

BEFORE THE WAITANGI TRIBUNAL

WAI 2700

WAI 2872

IN THE MATTER OF

the Treaty of Waitangi Act
1975

AND

IN THE MATTER OF

the Mana Wāhine Kaupapa
Inquiry

AND

IN THE MATTER OF

a claim by **Dr Leonie
Pihama, Angeline
Greensill, Te Ringahuia
Hata and Mereana Pitman
(Wai 2872)**

SPEAKING NOTES OF MEREANA PITMAN**Dated this 3rd day of February 2021**

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Waitangi Tribunal

4 Feb 2021

Ministry of Justice
WELLINGTON

MAY IT PLEASE THE TRIBUNAL

INTRODUCTION

1. Tēnā koe, e te rangatira. Tēnā koutou katoa, ngā rangatira o ngā hapū, me te Karauna hoki. Ko Mereana Pitman tōku ingoa, Nō Ngāti Kahungunu me Ngāi Tāmanuhiri, Ngāti Wai me Ngāti Porou hoki.
2. I have been working in Treaty and decolonisation work, here and overseas for over 50 years. The impacts of colonisation here in Aotearoa in terms of Christianity and capitalism have had devastating impacts on our tupuna whāea who were all Rangatira in their own right long before this land was colonised.
3. I have also worked with our men incarcerated for all sorts of reasons, to help them to work through the myriad of issues they have faced in their lives, and find some eternal peace within themselves so they can restore faith and belief and begin to rebuild their whānau base when they are released. I have worked in the Prisons for many years and still do today. I believe that working with our men is healing our women and whānau, and this work is highly important in mending the societal issues Māori wāhine face every day at home and in their lives.
4. I am also a proud Māori activist and have been to every single land occupation, hiko and protest since the 1970s and walked alongside all the greatest wāhine Māori activists of our time, Eva Rickard, Hana & Syd Jackson, Ngā Tamatoa and more. I will keep going until I can no longer walk because direct action, protest and occupation are the only forms Māori have to challenge the status quo and make transformative change – we don't talk, we don't negotiate, we don't compromise – we just do.

Crown has not only failed, but they have targeted Māori Women

5. The Mana Wahine Kaupapa Inquiry hearings will investigate claims regarding the specific Tiriti violations of the Crown that have led to injustice against wāhine Māori across social, physical, spiritual, economic, political

and cultural dimensions. It has been a long time coming, having first been filed in 1993 and led out by the Māori Women's Welfare League, and then initiated as an inquiry in 2018. While it can be said that all Waitangi Inquiry hearings are traumatic, frustrating and difficult, it's expected that this one in particular will reveal a specific history that is as foundational, on a national scale, as it is disturbing.

6. The hearings are taking place against a backdrop of social extremes for Wahine Māori, who are at once recognised globally for their leadership in Indigenous academia, business, justice, environmental advocacy and education, but are also significantly underpaid for their work, experience numerous barriers to adequate healthcare and social assistance, and are incarcerated at a rate higher than females anywhere else in the world. In order to understand the role of the Crown in the injustices faced by Wahine Māori, we must first understand the roles held by wahine prior to European contact.
7. Aotearoa New Zealand is often praised as a global fore-runner in women's rights, praise which is usually rooted in our parliament securing the women's vote before other nations, in 1893. Around the world, it was lauded as groundbreaking, a new pinnacle in women's rights. What is so often missed in this accolade is the fact that wahine Māori were, under the colonial regime, suffering greater political oppression than they had at any other time in history. Pre-colonial Wahine Māori were landowners, spiritual and political leaders, fighters, navigators, and repositories of ancient knowledge. While the acquisition of the vote was a relative step ahead within the colonial context, Wahine Māori have nevertheless struggled, and still struggle, to recover the political rights that were stripped through colonisation. In fact, even within the suffrage movement, Māori Women were racially oppressed, having to sign agreements that they would never take on their ancestral sacred markings if they wished to join the Women's Christian Temperance Union which was led by Kate Sheppard and spearheaded the suffrage moment. Indeed, the introduction of colonial land tenure systems disproportionately impacted upon Māori women landowners, as colonial misogyny inhibited the already fraught process of the Native Land Courts, economically and

politically disempowering Māori women all over the country. The status and roles of wahine Māori were, in many ways, an anathema to colonial Britain and Europe at the time of contact. Where sexual expression was condoned or celebrated for Māori, it was condemned by colonisers. While Māori female elders were repositories of sacred knowledge, women were restricted from even attending school in Britain and Europe. Even though women were significant landholders and political leaders at the time of the Treaty, they were in many cases disallowed or discouraged from signing by the men who were charged with collecting signatures around the country.

