

intrigued by aspects of them, especially since indigenous traditions might contain hidden reference to Noah' (p.39). Life as lived by nineteenth-century Pacific missionaries was just not that simple.

The third difficult feature of this book comes in the form in which the intellectual history chapters are themselves constructed. The representations offered of individual scholars and other figures are too often made taut by the selective rendering of text and the somewhat clichéd treatment of their positions on issues of their times. There are two other features of this form of construction which permit us to lust after its end. First, there is little or at best inadequate explanation given of context for some of the big ideas under discussion. For example, Aryanism is traced only as far back as Max Muller (p.43); Haddon's expedition to the Torres Strait is described as having 'conducted a series of psychological tests' (p.50); Franz Boas is described as one who 'championed the cause of cultural determinism' (p.51); fieldwork anthropology moved from the Pacific to Africa from the 1930s 'since fieldwork was cheaper there' (p.53). As the references given in support of them make clear, these assertions share, with many others throughout the book, the characteristic of being a wee bit true in the sense that each conveys just a little bit of the truth. It should also be pointed out that the intellectual history parts of the book are written as a progressivist tract and so we plough through the mistaken views and obvious prejudices of past figures then arrive at the sophisticated methods and brilliant insights of those working at present. Without any sense of paradox, 'arrogance of presentism', to quote George Stocking, is used as the framework on which 'evangelical missionaries' and 'new age thinkers' are criticized for being unjustifiably confident of the superiority of their ideas. If we are to have more moralized revisionism dressed up as history in this part of the world, could it at least be more reflexive and better-considered than this?

I should now consider the book's treatment of the current state of knowledge. First, it is not current. Second, a lot of relevant knowledge is not mentioned. Third, there is the assertion that the question of origins is 'finally answered' (p.88) 'yet there is much detail which remains a mystery' (p.89). The first two assessments speak for themselves and are well-attested by what is in and absent from the book's bibliography. The last warrants comment. This sort of thing has happened in Pacific scholarship many times before; an authority with credentials in one field declaring that everything of real consequence in another area of research is known already. The question then is known to whom?: the answer is 'known' to the authority figure in question and no one else. In the present instance, that principle applies as Pacific archaeologists, biological anthropologists, linguists, palaeoenvironmentalists and paleogeneticists, iwi and Pasifika scholars appear not to agree with Howe's assessment.

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The Waitangi Tribunal and New Zealand History. By Giselle Byrnes. Oxford University Press, Auckland, 2004. 222 pp. NZ price: \$65.00. ISBN 0-1955-8434-1; *Bullshit, Backlash and Bleeding Hearts.* By David Slack. Penguin Books, Auckland, 2004. 199 pp. NZ price: \$28.00. ISBN 0-1430-195-2; *The Treaty: Every New Zealander's Guide to the Treaty of Waitangi.* By Marcia Stenson. Random House New Zealand, Auckland, 2004. 156 pp. NZ price: \$29.95. ISBN 1-86941-631-7.

PUBLISHED WORKS ON THE TREATY OF WAITANGI and Maori-Pakeha relations in New Zealand have increased significantly since Claudia Orange's weighty *Treaty of Waitangi* first appeared in 1987. *Waitangi*, edited by Hugh Kawharu, published two years later, was another important entry into what seemed to be a new field of historical

enquiry. Other scholars had been there before, of course, like T.L. Buick, Mary Boyd and Ruth Ross. But times had changed, especially since the 1975 establishment of the Waitangi Tribunal, the primary focus of Kawharu's volume. In 1985 the Tribunal was vested with powers to investigate Crown actions back to 1840. This act placed all of our history 'under judicial review', as Alan Ward put it.

Largely as a consequence of the Tribunal's work, journal articles focusing on Treaty issues continued to be published, as did chapters in books, dissertations, monographs and assorted bulletins. One historian even coined the phrase 'Treatyites' in the hope that Treaty scholars might be gathered into a common historiography. In a more negative vein, the term 'grievance history' also appeared, with its particular political resonance, as a means to explain or decry the kinds of histories believed to be emanating out of the Tribunal process.

