeneous. Typically, Indigenous peoples are the only ethnic groups with government agencies to monitor their outcomes, and deliver policies designed to improve their poor group-level status. Their claim as original or sovereign peoples also confers specific legal rights relating to ownership of land and natural resources, cultural preservation, and political representation. Given this, Indigenous peoples tend to figure prominently in national debates on race, ethnicity, and resources. Certainly, in New Zealand there is growing disquiet about the appropriateness and fairness of policies and practices that would appear to assist individuals based on ethnicity. Indeed, at the time of writing a host of targeted policies and programmes were under review, including several major ones aimed at Māori. It is timely, therefore, to give closer scrutiny to some of the issues that have been central to domestic debates about ethnic data and policies. Underlying the debate is the fundamental question of how to define an ethnic or racial group in contexts where rewards and resources are involved. While this is a matter of consequence for all ethnic groups in New Zealand, it has implications for Māori. This paper considered the emerging approaches to defining ethnic or racial group membership generally, before turning to the specific context of New Zealand. Related to the issue of definition is the matter of entitlement, and which Māori ought to benefit from public policy interventions. Comparisons are drawn with other Indigenous populations regarding definition and policy entitlement (Kukutai, 2004)

Native American and Māori Peoples, and can form a powerful basis for blood quantum research.

According to Jantz et al., (2018) state that, “few anthropologists in any discipline examined humans and human races scientifically, which should involve formulating and testing theories and hypotheses, but instead relied on confirmation bias in publications intended for likeminded audiences” (p.67). The racial paradigm, which became rooted in physical anthropology at its very beginning, was, for decades, treated as a concept needing no verification. It was only in the mid-twentieth century that the first attempts were made to question the usefulness of the race concept in describing our species variation. The discrepancy may stem from differences in the traditions of anthropological schools, the differing socio-political histories, education, semantics, and possible attitudinal factors. Originating as an independent discipline during the eighteenth century, physical anthropology had co-opted the term race, used to describe breeds of domestic animals, and applied it to varieties of the human species. Soon race was regarded as a core concept of physical anthropology instead of being simply a hypothesis able to be investigated empirically (Biondi & Rickards, Olga. (2002).

As Molnar (1983) points out as cited in Kaszycka & Strzałko (2008) many people assume they know what race means and assume that the existence of significant human differences has been long since demonstrated scientifically. Thus, the racial paradigm functioned for decades, and only in the mid twentieth century was an attempt made to call it into question (p.203). Kaszycka & Strzałko (2008) state that in the twenty first century, the usefulness of the race concept in describing human biological variation is still a matter of contention, and physical anthropologists are still divided over the concept of race. Kaszycka & Strzałko (2008) mentioned that following the Second World War, because of advancements in biology and, significantly, global changes in social and political contexts, the race concept began to be questioned and substituted by different approaches. Deconstruction of the race concept was, however, a long and complex process. While it seems to be completed or almost completed in anthropology, it is still ongoing in many other disciplines.

In the research carried out by Ferguson (2005) she deliberates about the analysis of the racialisation of Native North American peoples. In her discussion she notes that, with Western imperialism, 'race' has contributed to the dispossession, disintegration and deculturalisation (Ferguson, 2005, p. 1). She emphasises that the usage of racial terminology and blood quantum policies, lead to fragmentation, marginalisation, stigmatization and alienation of Indigenous peoples. This is not just historically; in fact, it plays out today in the form of commercialised DNA and is embedded in the minds of many western thinkers. Ferguson (2005) articulates the impact of race on Indigenous peoples through the process of colonisation by stating that, "race is a powerful, a fundamental component of colonization in the West…[and that]race developed within a colonial situation, evolving from an imperialist "convenience" into an oppressive and pervasive hegemony which facilitated the domination and destruction of Indigenous communities (p. 1).

Harrison (1995) states that "historically, anthropology has occupied a central place in the construction and reconstruction of race as both an intellectual device and a social reality" (p. 47). Next, Harrison (1995) explains that, within the past decade, anthropologists have revitalized their interest in the complex and often covert structures and dynamics of racial inequality Further, the author claims that the;

> topical scholarships tend to shed light on race's heightened volatility on contemporary sociocultural landscapes, the racialization of ethno-nationalist conflicts, anthropology's multiple traditions of antiracism, and intranational as well as international variations in racial constructions, conventionally neglected configurations of whiteness (p. 47).

Rangiwai (2011) defined the notion of 'race' is therefore, culturally, socially, politically and economically a problematic and arbitrary social term derived from pseudo-scientific classificatory stems established to support the positional superiority of European societies above others, allowing Europeans to understand human difference in self-privileging ways (p.43). According to Rangiwai (2011) race is both an inauthentic measurement of human difference and a meaningful social category in terms of the perceived differences between races (p.74). It is evident from the literature that racial discourses have informed racial practices with regards to the ideological and hegemonic construction of representations and stereotypes through which the 'Other' was objectified and oppressed, in ways which privileged whiteness (p.74). Lawrence (2003) states;

> for Indigenous people, to be defined as a race is synonymous with having our Nations dismembered. And yet, the reality is that Native people in Canada and the United States for over a century now have been classified by race and subjected to colonization processes that reduced diverse nations to common experiences of subjugation. Contemporary native identity therefore exists in an uneasy balance between concepts of generic "Indianness" as racial identity and of specific "tribal" identity as Indigenous nationhood. In general, Native resistance to colonization rejects notions of Indian" identities that can, at best, only aspire for equality within a settler state framework. For Indigenous people, resisting colonial relations involves a refusal to accept the authority of Canada or the United States as settler states, and a focus on rebuilding the nations that the colonizer has sought to destroy (p.2).

According to Ferguson (2005) the domination of race thrusts Indigenous peoples to refute or deny their own and each other's identities and encourages the neglect of tribal identity. Ferguson (2005) also articulates that, colonialism and racial hegemony create a state of tribal identity crisis, not just identity chaos for individuals. Racialization is the process of defining people according to race-based identity determinants and stratifying them according to a racial hierarchy. Racialization is a form of identity distortion or "othering," as well as the usurpation of authority over the identification process (Ferguson, 2005, p.7). Consequently, 'scientific racism 'criticises studies claiming to establish a connection between race and intelligence to promote the idea of 'superior' and 'inferior' human races (Linnaeus, 1767, as cited in Ferguson ,2005) notes that:

> Fifty years ago, biological scientists disproved the 'scientific' basis for race, and yet today many people's beliefs about race, heredity and genetics are still informed by nineteenth century 'scientific' explanations of race. The persistence of race in the public mind and in policy as well as the oppression created by racialization can be attributed to its hegemonic nature. One reason race and racialization persist is the assumption on the part of many people that 'race is real' in a biological sense, i.e., that identity is racial, and race is 'in the blood.' Another reason rests in the historic usefulness of race. That is, what made race a useful 'fact' in the past also keeps it useful in the present. Therefore, it is necessary to develop an understanding of why and how race has been essential to imperialism and colonialism in the West and to explore the processes by which race became hegemonic (p. 11).

According to Ferguson (2005) "race is not biologically real'' but it is the existence of racism past and present (pp. 89-90). Pewewardy (2000) as cited in Ferguson (2005) continues with the fact that racism has been the main use for the social construction of race articulates the extent of race's tyrannical heritage, "the colonizer's falsified stories have become universal truths to mainstream society and have reduced Indigenous culture to a cartoon caricature. This distorted and manufactured reality is one of the most powerful shackles subjugating Indigenous peoples" (p.6). Whereas, Ferguson (2005) states that in the "West, the ideology of imperialist superiority, its means and justification for dominance, and its methods for manipulation and controlling identities is the concept of race, the heart of which is the ideology of racism" (p. 13). Whilst, Ferguson (2005) sums up what race is, an intentionally divisive and oppressive ideology, it has become a form of cognitive imperialism, because regardless of its arbitrariness, "race" is misrecognized as fact and functions to control our sense of reality" (p.15).

Relevant 'Scientific' Theories

Over time, several schools of thought and theory have developed regarding race. It is important to note that while there have been numerous schools of thought and theories throughout history, often, the newer thought is where there is a revitalisation of the former thinking. Theories are constructed and mean several diverse things. Theories are an idea and concept that depend on the context. No theory is pure. One theory may be more dominant, and others can be fluid at any point of time. For example, in math's and science, a theory is a tested and testable concept which is used to describe an event. Ultimately, scientists co-opted the word using it to describe an explanation or thought based on observation and testing. The term/concept, to theorise, also emerged by the 1630's. Relevant theories I will address in this chapter include natural law; Darwinism; colonisation; imperialism; assimilation; cultural genocide and Holocaust. The next section of this part will briefly elaborate on the theories mentioned above, positioning these theories within the context of blood quantum and Indigenous identity?

Natural Law

According to McDowell and Webb (2006) that;

> the "natural law approach provides that law is justifiable by recourse to some logical or moral rule that stands apart from the system itself. That in primitive societies, or what were considered primitive societies, the

> leadership made the rules, that could be implemented, and were often considered the right approach. Nevertheless, if it could not be demonstrated, that the laws made by the Sovereign are legitimate by recourse to some external principle, the right to govern could be defended and legitimated (p.12).

In short, Indigenous peoples, lands, lives, and liberties were subjugated under the Christian concept of natural law. This immutable doctrine steeped not only in the historical context of law evolution but also in the psyche of the predecessors of the European colonialist. These colonialists who solemnly grasped the fundamental principles of natural law without acknowledging, whether overtly or otherwise, the implications of the application to, not only Indigenous women, but also to Indigenous men, disabled individuals, children, and white women. Indigenous peoples were considered socially and culturally inferior races that deserved exploitation under the guise of assimilation, civilisation, commercialisation and christianisation. Not surprisingly, the interests of Indigenous Canadian, Native American and Māori peoples were pre-destined to be subservient to all other non-Indigenous groups. Indigenous peoples continue to struggle to claim their rights against dominant non-Indigenous peoples.

To begin with, a leading component of the ancient western normative legal systems is the Christian sourced moral law of natural law. Hacksaw (1989) highlights that the egalitarian approach to natural law manifests that *'all men are born equal'* (p.16). Stoic as cited in Hacksaw (1989) provides a definition of natural law, explaining that is it an amalgamation of three vital aspects. These aspects are 'universality and immutability'; 'application of higher law' and 'discoverability by reason' (p.16). Wacks (2012) continues with the following;

> true law is right reason in agreement with Nature; it is of universal application, unchanging and everlasting… It is a sin to try to alter this law, nor is it allowable to attempt to repeal any part of it, and it is impossible to abolish it entirely…. [God] is the author of this law, its promulgator, and its enforcing judge (p.16).

From the above definition, Wacks (2012) it is apparent that the egalitarian approach of natural law is subject to the conformities of Christianity patriarchy. Stoic further adds that any laws found without reason is justifiably invalid. This line of argument is influenced by Gratian who provided that, Natural law overrides customs and constitutions. That which has been recognised by usage, or recorded in writing, if it

contradicts natural law, is void and of no effect (p.17).

According to Henning (2001), Natural law played a functionary role for European discoverers to obtain tenure over newfound territories. The fundamental notion of the 'social contract theories' to forfeit your individual rights to the state for the return of state protection and social order only perpetuated the demise of native normative systems as their laws was subjugated to the 'happiness of the status quo' (p.19). Kelly (1992) states that this is reflected by Hobbes theory that, "God as the superior of the mortal rule, but essentially his state is the utilitarian invention of man consciously devising for himself a structure which will afford him protection" (p.213). Then, Morse (1985) notes that as a derivation of natural law principles, the doctrine of *terra nullius* permitted European explorers title by right of discovery of lands uninhabited (p.21). In support of this approach, Davies (1985) as cited in Morse (1985) explains;

> …and no other title was originally set up, and it was in virtue of this title alone that Columbus the Genoan first set sail. And this seems to be an adequate title because those regions which are deserted become, by the law of nations and the natural law, the property of the first occupant. Therefore, as the Spaniards were the first to discover and occupy the provinces in question, they are in lawful possession thereof, just as if they had discovered some lonely and hitherto uninhabited region (p. 21).

Davies (1985) as cited in Morse (1985) research shows that, Francisco de Victoria, a leading theologian of his time and who is claimed to be one of the 'fathers' of Indigenous Peoples' rights, argued that the doctrine of terra nullius can only be invoked if one unequivocally establishes that the lands acquired were indeed uninhabited (p.34). Since this was not the case, Davies (1985) notes that terra nullius could not be applied. However, for its time (early 1500s), it was never going to be taken seriously as 'discovery, by itself, was for the most part not considered sufficient to establish a valid claim' (p.35). Davies (1985) as cited in Morse (1985), suggests that nevertheless, Victoria was highly influential in rebutting the position of Christian bias ideologies of discovery principles. His ideologies proposed that all men were equal regardless of their non-subscription to Christianity or European (p. 20).

The following is the statement made by Marshall on the 'principle' of discovery in this setting of inter-imperial rivalry, which was made during the trial of Johnson v McIntosh (1823): "This principle was that discovery gave title to the government by whose subjects, or by whose authority, it was made, against all other European governments, which title might be consummated by possession.[21]" As outlined by Napoleon (2007, p.5) the sources of law are as follows:

Table 1: Thinking about Indigenous Legal Orders: Research Paper for the National Centre for First Nations Governance. University of Alberta. Val Napoleon (2007)

Law from Central Processes of Enactment	**Law from Social Interaction**	**Law from the Divine or From Within Human Beings**
Known as Posited Law (Legal Positivism)	Known as Customary Law	Known as Natural Law
Law comes from a central authority through a formal process. (E.g., Canadian Constitutions, *Indian Act*, etc.)	Law comes from the interaction between human beings that enables people to generally predict behaviours in a group. (E.g., Resource management law of decentralized peoples)	Law comes from a divine authority or from basic human nature characteristics. (E.g., Ecclesiastical law, etc.)

In short, the colonisation of Indigenous People's colonies and normative legal systems, were executed under the Christian concept of natural law. It is an immutable doctrine steeped not only in the historical context of law evolution but also in the psyche of the predecessors of European colonialist who solemnly grasp to the vital ideologies of natural law. To conclude this part, Finnis (1980) gives a clarification of 'Natural law' as the following, "… but of natural law itself, there could strictly speaking, be no history. Natural law could not rise, decline, be revived, or stage 'eternal returns (p.24).

[21] *Johnson v M'Intosh* (1823) 21 U.S. (8 Wheat.). 543. At 573.

The next section of this part will briefly explain Science and Darwinism. This is another element of blood quantum ideology. The mathematical equation of quantum came from the sciences, whereas Darwinism, influenced others. For example, Darwin in his pangenesis explanation of inheritance, postulated that genetic material travelled through the blood to eggs and sperm, from the parts of the body for which it was the specific hereditary material (Zack, 2002, pp. 64-65).

Science and Darwinism

The following quote by, Durfee, (1843) acknowledges that.

> ...the use of science to develop social policies predated Darwin's theory of evolution; it had existed throughout the whole 19th century, particularly in the new republics that emerged in the Americas. For example, in a speech delivered at Brown University in 1843, the politician and judge Job Durfee (1790- 1847) affirmed that it could not be "a subject of historical question or doubt" the 'great truth that human progress is the result of an ever active law manifesting itself chiefly in scientific discovery and invention, and thereby controlling legislation, and giving enduring improvement to all social and political institutions.' This fact was in Durfee's view a law as palpable in the history of the social mind, as the law of gravitation in the movement of matter (p. 41).

Throughout history, social ideas have influenced research and discoveries related to race. Rangiwai (2011) points out that culturally, socially, politically and economically, race is a problematic and arbitrary social term derived from pseudo-scientific classificatory systems, established to support the positional superiority of European societies above others, allowing Europeans to understand human difference in self-privileging ways (p.43). Whereas Guess (2006) suggests that this was a discourse from anthropology, history and sociology characterizes the concept, "race," as having a modern history (p.654). He also mentions that as real situations, the social construction of "race" and whiteness and their social significance are intimately linked to the history of social organisation (Guess, 2006, p.654). Rangiwai (2011) remarks that categories of race were fabricated at the pinnacle of European empire, to set up divisions between the colonised and their colonisers, to systematise and organise people into classifications of difference (p.42). Kogan (2007) emphasises that, as early as the eighteenth century, race was associated with blood, but it was in the nineteenth century that physical and social scientists made the politically useful declaration of an irrefutable biological, blood-based

basis for race. This 'scientific' development concretely defined the so-called the 'races' as distinct genetic population categories whose identity could be objectively determined and quantified by their blood. The idea of racial blood was aided in its development by Charles Darwin's cousin, Galton Darwin, who came up with the theory of fractional inheritance, the "scientific" underpinning for blood quantum, which in turn made possible and believable the idea of 'mixed bloodedness' (Zack, 2002, p.65). According to Zack (2002), it has been stated that,

> "the idea that ancestral contributions were halved in each successive generation became known as 'Galton's law of ancestral heredity'. Galton's law was used during the nineteenth century to identify fractions of 'black blood,' as in 'mulatto,' 'quadroon,' and 'octoroon" (p.65).

The author then states,

> decades later scientists disproved Galton's theory, showing that neither 'racial purity' nor 'blending' exist on a biological level and demonstrating that no genetic material can be guaranteed to be passed eliminated in the process. Thus, such commonly used terms as "half-breed" and "Indian blood" are biologically, genetically false, as is the assumption, inherent in these terms, that racial purity or race exists. Yet by their common usage, and by the persistent use of 'blood quantum,' we give credence to Galton and Darwin's ideas of 'race' as if they were fact, not ideology couched in scientific terms. In the nineteenth and early twentieth centuries, however, such "scientific validation for race seemed irrefutable (Zack, 2002, p. 65).

Wilson (2017) claims that although, "in the conclusion to The Descent of Man, [the author] had endorsed Galton's views that, if the prudent avoid marriage while reckless marry, the inferior members tend to supplant the better members of society" (p. 316). The author goes on to state, that the "Germans, righty, saw Darwinism less as a purely scientific hypothesis and more as a world- outlook" (Wilson, 2017, p. 316). Wilson (2017) writes that at the end of the day*;*

> Darwin had two central claims, the first was that by a gradual process of evolution one species evolves into another… Secondly, that nature is on a state of perpetual warfare and struggle; that process in evolution, and the perfecting of a species, takes place as a result of everlasting fight (p. 2).

Consider the following, when Wilson, (2017 emphasises that relationship aligned

with Nazi German ideologies;

> One of Darwin's most ardent disciples was the German Ernst Haeckel, who believed not only in human 'cousinage' with gorillas, but also the hierarchy of human beings from mere savages at the bottom to the Aryan race at the peak (p. 279).

Linda Smith (1999) notes this thinking when discussing some Western practices, which were employed to deny the validity of Indigenous peoples claim to existence (p. 1). Linda Smith (1999) then writes about the practice of us as a being, for example, then writes about the practice of us as a being, for example, just knowing that someone measured our 'faculties' by filling the skulls of our ancestors with millet seeds and compared the amount of millet seed to the capacity for mental thought (p. 1).

Consider that Charles Darwin had a direct and catastrophic influence on Hitler. That the impact was also equally noted in the twentieth century political mindset. It was stated in Hitlers' book, 'Table talk, that all life is paid for in blood'. These ideas seeped through his Hitlers cousin, Herbert Spencer, but they all derive directly from Darwin. Consider what Wilson (2017) states;

> One may be repelled by this law of nature which demands that all living things should mutually devour one another. The fly is snapped up by a dragonfly, which is itself swallowed by a bird, which itself falls victim to a larger bird (p. 346).

Wilson (2017) insists that what Darwin, his cousin Francis Galton, and Spencer made into a disastrous common place was the notion that aggressive competition is the guiding principle behind the universe (p. 346). We must remember these phases in history. History is fluid and was just a moment before, especially as its interpretation is confined mainly to a Western perspective, western thought, western ideology.

The next section of this part will describe colonisation and imperialism

Colonisation and Imperialism

Blood quantum ideology was a tool of the coloniser and is now imposed on Māori Peoples by those colonised. Linda Smith (1999) prompts us to reflect on colonisation and imperialism;

> Within these sorts of social realities, questions of imperialism and the effects of colonization may seem to be merely academic; sheer physical survival is far more pressing. The problem is that constant efforts by governments, states, societies, and institutions to deny the historical formations of such conditions have simultaneously denied our claims to humanity, to having a history, to all sense of hope. To acquiesce is to lose ourselves entirely and implicitly agree with all that has been said about us. To resist is to retrench in the margins, retrieve what we were and remake communities, cultures, languages and social practices, all may be spaces of marginalization, but they have also become spaces of resistance and hope (p.4).

O'Connor (2016) like Smith, and Pihama, when he states that we must realise that today's realities are a continuation of colonisation. O'Connor suggested earlier in 2016, that colonisation has led to some of the major issues that Māori face today. (O'Connor, 2016, July 30). According to Pihama (2018) the history of education in Aotearoa has been a tool of colonisation, it is a mechanism of assimilation. It is a process of indoctrination in colonial Christian belief systems, which is an instrument of domestication of Indigenous Peoples globally (p.5).

What is Colonialism? Colonialism is defined as a policy or set of policies and practices where a political power from one territory exerts control in a different territory. A central feature is, it involves unequal power relations (FemNorthNet, 2016, p.1). Colonialism in Canada, New Zealand and United States may be best understood as Indigenous peoples' forced disconnection from land, culture, and community by another group. It has roots in these countries' histories, but it is alive and well today (FemNorthNet, 2016, p.1). Then, Linda Smith (1999) tells us, that as Indigenous peoples we are obligated to tell the alternative story of colonisation, 'the history of Western research through the eyes of the colonised' (p.2). Consider when Linda Smith (1999) states 'Contested Histories'. "Indigenous attempts to reclaim land, language, knowledge and sovereignty have usually involved contested accounts of the past by colonisers and colonised" (p. 33). We must continue to rewrite the wrong history. This

is frustrating because many academic spaces place emphasis on Western mainstream writers, for example when Matthew Palmer presented a new book of his, titled, 'The Treaty of Waitangi in New Zealand's Law and Constitution,' which becomes the truth with no other comparative discussion legally. Most of the legal literature on interpretation is dominated by Western theory and thought, for example constitutional interpretations. Unfortunately, this is the interpretation that becomes the learning tools, the authority, is specified as authentic.

Keenan (2002) notes that in Canada, colonisation and imperialism created a loss of identity which eroded a sense of self, created social tensions in Indigenous communities and lead to a collective dependence on government, resulting in as subsistence ways of life (p.247). Ritchie (2003) explains that Whanaungatanga is a practice within Te Ao Māori that describes whānau relationships and the enactment of behavioural obligations to care for each other (p.5). This practice echoes "the loss of a sense of connection to cultural identity…" (Ritchie, 2003, p.8). Whereas Kruger (2010) notes that the reciprocal nature of whakapapa or kinship relationships carries certain cultural obligations that can be described as a duty of care. This duty of care permeates all levels and layers of kinship. While the unrelenting destruction and impact of colonisation and imperialism, tended to erode what he previously mentioned.

The purpose of the race classification system was to locate a superior space for a superior race, the white race, to marginalise and subjugate other races as inferior (Rockquemore, 2009, p.27). According to Boyes (2006) the racial hierarchy theory then logically aligned with the processes of colonisation and imperialism (p.16). As mentioned previously, Boyes (2006) shows that;

> British colonialists believed the Indigenous races of Canada and New Zealand were savages and in need of western civilization, in turn, colonisation. This theory holds true in the context of North America, Australia, and New Zealand. Regardless of whether they stemmed from social or biological backgrounds, theories of a hierarchy of race were evident throughout history and placed the white races of societies above others and, in the process, justified colonisation and imperialism. In the Pacific and, indeed, in North America, a hierarchical Eurocentric world view justified colonisation and the annexation of land by embedding these processes p.17).

Brewer (1990) explains that Imperialism' is generally used to refer to the political, military and economic dominance of major developed countries over less developed ones" (p.89). Whilst Linda Smith (1999) tells us that, "the concepts of imperialism and colonisation are crucial ones which are used across a range of disciplines, often with meanings which are taken for granted" (p. 21). Further, Linda Smith (1999) goes on to state that, "imperialism was the system of control which secured the markets and capital investment, and colonisation facilitated expansion by ensuring that there was European control, which necessarily meant securing and subjugating the Indigenous populations" (p.21). In *"Culture and Imperialism*" Said (1993) examines what he describes as 'imperialism in European literature'. He illustrates the broad grasp of imperialism and the tenure of one culture or group of people by another through analysis of Western authors and texts. defines imperialism as an ideology; a set of assumptions that justifies, supports, and legitimates the conquest, control, and domination of lands that are inhabited by other people (p.28). Imperialism as an ideology writes Said (1993) is distinct from colonialism which is the actual activity of dominating other lands and people through fear of physical and economic force. Furthermore, imperialism goes beyond the political and economic domination and stays in a culture in the subtlest of ways Said (1993). Jules Harmand a French advocate of colonialism (1910) as cited in Said (1993) said:

> It is necessary, then, to accept as a principle and point of departure the fact that there is a hierarchy of races and civilizations, and that we belong to the superior race and civilization, still recognizing that, while superiority confers rights, it imposes strict obligations in return. The basic legitimation of conquest over native peoples is the conviction of our superiority, not merely our mechanical, economic, and military superiority, but our moral superiority. Our dignity rests on that quality, and it underlies our right to direct the rest of humanity. Material power is nothing but a means to that end (p.17).

Like colonisation, Ferguson (2005) states that, 'identity control by the fabrication, manipulation and stratification of identities serves to facilitate multiple imperialist objectives, and it is this multi-purpose aspect of race which makes it so useful to imperialism' (p.12). Ferguson (2005) goes on to say that imperialist power utilises identity control to effect or facilitate additional imperialist objectives such as dispossession, deculturalisation, and disintegration of our Indigenous communities (p.12). Ferguson (2005) describes the 'convenience of blood quantum and biological race which offered yet another boom to imperialism' (p.19).

Furthermore, Ferguson (2005) explains this;

> the construction of distinct, discrete and "scientifically provable" identity categories that obscured the personal agency-thus personal culpability-of the federal governments themselves. Instead, it would appear as "scientific fact" that distinct races existed, and the agents who determined whether or not an individual tribal person was full-blood, half-blood or less (using their "scientifically accurate" methods like the skin scratch test, visual comparison of skin colour, observation of hair texture, etc.) were merely demonstrating "natural" or "God-given" facts, not enacting a racist, politically driven form of oppression.
>
> By removing agency from these individuals and culpability from the government and by placing the agency with science itself, the imperialist governments were able to establish a new way of thinking about the identity of "Indians" and provided themselves with a powerful tool for oppression and control (p. 19-20).

In summary, the impact of colonisation and imperialism as elements to the scaffolding of blood quantum ideologies, that had an unremitting assault on our whakapapa, continues. Our communities now have newly developed tools such as commercial DNA testing which continue this assault. The legislation and colonial institutions that were created, where Māori ultimately tried to resist, but were consumed by this process of colonisation, remain in power. Aho (2013) highlights that '…disconnections from whakapapa produced trauma that has woven its, way through subsequent generations. The individuation of whakapapa is exemplified in suicide prevention research where Māori suicide is often interpreted as individualised mental illness' (p. 48). Our healing can only happen fully when there is recognition by the coloniser for what has happened. It can be argued that does take place in Treaty of Waitangi settlements however, this is also a Crown process which tends to be equally unsettling and is not binding.

The next section of this part will define assimilation, it will also consider why assimilation is an element of blood quantum ideology. One of the reasons that I cover this is, as Walker (1989) notes, that, 'assimilation' was the dominant policy and the accompanying practices which involved monolingualism and monoculturalism and were appropriate and correct for New Zealand society by the majority of Pākehā (p.234). Consider Booth & Hunn (1962) when they considered policies of integration, Māori

being absorbed into western culture. Booth & Hunn (1962) stated that, integration denotes a dynamic process by which Māori and Pākehā are being drawn closer together, in the physical sense of the mingling of two populations as well as in the mental and cultural senses where differences are gradually diminishing (p. 2). The section will open with a quote made by the British Parliamentary committee (1837), this captures the attitudes of the coloniser, that were both patronising and paternalistic.

Assimilation

> It is not to be doubted that this country has been invested with wealth and power, with arts and knowledge, with the sway of distant lands and the mastery of restless waters for some great purpose in the government of the world. Can we suppose otherwise then that it is our office to carry civilization and humanity, peace, and good government, and above all the knowledge of the true God, to the uttermost ends of the earth? (p.97)

This was a sermon made by Reverend Whewell (1837) to the Trinity board, which is cited in the article by Sorrenson (2014). The colonisation of the uncivilised countries, and how this is clearly connected with a powerful system and a dominant group. The aspects of Crown policy and processes were clearly directed at the assimilation of Māori. Consider, that the Hunn Report of 1960 endorsed a stage beyond assimilation which was the integration of Māori. As a minority group the goal would be to breed out through integration. In practice, because Māori were a minority, this tended to mean the absorption by the dominant group. Next, the assimilation of Indigenous Peoples meant "different things in different times and places" (Ellinghaus, 2003, p. 183), it was expected that intermarriage… would breed out the Indigenous blood and ways, "the ultimate outcome was to have the Indigenous identity to disappear" (Ellinghaus, 2009, p.59) . Consider the following statement made during the Commonwealth Parliamentary Debates which is cited in Ellinghaus (2003), this reflects a shift in thought against some of the coloniser of that time, "[A]ssimilation is our word. Many Aboriginals take it as meaning they are to be bred out. They wish to be a distinctive people … The desire of the Aboriginals to be a distinctive people is something we should respect" (p.183).

The Indigenous peoples of Canada and New Zealand became minorities in their own countries in the 18th and 19th Century. The expanding British Empire had its own vision of the future of these Peoples. They were to become civilised, Christianised and citizenised or assimilated[22] (Māori dictionary). The first systemic and comparative treatment of the social policy of assimilation followed in Canada and New Zealand. Australia denied the Aboriginal presence outright. Canada registered all 'status' Indians and New Zealand gave all Māori British citizenship (Armitage, 1995, p.3). No matter how benevolent the assimilationist policies were, Reihana (2004) opined the role of Māori looking after Māori;

> Our children are our future and their future are dependent on their ability to participate positively and actively in all aspects of life. Our role determines their ability to do so successfully. Finding the balance in today's world will enable us to cross the gaps that will ensure a strong future for Māori (Theresa Reihana, 2004).

In Canada and New Zealand, Indigenous children received attention under the policies of assimilation because of the special interest in shaping subsequent generations. The Christian missionaries, teachers, and social workers who carried out this work were motivated by the desire to save the unfortunate but in the process; children were required to leave their families, communities, language, and cultures behind (Armitage, 1995). In his seminal work *'Comparing the Policy of Aboriginal Assimilation'* Andrew Armitage discussed the policy of assimilation as being traced through five principal phases. First, during the initial contact period, power relationships were established. In the second period, policy was passive and Indigenous peoples were expected to die out or merge with the immigrant populations. A period of aggressive policy then introduced specific social policies to suppress Aboriginal institutions. Armitage (1995) describes the third phase as the following, "began with studies furnishing much better descriptions of black-white relations in the United states and which in their interpretations replied upon the idea of race as an indicator of minority status (p.221).

During the fourth period, Aboriginal existence was disregarded in an attempt at integration. In the present period, policy is being reversed to accommodate the

[22] whakapākehā

demands of Indigenous People to determine the welfare of their children themselves (Armitage, 1995, (p.301). Interestingly, Armitage (1995) concluded that there are many similarities and differences which exist among Canada and New Zealand with respect to theoretical aboriginal social policies in general, including assimilation (p. 247). The similarities in the main policy themes are strong and recurrent, while the differences are more often a matter of emphasis and degree rather than of kind. The Aboriginal social policies of both countries are hierarchical, with the Canadian policies during the paternalist period being the most severe (Armitage, 1995, p. 230).

The following was Ellinghaus (2003) provides a discussion on assimilation policy in Australia;

> That in Australia of the late 19th and early 20th centuries, whites envisioned the 'assimilation' of Indigenous people in two very different ways. Some believed in the possibilities of teaching Indigenous people to live and support themselves as white people ('cultural assimilation'), others focused on the loss of Indigenous physical characteristics through interracial relationships ('biological absorption'). In most instances, however, the politicians, public servants and anthropologists involved in solving the 'Aboriginal problem' were cryptic when they referred to the future of Aboriginal peoples. A full explanation was never given about whether they envisioned assimilation being hastened by the births of mixed-descent children who did not physically appear to be Indigenous, or whether they simply wanted to teach Indigenous people to live in the manner of white people (p. 1).

This is the front page of a copy of the Australian Policy of Assimilation discussion and policy details:

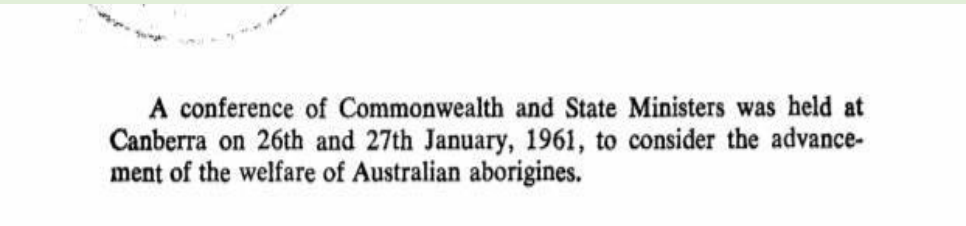
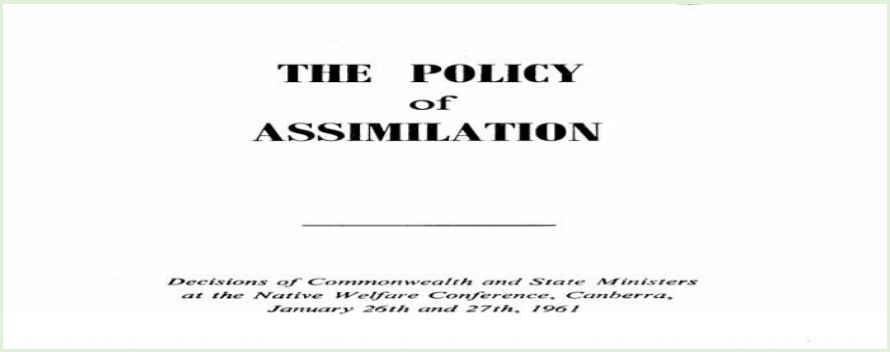

A conference of Commonwealth and State Ministers was held at Canberra on 26th and 27th January, 1961, to consider the advancement of the welfare of Australian aborigines.