8. Much of the discourse around the roles and respect for Wahine Māori prior to European contact have been obscured through early white anthropological perspectives who either misperceived, deliberately misrepresented, or simply erased altogether the presence and importance of Wahine Māori. As scholar Aroha Yates Smith has noted: These early ethnographers predominantly focused upon Atua Tāne – male gods – and ignored a multitude of Atua Wāhine, resulting in a male biased perception of our pantheon. Anthropologist Elsdon Best – who provided much of the written material upon which we would come to base our understandings of precolonial Māori – literally referred to our most sacred center thus: “The house of misfortune, of ominous inferiority, is represented by this world, by the earth, by the female sex, and by the female organ not generations, which holds dread powers of destruction and pollution.” The colonial lens is indeed a misogynistic lens, in addition to being a white supremacist lens, and so the policies and legislation which stemmed from this view naturally placed Wahine Māori within crosshairs which continue to shape our destinies, and that of our children, for years to come.
9. This is no unfortunate coincidence but a deliberate feature of the colonial project. The disruption of social organisation was a vital step in the colonial process, and the oppression of women was the fastest route to destabilising the which unit which sat at the heart of Māori social organisation. Such practices were seen around the world, where-ever colonisation took place. At Wounded Knee, officers noted that the women and children were specifically

targeted because they would “make up the future strength of the Indian people”. Colonial conquest is, at its heart an act of war, and like all wars, it comes with sexual violence. Rape featured in the colonisation of Aotearoa New Zealand throughout its history. It occurred in Aotearoa at the hands of Cook’s crew. It occurred in Aotearoa as a tool of the land wars, at Rangiaowhia, at Parihaka, at Maungapōhatu. Our tipuna were further exposed to wartime sexual violence in the battlefields of Europe and North Africa during World War 2, returning home without any support from the Crown that enlisted them, and the trauma of war was then visited upon the women and children at home. The ensuing cycles of addiction, violence and assault have been intergenerational for Māori whānau, and compounded by a state system that, alongside the absence of effective support, is significantly more likely to uplift Māori children than non-Māori children, and subsequently significantly more likely to visit further abuse upon those children whilst they are wards of the state.

10. All of this must be taken into account when considering the specific ways in which the Crown has impacted upon outcomes of Wahine Māori. The care and wellbeing of mothers, in particular, is termed a “circuit breaker” in intergenerational patterns of harm precisely because of the role they play in the wellbeing of families. Tiriti justice cannot be achieved for Māori families without Tiriti justice for women, and the imminent hearings, while overdue, will carry painful and powerful histories to the surface for Aotearoa to bear witness to. Like all Treaty issues, these truths, once heard, must be responded to with actions that will restore justice. Only then can we hold our heads high as a progressive nation for women’s rights.

SEXUAL VIOLENCE AND THE DOCTRINE OF DISCOVERY

11. It is, perhaps, a mark of the year that 2020 has been that the creation of a new ministerial portfolio for the prevention of family and sexual violence sailed past the bluffs of the election media without barely a mention. Aotearoa has some of the highest rates of family and sexual violence, and it is a cornerstone issue – it impacts upon multiple other spaces of mental health, the rights of women, youth and children, crime and incarceration to name just a few. It is

a cornerstone issue in the social ecology – and while its impacts upon Māori communities are distinct it should not be understood as a Māori problem. It is, in no small measure, a colonisation problem, and like all stories of colonisation it requires a thorough understanding of the history of sexual violence in a colonial context. Here are just a few important considerations for us to keep in mind in considering the role of sexual violence within a colonial state:

