

Civilisation, Settlers and Wanderers: Law, Politics and Mobility in Nineteenth Century New Zealand and Australia

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Mobility was constitutive of the 19th century British colonial period in the Pacific. The circulation of capital and commodities, technologies of transportation and communication, travelling ideologies and systems of governance and surveillance, as well as the movement of explorers, whalers, labourers, settlers, missionaries, colonial administrators, convicts, soldiers, sojourners, immigrants, and transnational and displaced indigenous peoples, all shaped the politics and the period (see Ballantyne 2009: 7-8; Seuffert 2006: 7-8; Arrighi 1994: 48-58). Highly mobile British and European immigrants with money or skills were termed 'settlers', with associated connotations of stabilising and civilising influences. Missionaries and colonial officials who were integral to colonisation were also often highly mobile, carrying policies and regulatory regimes with them, and their colonial roles as 'civilising' influences included 'settling' and advancing the position of indigenous and other colonised peoples. In contrast, the mobility of poor whites and racialised populations — such as 'Melanesian' indentured labourers (Banivanua-Mar 2007: 3-4)², Indian workers, displaced indigenous peoples and 'sojourner' Chinese — attracted the attention of law (and policy) makers and institutional authorities and were subjected to various forms of surveillance, regulation and policing designed to constrain and contain them.

While the mobility that shaped the 19th century colonial period in

the Pacific has received significant scholarly attention in the disciplines of geography and history (e.g., Cresswell 2006, 2008; Ballantyne 2009), less attention has been paid to mobility as an organising concept in law, policy and other regulatory regimes. Nineteenth century conceptions of mobility were deeply embedded in concepts integral to colonisation such as civilisation, settling, savagery and wandering, as well as in the broader ideas about progress and modernity. Constructions of these concepts shifted in relation to each other and in the context of particular colonial configurations and politics; they juxtaposed civilisation and settling with savagery, wandering and a nomadic lifestyle which were often raced and denigrated. At the same time mobility, modernity and progress were read together and generally valorised in different colonial contexts. An analysis of these interrelationships, and their reflection in law and policy, is integral to understanding how mobility operated as an organising concept in law and policy.

Settler colonialism, a particular form of 19th century colonisation, involved a series of shifting relationships in both New Zealand and Australia (Veracini 2010: 1-15). A simple dichotomy, of settler coloniser and colonised indigenous peoples, is often inadequate to analyse colonial dynamics; an exogenous, shifting third category is required that encompasses, for example, a European sovereign or a subaltern other such as Chinese immigrants (Veracini 2010: 16-31). Relationships among the three categories may be fluid — therefore in some contexts the primary focus may be on the opposition of settler and colonised, with the European sovereign a shifting third category; in others the settlers are opposed to racialised immigrants, with the colonised indigenous peoples in various third positions.

This article analyses three different relational constructions of mobility and the concepts of civilisation, progress and modernity in 19th century New Zealand and Australia. It also tracks the articulation of mobility in three areas of law and policy that were integral to settler colonialism: New Zealand's wastelands policy, New Zealand's laws on Chinese immigration, and aspects of Australia's laws related to the Pacific Labour Trade, a type of indentured labour. I begin by

considering dominant characterisations of mobile people and mobility, with a focus on the relationships between the categories of ‘settler’, ‘savage’ and ‘wanderer’ in the context of 19th century notions of civilisation. I then demonstrate how these ideas were reflected in the imperial government’s wastelands policy in New Zealand in the 1840s and describe opposition to it from some settler colonial administrators and the indigenous Maori people.

In Section 2 I link these ideas about mobility and civilisation to 19th century conceptions of progress, evolution and advancement, and analyse the politics of characterisations of different directions and types of mobility. Debates about Chinese immigration in the late 19th century used these characterisations of mobility in the politics of the denigration, restriction and exclusion of one group of mobile people — Chinese immigrants — from New Zealand at the same time that the settlers who were also immigrants were valorised.

Technologies of mobility enabled colonisation, and mobility was often defined relationally with modernity and civilisation, to provide a legitimating ideology for colonial projects (Bauman 2004: 9).³ In Section 3, I analyse mobility, civilisation and modernity in relation to Pacific Island labourers transported to Queensland in the late 19th century. Taken together, these analyses reveal how the politics of conceptions of mobility, civilisation, progress and modernity are implicated in regulating groups of mobile people, or people characterised as mobile, during this colonial period in New Zealand and Australia.

1 Civilisation, Savagery, Settlers and Wanderers

Ideas about mobility are deeply embedded in concepts of civilisation that were central to 19th century colonisation. While colonial histories and histories that draw on postcolonial theories have proliferated in recent decades, much less attention has been paid to what might be called the genealogy of concepts of civilisation. It has been argued that the concept has been applied and interpreted across various fields in different manners and contexts, and sometimes misinterpreted and misapplied (Bowden 2004: 25). It is not the intention of this article

to fill gaps in a genealogy of civilisation, but rather to focus on the relationships between concepts of civilisation and mobility and their encapsulation in law. In this section, I consider the relationships between 19th century concepts of civilisation and civilising and the politics of mobility. In particular, I consider the relationships between the concepts of civilisation, settler, sedentary, and nomadic.