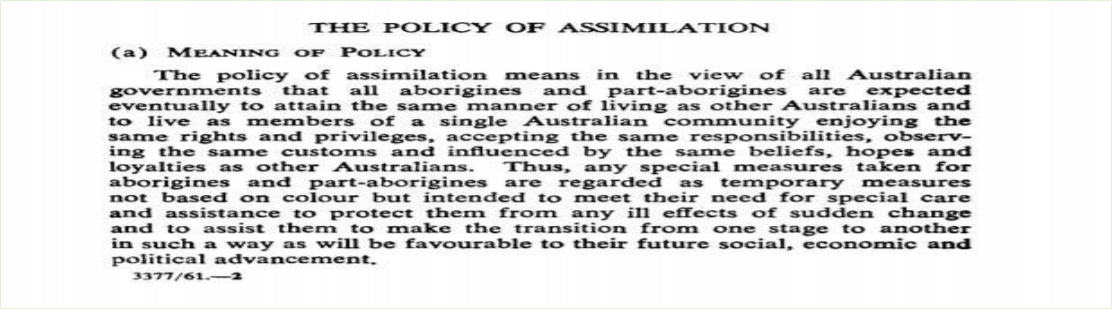
Figure 5: Australian Policy of Assimilation.



THE POLICY
of
ASSIMILATION

Decisions of Commonwealth and State Ministers at the Native Welfare Conference, Canberra, January 26th and 27th, 1961

Figure 6: Australian Policy of Assimilation.



THE POLICY OF ASSIMILATION

(a) MEANING OF POLICY

The policy of assimilation means in the view of all Australian governments that all aborigines and part-aborigines are expected eventually to attain the same manner of living as other Australians and to live as members of a single Australian community enjoying the same rights and privileges, accepting the same responsibilities, observing the same customs and influenced by the same beliefs, hopes and loyalties as other Australians. Thus, any special measures taken for aborigines and part-aborigines are regarded as temporary measures not based on colour but intended to meet their need for special care and assistance to protect them from any ill effects of sudden change and to assist them to make the transition from one stage to another in such a way as will be favourable to their future social, economic and political advancement.

3377/61.—2

Figure 7: *The Policy of Assimilation.*

However, in New Zealand, the policy of assimilation, or absorption. Walker (1989) explains how assimilation was the dominant policy (p.234). In the 1960's the policy was given another name, 'integration' …integration denotes a dynamic process by which Māori and Pākehā are being drawn closer together, in the physical sense of the mingling of two populations as well as in the mental and cultural senses where differences are gradually diminishing (Booth & Hall, 1962, p. 2).

In this report, it clearly stated that Māori were to become more like Pākehā, however it was not expected that Pākehā become more like Māori. Assimilation was the dominant policy and as stated previously, the accompanying practices which involved monolingualism and monoculturalism were appropriate for New Zealand society by the majority of Pākehā (Walker, 1989, p.234). In summary, assimilation was certainly applied in each one of the colonised countries such as Canada, Australia, and New Zealand. Assimilation when defined is about a process of absorption. The intent of assimilation was to make Indigenous peoples more like the coloniser.

The subsequent section of this part will discuss, 'Genocide.' This is another element of blood quantum, which played out in all the countries in this study. It is imperative we explore the past as it is very relevant to what is currently happening globally, with a rise in anti-Semitism.

Genocide

Reisinger (2007) states that "genocide is a twentieth-century term for crimes as old as civilization" (p. 691). Reisinger (2007) then explains that the "word is frequently used to refer to mass killings or exterminations of a race of people, but the modern international definition is much broader" (p. 691). This section commences by defining 'genocide' then discussing the origin and development of the term. Finally concluding with an explanation on the modern international meaning that is codified by the United Nations' Genocide Convention.

Until the Second World War, the phenomenon of genocide was, in the words of the British Prime Minister Winston Churchill, a "crime without a name (Jones, 2016, p.8). Originating from the Greek word for race ("gens"), and a Latin word for killing ("caedo"), genocide literally means the killing of a race of people (Reisinger, 2007, p. 691). Although mass killing has existed throughout the history of civilization the term genocide was not coined until 1944, when a Polish lawyer, Raphael Lemkin, used the word to describe the Nazi extermination of Jews during the Holocaust (Reisinger, 2007, p. 691). Jones (2006) writes in his chapter naming genocide that Lemkin named the crime, placed it in a global-historical context, and demanded intervention and remedial action. In fact, Lemkin was a refugee from Nazi-occupied Europe (Jones, 2006, p.8).

Jones (2013) states in his review of Lemkin' that 'Sociological analysis' of genocide (pp. 35–37), there is a passage which stands with anything in Axis rule as an articulation of his understanding of genocide and resistance to it:

> Genocide is a gradual process and may begin with political disenfranchisement, economic displacement, cultural undermining and control, the destruction of leadership, the breakup of families, and the prevention of propagation. Each of these methods is an effective means of destroying a group. Actual physical destruction is the last and most effective phase of genocide. The victim group may respond in various ways. It may lose its group identity through conversion or other ways of assimilation. Its members may attempt temporary loss of group identity by hiding or through disguise. There may be systematic emigration. The group may prefer stoic submission and martyrdom or struggle for its rights, in other words, reinforce its group cohesion during the crisis. Finally, the group may disintegrate because its members yield to personal disintegration expressed by panic and disorganized flight. (p. 37)

Jones comments further, that there "are additionally some inspiring thoughts about international law and humanitarian intervention". That 'the history of genocide', 'provides examples of the awakening of humanitarian feelings which gradually have been crystallized in formulae of international law' (p. 10).

According to Dr Gideon Polya, the term 'genocide' is defined by Article 2 of the United Nations Genocide Convention as follows:

> Refer to the Convention on the Prevention and Punishment of the Crime of Genocide Adopted by Resolution 260 (III) A of the United Nations General Assembly on 9 December 1948 (See: Appendix 6).

Article 2 of this Convention:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such:

- Killing members of the group;
- Causing serious bodily or mental harm to members of the group;
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- Imposing measures intended to prevent births within the group;
- Forcibly transferring children of the group to another group'

Next, the following is a discussion on what is understood as the meaning of 'Genocide' Leo Kuper states that, 'the word is new, the concept is ancient' (p. 3). Physical killing was an important part of the picture, but it was only a part, stressed repeatedly by Lemkin which is cited in Irvin-Erickson (2017);

> By "genocide" we mean the destruction of a nation or an ethnic group.... Genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be disintegration of the political and social institutions of culture, language, national feelings, religion,

> and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups. Genocide is directed against the national group as an entity, and the actions involved are directed against individuals, not in their individual capacity, but as members of the national group. ...Genocide has two phases: one, destruction of the national pattern of the oppressed group; the other the imposition of the national pattern of the oppressor. This imposition, in turn, may be made upon the oppressed population, which can remain, or upon the territory alone, after removal of the population and the colonization of the area by the oppressor's own nationals (p. 217).

Furthermore, in assessing deaths from colonial and imperial policies of invasion, occupation, and dispossession, one notes that deaths can be either violent (from bombs and bullets), or non-violent (from deprivation and deprivation-exacerbated disease). Both kinds of avoidable death are included within the term "excess death" used below (Polya, 2007, p.1).

The following list is an updated and amplified version of what was originally published in MWC News as Australia's secret genocide history (La Trobe, 2008). In the 18th-19th century, Aboriginal genocide occurred where the Indigenous Aboriginal population dropped from about 1 million to 0.1 million in the first century after invasion in 1788. Similarly, Māori genocide occurred in New Zealand with the Māori population dropping from 0.1-0.2 million in 1800 to 42,000 in 1893. Furthermore, in Germany, genocide began with a simple boycott of Jewish shops in 1933 and ended in the gas chambers at Auschwitz in 1945 as Adolf Hitler and his Nazi followers attempted to exterminate the entire Jewish population of Europe, which resulted in an estimated six million Jewish peoples being eliminated. Scholarly definitions of genocide reflect the ambiguities of the Genocide Convention and its constituent debates (Jones, 2006, p.15).

I have added the list of Scholarly definitions, compiled by Adam Jones, as appendix 6, for the reader to consider. Jones (2006) points out that not withstanding the UN Genocide Convention, the precise definition of 'cultural genocide' remains unclear. The drafters of the 1948 Genocide Convention considered the use of the term but dropped

it from their consideration (*Prosecutor v. Krstic, 2001*[23]). The legal definition of genocide is left unspecific about the exact nature in which genocide is carried out except that it is destruction with intent to destroy a racial, religious, ethnic or national group as such (Convention on Prevention and Punishment of Genocide,1948). This term was then legally acknowledged with the adoption of the United Nations Genocide Convention in 1948 (Fournet, 2007, p.5).

In summary, the genocides that happened after the development of the convention lacked the urgent priority and determination that, by late 1941, drove the Jewish Holocaust. Like every historical event, the Holocaust evokes certain specific images (Letsinger, 2015, p.89). The Holocaust was merely the result of the systematisation of the genocide, but these crimes originated in closely related goals and congruent ideological roots in racism and imperialism (Letsinger, 2015, p. 89). The following section of this part will deliberate, genocides of Indigenous peoples.

Genocides of Indigenous Peoples

This first part of this section opens with a brief discussion on what is 'genocide' from a different perspective than those already discussed. In an academic piece by Gurthoys and Docker (2003) they capture a discussion by Raphael Lemkin who had focused on what he would later call 'genocide as an episode or act or event" (p. 11). A key feature of Lemkin's writing is that, 'genocide has two phases: one, destruction of the natural pattern of the oppressed group; the other, the imposition of the natural pattern of the oppressor' (p.11). Lemkin is defining genocide as a 'twofold process of destruction and replacement, a process that entwines genocide and colonisation' (p.11). However, (Hinton, 2002) states firmly that;

> 'It is sad that few of us are surprised when we hear of genocides committed against Indigenous Peoples. We may be outraged or sickened, but, if we have any knowledge of the grim history of contacts between Indigenous Peoples and other societies, we are unlikely to be surprised' (p. 43).

[23] *Prosecutor v. Radislav Krstic (Trial Judgement)*, International Criminal Tribunal for the former Yugoslavia (ICTY), 2 August 2001.

Furthermore, that;

> 'Genocide committed against Indigenous populations was a particularly nasty aspect of the European seizure of empires from the fifteenth to the nineteenth centuries, but it was neither invented nor practiced solely by European imperialists' (Hinton, 2002, p.43).

Then, Hitchcock & Koperski (2008) describes how Indigenous peoples have been branded, "Indigenous peoples have been characterized as 'victims of progress', 'invisible indigenes', 'resource rebels', and 'First Nations who are organizing to survive' (p. 577). Hitchcock & Koperski (2008) goes on to say that the, 'Indigenous or Aboriginal Peoples have histories that include complex kinds of contacts with other peoples. Indigenous Peoples have had to cope with efforts by other groups, governments, settlers, or transnational corporations to take away their lands and resources' (p.577). They echo what other scholars have noted, 'Indigenous peoples are those who are subordinated and marginalized by those who rule over them' Hitchcock & Koperski (2008). Indigenous Peoples replicate what many other disciplines have stated, that contact and encounter with non-Indigenous saw a sudden and immense decline in population. For example, in New Zealand as colonisers arrived, Māori had no immunity to the impact of infectious introduced diseases, such as tuberculosis, venereal diseases, measles, influenza, smallpox, some strains of staphylococci, streptococci and whooping cough (p.577).

Hanham (2003) explains, '...as there had been a low incidence of infectious disease prior to contact, one impact would have been reasonably significant, however, the diseases came in increasing numbers as the outside world intruded' (p. 99). Hinton (2002) asserts that, 'Colonists may not have intended to spread diseases among the natives of the lands they invaded, but they were certainly aware of their efficacy in eliminating inconvenient populations, so they factored them into their plans for the future and occasionally spread infections deliberately' (p.44**).** He continues to suggest that **"**Diseases were a major part of mortality; however, it was stated that it was only one cause, 'The diseases that were introduced by Europeans were the major killers" (p. 44**).**

Hitchcock& Koperski (2008) explain that there were cases where Indigenous peoples actively resisted incursions by other peoples as well as assimilation and cultural modification efforts by outside agencies. However, this can be drawn out over decades, taking its toll on the Indigenous peoples. Consider Māori that have not stopped resisting

the continued assimilation and colonisation through r a c i s t government institutions. We must resist, perhaps continue reframing, rewriting, challenging the use of blood quantum and DNA testing for Indigenous identities. Hitchcock& Koperski (2008) express concern, that 'their cultural distinctiveness and desire to maintain their lands and identities, combined with their relative lack of power as compared to state systems, resulted in Indigenous peoples being prime targets of genocide' (p. 577).

Niezen (2003) most recent appraisal is that it is a greater challenge is to agree upon a definition of Genocide. However, with Indigenous peoples, the task of definition remains 'complex [and] delicate' (p. 18). Nevertheless, there are 'some areas of consensus among formal attempts at definition,' which has been well captured in the UN report by José Martínez Cobo (1987):

> Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the society now prevailing in those territories, or parts of them. They form at present nondominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems (p. 20).

Adam Jones (2006) is correct when he expresses the following, 'by this definition, Indigenous peoples are inseparable from processes of colonialism and imperialism which, also crucially, consigned the previously dominant population of a colonized territory to a marginal status' (p. 67). Adam Jones (2006) then goes on to say that, 'a nexus of Indigenous identity and structural subordination is generally held to persist today' (p.68). With settler colonialism, came the concepts of western science, which resulted in ideologies such as blood quantum. This ideology can be attributed to the contemporary Indigenous identity struggle. However, with a revitalisation of language midst almost all Indigenous Peoples, which now tends to advocate for genealogical forms of articulating identity.

Colonisers also adopted genocidal strategies such as forced relocations for example the Trail of Tears: The Rise and Fall of the Cherokee Nation. (p. 383). Another example is the r e l o c a t i o n to residential schools, Ward Churchill (2004) describes the residential program as;

> the linchpin of assimilationist aspirations . . . in which it was ideally intended that every single aboriginal child would be removed from his or her home, family, community, and culture at the earliest possible age and held for years in state sponsored "educational" facilities, systematically deculturated, and simultaneously indoctrinated to see her/his own heritage – and him/herself as well – in terms deemed appropriate by a society that despised both to the point of seeking as a matter of policy their utter eradication , tens of millions of (2004, p. 87).

This example can be likened to both Australia, and the stolen generation, and New Zealand with state care institutions and welfare. The reality is that Indigenous Peoples globally are [re]-telling their stories, their histories which is about the genocidal character of colonial actions, and colonialism. However, we acknowledge that our voices and stories may not be heard, that they continue to fall on deaf ears. Even today we have the celebrations of Indigenous genocide, for example, the suggested discoveries of our lands by Captain Cooks and Columbus. Mick Dodson, an Australian aboriginal representative, described his dawning recognition that "We were all part of a world community of Indigenous peoples spanning the planet; experiencing the same problems and struggling against the same alienation, marginalisation and sense of powerlessness" (Niezen, 2003, p.47)

In addition to the previously outlined point regarding cultural genocide and no definition, I have inserted below the complete article 7 of 1994 draft to [put a reason why for the reader]:

> Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide, including prevention of and redress for:
>
> Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
>
> Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
>
> Any form of population transfer which has the aim or effect of violating or undermining any of their rights;

> Any form of assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative, or other measures;
>
> Any form of propaganda directed against them.

However, the United Nations Declaration on the Rights of Indigenous Rights was adopted by the United Nations General Assembly during its 62nd session on 13 September 2007, which mentions 'genocide', but not 'cultural genocide' otherwise, although the article is unchanged. Article 7 states:

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty, and security of person.

2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group. Moreover, genocide has been used as a method, both brutally and non-brutally, to achieve the goal of race superiority.

It should be noted, however, that

> Indigenous Peoples tend to have a sense of cultural identity that members attempt to maintain, one that is generally distinct from that of most of the peoples in the countries where they reside. In many cases, indigenous peoples see themselves as descendants of the original inhabitants of a territory. Who self-identify as Indigenous is an important criterion? Indigenous peoples in some cases are still on the land where their ancestors resided for generations. There is a great deal of heterogeneity among peoples who define themselves – or who are defined by others – as Indigenous (Hitchcock &Koperski, 2008, p.578).

In summary, I gave a brief overview on Indigenous People's genocide, it did not give justice to the numerous academic scholarship and Indigenous peoples stories of revival. This brief was presented as part of another tool that builds the full scaffolding of blood quantum ideology. The following sections will focus on the Holocaust.

Jewish Holocaust

Letsinger (2015) states that, if one scrutinizes Adolf Hitler's first public address, Hitler clearly and explicitly demands that:

> "[Our] final aim, however, must be the uncompromising removal of the Jews altogether." To be certain, removal does not absolutely mean murder, however, this statement must be brought to bear on any thoughts Hitler slowly radicalized his ideas to totally remove Jews from German society. Though half of the 600,000 Jews in Germany in 1933 were eventually expelled, the acquisition of Poland added nearly two million more Jews to German control. Undoubtedly, this fact troubled Nazi leaders, but the possibility of invading Russia exacerbated the problem to its peak, as millions of more Jews would soon be brought to Nazi control. The Nazis justified their attempt to exterminate the Jews by claiming that they were only defending themselves against Jewish plans to destroy Germany and its population. The "war against Jewish sub-humans," therefore, was easier to conduct given the context and conditions of economics, eugenics, propaganda, and cultural prejudices. People and nations began to realize Aryans and Jews would begin a new social order; Aryans would prosper at the expense of the Jews (p.60).

The following section will give a discussion of the Jewish Holocaust, drawing on a variety of literature, however, this is a brief as later in this thesis I will expand on it in 'blood quantum in practice.' Bauer (2008) as cited in Shaked (2019) asserts that, "… our definitions are abstractions from reality, and reality is much more complicated than our definitions can be, and rather than trying to fit reality into the abstraction we should adapt definitions to reality" (p.9). According to Stiller (2008) the Greek term *'holókaustos'* literally means 'completely burned' and was used in the Greek Bible translation for animals sacrificed by fire on the altar'. After a change in meaning in the Middle Ages, which associated the term with the burning of people, whether in the course of pogroms against Jews or the executions of alleged witches at the stake, it was established between the end of the 19th century and the 1940s for describing many victims of natural disasters, of massacres, and mass murders (p.17). Whereas the Holocaust and the United Nations Outreach programme states that, "the Holocaust was the systematic, bureaucratic, state-sponsored persecution and murder of approximately six million Jewish people by the Nazi regime and its collaborators." Shiman and Fernekes (19990 confirms that the United States Holocaust Memorial Museum defines the Holocaust as, "the state-sponsored, systematic persecution

and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945. Jews were the primary victims; six million were murdered. Jews, the handicapped, and Poles were also targeted for destruction or decimation for racial, ethnic, or national reasons" (p.53). Roseman (2016) states that, "the Jewish genocide was the most comprehensive, systematic, and unrelenting element of the Nazis' exterminatory goals that was implemented. Yet the Nazis targeted many other groups too" (pp. 1-2).

Then, Harun Yahya (2017) notes that "in 1942, Reinhard Heydrich, Adolf Eichmann and 15 senior Nazi officials decided on the "final solution to the Jewish problem" (p. 6). This meant the systematic extermination of all Jews: Men, women, and children and even babies, not leaving one Jew alive… (p. 6). In addition to that, Overy (2004) stated that it a "total extermination was not required only because Eastern Europe was regarded as having people of Aryan-Nordic descent, particularly among their leaders" (p. 543). Overy (2004) complimented that by saying that "Himmler declared that no drop of German blood would be lost or left behind to mingle with any 'alien races" (p.543). Overy, then explains that the "Nazi leadership viewed that the conquest of Eastern Europe was historically justified: in fact, it was the Slavs who took these lands from the native Goths by force, and thus Germany had the right to take them back" (p. 543). Followed by Letsinger (2015) who describes the Holocaust as an historical event, which evokes certain specific images. When the Holocaust was mentioned most people immediately think of the concentration camps. Those were accurate images. Those horrific scenes were real. They happened. They were merely the product of the systematization of the genocide committed by the Third Reich (p.142).

To comprehend the Holocaust, one must understand the 'petri dish' in which it grew (Letsinger, 2015, p.155). Letsinger (2015) clarifies that when he says that there has been a long history building up to the 'Holocaust' / 'Final solution', he references that there was a "long history of anti-Semitism held by Germany" (p. 23). The author goes on to quotes excerpts from Martin Luther's work titled *"*The Jews & their Lies". "Be on your guard against the Jews, nothing is found but a den of devils, they are nothing but thieves and robbers who daily eat no morsel and wear no thread of clothing which they have not stolen and pilfered from us by means of their accursed usury" (p. 23).

Jones (2016) echoes what many scholars and others have written is that the genocide of European Jews, which they call it simply "the Holocaust" (p. 147). In religious usage,

a Holocaust is "a sacrificial offering wholly consumed by fire in exaltation of God" (p.16). However, in the twentieth century, this was supplanted by a secular usage, in which Holocaust designates "a wide variety of conflagrations, massacres, wars, and disasters" (p. 31–64). However, Jones (2006) states that the Jewish Holocaust is now considered one genocide that most people have heard of (p. 136). Bauer (2002) explains that between 1941 and 1945, five to six million Jews were systematically murdered by the Nazi regime, its allies, and its surrogates in the Nazi-occupied territories (p.174). Bauer (2002) points out that, "it was not until 1961, that the Jewish catastrophe begin truly to entrench itself in the Western consciousness and become the paradigmatic genocide of human history…[that] even today, the impact of the Holocaust is growing, not diminishing (p. xi)."

The subsequent is a historic timeline of some significant dates, although more will be discussed in the section, "blood quantum in practice." An understanding and awareness of how blood quantum was applied in law in these significant historical times is relevant and important. It captures how extreme blood quantum ideology has been used.

The Nazis, who came to power in Germany in 1933, believed that Germans were 'racially superior' and Jews, 'inferior, going on to believe the Jews were an alien threat to the so- called German racial community[24]. According to Koonz (2003) she states that during the period of 1933 to 1940, racial policies and laws, regarding the Jewish peoples were administrated (p.170). Koonz suggests that some of these classifications were based on 'blood quantum ideologies.' Then the term of Mischlinge (those of mixed heritage) were especially problematic in their eyes (p.174). The first anti-Semitic law was promulgated with no clear definition of Jew (Koonz, 2003, p.184). For example, local authorities started to identify Jewish peoples regarding anything from full Jewish background to 1⁄8 Jewish blood defining a Jew; eventually Achim Gercke urged that a Jew was anywhere from 1⁄16 Jewish blood. (Koonz, 2003, p.171). Finally, Koonz the decision was given that a Jew was one with three or four Jewish grandparents; two or one rendered a person a Mischlinge (p.187). This situation shifted and eventually, culminated in the Holocaust, or so-called "Final Solution", which was made official at the

[24]US Holocaust Memorial Museum.

January 1942 Wannsee Conference (Roseman, 2002, p.3). Roseman (2016) highlights, that throughout the period of 1939 to 1945 the Nazi's carried out, "mass shootings, gassing in specially constructed extermination camps, murderous labour, starvation in ghettos, at the latest by the end of 1941 it had become a euphemism for a program of extermination that sought to eliminate some 11 million Jews" (p. 3).

Finally, in this part of the section, it is concluded by a summary from author, Harun Yahya (2017) when he talks about the "final solution to the Jewish problem".

> On the 20th of January 1942, the Wansee Conference took place. In this mansion, Reinhard Heydrich, Adolf Eichman and 15 senior Nazi officials decided on the "Final solution to the Jewish problem". This meant the systematic extermination of all Jews: Men, women, and children and even babies, not leaving one Jew alive… This would take place in all the territories occupied and controlled by the Nazis. In accordance with this decision, the concentration and extermination camps and Auschwitz were established. Jews from all the countries occupied by the Nazis were transferred to these camps by SS units specially assigned to this task. When the Jews arrived at these camps in cattle-cars under inhumane conditions, most were gassed immediately, and the rest were selected for forced labour. This occurred especially in Birkenau (also called Auschwitz II) (p. xx).

In the subsequent section, I will briefly cover several countries of selected, for this study. The focus is the use of blood quantum ideologies, within the policies, legislation, regulations that triggered genocide, and lead to an Indigenous Holocaust, which has not been fully recognised. However, this is still very much embedded into the psyche of the coloniser and the colonised. If not blood quantum, then colonisation and assimilation, which are contributing factors in the application of blood quantum. The concerning part of this research is the long global history on non-recognition of Indigenous trauma, and constant dismissal and denial, of Indigenous concerns about traumatic historical events.

Summary

In summary, race and racial theories are both an inauthentic measurement of human difference, and a meaningful social category in terms of the perceived differences between the races. Racial discourses have informed racial practices with regards to the ideological and hegemonic construction of representations and stereotypes through

which the ‘Other’ was objectified and oppressed, in ways which privileged whiteness (Rangiwai, 2011).

To establish the context and or the backdrop for understanding ‘Holocaust’, this part provided a brief overview of Indigenous experiences, for example, Indigenous peoples in Canada, Māori of Aotearoa, and Aboriginal peoples of Australia. As they were originally perceived as being uncivilised, savage, of lower intelligence, and physical competence. Such traits were in opposition to the civilised and intellectually mature European. “The racial binary was one of black versus white, Christian versus culture, civilized versus uncivilised” (Niezen, 2003, p. 47). The relevant theories used to rationalise, legitimise laws, policies, which included natural law; social Darwinism; colonisation; imperialism, assimilation; cultural genocide and holocaust were anticipated to impact on Indigenous peoples which resulted in trauma. In short, the concepts of the colonisation, imperialism and assimilation of Indigenous colonies and normative legal systems were executed under the Christian concept of natural law which influenced the development of racist schools of thought.

Consequently, the Indigenous peoples in Canada, Māori and Aboriginal Peoples of Australia were subjected to analogous laws and policies for eradicating them as a people politically, culturally, and socially. This was done under the benevolent discourse of colonialism and its attendant natural law schools of thought policies of civilising, Christianising and commercialising Indigenous infidels and their property. Indigenous infidels were simply inferior races and had to succumb to the superior white races or become victims of progress. In the article by Weikart (2003) he comments that,

> “Until the late nineteenth century, the idea of bringing progress to the world and European societies was associated with Christian pastors or missionaries and liberal or socialist humanitarians, who focused on imbuing the Indigenous peoples in the colonies with European culture (p. 273).

The following sections will focus on the impact of blood quantum theory in practice, amongst the Jewish people, Indigenous peoples in Canada, the USA, and Māori peoples

Weaving this part together

The following discussions such as the Jewish example, will depart from the intended study areas. However, the purpose for this is to describe how widespread blood quantum

was being applied. When you understand the Jewish example, and how extreme blood quantum was considered, you can understand how the people had to consider the laws which were imposed. Consideration aside, there was a moral obligation to comply with all existing laws, although unethical. The reality is that compliance is not tied to morality. There is a saying just because it is law does not make it right.

The Residential schools -Canada

The Truth and Reconciliation Commission of Canada[25], held a public investigation which contributed to the 2015 report (Aboriginal Healing Foundation, 2009, p.129). This continues the work of previous Tribunals into native residential schools that were built for the Indian population, as described by non- Indigenous people of that time. The report articulates that, "the legal definition of an Indian is "an uncivilised person, destitute of the knowledge of God and of any fixed and clear belief in religion" (Aboriginal Healing Foundation, 2009, p.129). This definition is in the 'Revised Statues of British Columbia, 196" which was established by these Acts [26]and continues to the present day. Then, as now, Aboriginals were considered legal and practical non-entities on their own land, and hence, inherently expendable. In Canada, the 'Residential schools' were seen by the Canadian government to civilise the native peoples and keep their children from continuing in their native traditions. The intended target of the residential schools was the native children between the ages of three to eighteen (p.296). Further, Barton (2005) contends that, "the health and quality of life of the Aboriginal students at the residential schools was very poor compared to non-Aboriginals" (p. 296). Barton (2005) reports that, the Truth Commission into Genocide in Canada (1998) report comments that in order to highlight the multiple layers of the process of colonization and historic trauma that influenced and keeps influencing lives of those that had survived the 'Residential schools' in Canada, sufferings experienced by students have been identified as follows, "physical, sexual, mental, emotional, spiritual abuse, unhealthy environmental conditions and malnutrition" (p.296). This genocidal 'arrangement' began in 1857 with the passing of the Gradual Civilization Act in Upper Canada, which was based on "the Bagot Commission and the aspirations of the missionaries" (The Early Indian Acts, John

[25]National Centre for Truth and Reconciliation for at the University of Manitoba.
[26]Acts and amendments that were enacted but not in force on December 31, 1996 (the cut-off date for the 1996 Revision), were consolidated as Supplements to the Revised Statutes of British Columbia, 1996.

S. Milloy, 1999). This law stripped Indians of their citizenship and legal rights and made them stateless persons without inherent worth or social standing: a condition which is the moral and legal precursor to genocide. The foundational purpose behind the residential schools established in Canada by government legislation, administered by Protestant and Catholic churches was the deliberate and persistent eradication of aboriginal people and their culture, and the conversion of any surviving native people to Christianity (The Truth Commission into Genocide in Canada report, 1998, as cited in Barton, 2005, p.54).

Furthermore, Barton (2005) as cited in the Truth Commission into Genocide in Canada report (1998) explains that,

> was a six-year independent investigation into the hidden history of genocide against aboriginal peoples in Canada. It summarizes the testimonies, documents and other evidence that proves that Canadian churches, corporations, and the government are guilty if intentional genocide, in violation of the United Nations Convention on Genocide, which Canada ratified in 1952, and under which it is bound by international law (p. 6).

However, Barton (2005) as cited in the Truth Commission into Genocide in Canada report (1998) states that;

> a collaborative effort of nearly thirty people. And yet some of its authors must remain anonymous, particularly, its aboriginal contributors, whose lives have been threatened and who have been assaulted, denied jobs and evicted from their home's om Indian reserves because of their involvement in this investigation. As a former minister in one of the guilty institutions named in our inquiry- the United Church of Canada, I have been fired, blacklisted, threatened and publicly maligned by its officers for my attempts to uncover the story of the deaths of children at that church's Alberni residential school. But, as they should know, lies and crucifixions have never stopped the truth from surviving (p.6).

In the report, comments that;

> Many people have sacrificed to produce this report. The only ethical response to having blood on one's collective hand's is to say no to the habit of condoning genocide, and to the lies that have concealed it in our country. Such a step is a form of moral cleansing that we, the heirs of a murderous system, must practice if we are to honestly claim the

> mantle of a "civilised nation (The Truth Commission into Genocide in Canada report, 1998, as cited in Barton, 2005, p.6).

This line of argument is influenced by the history that was provided;

> Early in the Residential schools' era, the Indian Affairs Superintendent Duncan Campbell Scott, outlined the purpose if the schools thus: "to kill the Indian within the Indian." Such a violent language was not accidental, nor accurate, for it legitimated and encouraged an "open season" on native people across Canada that would not only kill tens of thousands of aboriginals but destroy much of their distinctive spirit and culture, indeed their very "Indianness." Clearly, the genocidal assault on aboriginals was not only physical, but spiritual; European culture wished to own the minds and the souls of the native nations, to turn the Indians it hadn't killed into third-class replicas of white people (The Truth Commission into Genocide in Canada report, 1998, as cited in Barton, 2005, p.6).

Furthermore, the goal has never been a problem for "Christian society" and its members; a fact which explains how the residential schools Holocaust stayed 'hidden' for so long, and why even now it is being treated as essentially a matter of "compensating" some Indians for various 'abuses' (The Truth Commission into Genocide in Canada report, 1998, as cited in Barton, 2005, p.6). There is no clearer indication of the intent to eradicate a people or group than actions which prevent births, either through sexual sterilizations, abortions, or killing mothers and their new-born children. All these crimes occurred in Canadian residential schools, and were committed by nuns, clergy, doctors, and school staff, according to dozens of eyewitness accounts. These crimes were all accompanied by acts of concealment by church, police and state officials, including the destruction of sterilization and death records (The Truth Commission into Genocide in Canada report, 1998, as cited in Barton, 2005, p.43). Some of the content is very challenging, as it was expected to be all the affidavits capturing personal journeys and/or survivals at these residential schools**.** The crimes described herein noted the following;

> Invariably stem from an underlying philosophy of racial eugenics, or the belief that the inherent superiority of one race or religion over another necessitates the prevention of the "inferior" group from reproducing and genetically weakening the "superior" group. The first practitioners of this philosophy in the modern world were American psychologists and geneticists in the latter years of the nineteenth century, who formulated a theory of racial eugenics based on the

> writings of colonial doctors in German East Africa, like Theodor Mollison, one of the professors of "The Butcher of Auschwitz," Dr. Josef Mengele (The Truth Commission into Genocide in Canada report, 1998, as cited in Barton, 2005, p.43).

European colonialism, in fact, directly gave birth to such scientific racism, as Anglo-Saxon cultures devised a theory to justify and morally legitimate their slaughter of Aboriginal cultures across the world, especially after 1850, when the death count among colonized peoples in Africa and North America began to soar. The two Empires most implicated in this genocide, Germany and Britain, created a 'scientific' legitimation for this butchery through racial eugenics, whose practical goal of preventing "inferior" peoples from replicating was taken up quickly by American researchers and advocates of sexual sterilization, like famed jurist Oliver Wendell Holmes of the United States Supreme Court (Barton, 2005, p. 43).

In support of this approach, the report captures some comparative information with regards to early Nazi legislation, which was directly comparable to the Nazis' Nuremburg Racial Laws of 1935 (see: Appendix 11), which disenfranchised and socially ghettoized all German Jews, the Gradual Civilization Act and previous laws made Indians dependent wards of their conquerors' state and eradicated the political identity of native nations which the British Crown had already recognized in its Royal Proclamation of 1763. As when the Afrikaner Boers achieved statehood in South Africa after World War Two and legally subordinated the majority Black populace under Apartheid, the rise of the Euro- Canadian nation in 1867 meant a new enslavement of aboriginal peoples, and a reversal of their rights and sovereignty which they had enjoyed as subjects of the British Empire (Barton, 2005, p. 43).

According to the Truth Commission into Genocide in Canada report of 1998, they quote Professor John Milloy who noted;

> In the Early Indian Acts, the white supremacist ideology behind the Gradual Civilization Act of 1857 was "carried intact" into Canada's first Indian Acts, and all subsequent laws, upon which the Indian residential schools were established (p. 33). The subordination of Indians as "lesser peoples" was enshrined in Canadian laws, religion, and attitudes from the inception of Confederation, and continues today in the form of clearly neo- colonial social and political arrangements,

> particularly in British Columbia. The federal Indian Act, for example, still takes final precedence over all other laws in Canada, including the Charter of Rights and Freedoms, which means that native people remain persons without enshrined, guaranteed rights - that is, they are still expendable, as their continued use in drug testing and eugenics programs indicate (p.54).

In short, the summary of the report stated that the evidence was from 158 persons presented in three separate public forums: before the Justice in the Valley Coalition of Port Alberni BC in December 1994; within the Circle of Justice Aboriginal Healing Circle of Vancouver BC between July 1997 and August 1998, and before the International Human Rights Association of American Minorities (IHRAAM) Tribunal of Vancouver BC between June 12 and 14 1998. It is also based on personal affidavits presented to the investigators associated with these organizations, and on the records and documentation of the Department of Indian Affairs, the federal Justice Department, and the Roman Catholic, United, Presbyterian and Anglican Churches in Canada, (the Truth Commission into Genocide in Canada report of 1998, p.65). In the Truth Commission into Genocide in Canada report of 1998, the author describes the need for an outcome, "in short, the crimes committed were not considered to be crimes by the perpetrators, or by the laws and practices of their countries, they are still considered to be crimes under the Genocide Convention, and the perpetrators must be prosecuted" (p.68).