Sexual violence is a tool of conquest and colonisation

12. We should, first, understand sexual violence as a primal act of domination that features across species, and certainly across cultures. It is used to punish, humiliate and destroy, and has been used as a tool of war, conquest and domination for as long as war, conquest and domination has existed. We then, must understand imperial expansion as acts of war, domination and conquest, and colonialism as the maintenance of domination. For nations that have undergone colonisation, sexual violence is one of the many tools that has been used to establish and maintain domination – and it has been an extremely effective one.
13. The Doctrine of (Christian) Discovery is an international legal and social concept which created sets of entitlements for European monarchs to expand their empires throughout the world. In the words of the papal laws, these entitlements included the right to:

“invade, search out, capture, and subjugate the Saracens [Muslim] and pagans [Non-christians] and any other unbelievers and enemies of Christ wherever they may be, as well as their kingdoms, duchies, counties, principalities, and other property [...] and to reduce their persons into perpetual servitude.” Dum Diversas
14. It’s important to note that even though these laws are ostensibly about the right to claim land, the first rights accorded are the rights to “invade, search out, capture and subjugate” Saracen and pagan people, followed by the right to then take their property, including their lands. This comes as no surprise within the context that these earliest of papal bulls were primarily aimed at establishing a slave trade.

15. However, within a very short period subsequent papal laws then expanded the entitlements both in scope of the geography (moving from the right to invade and claim West Africa, to the right to invade and claim the “New World”) and in provisions (increasing, and clarifying, what could be taken and done).
16. Under the likes of Christopher Columbus and Francisco Pizarro, the application of the Doctrine of Discovery utilised sexual violence from the very outset. One of the documents utilised in the process of applying the Doctrine of Discovery was called El Requerimiento. It was read out as a proclamation of discovery to the natives of the lands being claimed (of course it was never understood, and was in many cases read as a formality upon sighting the land, just before invading it and waging war upon the natives of that land). It reads as follows (emphasis added):

“... We shall powerfully enter into your country, and shall make war against you in all ways and manners that we can, and shall subject you to the yoke and obedience of the Church and of their Highnesses; we shall take you and your wives and your children, and shall make slaves of them, and as such shall sell and dispose of them as their Highnesses may command; and we shall take away your goods, and shall do you all the mischief and damage that we can, as to vassals who do not obey, and refuse to receive their lord, and resist and contradict him; and we protest that the deaths and losses which shall accrue from this are your fault, and not that of their Highnesses, or ours, nor of these cavaliers who come with us.” El Requerimiento

17. Here we see, in the tools of the Doctrine, the explicit entitlement towards women and children, the intention to make war in all ways possible, to “do all the mischief and damage that we can”, and importantly, that all blame for this will be upon the victims themselves. Unsurprisingly, the mischief described consistently involved sexual assault. Franciscan monk Bartolome De Las Casas recorded the events in his journal regarding Columbus’s invasion of Haiti:

“This was the first land in the New World to be destroyed and depopulated by the Christians, and here they began their subjection of the women and children, taking them away from the Indians to use them and ill use them.... And some of the Indians concealed their foods while others concealed their wives and children and still others fled to the mountains to avoid the terrible transactions of the Christians... They behaved with such temerity and shamelessness that the most powerful ruler of the islands had to see his own wife raped by a Christian officer.” De Las Casas

18. Further accounts are provided by crew members of the orders given to rape women, and in the instances of crew such as Miguel Cuneo, where native women were “gifted” by Columbus and subsequently raped. Sexual trafficking and sexual violence against women, children and youth featured throughout what became known as the “Age of Discovery” (better termed the Age of Genocide). It featured in the voyages of Magellan, of Pizarro (and indeed all conquistadors), and of James Cook.
19. In the case of the British colonisation of India, not only was the colonial rape of Indian women widespread, but colonial laws were adopted which placed a heavy standard of evidence upon rape victims only for cases where the accused was a British officer.
20. The history of colonisation must include the employment of sexual violence and trafficking as a tool of domination and conquest, and conversely the history of sexual violence must include its specific use against Indigenous peoples as a part of the colonial project.