The Tribunal itself has produced a prodigious number of reports, as have other agencies; and, as Giselle Byrnes demonstrates, these are now the focus of sustained academic enquiry in their own right. Conference presentations on Treaty issues have also increased markedly. A few years ago, it was thought that Tribunal research might end up dominating New Zealand Historical Association conferences to the possible 'detriment' of other historical presentations. Nowadays, it is a little difficult to keep track of most, much less all, of this important Treaty-focused material.

Orange's 1987 book focused on the turbulent years of Treaty relations in New Zealand. She was less concerned with Tribunal processes (though she has been in subsequent illustrated editions) and did not engage in much historiographical debate. Other scholarship, such as that in Kawharu's volume, focused more upon the Tribunal itself and the various meanings being attached to its largely judicial and political processes. Andrew Sharp's *Justice and the Maori* (1990) continued these lines of Tribunal enquiry, as have numerous other texts and dissertations produced by historians such as Richard Hill, Michael Belgrave and Manuka Henare.

It was inevitable that scholarly enquiry into judicial and political processes would spawn an interest amongst historians in the historical research undertaken and published by the Tribunal. It was not long before historians were analyzing and commenting upon the Tribunal's published historical accounts, as Byrnes has been doing for some years. This analysis was interesting; and it was also important because, in the end, these were those historical accounts upon which substantial Tribunal remedies were being proposed. As Tipene O'Regan has stated, the labours of iwi and university historians, though vastly different, all came down, in the end, to one thing: assets — land and money. A lot was at stake, especially for Maori. And, in that context, a lot was also at stake for scholars and academic historians, some of whom imagined that a new Tribunal hegemony might be arising. The question of interest to historians was how 'good' were/are these Tribunal histories, in an academic sense?

As Giselle Byrnes infers, this is a highly political question, since the work of the Tribunal is highly politicized. *The Waitangi Tribunal and New Zealand History* is a complex book. Byrnes writes about recent approaches to the study of the Tribunal. The focus of her analysis, she says, is the Tribunal's written reports. The early part of her work provides useful background to Tribunal analysis, Treaty principles, processes, parties and players. She then moves relatively seamlessly into 'Truth, Time and Objectivity', by which she means the systemic tensions between law and history embedded within Tribunal reports. 'Fatal Impact' and 'Maori agency', which are negative lines of argument proving attractive to some observers of the Tribunal process, are next discussed. An end piece deals with 'liberation history', described by Byrnes as a particular genre of counterfactual history which the Tribunal 'clearly uses' to relieve Maori from a history of oppression and injustice. The final postscript contemplates the 'fracturing of our national story', reinforcing the appearance of neo-conservatism in much of this text. This book is a far cry from Orange in 1987 or even Kawharu in 1989.

So, how might one unpack this weighty study? It seems that much of this work rests upon the contested notion that Tribunal histories are essentially flawed. Any careful analysis of Tribunal reports, Byrnes argues, leads one to the conclusion that Tribunal histories suffer from a range of 'historical method' problems. For one thing, claims Byrnes, Tribunal histories are 'presentist'; they view a Maori historical presence through a modern lens. Many observers of the Tribunal have repeated this criticism, thus ignoring Maori views of past and present as conflated, or 'telescoped'. The notion of the Tribunal's excessive presentism was perhaps most forcefully stated by W.H. Oliver, who looms large within this study. Another difficulty arose from a desire to avoid presenting Maori people acting in history (or being acted upon) as if they were perpetual victims. This victim-image was a denial of Maori agency; a denial of Maori capacity to direct their own destinies, and to take responsibility for them, despite the significant weight of colonization.

Further, the Tribunal seemed to have adopted an evasive way of writing history; its use of history even bordered on the 'ahistorical'. Thus, as Byrnes cites Oliver, there was a 'self-confessed uneasy combination of an ingrained radicalism tempered by conservative caution' in Tribunal reports. As a consequence, the Tribunal, says Byrnes, is in danger of creating a 'retrospective utopian history'. This is more commonly referred to as a 'counterfactual history', that is, a history of what the Crown could have done, or perhaps should have done, but failed to do. Through such methods, it is argued, the Tribunal reports ignore the proper standards of (western) scholarship in an historical sense. The result is a revisiting of the past that is both 'presentist and ahistorical'.