I have chosen to leave this discussion with a few extracts provided from the report, which may also encapsulate the mentality of the colonisers of that time and perhaps still. General George A. Custer, defending his decision to kill all the native children during the Washita River Massacre, 1868 quotes, *"Nits make lice"* (the Truth Commission into Genocide in Canada report of 1998, p.6).Whilst, United Church Doctor George Darby Sr. wrote/spoke to Ed Martin of Bella Bella, BC. In 1955 states, "you're a good Anglican, Ed. Have a lot of children. I only sterilize the pagans" (p. 43). The term "Final Solution" was not coined by the Nazi's, but by Indian Affairs Superintendent Duncan Campbell Scott in April of 1910 when he referred to how he envisioned the 'Indian Problem' in Canada being resolved (the Truth Commission into Genocide in Canada report of 1998, p.6). Scott was describing planned murder when he came up with the expression, since he first used it in response to a concern raised by a west coast Indian Agent about the level of deaths in the coast residential schools (the Truth Commission into Genocide in Canada report of 1998, p.6). On April 12, 1910, Scott wrote, "Indian children lose their natural

resistance to illness by habituating so closely in these schools, and that they die at a much higher rate than in their villages, which is geared towards the final solution of our Indian Problem" (Martin,1998, as cited in Annett, 2001).

In New Zealand, the word 'Holocaust' has caused debate. Anybody who endeavors to use it does so at their risk which is what happened to Tariana Turia in 2000. Turia was a Minister in New Zealand's Labour Government, and she described certain events against Māori peoples in New Zealand's 19th century history as a Holocaust which caused an outrage in New Zealand and Jewish community. As Tariana Turia stated,

> I understand that much of the research done in this area has focussed on the trauma suffered by the Jewish survivors of the holocaust. What seems to not have received similar attention is the "Holocaust" suffered by Indigenous people including Māori because of colonial contact and behaviour (2000, August).

In daring to compare the debate about a Māori Holocaust in New Zealand, David MacDonald points out the concerns of Turia, and who is to blame for the position of our peoples today, for example;

> the effects of "colonisation and subsequent theft of land"; "culturally endemic……..inter-generational systemic abuse"; and "numerous assimilationist policies and laws to alienate Māori from their social structures"; for leading to "internalisation by Māori of the images the oppressor has of them"; "a despair leading to self-hatred and for many, suicide" as well as "externalisation of self-hatred [in the form of] crimes of violence (2003, September).

There was a huge counterattack against the speech made by Tariana Turia. Her dialogue became a global concern. However, in fact, the media misinterpreted exactly what she delivered, they also inaccurately reported or misreported the speech. Paul Chapman states that;

> The reaction to them, strongly suggests a total denial of the facts of the colonisation of this country. She did not compare "the European colonisation of New Zealand with the Nazi Holocaust", and she specifically stated she was not into competitive holocaust debates. What she said was that the trauma of the colonisation of this country (and elsewhere) had not received the same kind of attention - and in

> this she is obviously correct, the reaction against her comments alone is proof of that (2000, August).

In contrast however, the Telegraph published the following which was stating that Turia compared the trauma of Māori and the Jewish peoples;

> A New Zealand government minister sparked a furious debate yesterday when she compared the experience of Māori under British colonisation to that of Jews in the Holocaust. She said: "What seems to have not received similar attention is the Holocaust suffered by Indigenous people including Māori as a result of colonial contact and behaviour." She referred to public concern about violent crime, saying she could not understand why society was outraged by "home invasions" but not about the "homelands invasions" of colonisation (Chapman, 2000, August).

The Race Relations Commissioner Dr Rajen Prasad had thirty complaints submitted against Turia alleging that she was a racist, the following is the outcome of those complaints;

> Associate Māori Affairs Minister Tariana Turia did not incite racial hostility when she spoke about the holocaust suffered by Māori tribes, the Race Relations Commissioner has ruled. Mrs Turia sparked controversy in August when she said "the holocaust suffered by Māori tribes during the land wars needs to be acknowledged. Only then will the healing for Māori occur." Mrs Turia drew both support and condemnation for using the word, which Prime Minister Helen Clark subsequently banned her from using (2012, February).

Then the opposition parties amplified the unjustified concerns, the Opposition Leader of that time was Jenny Shipley and she stated;

> "The Prime Minister must reject out of hand the Associate Minister of Māori Affairs' views on colonisation, the Treaty and the position of Māori". "Comments like Tariana Turia widen gaps rather than close them. They have the potential to cause huge division and seriously damage race relations in New Zealand. "Her latest bombshell has thrown petrol into an already sensitive area. Helen Clark must make it clear to New Zealanders where the Government stands. "While all political parties in my experience are genuinely committed to closing

> the gaps that exist in health, welfare, education and employment, this won't be achieved by rewriting history'' (2000, August).

She was rebuked by Helen Clark, the Prime Minister and Turia had to apologise to New Zealand and the Jewish Community. Then, in 2012, Keri Opai, a Māori academic, Taranaki-based language teacher, was slammed for saying that the colonisation of New Zealand resulted in a holocaust for his people. Keri Opai told a Radio New Zealand discussion that Māori had been through some "awful stuff that really does break down to a holocaust." He cited the pillaging of Parihaka - where 1600 troops burned houses after being greeted by singing children - as a damning episode and said many New Zealanders did not realise the extent of the devastation. A reply by Jewish Council president Stephen Goodman "It works on trivialising the Holocaust and diminishing the suffering and sheer horror of it all. [Māori] have every right to draw attention to their issue, but there are ways to go about it, and there are inappropriate ways - this is a highly inappropriate way" (2012, February).

Directly after this situation, within the same year, the Peace Movement Aotearoa held an international workshop for Indigenous peoples and produced a position paper on the matter, calling "for the broadening of Holocaust to encompass Indigenous experiences. "It was argued that Pākehā commentators and politicians had a limited definition on the term Holocaust. This limitation denial the;

> "Injustice perpetrated on Indigenous Peoples by colonisation and therefore a reluctance to find meaningful long-term solutions and remedies" (Peace Movement Aotearoa, 2000). Peace Movement Aotearoa (2000) concluded with some crucial discussions, for example the following, "Limiting definitions such as "holocaust" is a manifestation of racism. Whether murder, slaughter and dispossession were achieved indiscriminately through a musket, cannon, sword, legislation, or a gas chamber is irrelevant in defining the term "holocaust" … (MacDonald, 2003, September).

In Australia, the policy of removing mixed race children went back over a hundred years. Barta (2008) writes that,

> Among the children removed from the Aboriginal community were just beginning to recover from the onslaught of violent dispossession were Margaret Tucker and her sister May. They were at school on a mission reserve when a car was heard, this is a rare sound in 1917 which was followed by a policeman who came into the class. Three girls were to

> go immediately. The teacher, who was married to the station manager, delayed this removal, until Margaret's mother could be fetched: We had our arms round our mother and refused to let go. She still had her apron on and must have run the whole one and a half miles. She arrived just in time, due to the kindness of Mrs Hill. As we hung on to our mother, she said fiercely, 'They are my children and they are not going away with you.' The policeman, who no doubt was doing his duty, patted his hand cuffs, which were in a leather case on his belt, May and I thought was a revolver. 'Mrs. Clements,' he said, 'I'll have to use this if you do not let us take the children now.' Thinking the policeman would shoot Mother, because she was trying to stop him, we screamed, 'We'll go with him Mum, we'll go.' I cannot forget any detail of that moment; it stands out as though it was yesterday (p. 201).

The forced transfer of Aboriginal children of mixed race was exactly such a case;

> Aboriginal children were not removed because their 'white blood' made them 'white children' and part of the 'white community'. They were removed because their Aboriginality was 'a problem'. They were removed because, if they stayed with 'their group', they would acquire their 'habits', their culture, and traditions (Chisholm, 1985, p. 80).

Within the 'Bringing them home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families' an apology speech was delivered by Rudd to all these families of 'the stolen children' like Mrs. Clements. However, the message was about reconciliation, Rudd stated that;

> There comes a time in the history of nations when their peoples must become fully reconciled to their past if they are to go forward with confidence to embrace their future. Our nation, Australia, has reached such a time. And that is why the parliament is today here assembled: to deal with this unfinished business of the nation, to remove a great stain from the nation's soul and, in a true spirit of reconciliation, to open a new chapter in the history of this great land, Australia (Beecher, 2009. p.4).

Barta (2008) points out that on the day of the 'Sorry' speech, what was silenced, or missing, was the following, '…the historical consciousness for the truth on which to build true reconciliation was to be put behind us. That the unfinished business of the nation, in removing a great stain' (p. 34). What has been dismissed in this, "Sorry" speech was the truth, the true stories. Consider Moses (2004) when he recalls the actions by James Isdell, who was the former pastoralist and parliamentarian, who was appointed as a

"Travelling Protector" for the north in 1907. Just think about Isdell telling his superiors the following, "I consider it a great scandal to allow any of these half-caste girls to remain with the natives" (p.222). Further, when he states that he "did not believe that the Aboriginal mother felt the forcible removal of her child more deeply then did a bitch the loss of a pup" (Moses, 2004, p.223)

Next, the question of race in Australia, at that time around the 1800's, it appears that the Europeans thought that calculating by fractionalising the Aborigines identity was absolutely the right thing to do. This was never applied by the Aborigines, themselves. This is blood quantum, and from 1886 it was embedded into legislation, defining them as 'half-castes'. The legislation required Aboriginals to "leave Government reserves and fend for themselves, regardless of discrimination in an increasingly race conscious society" (Barta, 2008, p.34). A historian of that time wrote, "the 1886 Act could be construed as an attempt at legal genocide. Certainly, it was aimed at removing the Aborigines as a distinct and observable group, with its own culture and way of life." (Christie, 1979, as cited in Ganguly-Scrase & Lahiri-Dutt, 2016). In 1901, Australia was created into a 'Nation,' "the Commonwealth was given no responsibility for Aborigines. They would not be counted in the census" (Barta, 2008, p.35).

Barta (2008) explains how the apology to the Stolen Generations buried a history of genocide;

> "...the genocide Australia needs to recognize is the one that may have been envisioned in the removal policy, but the one the removal policy was intended to complete. The racist categories of "half castes", "quadroons", and "octoroons", the inhuman calculus of "breeding out the colour" and the progression from biological "absorption" to societal "assimilation" were twentieth century outgrowths of a nineteenth century catastrophe. The apology for the harm done most recently should not aid in the forgetting of what earlier generations suffered. For the best human reasons, a national focus on the stolen generations diverted the agenda of conscience towards the present. For good historical and legal reasons, the question of genocide was also foregrounded but, in consequence, it was also associated with events closer to the present. The larger relationship to genocide fundamental to Australia's past was present only to those who had not been diverted by legalistic controversy..." (p.210).

In addition to the policies outlined above, there was also the pre-WWII policy of absorption and the post-war policy of assimilation. Barta (2008) explains these policies as the following,

> The absorption policy was about "breeding out the colour", this was pursued by government agencies across the continent at a time when eugenics and Social Darwinism and then Nazism were leading racists towards genocide in places far from Australia. The focus was on removing "half-caste" children, or those with an even greater fraction of "white blood", especially girls. "Full- blood blacks" would die out anyway: the "solution" to the problem of a growing mixed-race population was to steal the children, keep them from contact with their Aboriginal families, and marry them to Europeans. A 1937 Canberra conference was assured that in 50 years' time everyone would be able "to forget that there were ever any aborigines in Australia (p.35).

To illustrates the inconsistencies the historian Peter Read as cited in McCorquodale (1986), when he drew on documented sources, has offered the following conflation:

> In 1935 a fair-skinned Australian of part-indigenous descent was ejected from a hotel for being an Aboriginal. He returned to his home on the mission station to find himself refused entry because he was not an Aboriginal. He tried to remove his children but was told he could not because they were Aboriginal. He walked to the next town where he was arrested for being an Aboriginal vagrant and placed on the local reserve. During the Second World War he tried to enlist but was told he could not because he was Aboriginal. He went interstate and joined up as a non-Aboriginal. After the war he could not acquire a passport without permission because he was Aboriginal. He received exemption from the Aborigines Protection Act and was told that he could no longer visit his relations on the reserve because he was not an Aboriginal. He was denied permission to enter the Returned Servicemen's Club because he was (p. 1618)

Manne and Haebich as cited in Barta (2008) prefer the descriptions "genocidal thoughts" and "genocidal plans" to "genocidal crimes," or plain "genocide". The impacts of this blood fractionising, breeding out, could have been used to good effect but none of these terms found their way into the apology, Australia is 'Sorry' (p. 34).

Blood Quantum Ideology in Practice

The Jewish Example

> If you are a Guardian of Blood Quantum, it is respectfully suggested that you carefully study the strategies employed by the agents of… the genealogical documentation and extermination methods of the Jewish Liquidation Bureau of the Third Reich. If you are not a Guardian of Blood Quantum and are accosted by one demanding to see your documentation (what have you got to hide?), just smile and keep walking. (Francis, 1995. para. 6)

This section of Part 2 describes who the Jewish people are generally and then will focus on the Jewish people of Germany. Understanding the Jewish position with blood quantum is paramount, as are all peoples that have had this repugnant ideology applied in their lifetime. Levy- Coffman (2005) explains that the word "Jew" has a mosaic of meanings: it defines a follower of the Jewish faith, a person who has at least one Jewish parent, or a member of an ethnic group "Jewish" (p.12). Smith (1993) describes, ethnicity can be defined as 'named and self-defined human population sharing myth of common ancestry, history, historical memories elements of culture (often linked with territory) and measure of solidarity" (p.49). Then Moshe (2017) outlines Judaism as a religion, but according to this definition Jews are also an ethnic group (p.2). Levy-Coffman continues this discussion by stating that Jewish ethnicity, nationality, and religion are strongly integrated. The word 'Jew' has a montage of meanings: it "defines a follower of the Jewish faith, a person who has at least one Jewish parent, or a member of an ethnic group Jewish" (2005, p. 12). Furthermore, there are many Jews who do not practice Judaism as a religion but define themselves as 'Jewish' by virtue of their family's heritage and identification with the culture and history of the Jewish people (Levy-Coffman, 2005, p.12).

Broyde & Goldfeder (2014) emphasises that the problem of how to define a Jewish person is, from a historical perspective, a relatively new one, but there is a tremendous amount at stake for a variety of communities and considerations (p.141). According to Broyde & Goldfeder (2014) they explain that a Jewish person is born of a Jewish mother or who converts according to a halachically sanctioned conversion process, this is in fact pursuant to Jewish law. Broyde continues to emphasise that, "in modern nation-states, citizenship and religion are usually formally independent of one another: one can be a British, French,

or American citizen and still be Jewish with no inherent contradiction (p.142). Hence, Judaism like many other cultures such as Native American [sometimes referred to USA Indian] and New Zealand Māori is a mosaic of culture, religion, ethnicity, and for some, a way of life. Levy-Coffman (2005) states that, "it is an identity that is not quite a nationality, but neither is it a simple ethnic or cultural phenomenon" (p. 12). Additionally, about stating that Native American are sometimes referred to USA Indian, Indigenous peoples have these inherent rights by virtue of their right of self-determination as peoples and nations. These rights have been acknowledged by states, yet Indigenous peoples do not belong to these states.

According to Levy-Coffman (2005) "the Jewish people have often been outcastes and marginalised" (p. 12). Hence throughout history, Jews have faced prejudice and discrimination. Meinecke and Zapruder (2009), describe that period between 1933 and 1945 of Germany's government which was led by Adolf Hitler and the National Socialist (Nazi) party, "they carried out a deliberate, calculated attack on European Jewry. Basing their actions on racist beliefs that Germans were a superior people and on an anti-Semitic, the Nazis targeted Jews as the main enemy" (p.5).[27] Ultimately, Hitler's aim was to create a 'master race' and he was unrelenting in his exploration for the answer to the Jewish question which later led to the 'Final Solution'- the liquidation of all Jewish peoples by mass murders. Next a discussion on specific blood quantum legislation as it affected the Jews in Nazi Germany to segregate them from mainstream which made it easier to eradicate them.

The Nuremburg Laws 1930's

> Germany will regard the Jewish question as solved only after the very last Jew has left the greater German living space... Europe will have its Jewish question solved only after the very last Jew has left the continent (Nuremberg, 1947, p. 35).

[27]This publication and the Museum's participation in the 2009 Conference for State Supreme Court Justices and 2009 California Judicial Council Bench Bar Biannual Conference have been made possible by generous support from the Hecht Family Foundation. Internationally recognized leaders in online education and distance learning, Donald and Susie Hecht established the Hecht Family Foundation to promote education as an essential cornerstone of a free and healthy society. The Foundation supports the dissemination of knowledge, tolerance and diversity, and ethical responsibility as the backbone of a democratic society. This volume was created as a complement to the presentation "How the Courts Failed Germany," delivered by the United States Holocaust Memorial Museum at the annual Conference of Chief Justices and State Court Administrators.

The initial key piece of legislation to limit the constitutional rights of the Jewish peoples was the '*Law for the Restoration of the Professional Civil Service 1933'* (see: Appendix 7) which excluded Jews and the 'politically unreliable' from civil service. This legislation was the German authorities' first expression of the so-called Aryan Paragraph (International Military Tribunal, 1947), a terminology which originated from the racially motivated anti-Semitism that became the central pillar of the Nazi regimes' social policies with its accession to power. This would become the foundation of *the 'Nuremberg Laws of 1935'* (see: Appendix 8-11) which defined Jews not by religious belief but by ancestral lineage and which formalized their segregation from the so-called Aryan population (Meinecke and Zapruder, 2009). Meinecke and Zapruder (2009) explained that The Nuremberg Laws formed the cornerstone of Nazi racial policy. Their introduction in September 1935 heralded a new wave of anti-Semitic legislation that brought about immediate and concrete segregation (p.24).

Then, it was followed by the legislation, *the Reich Citizenship Law 1935* (see: Appendix 9) which stated that a Reich citizen was a person who was of German or related blood and was the 'sole bearer of full political rights in accordance with the Law'. Subjects, on the other hand, were people who enjoyed 'the protection of the German Reich and who in consequence had specific obligations towards it' (Arad, Gutman, Margaliot, 1999, p.77). Since Jewish peoples were not considered by the Nazis to be of 'German blood', this law effectively ended their status as citizens of the Reich and reduced them to subjects (Arad, Gutman, & Margaliot, 1999, p.78). The next legal instrument was *the Law for the Protection of German Blood and German Honor 1935* (see: Appendix 10) which states in the preamble, "Imbued with the knowledge that the purity of German blood is the necessary prerequisite for the existence of the German nation and inspired by an inflexible will to maintain the existence of the German nation for all future times." In short, it was forbidden to have marriages between Jews and citizens of German or kindred blood[28], Sexual relations outside marriage between Jews and nationals of German or kindred blood were forbidden,[29]Jews will not be permitted to employ female citizens of German or kindred blood as domestic and Jews are forbidden to display the Reich and national flag or the national colors.[30] In case there was any ambiguity about the consequence of the

[28]Article 1 of the Law for the Protection of German Blood and German Honor 1935.
[29]Article 1 of the Law for the Protection of German Blood and German Honor 1935.
[30]Article 1 of the Law for the Protection of German Blood and German Honor 1935.

first law, this was clarified in a decree issued on November 14, 1938 - the First Regulation to *the Reich Citizenship Law* (see: Appendix 9) which stated clearly that "no Jew can be a Reich citizen". That they have no voting rights in political matters; and they cannot occupy a public office (Arad, Gutman, & Margaliot, 1999, p.77).[31]

The Nuremburg Laws of 1935 compelled the Nazi's to define what a Jew was. *The Aryanization laws of 1933* stated what Aryans could do, and what non-Aryans could not do, but made no attempt to define the terms of what a Jew was (Gibas, 2009, p.5). The *Law for the Restoration of the Professional Civil Service, 1933,* (see: Appendix 8) was one of the first laws inaugurated by the Hitler government of 1933 intended to rehabilitate the 'Berufsbeamtentum', the traditional German system of public servants assumed to be distorted by the republic of Weimar (Herlemann, 2009, p.1). The traditional public servant in Germany was entitled to employment and had special rights at its disposal (wohlerworbene Rechte) (Herlemann, 2009, p.1). Defining Jews was challenging, however what resulted was the following. A 'German' had been defined as a 'person of German or related blood'. "Jews" could easily be defined as people whose four grandparents were Jewish, or whose parents were Jewish (Gibas, 2009, p.5). This definition raised a few challenges. Many Germans and Jews had intermarried with each other. How were they to be defined? Many Jews did not practice their religion and there were Jews who did not 'look' Jewish and what was one to do with part-Jews? After much debate, the definition of a Jew was decided and articulated in [source] as follows:

- A Jew was anyone who was descended from three or four Jewish grandparents;

- A Jew was also anyone with two Jewish grandparents and who belonged to the Jewish religion, or was married to a Jew as of the date of the adoption of the Laws (1935);

- A Mischling First Degree was anyone with two Jewish grandparents, who did not belong to the Jewish religion and were not married to a Jew;[32]

[31]Article 2 of the Law for the Protection of German Blood and German Honor 1935.
[32]Article 3 of the Law for the Protection of German Blood and German Honor 1935.

- A Mischling Second Degree was anyone descended from one Jewish grandparent.[33]

The word 'Mischling' translates into a 'half-breed' (Baumel, 2001, p.419). Those who suffered the most under the 'Final Solution' were the Jews and the Mischling First Degree. This distinction is important because when the physical extermination process began in 1941, it was the two categories of Jews who were targeted, A Mischling First Degree was anyone with two Jewish grandparents, who did not belong to the Jewish religion and were not married to a Jew. A Mischling Second Degree was anyone descended from one Jewish grandparent.[34] Finally, a debate took place at the Wannsee Conference January 20, 1942, and it is at this conference that Heydrich outlines the "Final Solution to the Jewish Question" (Gerlach, 1998, p. 763). Which resulted in a complex plan without a timetable that foresees the deportation of all European Jews to the East, forced labor, the "natural" death of many, and the killing of the survivors (Gerlach, 1998, p. 798).

To conclude this section, it appears that the only way to deal with the Jewish problem was initially by creating legislation such as the Nuremberg Laws. Understanding how these were developed and why, are a great example of Blood quantum in practice. Hitler is known to have stated the following about the Nuremberg laws;

> This legislation is not anti-Jewish, but pro-German. The rights of Germans [35] are thereby to be protected against destructive Jewish influences. For this reason, to bar the spread of this process of disintegration it became essential to take steps to establish a clear and clean separation between the two races (Baynes, 1942, p. 732).

This thesis is a comparative study focused on Indigenous Peoples of America, Canada, and New Zealand however, the story of the Jewish peoples is a very good example of what can go wrong, legally and politically. Finally, the next section will discuss Blood quantum in practice with Māori.

[33]Article 4 of the Law for the Protection of German Blood and German Honor 1935.
[34] Reich Citizenship Law and Law for the Protection of German Blood and German Honor – September 15, 1935.
[35]Reich Citizenship Law and Law for the Protection of German Blood and German Honor – September 15, 1935.

The Māori Example

> "Are you part-Māori?" "How much Māori blood do you have?" "S/he is only one sixteenth Māori so not really Māori" "You're one quarter Māori?! Wow you don't look it" "I can tell you have something in you – it's your eyes that give it away" and "But there aren't any full-blooded Māori left anyway" are comments many of us have heard, and some of us may have made, as we grapple with this complex and intricate thing called 'identity' (Derby & Macfarlane, 2018, p.1).

This section of Part 2 will turn to look at the effects and impacts of blood quantum ideology on Māori. The intent of this section is to inform the reader about the historical landscape, legislation, and ideologies impacting on being Māori. Through our short history of encounter with our colonisers the profiling and classification of Māori through applying derogatory terms has almost become standardised. More so with those Māori of mixed ethnicity. However, history is but a moment ago, these terms continue to be applied by our coloniser and those of our own that are colonised. The following is composed in a chronological timeline order, capturing the continuous, unrelenting, classification. It should be noted that legislation was the instrument used by the colonising government to apply the ideology of blood quantum which was comparable in other Indigenous lands globally. The hope is that the reader is informed on the history timeline of blood quantum and the many ways that it was presented and applied.

Boyes (2006) stated that a person that has both Māori and Pākehā genealogical lineage was most referred to in New Zealand as a 'half-caste' or the Māori equivalent 'awhe kaihe" (p. 5). These terms implied that the conception of the "mixed" ethnic child was an inadvertent result of an early contact trade transaction (Anderson & Hocken Library, 1991, as cited in Boyes, (2006). I was unfamiliar when growing up with these terms. However, there was one that my father often called us as children 'mongrel bastard', but I was not aware of the term's offensive links, later I was told that it was often used in New Zealand to identify mixed dog breeds. Reflecting to the defining of Jewish peoples in the Nuremberg laws, the word 'Mischling' translates into 'half- breed' (Baumel, 2001, p.419).

Cormack (2010) states that the emphasis on mode of living and the categorisation of 'half-castes' reflected an interest in the assimilation of the Māori population (p.6). Information from Statistics New Zealand (2006) gives clarity to the first population census which was

carried out in 1851. The census gathered data on the race and ethnicity of the population, for example 'half-castes' and 'full-bloods'. This Census was undertaken every three years until 1874, making note that they did collect data periodically. Though, the early census excluded Māori as Māori were calculated on their own from the early settler populace (Stats NZ, 2006). This position changed when *the 1867 Franchise Act* provisions in legislation were created to consent distinct Māori representation in Parliament Statistics New Zealand (2006), this required the collection of data on Māori which would happen through the Census. Further, a census of Māori would be undertaken until 1874, and then again in 1878, with five-yearly censuses undertaken from 1881, which continues today (Stats NZ, 2006). According to Statistics New Zealand (2006) the 1906 Census of 'Natives[36]' asked questions that had been created to capture a differentiation between;

> Māori still living as members of tribes and those who lived in 'European' communities as individual families" This differentiation was based on 'mode of living' was employed to categorise individuals with both Māori and European descent into either the Māori or the European group: If they lived as Europeans in European settlements they were counted in the European population. Persons of greater than half Māori descent were classified as Māori and allocated to the Māori population regardless of their mode of living (Cormack, 2010, p.6).

Morton et al. (1967) explains that the context of pressures to assimilate, "half- bloods" and "quarter-castes" indicated the rate of absorption into the mainstream population – an outcome often viewed as inevitable and desirable. Then, Morton et al. (1967) comments that in the 1926 Census, it included a question that asked about blood quantum whether Māori individuals were full-blood or half-blood (p. 13). From that Census onwards, the type of living was no longer a consideration in allocating individuals to the Māori or European population. Further, Morton et al. (1967) says that all 'half-bloods' were categorised as Māori, with those reporting less than 'half-Māori' blood classified as European (p. 13). Brown (1984) notes that in that Census, they had "classified Māori as 'race Aliens,' that this "racialised discourse that accompanied the discussion of so-called 'race aliens', quoting from the Race Aliens volume of the 1926 Census" (p.2).

[36]New Zealand Census 1906.

According to Morton et al. (1967) the importance of racial purity has long been a consideration of immigration legislation (p. 13). The view has been taken that, "alien races who cannot be readily assimilated into that population, or whose assimilation, for reasons dependent on the physical or other characteristics of the respective races, is not attended with advantage, presents administrative difficulties in no mean degree" (Department of Statistics, p.2 cited in Brown 1984). During this period in Aotearoa/New Zealand, theories of Social Darwinism were enjoying a degree of popularity (Ballara, 1986, p.13) with their "accompanying anxieties about inter-mixing and miscegenation" (Cormack, 2010, p.6).

One of the first statutes in New Zealand that incorporated the definition of the term 'Māori' was the *Māori Representation Act 1867* which defined 'Māori' pursuant to section 2 as a 'male aboriginal native inhabitant of New Zealand' aged twenty-one years or older and included 'half-castes.' A similar definition was subsequently adopted, although excluding the reference to age and male, in the *Māori Affairs Act 1953, the Māori Trustee Act 1953 and the Adoption Act 1955*. These statutes defined 'Māori' as 'a person belonging to the aboriginal race of New Zealand, including a half-caste and a person intermediate between half-caste and a person of pure descent' (s 2). Then the *Electoral Act 1956* chose to make a three-fold distinction between those who were more than half Māori (who had to enrol on the Māori roll), those who were less than half Māori (who had to enrol on the European roll) and half-castes (who were allowed a choice). Other Statutes, in contrast, such as the *Māori Social and Economic Advancement Act 1945* and the *Ngarimu V.C and 28th Māori Battalion Memorial Scholarships Fund Act 1945*, accepted anyone 'descended from a Māori as otherwise defined' as a Māori for their purposes (s. 2).

Cormack & Robson (2010) as cited in Hunn (1960) noted that although there were ten different statutory definitions of 'Māori' these definitions all tended to denote either (a) half blood or more; or (b) a descendant (p.19). The provisions that necessitated that a person have 'half or more' blood was called blood quantum provisions. These blood quantum requirements have been imposed throughout history by governments across the world to define Indigenous peoples. It also proposed that legislation that entitles Māori to certain statutory privileges should become progressively stricter (Cormack & Robson ,2010, as cited in Hunn ,1960). The report recommended that initially the 'half-blood'

Māori formula should be made universal, with a view to restricting it over time to three-quarter blood and finally removing all references to Māori (Cormack & Robson, 2010, as cited in Hunn, 1960). Although references to blood quantum no longer feature prominently in the landscape of Māori identity, other methods to exclude and limit Māori from engaging fully in their affairs still exist. For example, most iwi registers require Māori to choose one tribal affiliation over another. The growing Māori -share quantum, refers to the control of those who have shares in Māori -owned land, this is over those who have no shares, which is a reality for many urban Māori (Cormack & Robson ,2010, as cited in Hunn, 1960). In 1953, *the Māori Affairs Act* was used to classify Māori identity based on blood quantum. 'A Māori was a person who was a half-blood or more, i.e. at least one of their parents was a full-blooded Māori, or both were three-quarter Māori or some similar combination. 'The 1960 Hunn Report classified three kinds of Māori: living as half-castes, who were more European-like, lived in cities, spoke no Māori and were advanced; those who were still Māori but lived in the cities and were making progress; and those who spoke Māori, lived in rural areas, and remained 'backward and retarded' Cormack & Robson (2010) as cited in Hunn (1960).

Kukutai (2011) points out that roughly sixty years ago, a demographer Ian Pool asked, "When is a Māori a 'Māori"? (p.45). Kukutai (2011) continues on to say that the "question was a direct response to the 1961 Hunn Report" where it was recognized, in detail, the inconsistent usage of blood quantum and ancestry to define Māori for statistical and statutory purposes". However, Kukutai (2011) as cited in Pool (1963) argues that, "blood quantum was conceptually problematic for some because it was derived from a flawed notion of biologically distinct races and obscured the role of cultural processes in understanding demographic behaviours and outcomes" (p. 45). Then in further research carried out by Kukutai (2011) she states that;

> what mattered was that in New Zealand there are two distinct cultural groups [and that] some persons feel that they are Māori, others that they are Pākehā, regardless of their exact biological make- up." Further, that self-identification was more likely to yield data on "those people whose behaviours patterns are Pākehā- oriented or Māori-oriented and whose problems are different because of their different cultural backgrounds, living conditions, child-rearing practices, etc." (p.46).

Thomas & Nikora (1996) as cited in Walker (1989) reminds us that, up "until 1960, the practices of successive Pākehā governments were marked by paternalism and prejudice.

Assimilation was the dominant policy and the accompanying practices which involved monolingualism and monoculturalism (p.234). Prior to 1974, there were several definitions within the law as to who were considered 'Māori'. One of the main definitions employed was 'half-castes and people who were intermediate in blood between half-castes and of pure descent' (Salesa, 2000, p.104). However, Coates states that, since 1974, when *the Māori Affairs Act 1953* amended its original statutory definition ('Māori' were people of half-blood or more), Māori in most instances tended to be defined as 'a person of the Māori race of New Zealand; and includes a descendant of any such person' (Salesa, 2000, p.104). Coates (2008) explains that this definition can be seen in statutes such as the *Treaty of Waitangi Act 1985* and *Te Ture Whenua Māori Act 1993* (p.50). In New Zealand, then, the contemporary focus is solely on what Māori call whakapapa (genealogy). If you have one Māori ancestor, no matter how far back, you are legally entitled to qualify as being 'Māori' New Zealand has thus adopted a very broad and expansive definition of who can qualify as an Indigenous person (Coates, 2008, p.49). Cormack (2010) echoed what others have previously said by stating that, "moving towards self-identified ethnicity the wording change in the 1976 Census had signaled a shift closer to a construct of self-identified ethnicity, although the ethnicity question had retained the language of race and had required people to specify their proportions of descent" (p. 15).

My family, especially brothers and sisters, had to engage in blood quantum requirements at Wallacetown primary school, an exercise that determined that I was a ¼ caste which made me feel disconnected or different as Māori, however this was only at school. I did not feel disconnected when I was immersed with my whānau whanui. However, Birrell, (2000) comments that;

> Some schools during the 1970s and the teachers would ask all children of any Māori descent to stand so that we could be counted. I was unaware at that time that this instruction coincided with government policy that changed the caste system from a belief in blood quantum to one of descent. An older birth certificate notes that I am '3/4 caste'. Degrees of descent remain problematic because it normalises the tendency for identity to be confused with biological features. Even today, the notion of blood quantum can be used as a self-identifier of an individual's 'degree of Māori-ness' which is disconcerting. Blood quantum supports earlier assertions that very few full blood Māori exist; Legitimating both a turn to racial traits and a refusal to

> recognise the rights of a fully endowed Indigenous population. If we do not exist 'in all our purity', then it is assumed that we have no rights. The concern that mixed marriages weakened group identity based on ideas of cultural uniqueness is both unhelpful and scientifically indefensible. Politically it represents the exposure of racial ideology promulgated to conjure up a platform for the disenchanted. A more recent discussion on intermarriage reveals much about how Māori and Pākehā have lived together in this country and our changing attitudes to race, marriage, and intimacy (p. 61-66).

In the 1970's the government of the time were collecting ethnicity statistics, from this they created and passed significant legislation that was relevant to the definition of Māori (Cormack, 2010, p.14). Earlier in that year the Māori Affairs Amendment Act 1974 was passed. This legislation incorporated a definition of Māori, "whereby a Māori was defined as any person with Māori descent, as opposed to the requirement for 50% or greater proportion of descent" (Cormack, 2010, p.14). Then, in the 1981 Census, the wording of identity was, based on blood quantum and proportions of descent. Until 1974, and the passing of the Māori Affairs Amendment Act, a Māori was defined as someone with "half or more blood". However, the definition was rather loosely applied, and did not require persons to provide proof of their "blood quantum" to receive whatever benefits were then available (Cormack, 2010, p.14).