Sexual violence is intended to strip the sacred

21. Sexual violence is a form of consumption, and so, in consuming you, it attempts to desanctify you, making you not only property, but consumed, defiled and defecated property. In making you non-sacred this legitimises the entitlement to take whatever is required of you, because you do not matter. It is the most powerful expression of you not mattering, along with extinguishing your life.
22. The whare tangata (womb) is seen as a sacred repository for Hine, in the form of Hineteiwaiwa, who oversees the female reproductive cycles. It is the space

where the divine and human come together. It is a portal for souls to enter this world. The assault upon this aspect of our sacredness is one intended against not only the victim, but the line which continues through her. Sexual violation and commodification of Indigenous women is also associated to their hypersexualisation and subsequent cultural appropriation. The “Dusky Pacific Maiden”, and “Squaw” tropes are two examples of how the Indigenous feminine is hypersexualised, commodified and consumed for colonial entertainment, through literature, through porn, and through costumes. Today, still, the true story of Pocahontas which obscures and erases colonial rape is made all the worse by the continued commodification and hypersexualising of her story and image, primarily through the likes of Disney, which then drives subsequent hypersexualised costuming every single Halloween.

23. Furthermore, the rape of children in particular is a stripping of sacred innocence that feeds a colonial compulsion to acquire all that can possibly be acquired of a people. Nowhere is sacred when even the innocence of children can be taken. As we have seen in the cases of children taken and then abused through the state system both in Aotearoa, in Australia and on Great Turtle Island, the deep, psychological and spiritual damage that is done through sexual violence passes on intergenerationally, and after the first instance, the colonial perpetrator becomes the Indigenous vector.
24. Healing sexual violence necessitates spiritual healing.

Sexual violence is synonymous with environmental violence

25. As outline above, sexual violence is a powerful tool to facilitate the taking of land. Making you insignificant is an important step in the legitimising of the theft and abuse of your land and waters. In particular, the aforementioned assault upon the womb is one which, with its many associations to sacred land and waters, extends to the entitlement to own, and abuse, the natural Indigenous world. This is not only historical but also contemporary, and is further evidenced in the correlation between oil pipelines and missing and murdered Indigenous women on Great Turtle Island (insert maps).

26. As pointed out by Dr. Dawn Memeé Harvard, Native Women's Association of Canada in her United Nations submission:

“A 2014 report by the ILO estimated that 21 million individuals are being trafficked for sex or labor globally per year and showed that sexual violence and trafficking is exponentially higher near points of extraction and worker camps, or “man camps” than it is in locales of similar population. Destructive, resource-intensive, and often forced practices of mineral extraction are primary ways that colonialist conquest and genocide continue today, through simultaneous violence against the land and against indigenous peoples, disproportionately affecting women and girls. “ Dr. Dawn Memeé Harvard

27. Indeed, at Standing Rock, at the Alberta Tar Sands, in Peru, parts of Africa and around the world, environmental exploitation is synonymous with gender based violence. In all of these places, historically and in a contemporary sense, Indigenous peoples are subjected to sexual and gender based violence as a response to their efforts to return and protect their Indigenous territories.
28. Sexual violence and gender based violence must be further understood as a precursor and facilitator of environmental harm that disproportionately impacts Indigenous peoples. Environmental colonialism must also be understood as an issue which increases the likelihood of sexual and gender based violence against Indigenous communities.

Sexual violence dispossesses/displaces us of our bodily, emotional, spiritual territories

29. It is a commonly seen consequence of sexual violence that survivors disconnect themselves from their bodies/emotions/spiritual selves in order to survive. This displacement can remain lifelong, and can then lead to behaviour that is symptomatic of the heart, mind, soul, body and collective being displaced from each other. This is particularly true of children who are nowhere near equipped to be able to deal with the trauma of sexual violence.
30. Their pathological selves are disconnected from community, through the shame associated with sexual trauma. The shame of being defiled. The shame of sexual dysfunction. All of these things drive victims of intergenerational sexual trauma away from the community. In some cases, the community finds

it easier to ignore what is happening, or attack the victim, than deal with the sexual violence itself, and in other cases it is the victim who perceives the shame and never raises it to the community.