In the end, the Tribunal's efforts to reach straightforward and emphatic conclusions are presented as having serious weaknesses; and one of the consequences of this is, somehow, a sense of diminished credibility (though not to Maori, this has never been a Maori issue). This new genre of Tribunal history, however, lacks a sense of (western) time and space. The distinctiveness of the past is substantially ignored, as is the particular impact, in that context, of that past upon real people, especially those representing the interests of the Crown who were unfortunately much misunderstood. Thus, 'rhetorical gestures towards timeless truths' in order to appease dissent amongst Maori claimants could not dampen misgivings that the Crown would always be shortchanged because they should have, it was argued, heeded rules of which they were unaware.

Paradoxically, in this context, the Tribunal has not mounted a full attack upon colonization. To do so would be to undermine the power and authority of the government upon whom it relies to heed and implement its recommendations. The Tribunal therefore condemns the consequences of colonization whilst, at the same time, maintaining that colonization should have been better managed, especially by providing structures through which Maori might have exercised political power.

According to Byrnes, the presentism reflected in the Tribunal reports is a consequence of its limited jurisdiction. While all history can be accused of being presentist, the judicial context and legislative restrictions of the Treaty of Waitangi Act, and the adversarial environment within which the Treaty operates, meant that the Tribunal reports were constrained in their approach to the past. There could never be such a thing as an objective Tribunal history. In any event, it was hardly the function of the Tribunal to deliver objective history for the consumption of historians, as O'Regan has also argued, though he had Maori interests in mind. Rather, the purposes of the Tribunal were clearly to deliver histories upon which substantial remedies could be based.

In the end, it was generally agreed that the Tribunal was writing history but it was highly conditioned by the adversarial context. Byrnes argues from a standpoint that the reports, as published, produce sufficient source material from which to construct a critique of Tribunal histories at large. This is a problematic stance in that so much of the Tribunal evidence is framed by testimony and evidence that is presented in an oral format. Many

Tribunal histories are presented in an oral form, and they are not necessarily constructed in such a way as to conform to 'good historical methods' though they serve Maori interests in that forum very well. Maori wish to say many things to the Tribunal. Not all of the testimony deals with dispossession and loss; much has to do with maintaining and asserting mana over the land, even if the land has been lost for generations. Such Maori imperatives do not translate easily into published Tribunal reports; and they provide challenge aplenty to post-colonial analysis. Focusing entirely upon published reports and engaging in complex arguments as to their historical veracity seems to me to grant them a hegemonic resonance, which the profession itself has spent some time resisting. Perhaps it is ultimately about the 'truth' of one discourse over another.

In this context, there is perhaps a tenuous if not unexpected connection between the work of Byrnes (and W.H. Oliver) and the work of David Slack. As Auckland's *Metro* magazine pointed out, one of Oliver's most admiring readers was none other than Don Brash, leader of the National Party. Oliver's sustained criticisms of Tribunal histories were a major influence in the drafting of Brash's 2004 Orewa speech, which proposed that Maori were a people vested with special rights and privileges. Strangely enough, as the public furore raged, Oliver and his writings came to mind. For example, if the Tribunal could be accused of 'presentism', then so equally could Brash, since he was guilty of projecting a modern view of Maori capability into the past, thereby denying that there were very good historical reasons which lay beneath the perceived 'privileges' of Maori today. Maori agency in the past had also somehow led to unwarranted privilege in the present, he argued.

Few have forgotten the furore that accompanied Brash's comments. He was both praised and vilified by politicians and ordinary folk alike. David Slack was so moved by this public wrangle that, in very short order, he produced a detailed and skilful text which captured a great deal of the passion and heat of the moment. The book deals in some detail with our shared past and seeks to extract cause and explanation from it and explain heated contemporary issues, especially those generated from the Brash speech. Whilst this book includes some useful appraisals of the past, its focus really is the present. Extensive quotations from key players are used to elucidate some of the pressing issues. Some of these citations are quite long; some are very long. Sometimes, it is not at all clear what speakers are trying to say. Such long quotes do need careful mediating — we need to be told what these people are really saying. Some of the text then has almost a cut and paste look about it, which is a shame.