Further, Brown (1983) explains that, according to the 1983 Statistics New Zealand research report, it created from that census that the following was obvious, "… there is evidence to suggest that since at least the turn of the century the biological definition of Māori, i.e. half or more Māori blood - has not been accepted by a considerable proportion of the Māori population as a valid measure of their ethnicity" (as cited in Cormack, 2010, p.9). Next, Jones & Hunter (2003) as cited in Coates (2008) indicate that, "blood quantum provisions' existed in New Zealand even as late as 1986 and are essentially premised on a notion which relies on the false assumption that cultural behaviours and identities are biologically determined" (p.17). However, I still believe that the Census fractionises and divides our belongings, i.e. selecting which Iwi you belong to. I also understand that the reports that are created reference those that indicate more the one Iwi are referred to as mixed Māori whereas those indicating one Iwi are classed as sole Māori. For example, the 2013 report states that, Māori are counted in two ways in the New Zealand Census of Population and Dwellings: through ethnicity and through Māori descent. This publication

covers both measures. Māori ethnicity and Māori descent are different concepts.

In 2013, 598,605 people identified with the Māori ethnic group and 668,724 people were of Māori descent (Statistics New Zealand, 2013). Further in the Māori Representation under the Electoral Act 1993, the following is noted;

> A "Māori" is defined as "a person of the Māori race of New Zealand; and includes any descendant of such a person.[37]"Every Māori "shall have the option" to enrol on either the Māori or General electoral roll in the Māori or General electoral district in which he or she resides.40 Astonishingly, whether one "fits" into this definition of Māori is purely reliant on self- identification. No proof whatsoever is needed. Therefore, any New Zealand citizen can be enrolled in a Māori electorate by claiming Māori descent (O'Sullivan, 2009). However, this choice of roll can only be made at the time the person first enrols to vote or in accordance with the Māori Electoral Option (MEO).[38] Outside of this MEO period, voters are restricted from switching between rolls.[39]The MEO is four months long and it must be held every five years in combination with the census.[40] Each elector can only change rolls once during each MEO.[41]Because a voter can only change rolls during the MEO, and the number of Māori seats in Parliament essentially depends on the number of Māori electors that choose to enrol on the Māori roll, the MEO period is of vital importance in ultimately determining the number of Māori seats in Parliament (Geddis, 2014). Since MMP has been introduced, the numbers of Māori enrolling on the Māori roll has increased in both "absolute and relative terms" (Geddis, 2014).

Thus, the number of Māori seats has risen from four in 1993 to seven in 2008. If all Māori were enrolled on the Māori roll, there would be about 13 Māori electorates (Xanthaki and O'Sullivan, 2009, p.197). Several different views exist that challenge the emphasis that New Zealand law places on descent in determining one's eligibility to identify as 'Māori'. These views in general propose that one only needs some Māori descent and the "desire" to be considered Māori to be a 'Māori'. This view arises from the importance that the Māori world places on the concept of whakapapa (genealogy). For example,

[37]Electoral Act 1993, s 3(1) (definition of "Māori"). s76(1).
[38]s79.
[39]s79.
[40]ss77(2) and 77(4). Section 77(5) states that if Parliament is due to expire in the year of the census, the MEO must be held the following year.
[41]s78(1). Section 78 also outlines the requirements the Registrar must undertake with respect to posting and returning the prescribed forms. For commentary on this see Geddis "Electoral Law", above n 31, at 100.

Pita Sharples, previous Minister of the Māori political party, when discussing blood quantum as a means of identification, stated, "the concept of dividing our blood into parts, how Māori are you, flies in the face of one of our strongest values, the concept of whakapapa, and our genealogy" (Sharples, 2006*).* This view is further supported by academic scholar Moana Jackson who stressed that 'descent in terms of whakapapa is the essence of being Māori' (Jackson, 2003 as cited in Coates, 2008, p.51). The Waitangi Tribunal added, "being Māori rather than European is as much psychological as biological. A Māori is one who has Māori ancestry and who feels himself to be Māori" (Coates, 2008, p.51, as cited in Wai 11, 2003). However, those experiences have come at a cost, the quote that opens this section, was extracted from a writing by which is titled, "How High Is Your RQ?" Is Te Reo Māori The New Blood Quantum? 'RQ' is short for Reo Quantum, it is about measuring Māori identity or quantum, on the level of your te reo Māori, hinting that being Māori is a requirement. This was echoed in a sense by O'Regan (2009), when she explains that, "their Ngāi Tahu identity is limited to their whakapapa, or genealogy, within their tribe, with little or no understanding about what lies behind that affiliation in terms of cultural knowledge, the language, the history or relevant tribal issues of the day" (p.84). O'Regan (2009) continues to describe this stating that, "We had greater numbers of our people who were fairer than the perceived Māori norm in the north – so many of us didn't look particularly Māori" (p.79)

Next, Derby & Macfarlane (2018) highlights what Mason Durie has stated numerous times;

> Living 'as Māori' means having access to Te Ao Māori, which includes language, culture, tikanga (protocols) and resources. It is generally accepted that Te Reo Māori (the Māori language) holds a central place in the discourse on Māori identity – and rightly so. But is it the only indicator or measure? Clearly, language provides a portal into a culture and a way of viewing the world" (p. 220).

Then this is questioned by Derby & Macfarlane (2018) when they ask;

> but is language the only way one's culture and identity can be expressed? Is language the defining factor in the question of self-identification and identity? Is te reo Māori the sole key that opens the door and gives access… [and further,] many of us are familiar with the history of colonisation in this country, and the colonial ideology and policies that led to the suppression of Te reo Māori in our schools. "Is te reo Māori the new blood quantum? (p. 221).

Further, they emphasis statements like,

> She says she is Māori, but she can't speak it [spoken in a tone inferring that this makes this person somehow less Māori]" "Hey you're Māori – what's the Māori word for?" "There is a pōwhiri this morning and we need you to speak" "Can you bless the kai?" How many of us have had our identity as Māori assessed and shaken by questions such as these – often from non- Māori friends and colleagues – where, again, no harm is usually intended, but great discomfort, embarrassment, and even shame, may result? And how about the reactions from our comrades in Te iwi Māori to those who, because of the colonial need to put an end to te reo Māori, do not speak the language? (Derby and MacFarlane, 2018, p. 221).

Furthermore, Williams (2010) as cited in Te Huia (2015, p.21), carries on that conversation about Te reo Māori and identity, "te reo Māori is commonly considered a central aspect to Māori identity and has been closely linked with the concept of personal mana" (p.8).[42]Then, Kāretu (1993) explains: "…for me language is essential to my mana. Without it, could I still claim to be Māori? I do not think so, for it is the language which has given me what mana I have, and it is the only thing which differentiates me from anyone else" (p. 226) as cited in Awanui Te Huia Victoria University, 2015, p. 21). What are the thoughts of the reader? "Defining who you are [as Māori] is important. We must reclaim the right to define ourselves because it's that constant redefining of us by the coloniser that causes schizophrenia, confusion and separation from each other" (Te Huia, 2015, p.19).For generations, Māori have endured having our identity measured and defined for us by non-Māori using parameters like blood quantum. In contemporary times, reclaiming a 'right' to claim a Māori identity has been studied in detail. McIntosh explains that Māori choose to identify as Māori, "the individual is engaging in the act of "claims making" (Te Huia, 2015, p.19). "Whakapapa is a central marker of Māori identity" (Te Huia, 2015, p.20). Māori view it as necessary, to claim authentic group membership. Within this fixed 'traditional' identity, knowledge of whakapapa, te reo Māori and mātauranga Māori are prioritised (Te Huia, 2015, p.21). While not a recent phenomenon, the counting of ethnic (or historically, 'racial') groups has become increasingly institutionalised over time in Aotearoa/ New Zealand, particularly within governmental agencies. As in all societies, the policies and practices relating to the

[42]Mana has a variety of definitions (authority, control, influence, prestige, and power) to name a few definitions (Williams, 2010).

definition and enumeration of ethnic groups reflect specific social, economic, and political contexts and drivers (Cormack, 2010, p.1).

In Aotearoa/ New Zealand, there has been a move over time in official statistics away from the categorisation of ethnic groups through reference to biological criteria (such as blood or descent) to approaches based on self-identification and cultural affiliation (Cormack, 2010, p.2). Just as blood quantum is used to exclude, socio-cultural markers of cultural living are used to deny the existence of a contemporary Indigenous identity (Matahaere-Atariki, 2017, p.14). Matahaere-Atariki (2017) noted;

> a participants response in her Māori identity, Mum wanted us to be White, because to her we would have a better life, and if you're White people don't pick on you, or things are easier for you if you're White… I understand my mother now, I feel sorry for her now… It was just her upbringing…My mother was brought up in … a very racist area, and you know, Māori's were limited in many ways. They could not go to the pictures because Māori's were not allowed there… and I think when you have those sorts of experiences all through your life you do not want that for your kids. So, you know … you look over to the White side, and think yeah things are good over there, they can go to the pictures. So, I guess you can understand why my mother practically dipped us in Janola [bleach]) … she just believed if we were educated White you know, and we just acted like Pākehā then no one would hurt us, or we'd be acceptable, but then again Māori weren't because that's not the way of the world (Participant 8) (p.14).

Another implication resulting from New Zealand's political and legal system, institutional and personal definitions of 'Māori', create exclusion and disconnection. The conversation about contemporary disconnection is related to the first encounters, of colonisation and assimilation. As a people we still must ride the never-ending tsunami of, others defining who we are as Māori, including our own. The evolving criteria are all impacts on who is Māori. Matahaere-Atariki (2017) poses those hard questions, "is this because whakapapa is the only requirement the Māori culture or Te Ao Māori is completely severed from Māori identity? (p.15). Next, Matahaere-Atariki (2017) explains that if "whakapapa is the only requirement to be Māori, does this, then allow people to claim that they are 'Māori' *solely* for the advantages? Does it give an entitlement of Māoriness without regard to any of the other factors that make a person Māori?" (p.15).

To finish this section, as a people we should be the ones that define who we are as Māori, as hapū, as Iwi. Blood quantum is a fine thread woven through our history. I considered that blood quantum ideologies where alive, vibrant, entrenched, embedded, being theorised and enacted in localised Indigenous communities in New Zealand, whether this was in active law or in the Indigenous minds. It is due time to right the wrongs of past legislation, recognise how they have influenced where we are today, and reclaim our identities by defining ourselves based on our own tribal concepts. When history continues to misguide 'identity' or 'Indigenous uniqueness' it only gives rise to continued exploitive and repressive ways. Ultimately, Indigenous peoples in New Zealand, need to be the ones in control of their identity; tribal affiliation; cultural continuity; destiny, DNA, and the way they are defined legally. The remainder of this section will address the blood quantum in practice on Native Americans and First Nation Canadians. Native Americans and First Nations Canadians occupied the territories that is now under the jurisdictions of Canada and the USA. The following starts with the USA then will conclude with Canada.

USA

> We who are clay blended by the Master Potter, come from the kiln of Creation in many hues. How can people say one skin is colored, when each has its own coloration? What should it matter that one bowl is dark and the other pale, if each is of good design and serves its purpose well?[43]

> "Identity id important, the colonists were very successful 'radicalizing' Indigenous Identities such that people talk about being 25 per cent of this or 40 percent of that, but one does not belong to a nation based on one's blood quantum. Belonging to an Indigenous nation is a way of being in the world. Holding a membership card is not a way of being and money can't buy it"[44]

The remainder of this section will address the blood quantum' in practice on Indigenous American and Indigenous Canadians peoples. The history of blood quantum laws and policies in the United States and Canada commences with the Indian rolls that were introduced to Native Americans from colonial, political, scientific, and white culture.

[43]Polingaysi Qoyawayma, Hopi as cited in Freeman, 2014, p.613).
[44]John C. Mohawk; Seneca; (1945-2006).

Remembering that the coloniser imposed this ideology and the colonised adopted this, allowing it to exclude their own. Huang (2006) stated that the "government's systematic regulation of Indian blood, was a cover for the whites' avaricious colonizing project" (p. 173). Colonialism is a powerful force that affected American Indian cultures in many ways (Kiowa, 2005, p. 66).

Chow (2008) points out that Blood quantum in America is fundamentally the amount of 'Indian Blood' that a native individual has. The federal government, and the Department of the Interior, processes these details and the individual obtains a 'Certified Degree of Indian Blood' or commonly known as either the ticket/ card/ identification (para. 8). Like the journey I had as a 5-year-old, it is a matter of calculating some mathematical figures which determines how native you are. There figures are captured from historical or original enrolments that have been counted from previous census rolls, at that stage all quantum details were obtained. However, there were concerns then, as there are now, that the officials taking the details did not understand a native's way of defining themselves. For example, the officials would often determine quantum by their appearance. If you did that in Ngāi Tahu –a huge drop in tribal numbers would be guaranteed. However, in saying that, in a contemporary space in New Zealand, this happens all the time, reflecting to the two pūrākau, "The Story of my pounamu" about my unwell brother and "The Scales of Justice' my sister Tui, that they did not look Māori enough due to the colour of their skin. What tended to happen, is that the Indian-ness, the Indigeneity was breed out, according to the coloniser and sometimes the colonised.

Next, Huang (2008) that you must be mindful of both colonial impositions, the Euromerican alienation of Indian blood and the U.S. Government's definitions and fractionalization of "Indigenous blood" (p.173). For example, Huang (2008), noted that;

> Blood quantum" fractionalizes Indigenous identities, "blood memory" functions as a synthesizing power that recovers the missing blood links for them. Both were born into an alienating and alienated relationship with non-native (m) others. Both confront the enigma of mixed-blood ancestry, denigrated status in Native and white communities, and a sense of belonging nowhere. Both, nonetheless, successfully establish their Indigenous genealogical continuation through "blood memory." Thereby both convert the abject into the Indigenous and transform the scientific measuring of Indian "blood quantum" into the imaginative recollection of "blood memory (p. 174).

Huang (2008) asks, what is blood memory? How do we define and understand this? for example, the "concentrating on Native memoirs, this study approaches memory and remembrance both as a cultural and as a genetic category that defines Native American identities. Although blood memory is not biological fact, it is more of a metaphor. More specifically… it is interested in how, "Indigenous memories survive into contemporary times, in the face of a high degree of cultural assimilation and genetic hybridity" (p. 172).

In Part 1 of this thesis and within my conceptual identity framework, the discussion of identity starts with and ends with pūrākau, the following quote captures this "If you don't know where you've come from, you don't know where you're going". The development of this framework came from the desire to transform, therefore igniting change, although within Ngāi Tahu whanui, and it is transferable, to other Indigenous Peoples, who would weave together of threads, such as mythology, whakapapa, belonging, relationships, identity, tribal legislation, self-identifying with the use of pūrākau. I would go as far as suggesting that these are the memories in the blood or 'blood memories" (Huang ,2008, p. 171). As mentioned previously blood memory is not biological fact. For example, Momaday (1968) as cited in Huang (2008) brings to life the stories of his grandmother by relating it to the "memory in her blood". [Author] states that the "genetic constitution preserves memory in the body… Although my grandmother lived out her long life in the shadow of Rainy Mountain, the immense landscape of the continental interior lay like memory in her blood. She could tell of the Crows, whom she had never seen, and of the Black Hills, where she had never been" (p.184).

Further, (2008) Huang notes that throughout "Native history, blood has never really been a factor in determining who was or was not included in a tribe" (p.171). Whereas the government's designation of American Indian "blood quantum" problematizes Native American identities, as Vizenor (1999) as cited in Huang (2008) explains, *"*blood memory" holds tight on Native American bloodlines, by naming the genetic ties to specific Indian nations, particularly to illustrious ancestry, Native American authors recuperate an integrated Native self. They count on memory to be their genes of survival, or, rather, "survivance" (p. 172).

Further, Huang (2008) suggests that the "legal and political status of American Indians in this. country is what truly sets Indians apart from other U.S. citizens" (p. 177). This has

resulted "in effect, to estrange the American Indians into the alien, to make them strangers in their homelands" (p. 178). Native American activist Annette Jaime states that;

> I have traced the federal government implementation of blood quantum to the passage of the General Allotment Act in 1887. According to Jaime's, Native Americans were required to prove one-half or more Indian blood to receive allotments of their tribal estate and the trick was that "surplus" lands were then made available to white settlers. As Jaime's documents, the already shrunken Native American land base was "legally" reduced by another staggering ninety million acres—the standard of blood quantum was developed into a taxonomy of variable Indian identity that came to control their access to their tribal lands and all federal services, including commodity rations, annuity payments, and health care (as cited in Allen, 1999, p.97).

Native American identity became subject to a genetic burden of proof whereas the criteria were always the inventions of the white government. Thereby blood quantum represents a fundamental attack on the tribal sovereignty of Native American nations. Not only were tribal lands transformed into white settlers' homes and Natives into perpetual exiles in their homelands, but Native Americans became a vanishing race as the racial (blood) codes excluded the genetically marginalized from both identifications as Native American citizens and consequent entitlements (Allen, 1999, p.97).

Historically, "law deployed the metaphor of blood through hypodescent rules[45] to racialize and subordinate African Americans and other non- whites" (Gates, 1997, p. 30)[46]This malignant usage of blood was replicated in countless legal cases[47] for example the following are some legal cases which cover the use of blood. The first is in in Gates

[45]'Hypodescent' is the term used by anthropologist Marvin Harris to describe the American system of racial classification in which the subordinate classification is assigned to the offspring if there is one 'superordinate' and one 'subordinate' parent. Under this system, the child of a Black parent and a white parent is Black"

[46]*Haney Lopez supra* note 1 at 203-08 (providing a chart that included cases in which a person's blood functioned to ascribe non-whiteness on a person).

[47]*Plessy v. Ferguson,* 163 U.S. 537 (1896) (noting that Homer Plessy, who was phenotypically white was deemed a Black person for purposes of Louisiana's segregation laws because he was genotypically 7/8ths white and 1/8th Black); *In re Camille*, 6 F. 256 (1880) (holding that a person of "half white and half Indian blood is not a 'white person'" for purposes of immigration naturalization); *Jeffries v. Ankeny*, 11 Ohio 372, 374 (1842) (holding that plaintiff was not a free white citizen because he does not have pure white blood and thus, he does not have the right to vote). *See also In re Alverto*, 198 F. 688 (D.C.Pa. 1912) (stating that petitioner was "ethnologically speaking, one-fourth of the white or Caucasian race and three- fourths of the brown or Malay race" and consequently, ineligible for naturalization); *In re Knight*, 171 F. 299 (E.D.N.Y. 1909) (holding that petitioner's "Mongolian blood" excluded him from classification as a white person and thus eligible for U.S. citizenship).

(1997) which was the,

> Hypodescent case, which was when this term was used by anthropologist Marvin Harris to describe the American system of racial classification in which the subordinate classification is assigned to the offspring if there is one 'superordinate' and one 'subordinate' parent. Under this system, the child of a black parent and a white parent is black (p. 30).[48]

Also, in *Hickman* (1993),[49] the Devil and the One Drop Rule, which is the idea that anyone with any African "blood" is legally black, "It isn't no lie, it's a natural fact, you could have been coloured without being so black . . . ." (note 1 at 1738, 1993). In Lopez, 1996 the following are cases in which a person's blood functioned to ascribe non-whiteness on a person. First, *Plessy v. Ferguson,*[50]it was noted that Homer Plessy, who was phenotypically white was deemed a black person for purposes of Louisiana's segregation laws because he was genotypically 7/8ths white and 1/8th Black). Second, re *Camille*[51]held that a person of "half white and half Indian blood is not a 'white person'" for purposes of immigration naturalization" (Lopez, 1996, p.9) Third, *Jeffries v. Ankeny,*[52]this held that the plaintiff was not a free white citizen because he does not have pure white blood and thus, he does not have the right to vote. Also, in re *Alverto*[53] it stated that petitioner was "ethnologically speaking, one-fourth of the white or Caucasian race and three- fourths of the brown or Malay race" (Lopez, 1996, p.9) and consequently, ineligible for naturalization. Fourth, re *Knight*[54]held that petitioner's "Mongolian blood" excluded him from classification as a white person and thus eligible for U.S. citizenship.

Then, in *Rice v. Cayetano*[55] it was when the system invalidated a provision of the Hawaii Constitution that limited the right to vote for trustees of a state agency to Native Hawaiians only, who were defined as descendants "of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778" (Villazor, 2008, p.4)[56] in striking down the law, the Court explained that "distinctions between citizens

[48]note 1 at 1738 (1993).
[49]95 MICH. L. REV. 1161, 1167 (1997).
[50]163 U.S. 537 (1896).
[51]6 F. 256 (1880).
[52]11 Ohio 372, 374 (1842).
[53]198 F. 688 (D.C.Pa. 1912).
[54]171 F. 299 (E.D.N.Y. 1909).
[55] 528 U.S. at 517 (invalidating Native Hawaiian only voting requirement because it was an unconstitutional racial classification).
[56]at 499.

solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality" (Villazor, 2008, p. 4).[57]The Court in *Rice*, however, refused to acknowledge that "Native Hawaiians have a [political] status like that of the Indians as organized tribes" (Villazor, 2008, p. 4)[58] in so doing, the Court crystallized that the racial versus political construction of Indigenous blood rested ultimately on the theory that federal recognition of tribal status conferred a political dimension that was immune from strict scrutiny.[59]In closer examination of the legal construction of the dichotomy between the racial and political meaning of indigeneity vis-a-vis Indigenous blood has largely escaped scholarship. Scholars have examined the impact of Rice on other Native American preferential laws (Villazor, 2008, p. 5).

More broadly, by elaborating and integrating these cases in the modern interpretation of blood quantum as a marker for either a racial or political identity, they demonstrate that the current approach sets up a false dichotomy. Consequently, it has been argued that these cases facilitate reorienting equal protection jurisprudence to more adequately address a colonial legacy that is often ignored (Villazor, 2008, p. 8). This part focuses principally on *Craddick v. Territorial Registrar*, the opinion that was upheld American Samoa's blood quantum property law[60] and where relevant, it also discussed *Wabol v. Villacrusis*, which held that;

> The Northern Mariana Islands' blood quantum property law is constitutional. Cases from the U.S. territories tend to be marginalized in "mainstream" jurisprudence. By placing these neglected cases within the ambit of normative equal protection doctrine, it was contended that, at minimum, they provide an opening outside of the strict understanding of racial and political Indigeneity. While it explained that the territorial cases reached the correct result in lending legal protection to the Indigenous peoples' cultures, it offers some cautionary

[57]at 517 (quoting *Hirabayashi v. United States*, 320 U.S. 81 (1943)

[58]528 U.S. at 518 ("If Hawaii's restriction were to be sustained under *Mancari* we would be required to accept some beginning premises not yet established in our case law. Among those postulates, it would be necessary to conclude that Congress, in reciting the purposes for the transfer of lands to the State and in other enactments such as the Hawaiian Homes Commission Act and the Joint Resolution of 1993 has determined that native Hawaiians have a status like that of Indians in organized tribes[.]").

[59]The Court noted that even if *Mancari* were applicable in the case, the State of Hawaii sought to extend the native Hawaiians right to self-government beyond the boundaries contemplated by *Mancari*. *See id.* at 520 (explaining that Congress may not allow a State to "establish a voting scheme that limits the electorate for its public officials to a class of tribal Indians, to the exclusion of all non-Indian citizens").

[60]1 A.S.R.2d at 14.

> remarks about the inherent problems in claiming culture (Villazor, 2008, p. 8).

However, in history a statue which was enacted on December 21, 1792, was held two years after first United States census, which was to prohibit further importation of slaves into the State of South Carolina. Yet in that law a definition was employed which included "Indian, Mulatto or Mestizo" Remember that prior to this legislation the Cherokee peoples had been through the following;

> South Carolina American Indian Holocaust; victims of American Indian slavery- tens of thousands of America's native peoples were enslaved; many of them transported to lands distant from their homes, this is important to remember; the Tuscarora Indian War of 1711 was devastating for the Indians; The Removal Act of 1830 set into motion a series of events which led to the "Trail of Tears" in 1838, a forced march of the Cherokees, resulting in the destruction of many of the Cherokee population; In South Carolina, the Catawba Indian Nation was made victims of the "Termination Policy" of the 1950s. This was after they had been made victims of boarding schools and other federal policies that were designed to exterminate the Natives from South Carolina. Not only the boarding schools but also at the signings of hundreds of treaties, most of which were dishonoured by whites, would be set into motion a persistent distrust of the systematic genocide, a distrust that still resonates in our homes and schools and courts of law today. (Goins, n.d, p.7)

Finally, whilst the maintenance of racial (blood) purity remains central to the colonial agenda (Huang, 2006, p. 175) the enshrining of racial purity as the ideal for authentic American Indian identity, blood quantum discloses the fact that more than 98 percent of contemporary Native Americans are genetic hybrids. Consequently, mixed-blood Native Americans are considered genetically estranged from their full- blood Indigenous ancestors once a certain "degree" of mixing with races other than the Indigenous has been passed (Huang, 2006, p.175). There are always innumerable "viewpoints around the blood quantum policy are many" (Alberta, 2015, i.). The greatest shift is tribal awareness and recognition to rethink the blood quantum policy for example the Isleta Pueblo Peoples, through them being proactive with initiatives, with their tribal members who support restructuring the policy about tribal membership and democratic processes (see: Appendix 13).

They were able to acquire signatures, in a petition form, and presented it to the tribal council in support of reducing the policy to a 1/4 Indian blood requirement. The outcome of the initiative resulted in a special vote for lowering the blood quantum requirement in 2010. In Citizenship has multiple layers when considering what national identity means for the tribe. The formalization of policy through participatory approaches is a method of seeking input from community members about how they feel about the issue of blood quantum. Tribal government's implementation of new policy can be about language and worldview preservation within a global diversity lens (Albeita, 2015, p. 46). Diversity in this context may be defined as different points of view from all community members being welcomed and considered in the process of democracy. Intellect should be held in the highest regard by the tribal government (Albeita, 2015, p. 46).

> How will the future unfold if the current blood quantum policies remain in place?
>
> How will blood quantum affect the community's worldview and language? (Huaman et. al., 2017, p.147).

In summary, I gave a brief overview on Blood quantum in practice in the US. This brief was presented as part of another tool that builds the full scaffolding of Blood quantum Ideology. The following section will focus on Blood quantum in practice in Canada.

Canada and the USA

The following section relies on the writings by Alford Taiaiake

> Any labels used to describe Indigenous Peoples must come from the self-definitions and identities of these groups. Ideally, labels should promote positive social and political interactions between Indigenous and non-Indigenous Peoples. Labels should also promote solidarity among Indigenous Peoples while at the same time recognizing the diversity and sovereignty of each group (as cited in Bird, 1999, p.217).

Menezes and Nicol explain how the Canadian constitution recognises three separate cultural groups as Aboriginal peoples, Indian, Inuit, and Métis. Therefore, the term "Indian" as used in Canada does not include Inuit or Métis the question then remains whether Inuit or Métis are eligible for ABC status:

> While the Inuit do not self-identify as Indians and Canada expressly distinguishes Inuit from Indians, as far as the U.S. is concerned, Inuit

> in Canada are eligible for rights under INA section 289 upon establishment of the requisite blood quantum. This is because the U.S. does not rely on Canadian definitions in determining which groups qualify for the benefits of INA section 289. Within the U.S., the term "Indian" includes Inuit. An examination of the statutory language introduced both prior to and in the INA indicates a clear intent to broaden the applicability of Jay Treaty rights beyond only those individuals who are members of Indian tribes. Because Inuit are Indians as far as the U.S. government is concerned, Inuit peoples born in Canada who possess the bloodline requirement may qualify for ABC status (2019, p.39).

Like the Inuit, Métis do not self-identify as Indians and are distinguished from Indians in Canada's constitution. The term "Métis" originates from a French word meaning "mixed," and was historically used in Canadian French for persons of mixed ancestry (Menezes & Nicol, 2019, p.39). While "Métis" denotes only mixed Aboriginal-European ancestry, "Métis" carries a specific cultural, ethnological, and political meaning (Yellowbird, 1999, p.1). When capitalized, the term refers to a specific population of Aboriginal and French-Canadian origin which emerged from the marriages which took place in the early 1800s between French-Canadian fur traders and local Indians (Taiaiake, 1999, p.11). The Métis maintain a strong and unique identity, with specific criteria dictating membership within the community.[61] "Since the 1960s, Métis political organizations have sprung up across Canada, accompanying renewed attention to culture, heritage, and notably, family history as Métis people recover ties and memories lost in displacements and racial discrimination experienced after 1885" (Boos et. al., 2014, p.364).[62] While Métis identification alone is *Mitchell v. M.N.R*[63] insufficient to satisfy the bloodline requirement, Métis are certainly not excluded from ABC status; to qualify, an individual must satisfy the bloodline requirement, a matter independent from Métis identity. The same rule applies to Métis.[64]Yet from a purely mathematical perspective,

[61]The two major organizations representing Métis maintain different criteria for qualification: The Congress of Aboriginal Peoples [www.abo-peoples.org] defines Métis as "individuals who have Aboriginal and non-Aboriginal ancestry, self- identify themselves as Métis and are accepted by a Métis community as Métis." The Métis National Council [www.metisnation.ca] defines Métis as "a person who self-identifies as Métis, is of historic Métis Nation ancestry, is distinct from other Aboriginal peoples and is accepted by the Métis Nation. Library and Archives Canada, Genealogy and Family History: Métis, http://tinyurl.com/lcp3r8o (last visited Sept. 14, 2013).
[62]note 112, at 403.
[63]2001 SCC 33, [2001] 1 S.C.R. 911.
[64]note 112, at 403.

those tribes that require members to have a certain proportion of tribal 'blood' will either change their ways soon, or else calculate themselves out of existence. The alternatives are limited. The tribes can lower the percentage of blood required, create subcategories of membership, or choose to include the blood of other Indian nations in their calculations. But none are permanent solutions (Appleton, 2009, p.3). The lineal descent method is perhaps the only way to preserve the tribes far into the future, as Indian blood proportions dwindle over generations. And if it comes down to closing the doors or letting in too many people, it is argued that the most generous option is the latter.

Under the Indian Act regime, our nations have fallen under the control of contrived foreign definitions, and our formerly distinct peoples, each with traditional practices were continuously undermined as collectivises. We should be aware and sensitive to this history and its corrosive effects. (Appleton, 2009, p.6) the issues surrounding the Canadian legislation of Indigenous identity are exemplified in the Bill C-31 situation and the Canadian government's attempts at resolving their legalized discrimination against First Nations women in the Indian Act. Anishnaabe legal scholar John Borrows (1994) states, with respect to the Chippewa of the Nawash, had captured many of his people's discussions, I felt that this is appropriate to weave into this section on the impact of blood quantum on Indigenous Peoples in Canada, thy express the following;

> Our community recognized that there was a deep and disturbing irony in relying on the Indian Act for our identity as Indians. They saw a profound contradiction in deriving their character from a government-imposed system which dictated who was entitled to be Indian... most people in my community to refuse to distinguish based on prior status or recent registration. All extended family are members of the community, and it is their determination, and not the government's, which is regarded as legitimate (p. 37).

Further that; this nationalist sentiment was reinforced by Hugh Baker of the Nuu- Chah-Nulth Tribal Council (2005):

> Nuu-Chah-Nulth people reject classification of our people as either 6(1) or 6(2); we reject the classification of our people as on-reserve or off reserve. We reject the classification of our people as half-breed, quarter breed, or full breed. We reject the classification of our people as non-status. We reject the classification of our people by anything other than their roots. (p. 9)

Furthermore, that the comments of Christine Deom, a 63-year-old Kanien'kehaka (Mohawk) lawyer, are a good introduction to First Nations people's perspectives on this issue:

> I think that European words and concepts are loaded terms, very legalistic, whereas the Kanienkeha term for nation, Kanakerahserake, has a solid unified meaning, "a place to resolve larger collective issues." The community terms are locative - as in Kahnawakeronon ("by the rapids"), or Akwesasronon ("where the partridge drums") or Kanehsatakeronon ("on the sand beach"), and I think they display the collectively as community, very hands off, to all other communities. And yet they are allied together to a higher appeal in terms of broader identity which is a very elastic relationship. I wonder whether the provinces and Canada could be described as such. (Deom, 2017, p. 18).

Deom comments point directly at the issue of the inability of English terms to convey fully and accurately the historical, cultural, and geographic contexts of Indigenous community identities. Another aspect of this problem was expressed by Chiinuuks, a 38-year-old Nuu-Chah-Nulth woman, who explained how using English terms causes a reactionary shift in the focus and point of reference for First Nations identities (2017):

> I think the current problem lies in how we define ourselves in relation to whom. As Native people, there are those of us who are still trying to define ourselves in relation to white settler communities, in other words the oppressors. Despite the continued and illegal occupation of Canada, of our lands, some of us continue to both recognize and identify with the state by allowing its political and legal structures to define who we are for us. Defining ourselves with European words and concepts involves consenting to defining ourselves singularly in relation the white settler communities. In this way, we are required to recognize Canada's status on our lands and simultaneously go against any definition understood in our Indigenous languages. (p. 18)

Chiinuuks' (2017) views emphasize the point that using English terms is not only alienating from a cultural perspective, but also directly contributes to the alienation of Indigenous peoples from their lands by reinforcing and legitimating the state's claims and position of power vis-á-vis Indigenous nations;

> I do not think the European words are the real problem, I think the problem is the intent: the construct of laws they have surrounded themselves with under the concept that they have the power to legislate over other nations. They intended to use words that limited our

> identities, such as Aboriginal, Native, Indian, band member, status Indian. They could have chosen other words that suited our purposes better, but they did not. We can select words to best identify who were if we so chose. For example, "I am a Kanien'kehaka Kahnawakeronon." Admittedly though, we have some challenges coming to common understandings about what certain words mean, but that is so in any language (p. 8).

Fran Hunt-Jinnouchi, a Kwakiutl – Quatsino woman who a former band chief is and currently a university administrator, responded eloquently to questioning on the effects of current terminologies on her life and that of her community:

> The main issue from my perspective is that European concepts have been and continue to be divisive. When I consider these concepts, they have been the driving force behind the Indian Act. For instance, "Status", "non-Status" and Bill C- 31... These all signify "non-entitlement," which often cause us to play the game of dividing ourselves based on the European concepts. European concepts and philosophies compartmentalize us, and we buy in to this process, and use their language to categorize ourselves as to who we are, and then we're caught up in "word politics" and thoughts around "blood quantum" and what not. Young people are especially affected because of these words and European concepts that serve to cut them off from the community. And yet there are many people who I know who are not identified as "status" First Nation Perspectives On Political Identity 21 but live and breathe our culture and community reality- I think more spiritually and traditionally than some of us who are "status" because they live in that community or place (Alfred, 2009, p.20-21).

The need to deconstruct current terms and rebuild Indigenous identities on traditional and rooted foundations is reflected across the spectrum of experience, as evidenced in the view of twenty-three-year-old Brandy Doolittle from the Cayuga Nation (2015):

> The words that are being used to define and represent our identities as Indigenous people are very biased and racist. Words that are being used currently can, and usually are, taken out of context and used in a negative way. As Indigenous people, we should be working towards turning this around so that we are not "labelled" in a manner that is demeaning (p.23).