31. Hurt people hurt people. Our patriarchal, heteronormative, Christian society does not allow for deep discourse on sexuality. Where all sex is seen as a sin, open intergenerational discussions about sex are limited and consequently our ability to differentiate between natural, healthy sex and sexual violence is also limited. It vilifies the intergenerational vectors of sexual violence, forcing them underground, away from healing, so that the harm continues in our communities. The depth and scale of trauma created by sexual violence, coupled with the lack of effective support, underpins the “state-care” to prison pipeline and is consequently linked to a wide range of harmful outcomes for individuals, whānau and communities.
32. Healing sexual trauma in Māori communities necessitates processes that reconnect us to our physical, emotional, spiritual and communal selves. It needs to be connected to our work on suicide and addiction, and understood as a major contributor to hyper-incarceration. It further requires a range of healing approaches both for victims and vectors of intergenerational sexual trauma, as well as their communities.

Sexual violence has promulgated through Māori communities at the hands of the Crown

33. There are two significant sites of our colonial history that have contributed to sexual assault within Māori communities: warfare and “state care“. Over 100,000 children were placed into state care in just 40 years, with the rate of Māori being between 50% and 90% depending on the year, and the region. Abuse in state care is rife, and reports indicate the the vast majority of that abuse that has occurred also happens to Māori.
34. In consideration of these numbers, one simply cannot overstate the impact of what we can safely term the mass-rape of Māori children by the state. Moana Jackson says “you cannot take a young man in a prison cell and look at him separately from the experience of colonisation”. The same can be said of

sexual trauma in Māori communities. We simply cannot look at it in isolation of the experience of colonisation and the utilization of sexual assault as a tool of colonisation both to us, and through us.

35. Militarism and sexual assault goes hand in hand. It is a part of the oldest military strategies. If we understand the “Age of Discovery” as a series of war crimes, invasions of Indigenous nations – then we can see that the same tactics were employed as military strategies. It occurred in Africa under Dum Diversas. It occurred in Haiti under Columbus. It occurred in Aotearoa at the hands of Cook’s crew. It occurred in Aotearoa as a tool of the land wars, at Rangiaowhia, at Parihaka, at Maungapōhatu. Our tipuna were further exposed to wartime sexual violence in the battlefields of Europe and North Africa during World War 2, and in Vietnam. It occurs, still in Afghanistan. Sexual violence has occurred, and continues to occur, throughout the Pacific in and around the military bases. Sexual trafficking, forced prostitution, sexual assaults, all spike around military bases. Essentially, where there is war, there is sexual violence.
36. Our tipuna came back from war broken, and hurt men. Men who had been exposed to wartime sexual violence. Men who were offered little more than alcohol or drugs to numb the trauma of what they experienced. Addicted, traumatized, hurt, and then planted back into our communities where the hurt became intergenerational.
37. Sexual assault within Māori communities must be understood as a legacy of colonisation, and associated with Crown occupation.

Colonial Sexual Trauma is Capitalised Upon by the Colonialism Industrial Complex

38. Just as there is a poverty industrial complex and a nonprofit industrial complex – colonialism also exists, itself, as an industrial complex. Many billions of dollars is spent on the social fallout of sexual trauma, through Corrections, through counselling services, through social service providers, through Oranga Tamariki, through women’s refuge.... and the vast majority of the funding either cycles back through the State, or is paid out to pākeha

social service providers. Numerous studies and experts have concluded that the subsequent services are not geared for Māori, and fail to provide the appropriate healing required for spiritual, physical, emotional, and communal wellness.

39. One doesn't have to impugn the motives of the individuals and nonprofits working in this industry to observe that, in the aggregate, they consistently behave like other industries: working closely with elected officials and government agencies to preserve the government funding that supports their work. The result is ingrained inertia that makes it harder to shift resources to programs that could provide better outcomes and do so more efficiently.
40. When you look at how the complex is facilitated, through relationships of privilege and social opportunities that are built out of a background of education and qualifications that are also acquired through socio-economic privilege, it is easy to see how easily pākeha turn a profit from the colonial harm visited upon Māori. This is not uncommon within the framework of the Doctrine of Discovery, where the extraction from Indigenous peoples and their territories underwrites the global imperial economic complex.
41. Therefore, dismantling the Doctrine of Discovery within the sexual violence-social work sector means primarily resourcing Māori services to provide multi-level healing services from the colonial legacy of sexual violence.



Mereana Pitman (Ngāti Kahungunu, Ngāi Tāmanuhiri, Ngāti Wai, Ngāti Porou)