Also, to get to the heart of why the book was written some analysis of the Brash speech may well have been useful. Slack does not really offer a searching analysis as point of reference, and he seems almost too careful at times to appear objective. He gives Don Brash a little too much — well, slack. Some stronger words about Brash might have made the book more appealing. Instead, it strains for a middle path, despite its quite stark title; and, incidentally, I think it is unfortunate to use an expletive in a book title. It must turn off buyers (perhaps as many as it attracts).

For those wanting a more deliberate and constructed account of the Treaty, Marcia Stenson's *The Treaty* is a very good reference book. Stenson's name is a familiar one amongst consumers of texts at secondary and tertiary levels; and, here, she does not disappoint. This book provides a brief but nonetheless absorbing account of aspects of Treaty history, right up to the present day. There is comprehensive coverage given to modern occasions where Treaty issues are to the fore, like the Land March of 1975, through to the establishing of the Tribunal and the major claims, including the more recent foreshore and seabed furore. Once again though, as with David Slack's work, there is not, in the end, a lot of argument here; much of the text is necessarily descriptive, and it is not mediated to the reading public as I think it needs to be. Many of the histories and modern accounts, of which Stenson writes, are issues of great passion and are politically

charged. Stenson's work comes across as a little drained of heart and of purpose — what *are* the causes of the great debates that have been reverberating around the country? Overall, however, the book serves many useful functions and is a welcome addition to the ever-expanding library of published works dealing with Tribunal and Treaty issues.

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Honour Among Nations? Treaties and Agreements with Indigenous People. Edited by Marcia Langton, Maureen Tehan, Lisa Palmer and Kathryn Shain. Melbourne University Press, Melbourne, 2004. 354 pp. Australian price: \$39.95. ISBN 0-522-85106-1.

THIS BOOK IS THE PRODUCT of papers presented in a seminar series convened in 2002 by Professor Marcia Langton at the Institute of Postcolonial Studies, University of Melbourne. It is also part of a larger Australian Research Council funded project which has produced a highly recommended online database (located at <http://www.atns.net.au>) listing a wealth of information regarding agreements made with indigenous peoples in Australia and other settler societies. As the companion to the database, this book ought to be read not only by scholars of colonial history and international treaty law, but by policy makers and politicians — especially those who found themselves drawn into recent controversies such as the furore over Don Brash's now infamous 'Orewa speech' and the foreshore and seabed debate.

Honour Among Nations? falls into four discrete sections, each with a broad introductory chapter. They include an historical overview of treaties (or 'agreement making'); contemporary processes of recognition of treaty rights in modern settler states; the challenges of negotiating native title, especially in Australia; and finally, the merits and limitations of modern agreement-making between indigenous peoples and governing polities. The book addresses these processes from a number of perspectives. In the first section, Langton and Lisa Palmer sketch out the nature of indigenous relationships with land, place and the common law. In a comparative analysis with nineteenth-century Natal, Julie Evans shows how colonial occupiers in Australia used legal methods to gain control of land and dispossess Aboriginal people. There are also a number of chapters devoted to the role of agreement-making as a way of replying to the history of past injustices. Maureen Teehan navigates through the complex litigation processes in British Columbia, concluding that the power of the law to effect change is limited and often ineffectual. On a similar theme, Paul Chartrand explains how, despite the forward looking recommendations of the 1996 Royal Commission on Aboriginal Peoples, systems of restitution have faltered due largely to lack of government interest; signalling how the implementation of such findings relies on the whim of governments. The sole contributor from New Zealand, Chief Judge Joe Williams, describes the impact of the Treaty of Waitangi on New Zealand law, arguing that there is no settled interpretation of the Treaty and that New Zealand is still far from resolving Treaty issues.

The chapters that specifically refer to Australian experiences largely address the problems of native title. Graham Neate emphasizes the agreement-making function of the Native Title Tribunal, and Noel Pearson critiques the recent High Court decisions in Ward, Yorta and Yamirr, boldly contending that the High Court has misinterpreted the definition of native title and the common law. Lisa Strelein outlines the post-Mabo legal position and maintains that: 'The limits of the legal concept of native title raises the question of whether the development of the common law has left an empty vessel for most Aboriginal and Torres Strait Islander peoples' (p.189).

Arguably, the chapters in this book that address the past present a rather bleak picture