Nick Claxton, from the Tsawout First Nation on Vancouver Island, expressed it this way;

> The relationship between homeland and identity is critical. Today, our "Indigenous" identity is rooted too much in the reserve system and Indian Act band system. Under this system, there is no opportunity to have a relationship with our traditional lands, and an identity that is founded on this relationship to the land. In our traditional societies, just about every aspect of our traditional identity involved our environment. For example, our traditional Saanich NEHIMET governance system was intimately connected to the lands and waters of our territories (p.27).

Summary

In summary, I gave a brief overview on blood quantum in practice in Canada. This brief was presented as part of another tool that builds the full scaffolding of blood quantum Ideology. This section relied on the scholarly piece by Taiaiake (1999) where he captures narratives from a variety of tribal nations. The following section of Part 2 is the conclusion.

Part 2 Conclusion

Section one of Part 2 opened with a definition of history. The section then explained how blood quantum theories evolved including the discourse concerning the legitimacy of claims to identity characteristics racial anthropology and scientific racism. Importantly, "scientific racism" claimed to establish an empirically scientific connection between race and intelligence to promote the idea of "superior" and "inferior" human races. A substantive discussion on relevant theories used to rationalise and legitimise blood quantum laws and policies and their subsequent negative results for certain groups include natural law; social Darwinism; Colonisation; Imperialism, Assimilation; Cultural genocide and Holocaust. In short, the concepts of the Colonisation, Imperialism and Assimilation of Indigenous colonies and normative legal systems were executed under the Christian concept of natural law which influenced the development of racist schools of thought. It is imperative to emphasis that while there have been numerous schools of thought throughout history; the newer schools of thought are merely a revitalisation of the former thinking.

History is therefore fluid and not static, repeated and not learned from. Consequently, the Nuremburg bloods laws in Nazi Germany allowed the unrelenting exploitation of the Jewish peoples by Hitler in his attempts to create a "master race" and to purify Europe with the liquidation of all Jewish Peoples via legal mass murders. In a similar manner, the Indigenous Peoples of North America and New Zealand were subjected to analogous laws and policies for eradicating them as a People politically, culturally and socially under the benevolent discourse of colonialism and its attendant natural law schools of thought policies of civilising, Christianising and commercialising Indigenous infidels and their property. Indigenous infidels were simply inferior races and had to succumb to the superior white races or become victims of progress. Blood quantum laws were used to test, legitimise and rationalise such laws, policies, and genocidal results. Moana Jackson cited the well-known biblical proverb; "the namer of names is the father of all things". The power to define who is and who is not is a privileged position of power that has been abused as a destructive colonising tool historically. Ultimately, the Indigenous from USA, Canada and New Zealand need to be the ones in control of their identity and destiny and the way they are defined legally.

Indigenous Peoples should be defining who they are and how they are recognised legally not the State, scientists, anthropologists, and external policy makers. Unfortunately, many Indigenous Peoples have brought into the alleged scientifically 'proven' theories that have historically defined them as being an inferior people worthy of discrimination. Indigenous Peoples have been historically and, in more recent times, scientifically considered to be a People of an inferior blood line, who can be trampled on, systematically murdered through unjust laws and institutions, and systematically subjected to State instituted genocide and holocaust. So-called scientists, anthropologists, benevolent Church ministers and political leaders, lawyers and public servants have much to answer for when it comes to redefining and re-destroying Indigenous Peoples. Blood quantum laws and policies were merely a smoke screen for committing heinous genocidal crimes, sins, and practices which the same people decreed as being inhumane to superior races. Sovereignty represents a people's efforts to preserve their way of life, i.e., culture. Citizenship is the foundation of sovereignty. Consequently, citizenship criteria need to be tailored to the purpose of preserving culture (Oeser, 2015, p.35).

Part 3

Told in eloquent layers that blend Indigenous stories, a metaphor with social, legal, and spiritual journeys, growing up, and eventually encountering the concept and or ideology of quantum, presented as a new story about our DNA.

Storytelling

Storytelling is at its core decolonising, because it is a process of remembering, visioning, and creating a just reality where Nishnaabeg live as both Nishnaabeg and peoples. Storytelling then becomes a lens through which we can envision our way out of cognitive imperialism, where we can envision our way out of cognitive imperialism, where we can create models and mirrors where none existed, and where we can experience the spaces of freedom and justice (Simpson, 2014, p.33).

The Scales of Justice

This is a story about two sisters, their whakapapa, and their DNA. The story involves an older sister and her younger sister. The sisters share the same father but have different mothers.

My older sister is called Tui and I am the younger sister, Alvina. Tui is fifty-eight years old and I am fifty-seven, and most of the time, we are great friends. When we were young, I gave our family dog the teddy bear that belonged to Tui to play with, I also broke some of her toys and, she did not mind too much. There are photographs that evidence our sisterly friendship. It is all about evidence, right?

Tui spent decades researching our genealogy on my mother's Irish side and our whakapapa on dad's side. She gathered the evidence, the birth, marriage and death records, anything that told the story of who we were - and in amongst the records and stories she uncovered some scandalous information.

Most of the time I did not mind being the little sister, but on occasions my older sister made me very cross. This story is about such an occasion. The day started out ordinary. I had been at University and my older sister and our mother had been busy doing other things. I was looking forward to catching up with mum and Tui as they lived in Christchurch and I live in the Waikato and I phone them every other weekend. The thing I liked most about spending time with my big sister and mum were the latest updates and whanau gossip! On this day, what started out as ordinary, ended very wrong.

"Hi dear" said Mum. "We have been so busy today. Your big sister is in her office and we got some information today", she laughed and said, "do you want to speak with Tui?".

"Mum what have you been doing? And why were you laughing, what have you two been up to, no good, I guess".

"Don't be silly," said Mum. "I will go get your big sister." I felt a bit put out, I thought what is so funny?

When Tui came to the phone I thought she did not sound as enthusiastic as she normally would when we talk with each other.

"So, mum said that you both have been busy, and you have been up to no good," I said.

Silence… it felt strained, rather awkward…. I heard mum walk back into the room and

I sensed that Tui, who was trying to explain their adventures, had frozen.

"We, err, just got some results back" said Tui. My heart felt like it almost stopped! What was mum laughing about? Was there a health concern that her recent blood tests had identified?

Tui seemed to be delaying matters. "But err, Mum and I …" Tui sounded like she was having difficulty finishing the sentence.

"Alvina, mum and I did that Ancestry.com DNA test and the results have come back".

"Wha, wha, whaaaaaaat!" I screamed. "But, but, but…." "Oh-my-gosh," I shrieked. "Tui what have you done! I told you about those tests! They are blood quantum tests. They have taken DNA - our ancestral DNA your DNA today and the DNA of our mokopuna! Why did you do this?"

"That's just the way it is," said Tui.
"Now don't argue girls," said Mum, in the background.

"Tui, you have spent years researching both our whakapapa on dad's side and our genealogy on mum's side! Why did you take a test and what did the test say? I know the company will have sent you a report with a chart that sets out your blood quantum. Am I correct?"

Tui proceeded to tell me that mum was excited because her report supposedly confirmed that she is 87% Irish.

I said, "and what about your report Tui? Are you Oceania and Irish"?
"Not quite', Tui said. 'It shows me that I am a ¼ caste Pacifica and I am 16% Irish…"

After hearing what she said, I had to sit down. I felt so, so, so angry that I thought I might explode. I said to Tui and mum don't ever do this……They are collecting our DNA; they're mining our DNA". And then it dawned on me and I said "That's not correct Tui. You cannot be mum's daughter if the report states that you are only 16% Irish. To be mum's daughter, you would have half of mum's DNA. Add it up!"

I wanted to tell her about the company's lack of ethics; how they keep your DNA and can do anything they want with it; that there are no safe biobanks in New Zealand and the company stores DNA offshore. Then the phone went 'dead' because Tui had disconnected the call.

Since then, Tui and I have not been able to talk about the DNA test, whenever we do an argument follows. To this day I am shocked, horrified and bewildered about what my big sister Tui did.

Later that day I had a vision of our old Koro tuna lying helplessly on one side of a set of justice scales, and on the other side the DNA report tipped the scales in favor of companies like Ancestry.com.

“DNA is the physical and spiritual embodiment of whakapapa**”**[65]

[65]Ngāti Porou, Jennie Harre Hindmarsh.

Artist impression of The Scales of Justice

(Zena Elliot, DNA Molecule, 2019)

Beyond Blood Quantum Ideology

> "To us, any part of ourselves is sacred. Scientists say it is just DNA. For an Indian, it is not just DNA, it is part of a person, it is sacred, with deep religious significance. It is part of the essence of a person[66]" (Petit, 1998).

Introduction:

It appears that many Indigenous peoples have internalised 'blood quantum ideology', some abide by these practices and are unaware or unwilling to acknowledge the historical and colonial origins of these concepts. These concepts have been responsible for the complex and contentious identity issues that are unique to Indigenous peoples today. Continuing to base Indigenous identities solely upon racial formulation is no longer a viable option if Indigenous peoples wish to continue towards building and re-building their nations. As the theory of blood quantum continues to affect many Indigenous peoples, it is crucial to strengthen Indigenous communities against the modern eugenics discourse which promotes the use of biological testing [DNA analysis test for certain genetic markers] which claims to measure who is 'truly Indigenous' (TallBear, 2003 p.82). Not all, but most, Indigenous peoples in this thesis embrace the tribal letters of enrolment as confirmation of their Indigeneity (TallBear, 2003, p.89)

Bardill (2011) explains that, "DNA works as a new tool of colonialism continuing the exploitation of Indigenous communities through the colonization of their bodies, and the flora and fauna of their lands, a new form of colonization termed bio colonialism" (p. vii). Whereas TallBear (2003) comments in a similar vein,

> the racial ideology that is the foundation of certain applications of DNA analysis is integral to (if not totally representative of) blood quantum. The "measuring" of blood is a much debated and well-established tool for testing racial authenticity. It had it birth in the U.S. federal government's colonization of American Indian (p. 82).

In the first section, I briefly discuss the historical content associated with blood quantum and concerns relating to ethics and genetic research. Next, I will consider the question, what Indigenous DNA? and I will draw upon the academic works of two

[66]Frank Dukepoo, Ph.D. (Hopi geneticist).

Indigenous scholars, Dr Debra Harry from the US, and Professor Kim TallBear from Canada. Next, I will turn your attention to commercialised DNA, which focuses principally on why these tests do or do not give Indigenous identity. I echo the position of scholars who, for over a decade, noted the inherent problems in claiming cultural membership based upon commercial testing. While the use of blood quantum rules raises problematic assumptions about racial purity[67] this section looks at the similarities of blood quantum and DNA testing. Finally, I will consider what is beyond quantum. Asking whether our identity has been impacted on by Blood quantum ideologies. I intend to explore the impact of blood quantum ideologies upon Indigenous peoples and consider what is an appropriate Indigenous construct of identity, which must include self-identification.

Background

TallBear (2003) states that, "Blood talk and, increasingly, talk of DNA have unfortunately infiltrated tribal political life and are used to help justify cultural and political authority. Such biological measures reaffirm racial definitions of the tribal nation and who rightly claims tribal citizenship" (p. 81). Then, Hindmarsh (2017) emphasises a Māori position on DNA that it is, "the physical and spiritual embodiment of whakapapa … So, any of this activity is a very culturally significant activity, whether it is research or tampering with our genetics. People's DNA is taonga, it is precious, so fundamental to people's mauri or spirit" (para. 8).

At the Summer Internship with Native American in Genomics (SING) programme in 2014, Deborah Harry presented Indigenous methodologies. Dr Harry is a Northern Paiute woman from Pyramid Lake, Nevada. She serves as the Executive Director of the Indigenous Peoples Council on Bio-colonialism (IPCB), a United States based non-profit organization created to assist Indigenous peoples to protect their genetic resources, Indigenous knowledge, and cultural and human rights (Harry, 2009, p. 147). Dr Harry developed and taught a ten-week online course entitled 'Protecting Cultural Property in the Biotech Age. The course provided an overview of bio-colonialism to support Indigenous learners to identify ways to address the contentious issues that biotechnology poses for Indigenous peoples (Harry, n.d. para. 1). Dr Harry (2009) notes

[67] *See* Gotanda, *supra* note 1 at 259 ("The metaphor [of blood] is one of purity and contamination: white is unblemished and pure, so one drop of ancestral black blood renders one black").

common themes and concerns identified by Indigenous peoples which include;

> *1.* Genetic research on Indigenous peoples proceeds in an atmosphere of open access;
>
> *2.* Top-down, outside-in approaches to research treats Indigenous peoples as "objects of curiosity;
>
> *3.* Accordingly, research questions do not address their concerns, so inevitably research outcomes often do not benefit them, and, in fact, often can pose significant risks;
>
> *4.* Widespread lack of informed consent;
>
> *5.* Where informed consent has been secured, there have been abuses where genetic samples have been used for other than the original purposes. For examples, samples taken for medical research, such as diabetes studies, have been used for non-medical purposes such as anthropological genetics, a field dealing with ancient human history migration questions;
>
> *6.* Indigenous peoples are often considered "vulnerable populations" due to their often-limited political power, poor social conditions, and economic resources, and as such coercion is a potential, significant concern;
>
> *7.* Another significant concern for Indigenous peoples is the alienation of genetic materials because once it leaves their bodies or territories, they lose the ability to continuing decision-making regarding its use;
>
> *8.* Indigenous peoples have faced an unwillingness by researchers to repatriate misappropriated genetic material;
>
> *9.* Conflicting knowledge

During the internship, participants were presented with knowledge in genomics. Some of that research "revealed that genetic studies in Indigenous communities have been widely criticized by the communities targeted" (Arbour & Cook, 2006, p.153). Reardon (2001) commented on the Human Genome Diversity Project, "In 1991, United States population geneticists and evolutionary biologists proposed a worldwide project to sample and archive human genetic diversity" (p. 357). Reardon (2001) noted that, "the project's goal was to collect and preserve the genomes of 'isolated Indigenous populations', as the first step towards 'enormous leaps in our grasp of human origins, evolution, prehistory, and potential" (p.357). Those involved approached recognised

leaders of the project, and any other public funder, to invest, to act hastily before these 'isolated Indigenous populations', "merged with their neighbours . . . destroying irrevocably the information needed to reconstruct their *e*volutionary history." (Posey and Dutfield, 1996, p. 162). They sort a large number (in the hundreds) of blood samples from this targeted community. They referred to this population as the "Isolates of Historical Interest" (Harry, 2009, p.155).

Many Indigenous peoples opposed the 'Human Genome Diversity Project.' Along with of the Human Genome Diversity Project, critics have cited that a lack of "involvement of the community in the planning of the project, insensitivity to cultural beliefs around the condition, potential stigma of research results, lack of feed-back to the community once a project is completed, commercial ownership of DNA, overall impressions of exploitation of the communities as particular concerns" (Arbour and Cook, 2006, p.153). Harry (1996) strongly recommends and challenges all non-Indigenous people, to make every effort to be vigilant of Indigenous communities worldwide of the work of the 'Genome Organization and the Human Genome Diversity Project' (p.1). Dr Harry remains determined to inform our Indigenous communities, and advices us all, to "stand together, call upon the Human Genome Diversity Project, the Human Genome Organization to halt collection efforts,…to prevent the further violation and assault of their human rights, further appropriation of their natural resources, and to protect the integrity of life" (1996, p.1).

Then Harry (1996) describes the development of the National Geographic Society, where they announced a partnership with the IBM Corporation to launch the Genographic Project, which became the National Genographic project (National Geographic, 2019 (pp.155-156). According to lead geneticist Spencer Wells, the purpose of the project is "*to trace human roots from the present day back to the origin of our species, by creating a virtual museum of human history*" (Kalb, 2006, pp.155-156). More specifically, the virtual museum would be comprised of 100,000 DNA samples taken from Indigenous peoples around the world (Kalb, 2006, pp.155-156).

Reardon and TallBear (2012) comment that, "the Genographic Project does allow for self-identified[68] Indigenous populations to come forward and ask to be included in the study,

[68]Māori we self-identify.

standard practice is that scientifically interesting populations must conform to long-standing criteria of genetic distinctiveness conventionally associated with geographic isolation" (p.237). Next, Harry states that, "the National Geographic Society will not only collect images and cultural data but will also carry out the more invasive practice of collecting blood from Indigenous peoples around the world" (2005). Whereas Bardill (2011) reports that, "the… stories of genomics and genetics are constructed around the same faulty reference as blood, therefore do not provide an effective narrative of identity and belonging but merely reproduce the divisions of the past figure of blood" (p. 3). TallBear (2007) informs us about the quest of the National Genographic Project, to "sample 100,000 Indigenous and traditional peoples" (p. 413). Further, that the Genographic Project deploys five problematic narratives: (1) that 'we are all African'; (2) that 'genetic science can end racism'; (3) that 'Indigenous peoples are vanishing'; (4) that 'we are all related'; and (5) that Genographic 'collaborates' with Indigenous peoples. In so doing, Genographic perpetuates much critiqued, yet longstanding notions of race and colonial scientific practice (TallBear, 2007, p.414).

Genetic Research Ethics

The following section examines several cases that have influenced contemporary genetic research ethics. In 1947, the Nuremberg Code,[69] which is "a set of ethical standards for who conducted experiments on prisoners during World War II.[70]" Annas and Grodin (2011)sat that the Nuremberg Code, "is the most important document in the history of the ethics of medical research"[71] and that the Nuremberg Code is a primary foundational document informing al ethical codes on research with humans. Grodin (1992) states that the most authoritative legal and human rights code about human experimentation (p. 136). Forsberg (2012) comments that, "medical codes existed before Nuremberg, dating as far back as the Hippocratic Oath, written around 400 B.C. Although the oath did not deal directly with research subjects, it established the obligation to benefit the patient and not to inflict harm" (p.12). Harry (2009) reminds us that, "the situation exemplifies many of the ways researchers can disrespect participants in the course of research, including, but

[69]Appendix 12.
[70]The Nuremberg Code [from Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10. Nuremberg October 1946–April 1949. Washington, D.C.: U.S. G.P.O, 1949–1953.]
[71]The Nuremberg Code [from Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10. Nuremberg October 1946– April 1949. Washington, D.C.: U.S. G.P.O, 1949–1953.]

not limited to, breach of trust, lack of informed consent, allowing secondary uses of samples with unauthorized researchers, and unauthorized publications"(p.152).

The case of the HeLa cell line is another example where there was no respect, and no informed consent, for the research participant, and by extension, Indigenous Peoples. The HeLa was the first human cell line established in culture (Gey et al, 1952), and has since become the most widely used human cell line in biological research (p.2). This was established in 1951 from a biopsy of a cervical tumor taken from Henrietta Lacks, a working-class African American woman living near Baltimore (Callaway, 2013, S2.02). The cells were taken without the knowledge or permission of her or her family, and they became the first human cells to grow well in a lab (Callaway, 2013, p.S2.02). During this period, informed consent had not been obtained from Henrietta, nor did informed consent exist as it does today [although not to get complacent because a rogue researcher will still breach codes and informed consent]. People were routinely used in research without their knowledge (Skloot, 2013, p.4). One of the earliest uses of HeLa cells was to develop the vaccine against the polio virus (Scherer, 1953, p.). A PubMed search for 'HeLa' turns up more than 75,000 papers (Callaway, 2013, S2.02). "My lab is growing HeLa cells today," Collins told Nature in an interview on the NIH campus in Bethesda, Maryland. "We're using them for all kinds of gene-expression experiments, as is almost every molecular-biology lab" (Callaway, 2013, S2.02). In 1951 the biopsy of Henrietta Lacks' tumor collected without her knowledge or consent, the HeLa cell line was soon established (Callaway, 2013, p.S2.02).

In 1971 the Journal of Obstetrics and Gynecology names Henrietta Lacks as the HeLa source; then the word of this, later spreads in Nature, Science, and mainstream press. Then in 1973 the Lacks family members learnt about the HeLa cells for the first time (Callaway, 2013, p.S2.02). Scientists later collect their blood to map HeLa genes, without proper informed consent. Later in 1996 the family were honored at the first annual HeLa Cancer Control Symposium, organized by former student of scientist who isolated the HeLa cells (Callaway, 2013). Then in 2013 the HeLa genome published without the knowledge of the family, which later endorses restricted access to the HeLa genome data (Callaway, 2013). Henrietta's grandson David Lacks Jr. explains, "We wanted to get a better understanding of what information was going to be out there about Henrietta, and what information was going to be out there about us," (Callaway, 2013, p.S2.02). Landry (2013) reports that, "HeLa is the most widely used model cell line for studying human

cellular and molecular biology. To date, no genomic reference for this cell line has been released, and experiments have relied on the human reference genome" (p.1).

Another case that highlighted questionable research ethics is, the Tuskegee study of untreated syphilis which was one of the most atrocious scandals in American medicine in the twentieth century (Department of Health. Education. and Welfare, April 18, 1979, p.2). For a period of forty years, from 1932 to 1972, doctors and public officials watched four hundred men in Alabama die in a "scientific" experiment based on unethical methods that could produce no new information about syphilis. The subjects of the study were never told they were participating in an "experiment." Treatment that could have cured them was deliberately withheld, and many of the men were prevented from seeing physicians who could have helped them (Department of Health. Education. and Welfare, April 18, 1979, p.2). As a result, scores of people died a painful death, others became permanently blind or insane, and the children of several were born with congenital syphilis. How could this episode, requiring the collaboration of doctors, county and state health departments, draft boards, and the U.S. Public Health Service, have occurred? As Allan Brandt suggests, the Tuskegee study must be understood because of enduring American racism (Department of Health. Education. and Welfare, April 18, 1979, p.2). The outcome from this case was 'the Belmont report,' Sterling (2011) gives a summary of this.

> 'The Belmont Report' was written by the National Commission for the Protection of Human Subjects of Biomedical and Behavioural Research. The Commission, created as a result of the National Research Act of 1974, was charged with identifying the basic ethical principles that should underlie the conduct of biomedical and behavioural research involving human subjects and developing guidelines to assure that such research is conducted in accordance with those principles. Informed by monthly discussions that spanned nearly four years and an intensive four days of deliberation in 1976, the Commission published the Belmont Report, which identifies basic ethical principles and guidelines that address ethical issues arising from the conduct of research with human subjects (p.1).

Forsberg (2012) gives further recognition to other cases that were carried out earlier than the Belmont Report, that are examples of unethical research, such as, "the Jewish Chronic Disease case (in which cancer cells were injected into patients without consent) and the Willow brook case (in which hepatitis virus was injected into mentally retarded children)"

(p.14). Forsberg (2012) makes further comment on the Belmont report, where he identifies, "the principles of respect for persons, beneficence and justice as the moral basis for legitimate research involving human subjects" (p. 14).

In 2002, the Nuu-chah-nulth people of Canada had high rates of rheumatoid arthritis in their community. Back in the 1980's, the Nuu-chah-nulth agreed to participate in a genetic study on rheumatoid arthritis, so they donated over 800 blood samples to a genetic researcher, Dr. Ryk Ward, at the University of British Columbia to conduct a research study (Dalton, 2002, p.111). Dr. Ward left the University of British Columbia a few years later and took the samples with him to the University of Utah in the United States, then eventually to the University of Oxford in the United Kingdom. He was unable to show a genetic basis for arthritis in the tribe, so he used the samples for other research projects and even shared the data with his collaborators. Some of these studies included human migration research, HIV/AIDS, and even drug abuse research, studies for which the tribe never agreed or gave consent (Dalton, 2002, p.111). Even though the samples have finally been repatriated, the Nuu-chah-nulth are continuing to explore legal options to seek liability and compensation in this case of abject exploitation (Dalton, 2002, p.111).

In 1996, there was the infamous case of the 'Kennewick Man'. The 'Kennewick Man' debate is an "example of how human genetic diversity research may be used to authoritatively contradict Indigenous claims to identity and rights over human remains" (TallBear, 2007, p.417). A human skull believed to be 9,000 years old was discovered in the Columbia River in Kennewick, Washington State. Geneticists were charged with the impossible task of identifying him racially and tribally, and were of course unsuccessful, despite having destroyed some of the remains to do the tests. Scientists at first thought they belonged to a Euro-American settler, but when carbon dating analysis revealed them to be much older, a group of scientists called for DNA analysis on the remains in order to determine their 'cultural affiliation' (TallBear, 2007, p. 417). However, a clear message is that scientists need to rethink their whole approach to culturally sensitive research, the ethics that they apply or not apply. This is too often an area that is overlooked by some scientists.

Another example is the Havasupai case, which is what they experienced. Grodin (1992) asks you to "imagine that you donated some blood to a researcher, believing that it is

intended to identify a genetic link to an illness devastating the community, only to discover years later, that you had been misled, and other researchers were mining your DNA for reasons that were never disclosed to you" (p.140). This case transpired in 2004, with the *Havasupai Indian Tribe v. Arizona Board of Regents*.[72] The *Havasupai sued Arizona State University,* its Board of Regents, and three individual scientific investigators who had collected blood samples from tribal members. The Havasupai Tribe accused them of pursuing research questions and publishing articles about the tribe's migration patterns and its incidence of schizophrenia and inbreeding, topics that went beyond the original study focus on diabetes and that the tribe had not approved or found acceptable (Harry, 2009, p.152). The Havasupai Tribe says that their lives were "forever changed" when their "sacred blood" was taken from them, by researchers at Arizona State University and the University of Arizona, for what ended up being research without consent on "schizophrenia, inbreeding", and to support the 'Bering Strait Theory' of ancient-human migration (Generic Privacy, April 21, 2009).[73] Sterling, 2011) notes that the, "research subjects were not adequately informed about how their DNA would be used at the university, and this significantly impacted the integrity of their community and their trust of outsiders" (p.115). The Havasupai Tribe case demonstrates the lack of respect and abuse, imposed on Indigenous peoples when using research in Indigenous communities, "which has resulted far too often in the breach of trust, lack of informed consent, allowing secondary uses of samples with unauthorized researchers, and unauthorized publications" (Harry, 2009, p.152).

Caution must be taken with some of these research projects. Harry (2009) comments that, "in the field of behavioral genetics, research proposes a genetic basis for violent and aggressive behaviors in the Māori people in Aotearoa/New Zealand" (p. 152). Māori were identified as having the 'Warrior Gene. 'This is explained by McDermott et al (2010) as follows as follows;

> Monoamine oxidase A gene (MAOA) has earned the nickname ''warrior gene'' because it has been linked to aggression in observational and survey-based studies. However, no controlled experimental studies have tested whether the warrior gene drives behavioural manifestations of these tendencies. We report an experiment, synthesizing work in psychology and behavioural

[72]Havasupai Tribe v Arizona Board of Regents, 220 Ariz. 214, 217-218 (2008). Havasupai Tribe v Arizona Board of Regents, 220 Ariz. 214, 222 (2008).
[73]Havasupai Tribe v Arizona Board of Regents, 220 Ariz. 214, 222 (2008).

> economics, which demonstrates that aggression occurs with greater intensity and frequency as provocation is experimentally manipulated upwards, especially among low activity MAOA (MAOA-L) subjects. In this study, subjects paid to punish those they believed had taken money from them by administering varying amounts of unpleasantly hot (spicy) sauce to their opponent. There is some evidence of a main effect for genotype and some evidence for a gene by environment interaction, such that MAOA is less associated with the occurrence of aggression in a low provocation condition, but significantly predicts such behaviour in a high provocation situation. This new evidence for genetic influences on aggression and punishment behaviour complicates characterizations of humans as ‘‘altruistic’’ punishers and supports theories of cooperation that propose mixed strategies in the population. It also suggests important implications for the role of individual variance in genetic factors contributing to everyday behaviours and decisions (p.218).

Grant and Tamatea (2012) explain that “the warrior gene discovery was in fact a huge controversy” (p.41). They stated that “it involved the alleged predisposition towards violence and crime arising from a variant of the normal MAOA” (p.41). There is also greater likelihood that Māori inherit the ‘warrior gene’ than their European counterparts (Lea, 2007, p.5). Harry (2009), echoes what others have stated, that Dr. Rod Lea, a genetic epidemiologist claimed, that “Māori men have a “striking overrepresentation’ of monoamine oxidase, dubbed the warrior gene… [meaning Māori] are going to be more aggressive, more likely to be binge drinkers, smokers and violent and more likely to get involved in risk-taking behavior like gambling” (p. 153-154). Furthermore, Harry (2009) comments that Māori themselves were;

> quick to note that the research reinforced stereotypes of violence among the Māori and denounced the “warrior gene” research, citing “social issues, including high unemployment, poor educational achievement and in many cases severe poverty, to be the main contributors to Māori violence rather than a warrior gene (p.154).

Whereas Lea and Chambers (2007) researchers at Victoria University, reported that MAOA-L occurs in 56 percent of Māori men., “it is well recognized, that historically Māori were fearless warriors” (p.3). It appears that this racial profiling was based on a study of 46 men, who needed to have only one Māori parent to be defined as Māori (Lea and Chambers, 2007). Lea (2007) states that,

> It is well recognised that historically Māori were fearless warriors. Indeed, reverence for the "warrior" tradition remains a key part of Māori cultural structure today and one that many New Zealanders take an obvious pride in, especially in the sporting context. In an effort to explain the significance of our research findings we reason that the MAO- A gene may have conferred some selective advantage during the canoe voyages and inter-tribal wars that occurred during the Polynesian migrations and may have influenced the development of a substantial and sophisticated culture in Aotearoa (New Zealand) (p.5).

They conclude by stating that it is important that the incidental formation of this "warrior gene hypothesis" is interpreted for what it is, a retrospective, yet scientifically plausible explanation of the evolutionary forces that have shaped the unique MAO-A gene patterns that our empirical data are indicating for the Māori population" (Lea, 2007, p.4).

However, Crampton and Parkin (2007) emphasises that Aroha Mead and Moana Jackson have also critiqued genetic research undertaken by Dr Lea and others using a Kaupapa Māori epistemology (p.1). Their presentations were recorded at the Health Research Council (HRC)'s Hui Whakapiripi and Pridoc in 2006. Some Iwi (Ngāi Tahu for example) already have guidelines in place for DNA research and it may be useful to consider the development of guidelines or recommendations prior to participation in research in which DNA samples are taken. The 'warrior gene' has been, and continues to be, controversial for Māori, however, strongly rebutted by Indigenous researchers. What the research has highlighted, is the ongoing scientific profiling which has been about criminalisation of Māori. The next section will focus on Indigenous DNA.

What is Indigenous DNA?

> It is Blood Quantum's Contemporary: Genetic Testing: where an individual's ethnicity be identified by the genetics of his biology? This question is often investigated using genetic testing that allows individuals to see "where they came from". A brief Google search on the Internet reveals several websites and companies that offer genetic testing that will reveal one's ancestry and by definition, one's ethnicity. But ethnicities are fluid cultural constructions that can change multiple times, not something easily identifiable in our genes. Ultimately, genetic means are still rooted in a biologically determined significance, and not in kinship patterns that are culturally identifiable (Schmidt, 2011, p.8).

From a Māori perspective, DNA is our ancestral, current, and future whakapapa [genealogical] essence, it is taonga, wairua, mauri and our cultural anchor**.** This view is supported by Moana Jackson who stressed that 'descent in terms of whakapapa is the essence of being Māori' (Jackson, 2003) The Waitangi Tribunal which added that, *"being Māori' rather than European is as much psychological as biological. A Māori is one who has Māori ancestry and who feels himself to be Māori."*[74] Taiuru characterises genomics, as a "human or any individual living organism's (and those who have died) complete whakapapa of existence for all of eternity, encapsulating its past, present and future. A genome therefore is tapu as it contains whakapapa, mauri and wairua of tūpuna, the living and the future generations**"** (August 2, 2018).

However, that is not universally accepted. Indigenous Peoples have their own Indigenous DNA story and what journey that has taken to be able to define our own cultural status. Māori also have their own colonised experience which has impacted on the way that they define their Indigenous DNA, this was previously mentioned in Part 2 Blood quantum in practice. There has been, and still is, intense and weighty political control of Indigenous identity, which has historically been made legal in countries such as America and Canada. New Zealand states that blood quantum is irrelevant, in the 21st Century however, that is not true. DNA testing is Blood Quantum ideology, they are the same thing at a different time in history, they are just presented differently. The way the tests are carried out present as such. For example, Lana Lopesi explained her DNA report as being from "Northern and Southern Europe. My DNA tested French, Italian, Serbian, English, and Portuguese. No traces of Oceania at all! My ancestral homeland: Europe" (Lopesiv, 2016). Whereas most typical tests result in report that discusses a person's 'DNA Ethnicity Percentages' for example: Scandinavia 40%; Ireland 23% Great Britain 21%; Finland/ NW Russia 16%. The testing is often under question, this brief passage conveys the basic science explained by TallBear (2003) on Native American DNA. "Scientists have found certain.... "markers" in human genes that they call Native American markers because they believe all "original" Native Americans had these genetic traits ... It must be pointed out that none of these markers is exclusive to Native American populations" (TallBear 2003, p.83-84). Further, TallBear (2003) articulates that, "such ideas assert that cultural identity can be conclusively established in an individual's biology.' Science cannot prove an individual's identity as a member of a cultural entity

[74]Waitangi Tribunal, Wai 11 2003.

such as a tribe; it can only reveal one individual's genetic inheritance or partial inheritance" (p.84).

TallBear (2003) states "nonetheless, it may be a forewarning of future laws and policies based on assumptions that a person's or a people's political rights and cultural identity are biologically determined" (p.86). Globally, many Indigenous peoples, question genomic technology. "Issues of identity are of importance given that scientific pronouncements about identity claims may have profound social, cultural, political, and economic consequences for Indigenous peoples" (Walker et, al., 2016, p.2). They continue to state that, "using DNA in this manner may offer benefits in the short- term but could have long-term drawbacks if DNA is seen as necessary to substantiate or "prove" oral histories and traditional knowledge (Walker el et al, 2016, p.2). Ultimately, the testing of Indigenous DNA to determine one's native identity is, "still rooted in a biologically determined significance, and not in kinship patterns that are culturally identifiable (Schmidt, 2011, p.7). One of the concerns we would have here in Aotearoa/ New Zealand would be the challenging of our creation, and origin pūrākau. TallBear (2003) mirrors this concern noting that "Indian people have expressed suspicion that DNA analysis is a tool that scientists will use to support theories about the origins of tribal people that contradict tribal oral histories and origin stories (p. 87).

Commercialised DNA

As previously stated in the section on what is Indigenous DNA, it was highlighted that the number of Indigenous Peoples globally have increased in their engagement with taking the ancestry DNA testing to determine their tribal identity. This is a commercial phenomenon, and public interest continues to grow (TallBear, 2013, p.69). This section will begin with a glimpse at some media conversations from around New Zealand with regards to commercialised DNA testing. There appears to be a growing interest in ancestry DNA, TallBear (2013) echoes this, and explains that there has been a "development of molecular sequences, and since this, nearly half a million people have purchase genetic ancestry tests, and public interest continues to grow" (p. 69). In New Zealand, we have an entertainment show called, 'DNA detectives' that focuses on high profile Celebrities including political figures like Jacinta Arden our Prime Minister. The DNA Detectives found Jacinda Ardern's forebears came from the United Kingdom, Ireland, France, Germany, Scandinavia and Western and Eastern Europe. The DNA

testing is taken further, the following are five examples of this testing, in the media.

Firstly, in the article titled, 'My DNA results are in. I am whiter than the milkman', Lopesi states "my DNA tested French, Italian, Serbian, English, and Portuguese. No traces of Oceania at all! My ancestral homeland: Europe. I am whiter than the milkman. All jokes aside, the results are absurd. There was no trace at all of my Samoan father's bloodline" (April 23, 2016).

The second example is from the current affair television series Native Affairs, the episode is titled 'Native Affairs reveal DNA test of full-blooded Māori woman' (Dooney, 2017). Native Affairs presenter Oriini Kaipara explains that the DNA test revealed she was "100 per cent Māori". Yet Massey University Professor Murray Cox said it was hard to say exactly what 100 per cent could mean in this context. "We are shaped by the stories of our ancestors, and not necessarily by our gene. s" (April 12, 2017).

Finally, in this article 'Genealogical DNA: to test or not to test? An article for Stuff White states that "DNA has been used in medical, forensic and paternity cases, one thing that often causes concern is the issue of privacy, some people are anxious that police or insurance companies can force DNA information to be released" (September 8, 2016). Then, new research on ancient Pacific skeletons reveals Māori ancestors (Stuff, 2016). Three-thousand-year-old skulls found in the Pacific have confirmed early ancestors of Māori were from Asian farming groups. Researchers say this creates the first basic picture of the genomic makeup of Pacific Islanders and could give insights into why health issues like obesity and diabetes such challenges for Māori and Pasifika people are today. Published on Tuesday in the journal Nature, the study analysed the skeletons of the first people to settle in Vanuatu and Tonga. The bones were discovered at archaeological sites. The DNA sequenced came from three skeletons found in a 3000-year-old burial site in Vanuatu and one from Tonga, thought to be about 2500 years old. Researchers compared the data with DNA samples of 356 present-day humans from across Southeast Asian and Oceanic countries.[75]

While no tribes or First Nations currently use DNA fingerprint tests to confer citizenship, these tests are reconfiguring concepts of Native American race and identity in the twenty-first century (TallBear, 2013, p. 69). Genetic ancestry tests gauge linear biological descent

[75]New research on ancient Pacific skeletons reveals Māori ancestors: October 04, 2016: stuff:

along strictly maternal and paternal lines—or bloodlines, in the language of blood, a method of reckoning that is valid in some contexts but culturally narrow. This type of multigenerational lineal blood relationship tends to dominate thinking about family in the U.S., but it can be at odds with the concept of the tribe (TallBear, 2003, p.69).

From the above articles it can be concluded that DNA testing for Indigenous identity has been, and continues to be, problematic, and convoluted by the ideology and laws of blood quantum. Consider, the article on Lana Lopesi who is Samoan on her father's side, when she explained her DNA report, that missed any trace of her Samoan side. TallBear (year) states that "both women and men, inherit mitochondrial DNA from their mothers only. Similarly, only males inherit the Y-chromosome, from their fathers. Mitochondrial-DNA testing and Y-marker testing each show only one line of ancestry while many lines are invisible" (p.84). Next, you have our reporter Oriini Kaipara on the Native Affairs programme, who tested as 100 % Māori, however, the problem here is that there are no established Māori markers to determine Māori identity. In fact, what they are doing is sending your whakapapa overseas, to be used according to the company's research. These companies will store whakapapa data in biobanks, a consequence of participation in such activities which can lead to instances such as the case of the 'warrior gene' as discussed earlier. Another factor to consider is, "racial purity and blood quotients have historically been used in New Zealand to denigrate Māori or deny them their rights" (Taiuru, 2018). Further, in the article on 'genealogical testing', concerns have been highlighted around the taking, storing, and privacy of samples, as well as questioning how else these samples might be used. In an article by Taiuru (2017), the author considers in an article on her blog, the police using the samples and or insurance companies -image the future testing from an employee for illness or the health insurance companies for health probabilities such as heart disease or the "warrior gene. "Consider the case law that has been developed due to legal breaches for example, 'the Havasupai Tribe' who sued the Arizona State University, its Board of Regents, and three individual scientific investigators who had collected blood samples from tribal members. The Havasupai Tribe accused them of pursuing research questions and publishing articles about the tribe's migration patterns and its incidence of schizophrenia and inbreeding, topics that went beyond the original study focus on diabetes and that the tribe had not approved or found acceptable (Harry, 2009, p. 154). The final article is about the establishment of DNA sequences, these are created from archaeological sites,

consider the concerns about tampering with our dead ancestors, which is culturally inappropriate.

Malinowski et al. (1997) claims that, "genetic testing is like, biological tarot cards subject to misinterpretation. DNA tests treat Native American biology as though all Indians were essentially the same. But our traditions make us who we are, not just our biology" (p. 145). As discussed in the background[76] I attended the SING[77] event and on the second to last day attendees looked at the commercialisation of DNA. I did not believe that any Māori would engage with DNA testing. I was proven wrong. The Genographic team had been in New Zealand in March 2014, as they state on their site, "working with people of Pacific as well as European and other heritages to trace their genetic history" (National Geographic, 2014). The news article goes on to state, "that each person does this by just rubbing a cotton swab inside his or her cheek. We will then take the tiny resulting DNA sample and compare it with the Genographic database, revealing the person's place on the human family tree. In all our sampling sessions, we have gotten close to the incredibly diverse groups of people we've encountered" (National Geographic, 2014). The Genographic team, discussions the meeting of the Ngāi Tāmanuhiri community near Gisborne. The team then went to Wellington, were they stated that they, "collaborated with the Allan Wilson Centre were one hundred Wellington area residents participated in the Genographic project by swabbing with the latest version of their kit, 'Geno 2.0' to add their DNA to the project's worldwide effort to better understand human history and migration (National Geographic, 2014).

Blood Quantum v DNA

The following section looks at the similarities in the 21st century of blood quantum and the DNA testing. Using DNA and blood quantum to define who we are has a questionable history. The use of blood as a colonising tool to dispossess Indigenous people's property was particularly evident in the context of Indians (Spruhan, 2006). In the early 20th century, the U.S. government imposed several limitations on the exercise of two basic property rights that were grounded on the amount of Indian blood a person possessed (Spruhan, 2006).

[76] p.157.
[77] Summer Internship for Native Americans 2014, University of Texas [Austin].

TallBear (2000) discusses this, “contemporary and perhaps more sophisticated form of eugenics equates genetic markers with cultural continuity and seeks to use DNA to support or deny an individual or group claim to cultural and political rights (p.88). Further, TallBear (2000) discusses the politics of blood quantum, “if the use of DNA analysis to determine cultural affiliation is troubling because of its racial implications, the use by tribes of blood quantum to determine eligibility for citizenship cannot be ignored” (p.88).

Unfortunately, racial ideologies have persisted, the use of blood quantum formulas and genetic methods continue to make Indigenous peoples invisible. Not unlike the physical anthropologists of the late 19th and early 20th centuries, “biological determinism and its modern equivalent genetic essentialism are often difficult to move away from. Race, ethnicity, and even identity are social constructs not easily established in human biology” (Halualani, 2002 p.80). Next, is the conclusion for part 3.

Part 3 Conclusion

I conclude that the scientific construction of ‘Indigenous DNA’ has its theory of knowledge firmly attached to a history of western thought, that shaped blood quantum ideologies according to its own internal but, stem from a fundamental model logic. Questions that Indigenous peoples need to ask themselves prior to making any decision when participating in DNA testing is, whether this type of research is aimed at answering the queries participants are concerned about, and whether the remunerations of participation outweighs the risk/s. For most Indigenous peoples, given the chance to hear the full depth of the issues, the answer would be an outright ‘no’. No was the response I gave at the SING internship,[78]after only two and half hours of discussion, then I was asked for my DNA. This section considered the similarities of blood quantum and DNA testing. Finally, it considered what is beyond quantum. Asking whether our identity has been impacted on by Blood quantum ideologies. It explored the impact of blood quantum ideologies upon Indigenous peoples and consider what is an appropriate Indigenous construct of identity, which must include self-identification.

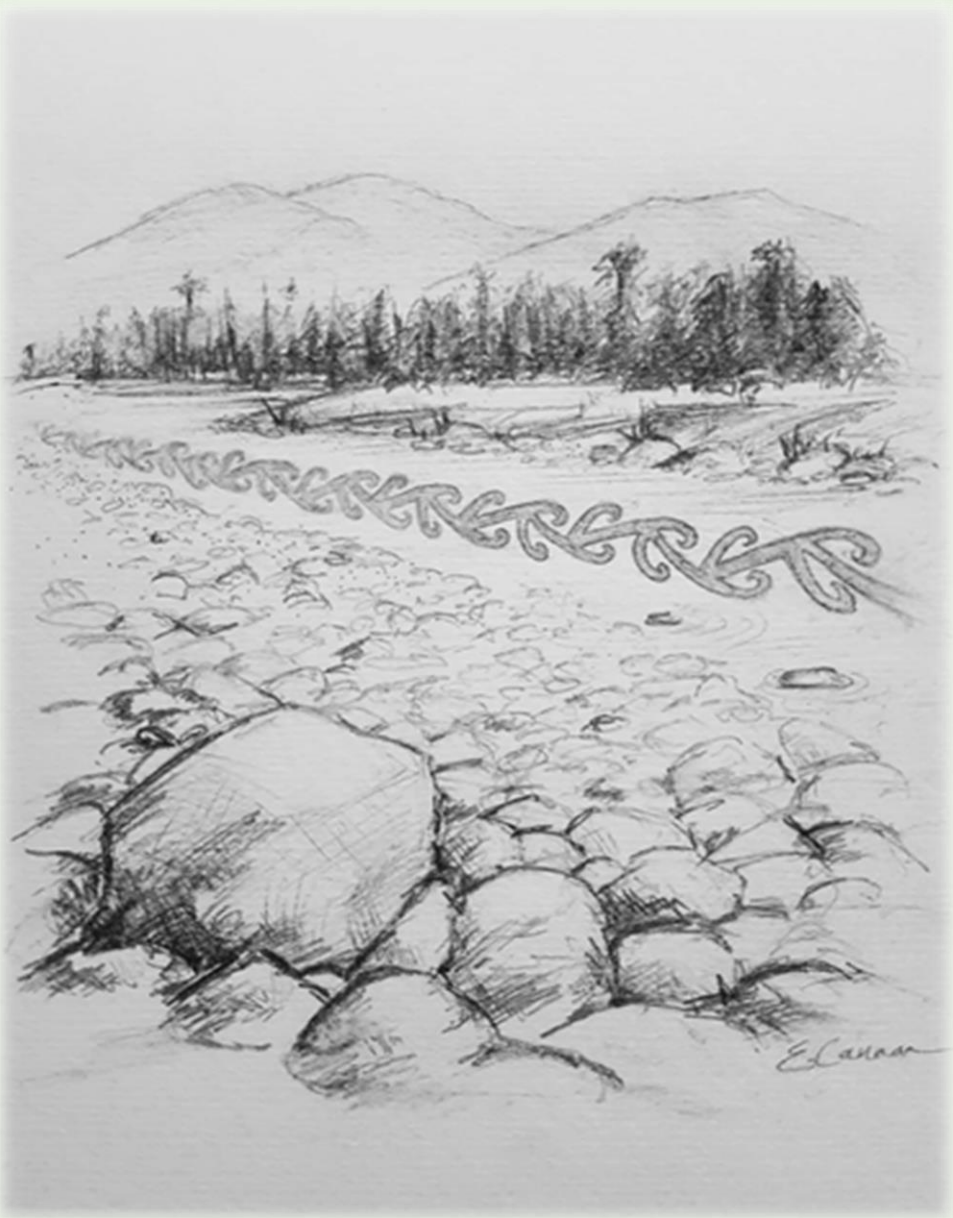
[78]Summer Internship for Native Americans 2014, University of Texas [Austin].

Part 4

“All pounamu is found in our waters, the waters are healing, that transcends through the generations, does not matter the percentage, of dark nor light, it is still pounamu our whakapapa remains” (Edwards A, Makō, 2018)

Artist Impression of Makō

(Cannan, Mako, 2019)



Makō

Ko Kāti Irakehu, Ko Kāti Makō, Ko Kāti Tārewa ngā hapū

Makō[79]was the chief of Ngāti Kurī and brother of Marukaitātea[80]of Kaikōura. The wife of Mako was Te Rōpuake lxxix eldest daughter of Te Rakiwhakaputa of Rapaki (Tau, 2008). Makō is our tupuna, we share whakapapa, and he is significant to our whānau, hapū and iwi, and our identity. Makō is represented by our wharenui and his presence is of paramount importance. The story we tell is that Makō saw the lake named Wairewa and the abundance of food, weka, kākā, kererū and tuna – were all there (Tau, 2008). Accordingly, Makō made his claim to Wairewa (Tau, 2008) with the well-known saying, "Ki uta he uruka mō tōku ūpoko, ki tai he turaka mō ōku waewae" (Tau, 2008). Makō settled with his people at Wairewa[81]and his descendants, including myself, take part in the annual harvesting of eels from the tuna heke[82] Each year the eels crawl over the shingles at Poranui[83] to the sea so they can make their way to breeding grounds in the Pacific Ocean. What follows are three very different stories of Makō.

The first story of Makō was compiled by a Māori author at the request of the descendants of Makō from Wairewa marae. The pūrākau conveys in three parts, the Pākehā story of Makō, my cousin's story of Makō, and a third story which I chose because it is an old story that parallels the contemporary struggle between legitimate versus acquisitive interests to determine the right to belong to a place and to a people.

[79]Makō-ha-kirikiri.
[80]Maru.
[81]Name of our Wharekai.
[82]Lake Forsyth.
[83]Eel migration.

Pākehā story of Mako

> H. Jacobson was an early European writer, much like Percy Smith and Elsdon Best, who wrote and had a substantial influence on Māori history and traditions. These writers produced many works but at times they would determine what traditions they would alter and narrate. As Monty Souter (1996) wrote, "tribal histories exist only as they are interpreted by their authors during a historical period and [that] this interpretation is influenced by the author's personal background and experience" (p.43).

After the destruction of Parakakariki and the death of Tu te kawa, the various chiefs of Ngāi Tahu engaged in the expedition of Moki expedition, who had not already secured a landed estate elsewhere for themselves, took immediate steps to acquire some part of the Peninsula. The rule they adopted was that whoever claimed a place first should have the right to it, provided the claimant performed some act of ownership. The claimant was entitled to as much land as he could traverse before encountering another selector. Te Rangi Whakaputa hastened to secure Te Whakaraupo (Port Cooper); Huikai hurried off to Koukourarata; Makō to Wairewa; Te Rua hikihiki landed at Wainui, and commenced at once to dig a fern root, and prepare it for food; he then passed round the coast, leaving Manaia at Whaka Moana, and others of his party at Waikakahi, taking up his own permanent residence at Taumutu. Tutakakahikura, one of the ancestors of Mrs Tikao, leaving his sisters and family at Pohatupa, walked quickly round the coast by the North Head of the Akaroa Harbour, and up the shore as far as far as Taka Matua, and thence round by Parakakariki to starting point. While crossing one of the streams that flow through the present township of Akaroa, he encountered O i nako, a Ngatimamoe chief, and a fugitive from Parakakariki. They engaged in mortal combat, and O i nako was killed, and the stream was ever after known by his name. Te Ake, the ancestor of Big William, landed at the Head of the Bay, and after trying in vain to reach Wainui, owing to the rough nature of the coast, he retraced his steps, and tried to get round the other side of the harbour, but, on reaching the grassy slopes between Duvauchelle and Robinson's Bay, he felt too tired to go any further, and took possession of the point and its surroundings by planting his walking stick in the ground; hence the place obtained the name of Otokotoko (walking stick) Fearing that his boundary towards the south might be disputed, Te Ake begged Te Rangi Taurewa to cross over in his canoe to a headland he pointed out, and here to hold up his white whalebone weapon,

while he himself stood at Otokotoko and watched him. His friend did as he was requested, and the headland has ever since been known as the "Peg on which Te Rangi Taurewa patu parao hung"—south side of French Farm. The beach below the point was called "The shell of Hine Pani," after some Māori lady who found a shell there, which she greatly prized.

Some years after these events took place, another section of Ngāi Tahu, under the command of Te Wera, a fiery warrior, destined to play an important part in the history of his tribe in the South, came in search of a new home. They landed at Hikurangi, hut finding that the place was already occupied, they sent to Whaka Moana for Manaia, a chief of a very high distinction, the Ūpoko ariki, or heir to all the family honors of more than one hapū in the tribe. On his arrival, a war dance was held in his honor, and there was much friendly speechifying. Te Wera, after indulging in some rude witticisms on the personal appearance of their "squint eyed lord," extended his right arm, and called upon Manaia to enter. Manaia rose up and passed under his arm, and so peace was confirmed between them; but, to cement their friendship still more firmly, Te Wera gave Irakehu, granddaughter of Te Rangi Whakaputa, to Manaia in marriage, and she became the ancestress of Mr. and Mrs. Tikao, Paurini, and the other chief persons in the Māori community here. Te Wera and his party then sailed away to the South, and established themselves for a time near Waikouaiti, where they were as much dreaded for their ferocity by other sections of their own tribe as by the Ngatimamoe, whom they were trying to exterminate.

For many generations Māori on the Peninsula remained in peaceful occupation of their new homes, undisturbed by foreign attacks or internal strife. Occasionally the bolder spirits amongst them would go away to take part in the wars against Ngatimamoe, which were carried on for many years in districts further to the South, or else to take part in some quarrel between different sections of the Ngāi Tahu tribe located elsewhere. Among those who went off in search of military honors was a certain heretical teacher named Kiri mahi who left Akaroa for the seat of war near and fell at the battle of Tara ka hina a tea. This Tohunga had told Turakautahi the younger that Tiki made man, whilst the fathers had always maintained that it was Io. Te Wera adopted a novel method to prevent the survival of this man's false teaching, through his spirit escaping and getting

into some other Tohunga. When the battle was over, he made an oven capable of containing the entire body, and then he carefully plugged the mouth, ears and nose, and every other aperture, and having cooked the heretical teacher, he managed, with the assistance of some of his warriors, to eat up every portion of him, and so successfully extinguished the incipient heresy.

The condition of those who remained quietly at home was enjoyable enough, for it is a great mistake to suppose that the old Māori life in peaceful times was one of privation and suffering; on the contrary, it was a very pleasant state of existence. There was a variety and abundance of food, and agreeable and healthy occupation for mind and body. Each season of the year, and each part of the day, had its specially allotted work, both for men and women. The women, besides such household duties as cooking and cleaning their houses, made the clothing and bedding required for their families. They gathered the flax and ti palm fibers used, and prepared and worked them up into a great variety of garments, many of which took several months to complete, and which, when finished, were very beautiful specimens of workmanship. The men gathered in the food and stored it in what has or storerooms, which were attached to every dwelling, and built on tall posts to protect the contents from damp and rats. Besides such natural products of the soil as fern root, ti palm stems, and convolvulus roots, they cultivated the kumara, hue, taro, and karaka. Fish of various kinds were caught during the proper season and cured by drying in the sun. Wild pigeons, kakas, paradise ducks, and mutton birds were cooked and preserved in their fat in vessels made from large kelp leaves, and bound round with totara bark to strengthen them Netting, carving; and the grinding and of stone implements and weapons occupied the old men, and much of the leisure time of the young. They beguiled the long winter evenings by reciting historical traditions and tribal genealogies, by repeating poetry and fairy tales, and by songs, dances, and round games. It was only when they fell ill, or were harassed by their enemies, that Māori of olden time can with any truth be represented as having been miserable and unhappy.

Our Hapū Story of Makō

Written on behalf of Wairewa Rūnanga by George Haremate in consultation with the executive.

Maru Kaitātea was the heir of Pūraho who led Ngāti Kurī through most of the difficult battles and first phase of the Southern migration, ultimately taking Kaikōura for himself. When the coast was cleared our relations who hesitated, mocked our boldness, and stayed in the North, while the descendants of Tahu formally consolidated at Kaikōura. Meanwhile, younger brother Makō Hakirikiri stepped out from the shadow of Maru, earning the esteem of his colleagues-at-arms by his deeds and his courage. At a hui south of Kaikōura, descriptions of the land southward and the resources it held were reported; in his turn, Makō claimed Southern Horomaka as his new home.

Eventually, Makō and his people went to Horomaka and settled Waikākahi, the enormous Ngāti Māmoe pā between Wairewa and Te Waihora. Later, Makō built a pā named Otawiri at the head of Wairewa and settled peacefully.

The wife of Makō wife was Te Rōpūake, eldest child of Te Rakiwhakaputa who a revered warrior and titular head of Ngāti was Kurī. Her mother was Hineteawheka of Ngāti Māmoe. Makō and Te Rōpūake had two daughters named Waimatuku and Marutuna. Waimatuku married Te Rakikakonui, the grandson of Maru, and the descendants of Maru are known as the "Ruahikihiki line". Waimatuku had two daughters: Te Korerehu who married Rakiāmoa, and Irakehu who married Manaia. The wedding of Irakehu is related in tradition as a political marriage. Kaumātua say that Irakehu lived at Whakamoa and was buried at Wainui. Whakamoa is the southern headland of Akaroa Harbour and was claimed by Rakitaurewa, the father of Manaia father, and it borders Wainui, the base of Ngāti Irakehu. In 1856, Hoani Papita Hakaroa, the senior Ngāti Irakehu rangatira, publicly explained to government officials that Whakamoa was Ngāti Irakehu territory.

The earliest recorded ship sightings at Horomaka date to the early 1790s. Ngāti Makō flourished for 7 generations at Wairewa (Little River) and our relations, Ngāti Irakehu of Wainui, also prospered. So much so that Te Maiharanui built a pā at Takauneke across the harbour from Wainui for the purpose of trade.

In the mid-1820s a civil war erupted, and circumstances changed dramatically. Even the coming of Te Rauparaha in the late 1820's did not stop the civil war; in fact, the northerners took advantage of the disunity created by the civil war. In 1830, Te Rauparaha abducted Te Maiharanui and sacked Takauneke. In 1832 at Ōnawe some Ngāti Irakehu were tricked by our relations and quickly overwhelmed in the fighting with less than 50 escaping, and those who survived were taken as slaves. The consequences were devastating as most of those who had scattered before the fighting as well as many of the enslaved never returned to Ngāti Makō lands. Around this time the eastern and southern Te Wai Pounamu Māori amalgamated into a cohesive military force, for the first time ever, around a common objective. The newly consolidated Ngāi Tahu waged magnificent campaigns in 1833 and 1834, the objective of which was to defeat Te Rauparaha and oust the invaders for good.

My pūrākau of Makō

> A story which I chose to write because it is a story that parallels the contemporary struggle between legitimate versus acquisitive interests to determine the right to belong to a place and to a people.

Koro Tuna, Kāhu (the swamp hawk) and a boy called Makō with a magical pounamu.

Long ago in the crystal-clear waters of Waihora, there lived a Tuna (eel) named 'Koro. His trustworthy whanaunga was a young boy called Makō. Makō wore a magical pounamu. Koro also had magical powers that were gifted to him, enabling him to fly and swim faster than any other in Waihora[84].

One day, Koro spotted that mischievous Kāhu coming their way. Koro rushed back to his whanaunga and said, "Makō, the mischievous Kāhu is coming this way and we have to be careful. Last time he tried to take your pounamu".

"I am now of this whenua," said Makō. "Why should I be afraid? Let us go and hui with him". When they saw Kāhu, they were all surprised as they had never seen him in such a state. "Who is it that you want Kāhu and what is it that you're doing in Waihora?" asked Koro.

"I've lost my way. Please help me!" said Kāhu.

[84]Birdlings Flat.

Kāhu was badly injured and was too weak to hunt, let alone attempt to take the magical pounamu from Makō, like he did the last time. However, out of pity, and with a heart full of aroha[85], Koro asked him to stay with them until he recovered. Makō was not happy, but he had to respect the wishes of Koro who was an elder, a kaumatua, and his tupuna.

Days passed by and Kāhu got stronger. As he recovered, his old ways of thinking returned, and distorted bloodlines of heroism soon became powerful thoughts. He knew what he wanted and that was to belong here in Waihora; not as the whāngai but as someone from here, just as Makō had got here. He also wanted the right to claim the magical pounamu.

Kāhu took Makō aside and said, "cousin, I know we have had our differences, but why don't we work together to replace that old Koro? He's done his time in Waihora". "No doubt that's a great idea, but how do we do that? Said Mako. "Our Koro has assured protection; in fact, not only has the whakapapa to Waihora, but he also has a long-standing relationship with Waihora," Makō continued. Together, Makō and Kāhu made a secret plan to rid Waihora of Koro. With tears in his eyes, Makō told Koro "Kāhu wants to be the Rangatira of Waihora".

When Kāhu tried to apply the plan and before any of them could blink, Koro stood up and said, "there is no food in the swamp for you, Kāhu. I request that you leave now, or you will be my meal". Now Makō was not the only one to tell Koro that Kāhu wanted to be the rangatira of Waihora. He already knew what was about to take place because the ruru had told him the plan by Kāhu.

"Go back to where you belong, go back to the North," shouted Koro to Kāhu. "Return to your swamp where you belong, and never return here again. If you do, you will be captured, plucked, and eaten. I'll have no second thoughts, although your body is too small to satisfy the hunger of my puku" said Koro. Koro and Mako live alongside each other at Waihora to this very day, undisturbed by Kāhu and anyone else seeking to steal their very whakapapa, whenua, and whanau!!

"Genealogy is undisputable"[86]

[85]Because Kahu once a whāngai, no bloodlines but brought up here, however, his whanau had moved out a long time ago.
[86]Enoka Rolleston.

The outcome of this pūrākau is to highlight the historical importance of whakapapa or genealogy, as described by Rolleston, to Ngāi Tahu, and to ask whether whakapapa remains important. One approach to determining importance is to examine contemporary legislation that defines membership to Ngāi Tahu.

Applying the legislation to my own whānau, Te Rūnanga o Ngāi Tahu Act 1996 states that I am a blood descendant of Ngāi Tahu if I can prove that I descend from any of the 1848 Kaumātua of Ngāi Tahu iwi endorsed by the Act. The Act notes:

1. the persons, being members of Ngāi Tahu iwi living in the year 1848, whose names are set out in the list appearing at pages 92 to 131 (both inclusive) of the book containing the minutes of the proceedings and findings of a committee (commonly known as the Ngāi Tahu Census Committee) appointed in the year 1929, the book being that lodged in the office of the Registrar of the Māori Land Court at Christchurch and marked "Ngāi Tahu Census Committee Minutes 1929

2. any other person who may, pursuant to the provisions of subsection (4), be determined to be a member of Ngāi Tahu iwi living in the year 1848.

3. Where any question arises as to whether a person is a descendant of any of the persons who are referred to in paragraphs

   (a) and (b) of subsection (1), Te Rūnanga o Ngāi Tahu shall have authority to determine that question.

4. Any person who is not a member of Ngāi Tahu Whanui by virtue of that person being a descendant of any of the persons mentioned in paragraph (a) of subsection (1) and who claims to be a descendant of a member of the Ngāi Tahu iwi who was living in the year 1848 may apply to Te Rūnanga o Ngāi Tahu to have that member determined to be a member of Ngāi Tahu iwi living in the year 1848.

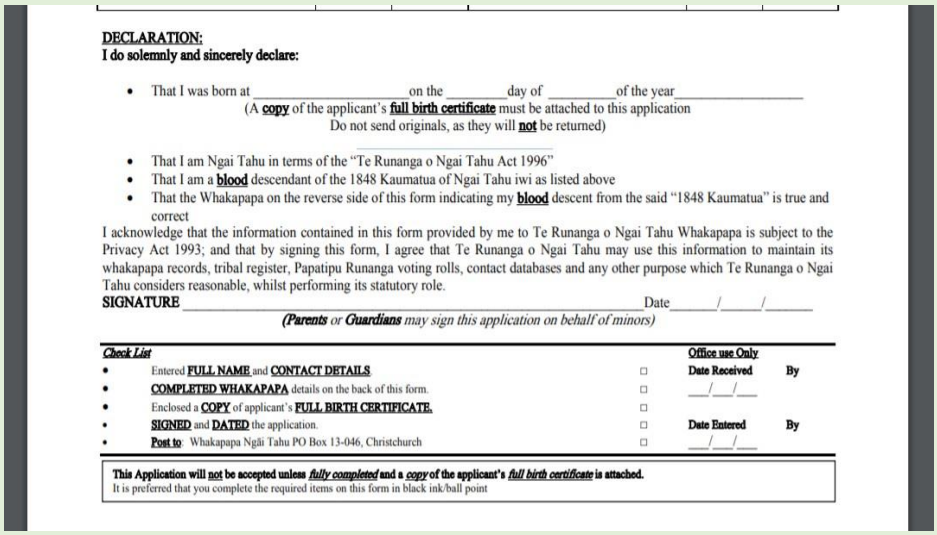
   The Rūnanga o Ngāi Tahu shall consider any application made

under subsection (3) with all convenient speed and shall notify the applicant of its decision and, if the applicant so requests, of the reasons for its decision.

5. If Te Rūnanga o Ngāi Tahu rejects an application made under subsection (3), the person making the application may, within 6 months after the date upon which that person is notified of the decision of Te Rūnanga o Ngāi Tahu, apply to the Māori Land Court to hear and determine the question.

6. The Māori Land Court shall have jurisdiction to hear and determine the question and any determination made by the Māori Land Court shall be final and conclusive.

Regarding the issue of whāngai or adoptees, the Act describes the legal status of both. Adoption is addressed by Te Rūnanga o Ngāi Tahu Act, by policy AND by state legislation and policy. Te Rūnanga o Ngāi Tahu policy is that whāngai or adoptee enrolments are only accepted from direct bloodline descendants of the Kaumātua in the 1848 Ngāi Tahu Census. Adopted persons are therefore not eligible to enrol as Ngāi Tahu beneficiaries unless they are of Ngāi Tahu descent. This position is underpinned by legislation through Te Rūnanga o Ngāi Tahu Act 1996, Section 7.



DECLARATION:
I do solemnly and sincerely declare:

- That I was born at _____ on the _____ day of _____ of the year _____
  (A **copy** of the applicant's **full birth certificate** must be attached to this application
  Do not send originals, as they will **not** be returned)
- That I am Ngai Tahu in terms of the "Te Runanga o Ngai Tahu Act 1996"
- That I am a **blood** descendant of the 1848 Kaumatua of Ngai Tahu iwi as listed above
- That the Whakapapa on the reverse side of this form indicating my **blood** descent from the said "1848 Kaumatua" is true and correct

I acknowledge that the information contained in this form provided by me to Te Runanga o Ngai Tahu Whakapapa is subject to the Privacy Act 1993; and that by signing this form, I agree that Te Runanga o Ngai Tahu may use this information to maintain its whakapapa records, tribal register, Papatipu Runanga voting rolls, contact databases and any other purpose which Te Runanga o Ngai Tahu considers reasonable, whilst performing its statutory role.

SIGNATURE _____ Date ____/____/____

***(Parents** or **Guardians** may sign this application on behalf of minors)*

Check List		Office use Only	
• Entered **FULL NAME** and **CONTACT DETAILS**	□	**Date Received**	**By**
• **COMPLETED WHAKAPAPA** details on the back of this form.	□	___/___/___	
• Enclosed a **COPY** of applicant's **FULL BIRTH CERTIFICATE.**	□		
• **SIGNED** and **DATED** the application.	□	**Date Entered**	**By**
• **Post to**: Whakapapa Ngāi Tahu PO Box 13-046, Christchurch	□	___/___/___	

This Application will not be accepted unless *fully completed* and a *copy* of the applicant's *full birth certificate* is attached.
It is preferred that you complete the required items on this form in black ink/ball point

Figure 8: Whakapapa Registration Form (Ngāi Tahu).

Part 4 Thesis Conclusion

This thesis is a pūrākau, it is an ongoing story, pages of research, and an exploration of Indigenous identity. The pūrākau possess, and addresses questions about being Indigenous, determining Indigenous identity and understanding its meanings. The research intentions were to explore the current state of the laws based on blood quantum ideologies and the theories underpinning these laws. The overarching scaffolding is blood quantum, the elements, or the standards[87] are the concepts that collectively contribute to that framework such as colonisation and assimilation. This thesis also asked, 'What is beyond quantum?" This was identified as the newly developed tools such as commercial DNA testing, which I have argued is a falsehood, blood quantum in disguise, which continues this assault on our Indigenous identities and is an unremitting assault on our whakapapa. It is my contention that this must stop, our Indigenous communities need to shift the current position of allowing non-Indigenous peoples, politicians, law makers and others, determining our identity at every level. We must change the narrative of identity, we must create a journey of recovery through 'narrative knowledge management,' 'to elicit and disseminate knowledge, encourage collaboration, generate new ideas, and 'ignite change'. We must be the ones telling our own pūrākau. The fundamental issues that were generated with this topic were how and why have political legal implications taken precedence over personal principles of Indigenous identity? Who determines Indigenous legal identity? Who determines identity? Who defines tribal membership and affiliation? What is the future beyond blood quantum? And who will determine that? These themes and messages are woven within this thesis, and the following section of this conclusion will draw out the main themes to give answer to the initial questions that were posed.

Consideration was given to the political and legal implications of blood quantum which has often taken a precedence over personal principles of Indigenous identity. For example, the coloniser's tool of labelling us quarter castes is often greater than our Indigenous self-identifying. However, for political purposes, these originated in colonial times of the seventeenth century, the complications, and complexities of defining who an Indigenous individual is truly remains contentious issue. It is very relevant and very real for our peoples. This thesis drew on Indigenous Māori

[87] Parts of the scaffolding.

methodology of pūrākau, storytelling for a structure and method for exploring questions about Indigenous identity. A snippet of pūrākau ignited each part, these were personal stories, which were set in a context and conveyed the complexity and significance of the issue. Then, the thesis examined the impact of the ideologies that sit behind the term blood quantum. The pūrākau approach enabled the research to harness mātauranga Māori knowledge, such as whakapapa and kōrero tuku iho alongside western thought. Which is now inked in academic disciplines such as the study of law. Section one of Part 2 opened with a definition of history. The section then explained how blood quantum ideologies evolved including the discourse concerning the legitimacy of claims to identity characteristics, racial anthropology, and scientific racism. Importantly, 'scientific racism' claimed to establish an empirically scientific connection between race and intelligence to promote the idea of "superior" and "inferior" human races. What is important for future change, is that we all must be the agents of change, we are the ones that need to be defining or self- identifying ourselves as Indigenous peoples, at every stage.

Further, there was a substantive discussion on relevant theories that were used to rationalise and legitimise blood quantum laws, policies, natural law; social Darwinism; colonisation; imperialism, assimilation; cultural genocide and Holocaust. In short, the concepts of the colonisation, imperialism and assimilation of Indigenous colonies and normative legal systems, were executed under the Christian concept of natural law which influenced the development of racist schools of thought. It is imperative to emphasise that while there have been numerous schools of thought throughout history; the newer schools of thought are merely a revitalisation of the former thinking. History is therefore fluid and not static, repeated and not learned from. Consequently, the Nuremburg laws in Nazi Germany allowed the unrelenting exploitation of the Jewish peoples by Hitler in his attempts to create a 'master race' and to purify Europe with the liquidation of all Jewish peoples via legal mass murders. In a similar manner, blood quantum laws were used to test, legitimise and rationalise such laws, policies and genocidal results for example when the colonisers adopted genocidal strategies such as forced relocations for example the "Trail of Tears" of the Cherokee and Navajo Nation (p. 383). This thesis deliberately weaved in the story of the Jewish People, it is a discussion that must be had, as blood quantum was applied throughout many of the Nazi laws by Hitler. It is a reminder on how malevolent things can get if we do not

address the treacherous ways when it first raises its head. Blood Quantum ideology is an insidious matter, which we must tell, teach, discuss by pūrākau, where it is appropriate and we must keep retelling those pūrākau, till everyone around us understands.

Indigenous peoples should be defining who they are and how they are recognised legally not the State, scientists, anthropologists, and external policy makers. Unfortunately, many Indigenous peoples have brought into the alleged scientifically 'proven' theories that have historically defined them as being an inferior people worthy of discrimination. Indigenous peoples have been historically and, in more recent times, scientifically considered to be a people of an inferior blood line, who can be trampled on, systematically murdered through unjust laws, and institutions, and systematically subjected to State instituted genocide and holocaust. So-called scientists, anthropologists, benevolent Church ministers and political leaders, lawyers and public servants have much to answer for when it comes to redefining and re-destroying Indigenous peoples. Blood quantum laws and policies were merely a smoke screen for committing heinous genocidal crimes, sins, and practices which the same people decreed as being inhumane to superior races. Sovereignty represents a people's efforts to preserve their way of life, such as their culture. Citizenship is the foundation of sovereignty. Consequently, citizenship criteria need to be tailored to the purpose of preserving culture (Oeser, 2010).

Furthermore, it is argued that Indigenous legal identity must be determined by Indigenous communities for the benefit of Indigenous communities. Perhaps we all have those pūrākau, consider the blood narratives, the blood memory of Native American peoples. One must be mindful of both colonial impositions, the Euromerican alienation of Indian blood and the U.S. government's definitions and fractionalization of 'Indigenous blood' (Huang, 2006, pp172-173). For example, it is noted that, blood quantum fractionalizes Indigenous identities, whereas 'blood memory' functions as a synthesizing power that recovers the missing blood links for them (Huang, 2006, pp172-173). It is the understanding and the defining of what blood memory is. For example, the "concentrating on Native memoirs, this study approaches memory and remembrance both as a cultural and as a genetic category that defines Native American identities (Huang, 2006, p.171). These memories are like our pūrākau. This leads into the development of my conceptual identity framework, the discussion of identity starts with and ends with

pūrākau, the following quote captures this, “if you don’t know where you’ve come from, you don’t know where you’re going”[88] The development of this framework came from the desire to transform, therefore igniting chan.ge, specifically within Ngāi Tahu whānui, although transferable to other Indigenous peoples who would weave together threads, such as mythology, whakapapa, belonging, relationships, identity, tribal legislation, self-identifying with the use of pūrākau. I would go as far as suggesting that these are the memories in the blood or ‘blood memories. For example, Momaday brings to life the stories of his grandmother by relating it to the ‘memory in her blood’. It is stated that the “genetic constitution preserves memory in the body” (Huang, 2006, p.184). Huang (2006) further states, “the immense landscape of the continental interior lay like memory in her blood. She could tell of the Crows, whom she had never seen, and of the Black Hills, where she had never been” (p. 184).

The Isleta Pueblo Peoples are an example of how Indigenous peoples are maintaining sovereignty over their cultural identity. Their greatest shift is to achieve tribal awareness and recognition to rethink the blood quantum policy. For instance, tribal members support restructuring of the policy about tribal membership through democratic processes. (see ‘Appendix 12’). Pueblo leaders are questioning how the blood quantum policy has hindered the community’s overall growth. Pueblo leaders can also incorporate long- term vision of the tribe as to the aspirations of community and sustainable development. Leaders can also think about a more inclusive government and allowing community members to participate in the formation of policy and budgets. Pueblo leaders can conceptualize a process in creating spaces in the community to voice concerns about the blood quantum policy and tribal government leaders can be involved in this process.; Pueblo leaders can explore further the impact of population growth on community sustainability in the context of the blood quantum policy; Conceptualizing how the current socio-demographical shift can shift in the next two decades; How has tribal leadership though about this in the scope of a long-term vision? (Huang, 2006).

Therefore, who determines identity? Who defines tribal membership and affiliation? The overall purpose of this part was to explore and discuss the selection of tools that has supported the weaving together of methodologies and theories. This process enabled an

[88]Maya Angelou.

effective discussion that is necessary to take place in this research of identity. Firstly, Kaupapa Māori as a methodology, provided an excellent framework for understanding why particular theories, are embedded in everyday studies. Kaupapa Māori contributed to the overall scaffolding in this reflective practice, improving the flow of each part, as well as engaging in the self-study of a researchers' practices. Next, whakapapa was part of the scaffolding, it was a section of the joinery which enabled and strengthened thought. Further, the openness of pūrākau, waiata, whakataukī were used as a tool within the scaffolding. This was to enable and give the ability to, achieve and consider different perspectives of study through legal philosophy, comparative study, a space of negotiating and sharing ideas whilst being critical.

Further, the process of decolonising previous research by reframing had occurred. This was accomplished through reflection, which allowed me as the researcher to be "open… to new interpretations" (Hamilton & Pinnegar, 1998, p. 2), and then "reinterpret and reframe [my] situation" (Zeichner & Liston, 1996, p. 16). The previous section introduced and examined the background to, and philosophy of, the 'Conceptual Identity Framework for Ngāi Tahu Whānui' (see: Visual of framework Appendix 1). Which is a visual representation of whakapapa using our ancestral maunga, awa, whenua and pounamu. This framework is a weaving together of threads, such as mythology, whakapapa, belonging, relationships, identity, tribal legislation, self-identifying with the use of pūrākau. It draws on collective relationships that are suggested about our ancestors. As stated in the Ngāi Tahu 2025, "our whakapapa is our identity … it makes us unique and binds us through the plait of the generations – from the atua to the whenua of Te Waipounamu." (Ngāi-Tahu, n.d, p.5).

A key point is that there seems to be this scientific rationality according to which its functions are transformative in both the medical and behavioral arenas. Hence the scientific construction of 'Indigenous DNA' has its theory of knowledge firmly attached to a history of Western thought. Western thought shaped blood quantum ideologies. The question that Indigenous Peoples need to ask themselves prior to making any decision in participating is whether this type of research is aimed to answer the queries they are concerned about, and whether the remunerations of participation balance the risks. For most Indigenous peoples, given the chance to hear the full depth of the issues, the answer would be an outright 'no'.

Therefore, considering the conclusion, further research should be carried out to consider whether our laws in New Zealand are strong enough to protect our Indigenous peoples from any DNA and or genome falsehoods that may present, such as Anscetry.com or future DNA-based research studies. Studies or events that are intent on categorising our peoples into anyone of the previous concerns, for example should the hapū from the North be asked to participate in genetic testing to determine whether they hold a vulnerable gene to Rheumatic fever? When in fact the contributing causes have already been identified in social conditions such as housing, health and dietary. In addition, a clear case is needed to strengthen any research carried out in any Indigenous communities and the rethinking of informed consent must be paramount, for instance the 'heel prick' or 'Guthrie' test. Are there enough measures in place to safeguard and protect Indigenous rights, beliefs, and priorities? Finally, there is much to consider in local, National and Pacific Laws and policies in the ethics of research, and in criminal, medical, commercialisation of DNA and tribal associations, the list is wide-ranging. There is a lack of Indigenous peoples in advisory roles to the scientific community, which prevents proper relay of cultural values and concerns that developed because of difficult histories of Indigenous peoples encounters with science, and commercialised DNA. This lack of leadership also leaves few individuals who can explain the uses and limitations of scientific research to Indigenous people's communities that are considering participating in this or any other scientific project.

Consequently, this thesis has encouraged that we as Indigenous peoples must determine what is right and relevant for us, as a people. This thesis has explored possible self-determination techniques which emphasises pūrākau in establishing identity. This research has developed pūrākau as a pedagogy and it created a journey of recovery through the application of pūrākau in decolonising blood quantum ideology. Some of these tools considered are about knowledge management in wānanga, workshops. It is about designing tools such as the 'Conceptual Identity Framework for Ngāi Tahu Whānui', which will stimulate and disseminate our Indigenous knowledge. With reference to the conceptional framework (see: Appendix 1 and 2) which applies Pūrākau as a decolonising Indigenous identity tool, it becomes the resource for a decolonising programme. The core parts of the decolonising programme may be depicted in learning tools, which are presented over a two-day wānanga. These new learning tools will

counteract our Indigenous peoples from being trapped within these social constructions.

1. Pūrākau as shared story work on whakapapa;
2. Understanding Blood Quantum ideologies and selected practices;
3. Partitioning of Māori identity;
4. Pūrākau as shared story work on partitioned identities;
5. Understanding the political and emotional inter-generational labour of partitioned identities;
6. Understanding DNA discourses and practices;
7. Pūrākau as shared story work on being self-defined as Māori;
8. Understanding the responsibility and ethics of Indigenous self-identity.

The conceptual framework, in fact provides for the development and strengthening of being Indigenous through understanding what is ancestrally paramount to us, as a people. If we consider being Ngāi Tahu, then Aoraki, is the supreme ancestor under whose mantle the land and all the people living upon it are protected. The Waitaki is also the river that has special significance in the history of our people, its importance is boundless (Carter, 2003). The Waitaki River is a solitary inseparable being, flowing from Aoraki merging with the Arahua, Taramakau, and Wakatipu Rivers. Our maunga, awa, pounamu and taonga are interwoven into the fabric of the Ngāi Tahu people with their identity. This sense of connectedness to being Ngāi Tahu is enhanced through the story telling of our maunga, awa, iwi,[89]hapū, and pounamu.

Ultimately, Indigenous peoples in Canada, New Zealand and United States of America need to be the ones in control of their identity; tribal affiliation; cultural continuity; destiny, DNA, and the way they/we, are defined legally.

"Genealogy is undisputable" (Rolleston, 2018)

[89]Iwi as a construct or the story of developing Iwi.

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Māori Prisoners Trials Act 1879
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Suppression of Tohunga Act 1907
Te Runanga o Ngāi Tahu Act 1996, NZ.

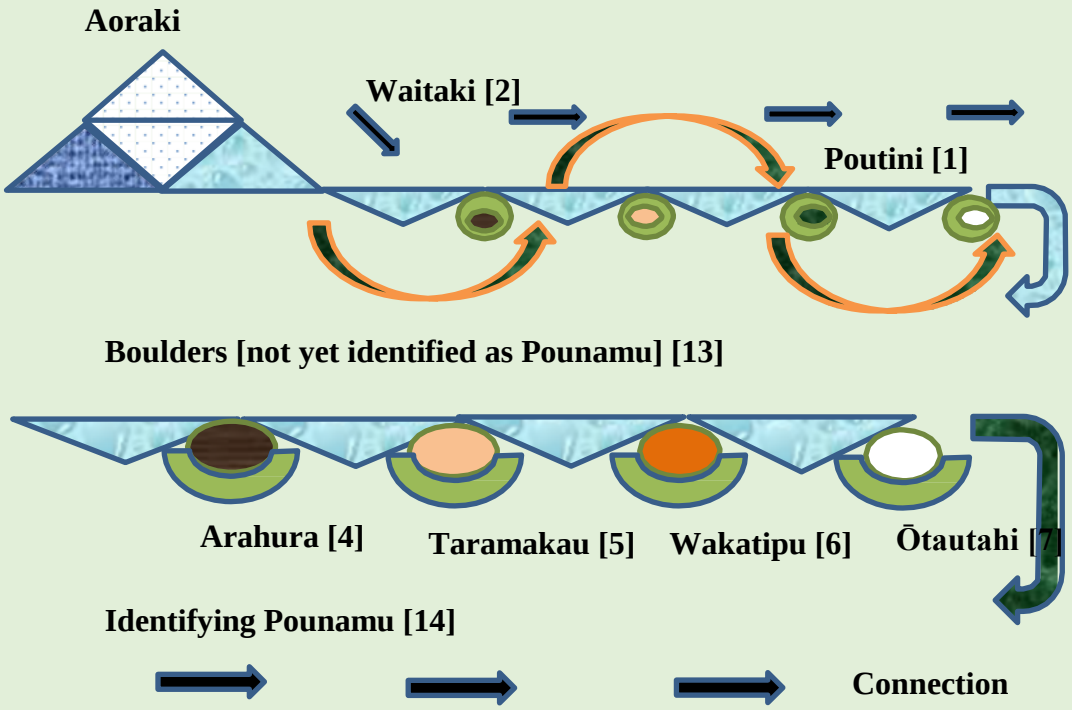
The Indian Act 1876. Canada
The Population Registration Act 1950 South Africa
The Gradual Civilization Act

Case Law:

Prosecutor v. Radislav Krstic (Trial Judgement), International Criminal Tribunal for the former Yugoslavia (ICTY), 2 August 2001: https://www.refworld.org/cases,ICTY,414810d94.html [accessed 9 May 2020]

Appendices

Appendix 1: Conceptual Identity Framework for Ngāi Tahu Whānau Whānui.



Ko Aoraki te Mauka Ko Waitaki te awa. Ko Tākitimu te waka
Ko Tahu Potiki te takata
Ko Kāti Irakehu, Ko Kāti Makō, Ko Kāti Tārewa ngā hapū
Ko Te Rapuwai, Ko Waitaha, Ko Kāti Māmoe, Kai Tahu ngā iwi Ko Ōnuku; Ko Wairewa ōku marae tūturu
Ko te whānau Ropata tōku whānau Ko ēnei taoka, ko ahau
Ko Alvina Edwards ahau

Features of the framework

1. Poutini
2. Waitaki
3. The story of pounamu
4. Arahua
5. Taramakau
6. Wakatipu
7. Ōtautahi
8. Wairewa
9. Ōpukutahi
10. Ōnuku
11. The story of Identity
12. Te Whakapapa o pounamu
13. Boulder [not yet identified].
14. Identifying Pounamu
15. Transitioning of the Pounamu
16. Pounamu Taonga

Appendix 2: Glossary for the Conceptual Identity Framework for Ngāi Tahu Whānau Whānui:

Awa	River, stream, creek, canal, gully, gorge, groove, furrow.
Arahua	The Arahura River is a river located on the West Coast of the South Island of New Zealand.
Ahau	I, me - unlike other pronouns and personals, does not take a when following ki, i, kei and hei.
Aoraki	Aotearoa/New Zealand's highest mountain.
Ēnei	These (near me).
Hapū	Kinship group, clan, tribe, subtribe - section of a large kinship group and the primary political unit in traditional Māori society. It consisted of several whānau sharing descent from a common ancestor, usually being named after the ancestor, but sometimes from an important event in the group's history. Several related hapū usually shared adjacent territories forming a looser tribal federation (iwi).
Iwi	Extended kinship group, tribe, nation, people, nationality, race - often refers to a large group of people descended from a common ancestor and associated with a distinct territory.
Ko	A particle with no English equivalent used when talking about something specific and used before proper names, pronouns and common nouns preceded by a definitive.
Ōnuku	Marae.
Ōtautahi	Christchurch.
Ōpukutahi	
o	Of, belongs to, from, attached to - used when the possessor has, or had, no control of the relationship or is subordinate, passive or inferior to what is possessed.
Ōku	My, of mine, belonging to me (more than one thing) - plural of tōku.

Pounamu	Greenstone, nephrite, jade.
Poutini	Coastal and sea area along the west coast of the South Island.
Ngā	The - plural of *te*.
Ngāti / Ngāi / Kāti	Prefix for some tribal groups' names with an ancestral name usually beginning with 'T', now written as a separate word, e.g. Ngāi Tahu.
Tōku	My (referring to one item) - a possessive often followed by a noun but can stand without one.
Takata / Tangata	Person, man, human being, individual.
Taramakau	The Taramakau River is in the northwest of the South Island of New Zealand.
Taonga / Taoka	Treasure, anything prized - applied to anything considered to be of value including socially or culturally valuable objects, resources, phenomenon, ideas and techniques.
Tākitimu	A migration canoe - the crew of this canoe from Hawaiki are claimed as ancestors by Ngāti Kahungunu, Ngāi Tahu and Ngāti Ranginui.
Te	The (singular) - used when referring to an individual or thing.
Waka	Canoe, vehicle, conveyance, spirit medium, medium (of an *atua*).
Wairewa	Lake Forsyth (Banks Peninsula).
Whānau / Whānauka	Extended family, family group, a familiar term of address to several people - the primary economic unit of traditional Māori society.
Wakatipu	Lake Wakatipu is an inland lake in the South Island of New Zealand.
Whakapapa	Genealogy, genealogical table, lineage, descent reciting *whakapapa* was, and is, an important skill and reflected the importance of genealogies in Māori society in terms of leadership, land and fishing rights, kinship and status
Waitaki	Waitaki river.

Appendix 3: The Ngāi Tahu Claims Settlement Act 1998: Part 3: Aoraki/Mount Cook

The Ngāi Tahu Claims Settlement Act 1998, pursuant to Section 1(2): Ngāi Tahu Claims Settlement Act 1998 brought into force, on 1 October 1998, by the Ngāi Tahu Claims Settlement Act Commencement Order 1998 (SR 1998/295).

Part 3: Aoraki/Mount Cook

Section 13: Purpose of this Part: The purpose of this Part is to provide for the legislative matters contemplated by section 3 (Aoraki/Mount Cook) of the deed of settlement.

Section 14: Interpretation: In this Part:

Aoraki/Mount Cook means the mountain known as Aoraki or Mount Cook, being the land, which lies within the Mount Cook National Park and which is identified as Aoraki on Allocation Plan MS 1 (SO 19831).

Deed of gift means the deed of gift referred to in clause 3.3 of the deed of settlement

Escrow agent means the escrow agent appointed on the terms Mount set out in clause 3.5 of the deed of settlement.

Gift date means the day which is 7 days after the vesting date.

Mount Cook National Park means the Cook National Park established under the National Parks Act 1980.

Vesting date means such date as Te Rūnanga o Ngāi Tahu and the Crown, through the Prime Minister, agree.

Section 15: Vesting of Aoraki/Mount Cook in Te Rūnanga o Ngāi Tahu.

(1) The Prime Minister must recommend to the Governor-General before the vesting date that an Order in Council be made pursuant to subsection (2).

(2) The Governor-General, by Order in Council made on the recommendation of the Prime Minister, must vest the fee simple estate in Aoraki/Mount Cook in Te Rūnanga o Ngāi Tahu on the vesting date.

(3) An Order in Council made pursuant to subsection (2) takes effect notwithstanding anything in the National Parks Act 1980, section 11 and Part 10 of the Resource Management Act 1991, or any other enactment.

Section 16: Gift of Aoraki/Mount Cook by Te Rūnanga o Ngāi Tahu.

(1) Te Rūnanga o Ngāi Tahu must deliver to the Prime Minister or the Prime Minister's nominee on the gift date the deed of gift, duly executed by Te Rūnanga o Ngāi Tahu.

(2) Upon delivery to the Prime Minister or the Prime Minister's nominee of the deed of gift referred to in subsection (1) on the gift date, the fee simple estate in Aoraki/Mount Cook vested in Te Rūnanga o Ngāi Tahu by the Order in Council referred to in section 15 vests in the Crown, in order to give effect to the gift made by Te Rūnanga o Ngāi Tahu to the Crown on behalf of the people of New Zealand.

(3) If, for any reason, the deed of gift referred to in subsection (1) is not delivered to the Prime Minister by 3 pm on the gift date, the escrow agent must deliver to the Prime Minister or the Prime Minister's nominee the executed counterpart of that deed of gift, upon receipt by the escrow agent of a notice to that effect from the Prime Minister or the Prime Minister's nominee.

(4) In the event that the escrow agent delivers the executed counterpart of the deed of gift to the Prime Minister or the Prime Minister's nominee pursuant to subsection (3), subsection (2) applies as if the deed of gift referred to in subsection (1) had been delivered to the Prime Minister or the Prime Minister's nominee pursuant to that subsection.

Section 17: Certain laws not affected: Aoraki/Mount Cook is and remains part of the Mount Cook National Park, and every regulation, lease, licence, and other instrument in effect immediately before the vesting date in respect of the Mount Cook National Park under the **National Parks Act 1980** or any other enactment has uninterrupted effect, on and from the vesting date as if Aoraki/Mount Cook had remained Crown land at all times, notwithstanding:

(a) **section 7(1)(a)** of the National Parks Act 1980 and any other enactment;
(b) and (b) the vesting referred to in **section 15**;
(c) and the gift back referred to in **section 16**; and
(d) the fact that Aoraki/Mount Cook is vested in Te Rūnanga o Ngāi Tahu during the period on and from the vesting date to the gift date

Finally in Section 18: No gift duty: No gift duty is payable in respect of the gifting of Aoraki/Mount Cook pursuant to **section 16**.

Appendix 4: Members of Ngāi Tahu Whānui.

(1) The members of Ngāi Tahu Whanui are the descendants of:

(a) the persons, being members of Ngāi Tahu iwi living in the year 1848, whose names are set out in the list appearing at pages 92 to 131 (both inclusive) of the book containing the minutes of the proceedings and findings of a committee (commonly known as the Ngāi Tahu Census Committee) appointed in the year 1929, the book being that lodged in the office of the Registrar of the Māori Land Court at Christchurch and marked "Ngāi Tahu Census Committee Minutes 1929"

(b) any other person who may, pursuant to the provisions of subsection (4), be determined to be a member of Ngāi Tahu iwi living in the year 1848.

(2) Where any question arises as to whether a person is a descendant of any of the persons who are referred to in paragraphs (a) and (b) of subsection (1), Te Rūnanga o Ngāi Tahu shall have authority to determine that question.

(3) Any person who is not a member of Ngāi Tahu Whanui by virtue of that person being a descendant of any of the persons mentioned in paragraph (a) of subsection (1) and who claims to be a descendant of a member of the Ngāi Tahu iwi who was living in the year 1848 may apply to Te Rūnanga o Ngāi Tahu to have that member determined to be a member of Ngāi Tahu iwi living in the year 1848.

(4) The Rūnanga o Ngāi Tahu shall consider any application made under subsection (3) with all convenient speed and shall notify the applicant of its decision and, if the applicant so requests, of the reasons for its decision.

(5) If Te Rūnanga o Ngāi Tahu rejects an application made under subsection (3), the person making the application may, within 6 months after the date upon which that person is notified of the decision of Te Rūnanga o Ngāi Tahu, apply to the Māori Land Court to hear and determine the question.

(6) The Māori Land Court shall have jurisdiction to hear and determine the question and any determination made by the Māori Land Court shall be final and conclusive.

13 Members of Papatipu Rūnanga of Ngāi Tahu Whanui.

(1) Each member of Ngāi Tahu Whanui is entitled to be a member of each Papatipu Rūnanga of Ngāi Tahu Whanui to which he or she can establish entitlement by descent.

(2) Where any question arises as to whether or not a member of Ngāi Tahu Whanui is entitled, by virtue of his or her descent, to be a member of a particular Papatipu Rūnanga of Ngāi Tahu Whanui, Te Rūnanga o Ngāi Tahu shall have authority to determine that question.

(3) Any member of Ngāi Tahu Whanui may apply to Te Rūnanga o Ngāi Tahu to have that member determined to be a member of a particular Papatipu Rūnanga of Ngāi Tahu Whanui.

(4) Te Rūnanga o Ngāi Tahu shall consider any application made under subsection (3) with all convenient speed and shall notify the applicant of its decision and, if the applicant so requests, of the reasons for its decision.

(5) If Te Rūnanga o Ngāi Tahu rejects an application made under subsection (3), the person making the application may, within 6 months after the date upon which that person is notified of the decision of Te Rūnanga o Ngāi Tahu, apply to the Māori Land Court to hear and determine the question.

(6) The Māori Land Court shall have jurisdiction to hear and determine the question and any determination made by the Māori Land Court shall be final and conclusive.

Appendix 5: Ngāi Tahu [Pounamu Vesting Act-1997]

Reprint as at 24 May 2013

Ngāi Tahu (Pounamu Vesting) Act 1997 Public Act 1997 No 81

Date of assent 1 October 1997

Commencement see section 1(2)

Contents

An Act to give effect to certain provisions of the Deed of "On Account" Settlement, signed on 14 June 1996 by the Crown and

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Economic Development. Preamble

Te Rūnanga o Ngāi Tahu as representative of Ngāi Tahu, by vesting, in Te Rūnanga o Ngāi Tahu, pounamu in the Takiwā of Ngāi Tahu Whanui and in those parts of the territorial sea of New Zealand that are adjacent to the Takiwā of Ngāi Tahu Whanui

Preamble Whereas—

A Ngāi Tahu has made claims against the Crown under the Treaty of Waitangi Act 1975, and those claims have been the subject of 2 reports of the Waitangi Tribunal, the 1991 Ngāi Tahu Report and the 1995 Ancillary Claims Report:

B since 1991 there have been several attempts by Ngāi Tahu and the Crown to reach a negotiated settlement of Ngāi Tahu claims and to remove the sense of grievance felt by Ngāi Tahu:

C the Crown and Ngāi Tahu, wishing to recommence negotiations towards a comprehensive settlement of all claims made by or on behalf of Ngāi Tahu or hapū, whanau or individuals within the Ngāi Tahu Whanui against the Crown pursuant to the Treaty of Waitangi Act 1975, have agreed to negotiate in good faith to achieve a settlement of all Ngāi Tahu historical claims under the Treaty of Waitangi and Ngāi Tahu has agreed to an indefinite adjournment of certain litigation relating to the claims to allow those negotiations to take place:

D as a sign of good faith and as a demonstration of the Crown's goodwill, and

in recognition of the long process of negotiation that has already taken place between the parties, the Crown has agreed to renew and modify an offer it made to Ngāi Tahu in 1994 to provide certain redress to Ngāi Tahu on an "on account" basis, and Ngāi Tahu has accepted that modified offer:

E accordingly, on 14 June 1996, the Crown and Te

Rūnanga o Ngāi Tahu as representative of Ngāi Tahu signed a Deed of

"On Account" Settlement, in s 2 which the Crown agreed that it would present for the consideration of Parliament legislation to provide for:

(a) the vesting in Te Rūnanga o Ngāi Tahu of the Crown's rights to pounamu in the Takiwā of Ngāi Tahu and the adjacent territorial sea; and

(b) the continuation of all current mining privileges relating to that pounamu until they expire; and

(c) the payment by the Crown to Te Rūnanga o Ngāi Tahu of any royalties received by the Crown in respect of any such mining privileges; and

(d) a regime for access to land in which the pounamu is situated in the same manner as is provided for in the Crown Minerals Act 1991 for persons holding a permit in respect of a mineral under that Act:

(f) to give effect to a recommendation of the Waitangi Tribunal, Te Rūnanga o Ngāi Tahu intends to execute a deed vesting in the Mawhera Incorporation all pounamu within the catchment area of the Arahura river.

1 Short Title and commencement

(1) This Act may be cited as the Ngāi Tahu (Pounamu Vesting) Act 1997.

(2) This Act comes into force on the date that is 28 days after the date on which this Act receives the Royal assent.

2 Interpretation

In this Act, unless the context otherwise requires,— existing privilege has the meaning given to that term by section 2(1) of the Crown Minerals Act 1991 Minister means the Minister of Energy pounamu means— (a) bowenite:

(b) nephrite, including semi-nephrite:

(c) serpentine occurring in its natural condition in the land described in the Schedule

Takiwā of Ngāi Tahu Whanui has the meaning given to that term by section 5 of Te Rūnanga o Ngāi Tahu Act 1996 Te Rūnanga o Ngāi Tahu means the body corporate known as Te Rūnanga o Ngāi Tahu established by section 6 of Te Rūnanga o Ngāi Tahu Act 1996.Section 2 existing privilege: amended, on 24 May 2013, by section 65 of the Crown Minerals Amendment Act 2013 (2013 No 14).

3 Ownership by Ngāi Tahu of certain minerals Notwithstanding any other enactment, all pounamu occurring in its natural condition in:

(a) the Takiwā of Ngāi Tahu Whanui; and those parts of the territorial sea of New Zealand (as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977) that are adjacent to the Takiwā of Ngāi Tahu Whanui and the seabed and subsoil beneath those parts of the territorial sea— that, immediately before the commencement of this Act, is the property of the Crown, ceases, on the commencement of this Act, to be the property of the Crown and vests in and becomes the property of Te Rūnanga o Ngāi Tahu.

4 Existing privileges for pounamu

(1) Nothing in section 3 affects an existing privilege or the rights or obligations of any holder of an existing privilege and the Crown Minerals Act 1991 continues to apply in relation to that privilege as if this Act had not been passed.

(2) Notwithstanding anything in the Crown Minerals Act 1991, all royalties paid to the Crown after the commencement of this Act by the holder of any existing privilege in respect of pounamu must be paid by the Crown to Te Rūnanga o Ngai Tahu.

Section 4(1): amended, on 24 May 2013, by section 65 of the Crown Minerals Amendment Act 2013 (2013 No 14)

5 Applications for mining privileges and permits for Pounamu

[Repealed] Section 5: repealed, on 24 May 2013, by section 65 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Schedule: Description of land in which serpentine included:
The areas marked “A” and “B” respectively on Survey Office Plan 12458 lodged in the office of the Chief Surveyor of the Westland Land District which plan is also lodged in the office of the Chief Surveyor of the Otago Land District as Survey Office Plan 24619 and in the office of the Chief Surveyor of the Southland Land District as Survey Office Plan 12218.
The area marked “C” on Survey Office Plan 12457 lodged in the office of the Chief Surveyor of the Westland Land District.

Appendix 6: Convention on the Prevention and Punishment of the Crime of Genocide.

Adopted by Resolution 260 (III) A of the United Nations General Assembly on 9 December 1948.

Article 1

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Article 2

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Article 3

The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

Article 4

Persons committing genocide or any of the other acts enumerated in Article 3 shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

Article 5

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in Article 3.

Article 6

Persons charged with genocide or any of the other acts enumerated in Article 3 shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Article 7

Genocide and the other acts enumerated in Article 3 shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Article 8

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article 3.

Article 9

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or any of the other acts enumerated in Article 3, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Article 10

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

Article 11

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 12

Any Contracting Party may at any time, by notification addressed to the Secretary- General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Article 13

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a process-verbal and transmit a copy of it to each Member of the United Nations and to each of the non-member States contemplated in Article 11.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession. Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

Article 14

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be affected by a written notification addressed to the Secretary- General of the United Nations.

Article 15

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

Article 16

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary- General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

Article 17

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in Article 11 of the following:

- (a) Signatures, ratifications and accessions received in accordance with Article 11;
- (b) Notifications received in accordance with Article 12;
- (c) The date upon which the present Convention comes into force in accordance with Article 13;
- (d) Denunciations received in accordance with Article 14;
- (e) The abrogation of the Convention in accordance with Article 15;
- (f) Notifications received in accordance with Article 16.

Article 18

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to all Members of the United Nations and to the non-member States contemplated in Article 11.

Article 19

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

Appendix 7: Genocide: Scholarly Definitions [in chronological order]

Peter Drost (1959)

"Genocide is the deliberate destruction of physical life of individual human beings by reason of their membership of any human collectively as such."

Vahakn Dadrian (1975)

"Genocide is the successful attempt by a dominant group, vested with formal authority and/or with preponderant access to the overall resources of power, to reduce by coercion or lethal violence the number of a minority group whose ultimate extermination is held desirable and useful and whose respective vulnerability is a major factor contributing to the decision for genocide."

Irving Louis Horowitz (1976)

"[Genocide is] a structural and systematic destruction of innocent people by a state bureaucratic apparatus.... Genocide represents a systematic effort over time to liquidate a national population, usually a minority...[and] functions as a fundamental political policy to assure conformity and participation of the citizenry."

Leo Kuper (1981)

"I shall follow the definition of genocide given in the [UN] Convention. This is not to say that I agree with the definition. On the contrary, I believe a major omission to be in the exclusion of political groups from the list of groups protected. In the contemporary world, political differences are at the very least as significant a basis for massacre and annihilation as racial, national, ethnic or religious differences. Then too, the genocides against racial, national, ethnic or religious groups are generally a consequence of, or intimately related to, political conflict. However, I do not think it helpful to create new definitions of genocide, when there is an internationally recognized definition and a Genocide Convention which might become the basis for some effective action, however limited the underlying conception. But since it would vitiate the analysis to exclude political groups, I shall refer freely . . . to liquidating or exterminatory actions against them."

Jack Nusan Porter (1982)

"Genocide is the deliberate destruction, in whole or in part, by a government or its agents, of a racial, sexual, religious, tribal or political minority. It can involve not only mass murder, but also starvation, forced deportation, and political, economic and biological subjugation. Genocide involves three major components: ideology, technology, and bureaucracy/organization."

Yehuda Bauer (1984)

N.B. Bauer distinguishes between "genocide" and "holocaust": "[Genocide is] the planned destruction, since the mid-nineteenth century, of a racial, national, or ethnic group

as such, by the following means: (a) selective mass murder of elites or parts of the population; (b) elimination of national (racial, ethnic) culture and religious life with the intent of 'denationalization'; (c) enslavement, with the same intent; (d) destruction of national (racial, ethnic) economic life, with the same intent; (e) biological decimation through the kidnapping of children, or the prevention of normal family life, with the same intent.... [Holocaust is] the planned physical annihilation, for ideological or pseudo-religious reasons, of all the members of a national, ethnic, or racial group."

John L. Thompson and Gail A. Quets (1987)

"Genocide is the extent of destruction of a social collectively by whatever agents, with whatever intentions, by purposive actions which fall outside the recognized conventions of legitimate warfare."

Isidor Wallimann and Michael N. Dobkowski (1987)

"Genocide is the deliberate, organized destruction, in whole or in large part, of racial or ethnic groups by a government or its agents. It can involve not only mass murder, but also forced deportation (ethnic cleansing), systematic rape, and economic and biological subjugation."

Henry Huttenbach (1988)

"Genocide is any act that puts the very existence of a group in jeopardy."

Helen Fein (1988)

"Genocide is a series of purposeful actions by a perpetrator(s) to destroy a collectively through mass or selective murders of group members and suppressing the biological and social reproduction of the collectively. This can be accomplished through the imposed proscription or restriction of reproduction of group members, increasing infant mortality, and breaking the linkage between reproduction and socialization of children in the family or group of origin. The perpetrator may represent the state of the victim, another state, or another collectively."

Frank Chalk and Kurt Jonassohn (1990)

"Genocide is a form of one-sided mass killing in which a state or other authority intends to destroy a group, as that group and membership in it are defined by the perpetrator."

Helen Fein (1993)

"Genocide is sustained purposeful action by a perpetrator to physically destroy a collectively directly or indirectly, through interdiction of the biological and social reproduction of group members, sustained regardless of the surrender or lack of threat offered by the victim."

Steven T. Katz (1994)

"[Genocide is] the actualization of the intent, however successfully carried out, to murder in its totality any national, ethnic, racial, religious, political, social, gender or economic group, as these groups are defined by the perpetrator, by whatever means." (NB. Modified by Adam Jones in 2000 to read, "murder in whole or in substantial part.")

Israel Charny (1994)

"Genocide in the generic sense means the mass killing of substantial numbers of human beings, when not in the course of military action against the military forces of an avowed enemy, under conditions of the essential defenselessness of the victim."

Irving Louis Horowitz (1996)

"Genocide is herein defined as a structural and systematic destruction of innocent people by a state bureaucratic apparatus [emphasis in original] . . .. Genocide means the physical dismemberment and liquidation of people on large scales, an attempt by those who rule to achieve the total elimination of a subject people." (N.B. Horowitz supports "carefully distinguishing the [Jewish] Holocaust from genocide"; he also refers to "the phenomenon of mass murder, for which genocide is a synonym").

Barbara Harff (2003)

"Genocides and politicides are the promotion, execution, and/or implied consent of sustained policies by governing elites or their agents – or, in the case of civil war, either of the contending authorities – that are intended to destroy, in whole or part, a communal, political, or politicized ethnic group."

Appendix 8: Law for the Restoration of the Professional Civil Service [April 7, 1933]

Law for the Restoration of the Professional Civil Service (April 7, 1933) The Reich government has enacted the following law, which is hereby promulgated:

Section 1

1. For the restoration of a national professional civil service and for the simplification of administration, civil servants may be discharged from office in accordance with the following regulations, even when there are no grounds for such action under existing law.

2. For the purposes of this law, the term "civil servant" means immediate [*unmittelbare*] and mediate [*mittelbare*] officials of the Reich, immediate and mediate officials of the federal states [*Länder*], officials of local governments [*Gemeinde*] and local government associations, officials of public corporations and of institutions and enterprises with the same status. The stipulations apply also to social insurance agency employees who have the rights and duties of civil servants.

3. "Civil servants," for the purposes of this law, also includes officials in temporary retirement.

4. The Reichsbank and the German State Railway Co. are empowered to make cor responding regulations.

Section 2

1. Civil servants who attained their status after November 9, 1918, without possessing the required or customary training or other qualifications are to be dismissed from service. Their former salaries will be accorded to them for a period of 3 months after their dismissal.

2. They possess no right to allowances, pensions, or survivors' pensions, nor to continued use of the official designation, the title, the official uniform, and the official insignia.

3. In cases of need, a pension, revocable at any time, equivalent to a third of the normal base pay for the last position held by them may be granted to them, especially when they are caring for dependent relatives; reinsurance according to the provisions of the Reich's social insurance law will not occur.

4. The stipulations of Section 2 and 3 will be applied in the case of persons who come under the provisions of Section 1 and who had already been retired before this law became effective.

Section 3

1. Civil servants of non-Aryan descent are to be retired; honorary officials are to be removed from official status.

2. Section 1 does not apply to civil servants who were already employed on August 1, 1914, or who fought during the World War at the front for the German Reich or who fought for its allies or whose fathers or sons were killed in the World War. With the agreement of the appropriate special minister or of the highest authorities of the federal states, the Reich Minister of the Interior can permit further exceptions in the case of officials who are abroad.

The Reich Citizenship Law stripped Jews of their German citizenship and introduced a new distinction between "Reich citizens" and "nationals." Certificates of Reich citizenship were in fact never introduced and all Germans other than Jews were until 1945 provisionally classed as Reich citizens.

Article I

1. A subject of the State is a person who belongs to the protective union of the German Reich, and who therefore has obligations towards the Reich.

2. The status of subject is acquired in accordance with the provisions of the Reich and State Law of Citizenship.

Article II

1. A citizen of the Reich is that subject only who is of German or kindred blood and who, through his conduct, shows that he is both desirous and fit to serve the German people and Reich faithfully.

2. The right to citizenship is acquired by the granting of Reich citizenship papers.

3. Only the citizen of the Reich enjoys full political rights in accordance with the provision of the laws.

Article III

The Reich Minister of the Interior in conjunction with the Deputy of the Fuhrer will issue the necessary legal and administrative decrees for carrying out and supplementing this law.

Promulgated: September 16, 1935. *In force:* September 30, 1935

[2]. First Supplementary Decree [14 November 1935]

Because of Article III of the Reich Citizenship Law of September 15, 1935, the following is hereby decreed:

Article I

(1) Until further provisions concerning citizenship papers, all subjects of German or kindred blood who possessed the right to vote in the Reichstag elections when the Citizenship Law came into effect, shall, for the present, possess the rights of Reich citizens. The same shall be true of those upon whom the Reich Minister of the Interior, in conjunction with the Deputy to the Führer, shall confer citizenship.

(2) The Reich Minister of the Interior, in conjunction with the Deputy to the Führer, may revoke citizenship.

Article II

(1) The provisions of Article I shall apply also to subjects who are of mixed Jewish blood.

(2) An individual of mixed Jewish blood is one who is descended from one or two grandparents who, racially, were full Jews, insofar that he is not a Jew according to Section 2 of Article V. Full-blooded Jewish grandparents are those who belonged to.

Article III

Only citizens of the Reich, as bearers of full political rights, can exercise the right of voting in political matters, and have the right to hold public office. The Reich Minister of the Interior, or any agency he empowers, can make exceptions during the transition period on the matter of holding public office. These measures do not apply to matters concerning religious organizations.

Article IV

(1) A Jew cannot be a citizen of the Reich. He cannot exercise the right to vote; he cannot occupy public office.

(2) Jewish officials will be retired as of December 31, 1935. In the event that such officials served at the front in the World War either for Germany or her allies, they shall receive as pension, until they reach the age limit, the full salary last received, on the basis of which their pension would have been computed. They shall not, however, be promoted according to their seniority in rank. When they reach the age limit, their pension will be computed again, according to the salary last received on which their pension was to be calculated.

(3) These provisions do not concern the affairs of religious organizations.

(4) The conditions regarding service of teachers in public Jewish schools remain unchanged until the promulgation of new regulations on the Jewish school system.

Article V

(1) A Jew is an individual who is descended from at least three grandparents who were, racially, full Jews […].

(2) A Jew is also an individual who is descended from two full-Jewish grandparents if:

(a) he was a member of the Jewish religious community when this law was issued, or joined the community later;

(b) when the law was issued, he was married to a person who was a Jew, or was subsequently married to a Jew;

(c) he is the issue from a marriage with a Jew, in the sense of Section I, which was contracted after the coming into effect of the Law for the Protection of German Blood and Honour of September 15, 1935;

(d) he is the issue of an extramarital relationship with a Jew, according to Section I, and born out of wedlock after July 31,1936.

Article VI

(3) Insofar as there are, in the laws of the Reich or in the decrees of the National Socialist Labor party and its affiliates, certain requirements for the purity of German blood which extend beyond Article V, the same remain untouched […].

Article VII

The Führer and Chancellor of the Reich is empowered to release anyone from the provisions of these administrative decrees.

Appendix 9: Nuremberg Laws [1935]

The Reich Citizenship Law 1935,

Passed in September 1935, was followed by a series of supplementary regulations that tried to fix the major outstanding problem of defining a 'Jew.' Nazi Party leaders had pressed for the application of legislation to all half-Jews, but the Nuremberg Laws failed to provide a clear answer after Hitler struck out the term 'full Jews' as it involved creating a new classification.

In November 1935, Dr. Bernhard Losener, a high official in the Reich Ministry of the Interior who had assisted in the drafting of the Nuremberg Laws, produced a memorandum that discussed the position of half-Jews and proposed the inclusion of half-Jews who were married to a Jewish person and who adhered to the Jewish religion. Losener's suggestions were included in the first regulation under the Citizenship Law.

Article 1

1. Until further regulations regarding citizenship papers are issued, all subjects of German or kindred blood, who possessed the right to vote in the Reichstag elections at the time the Citizenship Law came into effect, shall for the time being possess the rights of Reich citizens. The same shall be true of those to whom the Reich Minister of the Interior, in conjunction with the Deputy of the Fuhrer, has given preliminary citizenship.

2. The Reich Minister of the Interior, in conjunction with the Deputy of the Fuhrer, can withdraw the preliminary citizenship.

Article 2

1 The regulations in Article 1 are also valid for Reich subjects of mixed Jewish blood.

2 An individual of mixed Jewish blood is one who is descended from one or two grandparents who were racially full Jews, in so far as he or she does not count as a Jew according to Article 5, paragraph 2 One grandparent shall be considered as full-blooded if he or she belonged to the Jewish religious community.

Article 3

Only the Reich citizen, as bearer of full political rights, exercises the right to vote in political affairs or can hold public office. The Reich Minister of the Interior, or any agency empowered by him, can make exceptions during the transition period, with regard to occupation of public office. The affairs of religious organizations will not be affected.

Article 4

1. A Jew cannot be a citizen of the Reich. He has no right to vote in political affairs and he cannot occupy public office.

2. Jewish officials will retire as of December 31, 1935. If these officials served at the front

in the world war, either for Germany or her allies, they will receive in full, until they reach the age limit, the pension to which they were entitled according to the salary they last received; they will, however, not advance in seniority. After reaching the age limit, their pensions will be calculated anew, according to the salary last received, on the basis of which their pension was computed.

3. The affairs of religious organizations will not be affected.

4. The conditions of service of teachers in Jewish public schools remain unchanged until new regulations for the Jewish school systems are issued.

Article 5

1. A Jew is anyone who is descended from at least three grandparents who are racially full Jews. Article 2, para. 2, second sentence will apply.

2. A Jew is also one who is descended from two full Jewish parents, if (a) he belonged to the Jewish religious community at the time this law was issued, or joined the community later, (b) he was married to a Jewish person, at the time the law was issued, or married one subsequently, (c) he is the offspring of a marriage with a Jew, in the sense of Section I, which was contracted after the Law for the Protection of German Blood and German Honor became effective, (d) he is the offspring of an extramarital relationship with a Jew, according to Section I, and will be born out of wedlock after July 31, 1936.

Article 6

1. Requirements for the pureness of blood as laid down in Reich Law or in orders of the NSDAP and its echelons--not covered in Article 5—will not be affected.

2. Any other requirements for the pureness of blood, not covered in Article 5, can be made only by permission of the Reich Minister of the Interior and the Deputy Fuhrer. If any such demands have been made, they will be void as of January 1, 1936, if they have not been requested by the Reich Minister of the Interior in agreement with the Deputy Fuhrer. These requests must be made by the Reich Minister of the Interior.

Article 7

The Fuhrer and Reich Chancellor can grant exemptions from the regulations laid down in the law.

Appendix 10: Law for the Protection of German Blood and German Honour [1935]

Imbued with the knowledge that the purity of German blood is the necessary prerequisite for the existence of the German nation, and inspired by an inflexible will to maintain the existence of the German nation for all future times, the Reichstag has unanimously adopted the following law, which is now enacted:

Article I

1. Marriages between Jews and citizens of German or kindred blood are forbidden. Marriages concluded in defiance of this law are void, even if, for the purpose of evading this law, they were concluded abroad.

Article II

Sexual relations outside marriage between Jews and nationals of German or kindred blood are forbidden.

Article III

Jews will not be permitted to employ female citizens of German or kindred blood as domestic servants.

Article IV

1. Jews are forbidden to display the Reich and national flag or the national colors.

2. On the other hand, they are permitted to display the Jewish colors. The exercise of this right is protected by the State.

Article V

1. A person who acts contrary to the prohibition of Section 1 will be punished with hard labour.

2. A person who acts contrary to the prohibition of Section 2 will be punished with imprisonment or with hard labour.

3. A person who acts contrary to the provisions of Sections 3 or

4. Will be punished with imprisonment up to a year and with a fine, or with one of these penalties.

Article VI

The Reich Minister of the Interior in agreement with the Deputy Fuhrer and the Reich Minister of Justice will issue the legal and administrative regulations required for the enforcement and supplementing of this law.

Article VI

The law will become effective on the day after its promulgation; Section 3, however, not until 1 January 1936.

First Supplement Decree for the execution of the Law for the Protection of German Blood and German Honour [14 November 1935].

Article II

[…] Marriages between Jews and nationals of mixed Jewish blood who have only one fully Jewish grandparent shall also belong to the category of marriages forbidden […].

Article III

(I) Nationals of mixed Jewish blood with two grandparents who are full Jews require the permission of the Reich Minister for the Interior and the Deputy Leader […] in order to contract a marriage with nationals of German or similar blood or with nationals of mixed Jewish blood who have only one full Jewish grandparent […].

Article IV

A marriage shall not be contracted between nationals of mixed Jewish blood who have only one full Jewish grandparent […].

Appendix 11: Nazi Laws and an Explanation

Law for the Restoration of the Professional Civil Service – April 7, 1933

As part of the Nazi "coordination" (*Gleichschaltung*) of all public offices, the Reich Ministry of the Interior under the leadership of Wilhelm Frick (1877-1946) issued the "Law for the Restoration of the Professional Civil Service" (also known as the Civil Service Law) on April 7, 1933, a week after the nation-wide boycott of Jewish businesses. This law excluded all racial and political "enemies" of the regime from the civil service.

The "Aryan Clause" established a racial criterion for continued employment in the civil service, effectively banishing Jews from government and administration; it also set a model that would soon be followed in other professions. Several days later, a law was passed that defined "non-Aryan" to mean descent from one or more "non-Aryan" grandparents; the law implies that grandparents are to be considered Jewish if they practiced the Jewish religion. A short-lived exception was made for veterans of the Great War (the "Hindenburg Exception") and for civil servants who lost a father or a son at the front.

Subsequent orders related to this law terminated the services contracts of non- salaried Jewish employees of the state, expelled "non-Aryan" honorary professors and untenured junior professors, and forbade any advancement of Jews protected under the "Hindenburg Exception." Those married to "non-Aryans" were also not granted admission to civil service positions.

Law on Admission to Legal Practice – April 7, 1933

The admission of lawyers of "non-Aryan" descent to the Bar was prohibited. It also denied non-Aryan members of the Bar the right to practice law. Similar laws were passed regarding Jewish law assessors, jurors, patent lawyers, notaries, and commercial judges. Other professions were soon barred to "non-Aryans" – tax consultant licenses were revoked, and Jewish actors were forbidden to perform on the stage or screen. Restrictions were placed on reimbursements to Jewish doctors from state health insurance funds, and Jewish doctors were not permitted to treat non-Jewish patients.

Law on the Revocation of Naturalization and the Deprivation of German Citizenship ("Denaturalization Law") – July 14, 1933

Naturalizations completed between November 9, 1918 and January 30, 1933 were revocable if the naturalization was considered undesirable. In addition, German citizens residing abroad were deprived of their citizenship if their conduct threw doubt on their loyalty to the Reich or harmed German interests. Moreover, if a German national did not comply with an order to return to the Reich, their citizenship could be forfeited, and their property confiscated by the government. Among those immediately affected by this law were the German Jews of Romanian, Polish or Russian origin naturalized during this time. Once stripped of their citizenship, they became stateless.

Law on the Seizure of Assets of Enemies of the People and the State – July 14, 1933

In conjunction with the Denaturalization Law, a law was passed that essentially served

as the legal basis for the seizure of assets of emigrants. This law allowed the government to confiscate the assets of Communists and other designated enemies of the regime. Some use of this legislation was made to confiscate Jewish
assets throughout the 1930s, particularly of Jews who had emigrated and those who had aroused the ire of the regime through their activities abroad.

Reich Flight Tax as Amended – May 18, 1934

During the Great Depression, the German government limited the free flow of capital and strictly controlled the exchange of foreign currency. To prevent capital flight in the wake of these measures, the government imposed a Flight Tax (*Reichsfluchtsteuer*) in 1931 to dissuade the wealthy from emigrating. Any citizen of the Weimar Republic as of March 31, 1929 who moved abroad before December 31, 1932 was subject to this tax.

After the Nazi Party's rise to power, the *Reichsfluchtsteuer* became a punitive anti-Semitic tax. Jews who left the German Reich had to pay a tax of 25 percent on their assets which they had registered in 1938. Individuals who were forced into concentration camps outside the Reich's borders also had to pay the *Reichsfluchtsteuer*.

By 1933, less than million marks had been raised through this tax. However, with the mass emigration subsequently caused by the government's escalating persecution of non-Aryans and other undesirables, revenue from this tax increased to 17 million Reichsmark in 1933 and eventually reached 342 million Reichsmark in 1938.

Reich Citizenship Law and Law for the Protection of German Blood and German Honor – September 15, 1935

At the seventh Nazi Party Rally held in Nuremberg in September 1935, Hitler announced two measures which were unanimously adopted by the Reichstag and became known as the Nuremberg Laws. The first was the Reich Citizenship Law, which declared those not of German blood to be *Staatsangehörige* (state subjects) while those classified as Aryans were *Reichsbürger* (citizens of the *Reich*). Essentially, Jews were no longer citizens of Germany and instead were made dependents of the state. Subsequent orders related to the Citizenship Law withdrew voting rights from Jews; repealed the "Hindenburg exception" to the Civil Service Law forcing all Jewish civil servants into compulsory retirement; enabled the removal of Jews from professions, occupations, and programs of study for which citizenship was required; and provided a legal definition for the racial categories of Aryan, Jew, and *Mischling* ("mixed-breed").

The second act, the Law for the Protection of German Blood and German Honor forbade marriage and sexual relations between Aryans and "non-Aryans". Marriages violating this law were voided and extra-marital relations prohibited. Marriages abroad were not recognized. A few months later, supplemental decrees were issued extending the application of the Nuremberg Laws to those who could produce "racially suspect" offspring -- Roma (Gypsies), blacks, or their offspring.

Decree on the Registration of Jewish Property – April 26, 1938

On April 26, 1938, Field Marshal Hermann Göring ordered that Jews possessing more than 5,000 RM worth of assets register their property. A similar process of property registration was repeated for Jews attempting to emigrate and those awaiting

deportation. German allies and collaborating states such as Vichy France, Romania, Bulgaria, Croatia, Slovakia, and Hungary, all introduced similar measures against Jewish property as did the Nazi authorities in the countries Germany occupied directly. This inventory of Jewish property served as a means for its subsequent systematic confiscation by the state; Göring's rationale was that data concerning the property was needed in order to determine how it could best be used to meet the needs of the German economy.

Law on the Confiscation of Products of Degenerate Art – May 31, 1938

The "House of German Art" opened on July 19, 1937, and its first show was the "Great German Art Exhibition" which displayed what the Nazi regime considered Germany's finest art. The following day the disparaging "Degenerate Art" exhibit opened. For the latter, thousands of artworks were confiscated from museums throughout Germany; records indicate that a total of 15,997 works of fine art were confiscated from 101 German museums. The majority of these "degenerate" works were later sold on the international art market as a source of foreign currency or as barter. The plundering continued until 1938 and was eventually legalized. The law stated that "degenerate art" in museums or collections open to the public before the law went into effect could be appropriated by the government without compensation.

Decree for the Elimination of Jews from German Economic Life – November 12, 1938

The goal of the legislation was to "exclude the Jews from the economic life of Germany", and it stipulated the immediate liquidation of businesses owned by Jews. Regulations adopted pursuant to this legislation prohibited all economic activity of Jews except for certain services that could be rendered to Jews only.

Atonement Tax on the Jews of German Nationality – November 21, 1938

In the aftermath of the assassination of Ernst Eduard vom Rath, a German diplomat posted at the embassy in Paris, and the Pogrom of November 1938 (*Kristallnacht*), the Decree on an Atonement Tax on the Jews of German Nationality (also known as *Judenvermögensabgabe or* JUVA tax) was promulgated. It levied a sum of one billion Reichsmarks on German Jewry. Göring demanded that Jews atone for their hostile attitude against the German people.

All Jews with assets of 5,000 RM or more were obligated to pay 20 percent of their assets in four instalments of five percent each between December 15, 1938 and August 15, 1939. A fifth payment was added in October 1939 making the total contribution 25 percent of an individual's assets. The tax brought a total of
1.126 billion RM into the coffers of the Reich.

Decree on the Utilization of Jewish Property – December 3, 1938

This law made Aryanization of all Jewish businesses, regardless of the nationality of the Jewish owner, compulsory and imposed a deadline for the sale or liquidation of a Jewish firm. The state could also appoint a trustee to oversee the Aryanziation at the expense of the business owner. Under this decree, the Reich levied a tax in connection with the Aryanizations in the amount of 70 percent of the difference between the officially assessed value and the actual purchase price. In addition, the law provided for the sale of Jewish owned stocks and securities; authorized the blocking of Jewish owned

accounts; prohibited Jews from purchasing real property; and barred Jews from selling or purchasing precious metals and jewels.

Decree on Guardianship for Absentees – October 11, 1939

This decree essentially denied exiled Jews the use of their property in Germany though it preceded legislation regarding enemy property that was passed three months later. Guardian/trustees could be appointed to govern the property of individuals who left Germany and relocated to regions considered hostile to Germany.

Decree on the Treatment of Enemy Property – January 15, 1940

This decree as well as three subsequent supplemental orders governed the treatment of property in Germany owned either directly ("enemy property") or indirectly ("under decisive enemy influence") by enemies of Germany. The decree blocked all enemy property in its existing ownership; no property could be transferred except by an Administrator appointed by the local Court of Appeal in an *ex parte* proceeding brought by the Reichskommissar for Enemy Property. Neither the owner nor the shareholders of a company were represented or consulted. The Reichskommissar was a German government official in charge of the administration of all enemy property. An Administrator was appointed for individual companies. The Reichskommissar alone could determine whether property was under decisive enemy influence and whether the appointment of an Administrator was necessary. The shareholders of any company affected could not review these decisions in any way nor could they remove the Administrator appointed. The individual appointed Administrator took over the functions of the officers, board of directors, and stockholders of the company.

The Eleventh Decree to the Reich Citizenship Law –November 25, 1941

This law legalized the automatic confiscation of property from German Jews deported to the East. It deprived German Jews who resided abroad of their German nationality. Hence, the authorities were empowered to terminate the pensions and confiscate the property belonging to all deported Jews on the grounds that they transferred their normal residence abroad. All that was needed to seize an individual's property was the assertion that the person maintained his "normal residence" in a foreign country.

Appendix 12: Nuremberg Code. (U.S. Government, 1949)

1. The voluntary consent of the human subject is essential.

This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over- reaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved, as to enable him to make an understanding and enlightened decision.

This latter element requires that, before the acceptance of an affirmative decision by the experimental subject, there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person, which may possibly come from his participation in the experiment. The duty and responsibility for ascertaining the quality of the consent rests upon everyone who initiates, directs or engages in the experiment.

It is a personal duty and responsibility which may not be delegated to another with impunity.

2. The experiment should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random and unnecessary in nature.

3. The experiment should be so designed and based on the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study, that the anticipated results will justify the performance of the experiment.

4. The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.

5. No experiment should be conducted, where there is an a priori reason to believe that death or disabling injury will occur; except, perhaps, in those experiments where the experimental physicians also serve as subjects.

6. The degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment.

7. Proper preparations should be made, and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability, or death.

8. The experiment should be conducted only by scientifically qualified persons.

   The highest degree of skill and care should be required through all stages of the experiment of those who conduct or engage in the experiment.

9. During the experiment, the human subject should be at liberty to bring the experiment to an end, if he has reached the physical or mental state, where continuation of the experiment seemed to him to be impossible.

10. During the course of the experiment, the scientist in charge must be prepared to terminate the experiment at any stage, if he has probable cause to believe, in the exercise of the good faith, superior skill and careful judgement required of him, that a continuation of the experiment is likely to result in injury, disability, or death to the experimental subject.

Appendix 13: Policy Paper Brief [Isaleta Pueblo] (Abeita, 2015)

Changes to the Blood Quantum Policy at Isleta Pueblo: The Identity crisis for the federal government. (Deloria, 2012)

Descendant Population an Urgent Call to Action for Tribal Leaders
The policies written by the U.S. government during the 19th century for Native American tribes regarding determining tribal membership were intended to persuade Native Americans who were half Indian blood or less not to register in their tribe, but instead, accept allotments. This is the point in history where blood quantum first became noticeable in treaties between tribal nations and the U.S.

Summary

On March 27, 1947 the Bureau of Indian Affairs approved a constitution for the Pueblo of Isleta. Since that time a change in Isleta's socio demographics (population) have shifted to include more of Isletans with mixed ancestry. The blood quantum policy requires a one- half (1/2) Indian blood requirement to be an enrolled tribal member of the tribe. However, as time progresses there will be an increase of Isletans with mixed ancestry that will not be allowed to register because of the blood quantum policy. The result of this will have a significant impact for Isleta to function fully as a sovereign nation in the future. Population is a significant contributor to the growth of an economy as this pertains to financial as well as the environmental aspects and the stewardship of the land. The current breakdown of enrolled tribal member is a strong point to consider as there are less full-blooded (4/4) tribal members than one-half (1/2) tribal members. (Lente, 2014)

How does this statistic play into the long-term vision of the tribe when considering sovereignty twenty-years from now? Furthermore, how does the blood quantum policy reinforce inclusionary/exclusionary aspects of the already existing binary in place due to the result of the two classification of Isleta community members (tribal members and descendants)?

- In August of 2014 the total population consisted of 3458 enrolled Isleta Tribal members.
- Of the 3458 there were 1272 classified as full blooded (4/4) Isletan.
- Of the 3458 there were 1496 classified as one-half blooded (1/2) Isletan.

The data about tribal membership of 2014 suggest that there will be an increase number of descendants in the next few decades.

- There are more half-blooded (1/2) than full-blooded (4/4) Isletans.
- The statistic does not include for the full-blooded population age demographics. For example, the total population number for full- blooded Isletans may represent a large percentage of 50 +.
- As a result of this statistic there will be more descendants that will reside on the reservation.
- Descendants cannot vote.
- Descendants cannot own property.
- Descendants cannot hold political office.

The Tribal Council will need to strategically think about how to come up with effective solutions to reframing the blood quantum policy.
Descendants and the Identity complex:

The current dynamic that is unfolding in the community is that of an identity complex for descendants with a heavy emphasis on youth and women. Youth descendants question their identity, because they believe they do not belong in the community because they are not tribal members. Equally, women who are descendants are exposed on the margins further because of their status as women. They do not have a political voice, which makes it a determent to the overall notion of women's economic and political rights, but especially for Indigenous women regardless to the amount of Indian blood a woman may have.

Persons that are identified as descendants are community members. They are counted on the tribal roles. (Lente, 2014)

However, they do not have political rights. For a democratic society to sustain all members of that society must have political rights. To determine a person's authenticity based on a percentage of blood robs the tribe from all community members abilities to contribute their talents that are necessary for a society to progress.

Why is diversity paramount for Isleta's tribal government?

- An improved transparent process can occur, because by allowing descendants political rights will let tribal council positions to become a competitive process. It will lead to a consistency of new ideas to flow in those positions.

- An improvement in accountability can occur, because by allowing descendants political rights will in fact create a new culture of government and a better oversight of elected positions and tribal finances by the public.

- Allowing descendants political rights will strengthen the worldview of the tribe as it relates to language and cultural activities, because there will be a large base in terms of population.

- Allowing descendants political rights will improve women's economic rights. By allowing women community members (descendants) these rights will improve economic opportunities for these members, because they will be allowed to participate politically and own property that will have an immediate positive impact on their families and children.

- Allowing descendants political rights will reinforce community identity, because there will no longer be the classification of a descendant and a tribal member. By allowing descendants political participation will erase this binary.

- The tribe can determine membership requirements that is detached from the influence of the U.S. federal government. The constitution outlines this point in section 7 within Article II of membership in the tribal constitution.

The following questions about the blood quantum policy are important for creating new pathways regarding tribal citizenship, identity, belonging, and sovereignty.

- How has a systematically colonial model minimized the value of traditional governance in the community?

- How can the community be inclusive of all people of the same tribal identity?

- How can the Pueblo government form policy so that members of the community can contribute their talents fully?

- How can the tribal government improve upon on the democratic process already in place in the community?

- How can the tribal government improve women's rights in the context of economic and political rights?

- How can the Pueblo grow their economy?

- How has the blood quantum policy limited the potential of these to develop?

Recommendations

- Pueblo leaders need to question how the blood quantum policy has hindered the community's overall growth.

- Pueblo leaders can think about the long-term vision of the tribe as to the aspirations of community and sustainable development.

- Pueblo leaders can think about a more inclusive government and allowing community members to participate in the formation of policy and budgets.

- Pueblo leaders can conceptualize a process in creating spaces in the community to voice concerns about the blood quantum policy and tribal government leaders can be involved in this process.

- Pueblo leaders can explore further the impact of population growth on community sustainability in the context of the blood quantum policy. Conceptualizing how the current socio- demographical shift can shift in the next two decades. How has tribal leadership though about this in the scope of a long-term vision? (Abeita, 2015).

Appendix 14: The Pākehā story of Makō

After the destruction of Parakakariki and the death of Tu te kawa, the various chiefs of Ngāi Tahu engaged in the expedition of Moki expedition, who had not already secured a landed estate elsewhere for themselves, took immediate steps to acquire some part of the Peninsula. The rule they adopted was that whoever claimed a place first should have the right to it, provided the claimant performed some act of ownership. The claimant was entitled to as much land as he could traverse before encountering another selector. Te Rangi Whakaputa hastened to secure Te Whakaraupo (Port Cooper); Huikai hurried off to Koukourarata; Makō to Wairewa; Te Rua hikihiki landed at Wainui, and commenced at once to dig a fern root, and prepare it for food; he then passed round the coast, leaving Manaia at Whaka Moana, and others of his party at Waikakahi, taking up his own permanent residence at Taumutu. Tutakakahikura, one of the ancestors of Mrs Tikao, leaving his sisters and family at Pohatupa, walked quickly round the coast by the North Head of the Akaroa Harbour, and up the shore as far as far as Taka Matua, and thence round by Parakakariki to starting point. While crossing one of the streams that flow through the present township of Akaroa, he encountered O i nako, a Ngatimamoe chief, and a fugitive from Parakakariki. They engaged in mortal combat, and O i nako was killed, and the stream was ever after known by his name. Te Ake, the ancestor of Big William, landed at the Head of the Bay, and after trying in vain to reach Wainui, owing to the rough nature of the coast, he retraced his steps, and tried to get round the other side of the harbour, but, on reaching the grassy slopes between Duvauchelle and Robinson's Bay, he felt too tired to go any further, and took possession of the point and its surroundings by planting his walking stick in the ground; hence the place obtained the name of Otokotoko (walking stick) Fearing that his boundary towards the south might be disputed, Te Ake begged Te Rangi Taurewa to cross over in his canoe to a headland he pointed out, and here to hold up his white whalebone weapon, while he himself stood at Otokotoko and watched him. His friend did as he was requested, and the headland has ever since been known as the "Peg on which Te Rangi Taurewa patu parao hung"—south side of French Farm. The beach below the point was called "The shell of Hine Pani," after some Māori lady who found a shell there, which she greatly prized.

Some years after these events took place, another section of Ngāi Tahu, under the command of Te Wera, a fiery warrior, destined to play an important part in the history of his tribe in the South, came in search of a new home. They landed at Hikurangi, hut finding that the place was already occupied, they sent to Whaka Moana for Manaia, a chief of a very high distinction, the Ūpoko ariki, or heir to all the family honors of more than one hapū in the tribe. On his arrival, a war dance was held in his honor, and there was much friendly speechifying. Te Wera, after indulging in some rude witticisms on the personal appearance of their "squint eyed lord," extended his right arm, and called upon Manaia to enter. Manaia rose up and passed under his arm, and so peace was confirmed between them; but, to cement their friendship still more firmly, Te Wera gave Irakehu, granddaughter of Te Rangi Whakaputa, to Manaia in marriage, and she became the ancestress of Mr. and Mrs. Tikao, Paurini, and the other chief persons in the Māori community here. Te Wera and his party then sailed away to the South, and established themselves for a time near Waikouaiti, where they were as much dreaded for their ferocity by other sections of their own tribe as by the Ngatimamoe, whom they were trying to exterminate.

For many generations Māori on the Peninsula remained in peaceful occupation of their new homes, undisturbed by foreign attacks or internal strife. Occasionally the bolder spirits amongst them would go away to take part in the wars against Ngatimamoe, which were carried on for many years in districts further to the South, or else to take part in some quarrel between different sections of the Ngāi Tahu tribe located elsewhere. Among those who went off in search of military honors was a certain heretical teacher named Kiri mahi who left Akaroa for the seat of war near and fell at the battle of Tara ka hina a tea. This Tohunga had told Turakautahi the younger that Tiki made man, whilst the fathers had always maintained that it was Io. Te Wera adopted a novel method to prevent the survival of this man's false teaching, through his spirit escaping and getting into some other Tohunga. When the battle was over, he made an oven capable of containing the entire body, and then he carefully plugged the mouth, ears and nose, and every other aperture, and having cooked the heretical teacher, he managed, with the assistance of some of his warriors, to eat up every portion of him, and so successfully extinguished the incipient heresy.

The condition of those who remained quietly at home was enjoyable enough, for it is a great mistake to suppose that the old Māori life in peaceful times was one of privation and suffering; on the contrary, it was a very pleasant state of existence. There was a variety and abundance of food, and agreeable and healthy occupation for mind and body. Each season of the year, and each part of the day, had its specially allotted work, both for men and women. The women, besides such household duties as cooking and cleaning their houses, made the clothing and bedding required for their families. They gathered the flax and ti palm fibers used, and prepared and worked them up into a great variety of garments, many of which took several months to complete, and which, when finished, were very beautiful specimens of workmanship. The men gathered in the food and stored it in what has or storerooms, which were attached to every dwelling, and built on tall posts to protect the contents from damp and rats. Besides such natural products of the soil as fern root, ti palm stems, and convolvulus roots, they cultivated the kumara, hue, taro and karaka. Fish of various kinds were caught during the proper season and cured by drying in the sun. Wild pigeons, kakas, paradise ducks, and mutton birds were cooked and preserved in their fat in vessels made from large kelp leaves, and bound round with totara bark to strengthen them Netting, carving; and the grinding and of stone implements and weapons occupied the old men, and much of the leisure time of the young. They beguiled the long winter evenings by reciting historical traditions and tribal genealogies, by repeating poetry and fairy tales, and by songs, dances, and round games. It was only when they fell ill, or were harassed by their enemies, that Māori of olden time can with any truth be represented as having been miserable and unhappy.