The 19th century distinctions between ‘settler’ and ‘nomad’, or what is sometimes called sedentary and nomadic, are integral to concepts of civilisation. Settler colonialism is closely related to colonialism and migration, but also distinguishable from both (Veracini 2010: 3). Settling involves reproducing the home country in the form of a colony that is still dominated by the home country; the colonising aspect, or colonial project, also involves asserting dominance over the indigenous people (Veracini 2010: 3-4). Settlers are migrants, but they are migrants who are founders of political orders and, rather than accepting an established sovereignty, they engage in the colonial project of bringing imperial sovereignty (Veracini 2010). The colonial projects of migrant settlers, asserting dominance over indigenous peoples and carrying imperial sovereignty, require justification and legitimisation; and concepts of civilisation in the 19th century played a crucial role in transforming British colonisers by allowing them to be seen as ‘settlers’ rather than migrants.

‘Settling’ in the 19th century was seen as involving the claiming of land through agriculture and fixed abodes — ideas that were at the heart of concepts of civilisation. Indeed, it has been said that ‘the history of civilisations has been constructed around the remains of the first sedentary settlements dating from the Neolithic, and rendered possible by agriculture’ (Cattan 2008: 85). As early as 1625, in his essay ‘On Plantations’, Francis Bacon linked settling, planting, rootedness, morality, place and colonialism. In the 17th century ‘colony’ and ‘plantation’ were terms used for overseas settlements (see Jones 1942: 448). For Bacon, who himself was invested in the colonies of Newfoundland and Virginia (Irving 2006: 251-2), and who was arguably the first to use the term ‘to colonize’ (Jones 1942: 449),

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establishing overseas settlements involved the 'planting' of people. He compared the planting of countries to the planting of woods, and called 'shameful' the sending of the 'Scumme of People', or condemned people, as the basis for a new colony.⁴

Bacon was against the displacement of indigenous peoples in the establishment of colonies, and recommended empty land for plantations so that 'People are not *Displanted* to the end, to *Plant* in Others' (Bacon 1985 [1625]: 106). However, where the land was already occupied by 'savages' he recommended sending them 'over to the Country, that *Plants*, that they may see a better Condition than their owne, and commend it when they returne' (Bacon 1985 [1625]: 108). The links between agriculture, morality, a better way of life, and the improvement of indigenous people are evident in this quotation; savages are associated with a lack of agriculture and a need to learn how to plant in order to improve their condition. Settlements and civilisation have long been linked with agriculture. This linkage is illustrated by references to rooting or being rooted in place, 'homeland', 'Motherland' and 'Fatherland' (Malkkii 1992: 24, 27-9).

Civilisation has sometimes been depicted as emerging through four successive stages, each based on a particular mode of subsistence (Harkin 2005: 433). In his 1766 lectures Adam Smith described these stages:

The four stages of society are hunting, pasturage, farming, and commerce. If a number of persons were shipwrecked on a desert island their first sustenance would be from the fruits of which the soil naturally produced, and the wild beasts which they could kill. ... they come at last to tame some of the wild-beasts ... In process of time ... as they saw the earth naturally produce considerable quantities of vegetables ... they would think of cultivating it so that it might produce more of them. Hence agriculture. ... The age of commerce naturally succeeds that of agriculture (Brewer 2008: 5-6, quoting Smith 1978 [1766]: 149).

In the 18th century hunting was often associated with savages, and pasturage with nomadic barbarians (Smith sometimes used these words

as synonyms) who move on once pastures are depleted (Brewer 2008: 10). By the mid 19th century in England, however, the connection between agriculture, settling and civilisation had become widespread. This quotation from John Stuart Mill's essay 'Civilization', written in 1836, has often been used in histories of colonisation and postcolonial histories:

A savage tribe consists of a handful of individuals, wandering or thinly scattered over a vast tract of country: a dense population, therefore, dwelling in fixed habitations, and largely collected together in towns and villages, we term civilised (Mill 1962 [1836]: 52).

Mill, who worked for the East India Company for 35 years, associates wandering with a lack of civilisation, and living in fixed abodes or settling with being civilised. Settlers are civilised because they create fixed dwellings and set up towns and villages. Indeed, civilisation means 'living in cities' (Brewer 2008: 10). Essential to the definition of 'civilised' is its stark opposition to 'savage', that is, two distinct and mutually exclusive categories. The 'savage tribe' that wanders, or whose people are thinly scattered over the land, is represented as the opposite of 'civilised'. Mill also specifically opposes civilisation to barbarism, stating that it is 'the direct converse or contrary of rudeness or barbarism' (Mill 1962 [1836]: 51-2).

Stability and connection to a particular geography, 'putting down roots', are integral to both the term settler and conceptions of civilisation. Settlers 'put down roots' in what has more recently been termed a 'sedentarist metaphysics' in which 'place and roots are given vivid moral and ethical resonance over and above more mobile states of existence and forms of identity' (Cresswell 2002: 11). Cultivation and agriculture on more than a subsistence level are associated with civilisation, and towns and villages or dense population are associated with the development of civil society, government and political communities (see Bauman 2004: 31-2).

If putting down roots and cultivation were closely associated with civilisation and settling, uprooting from a place of birth was often linked with immorality. As Liisa Malkki has argued, territorial

displacement or uprootedness, and lack of cultivation, are not only uncivilised in some formulations, but pathological, involving a loss of moral bearings (1992: 31-2); 'the traveller as intrinsically shifty and immoral emphasised the role of the settler as moral' (Edwards 2003: para 10). Or, as Tim Cresswell has argued, mobility undermines attachment and commitment to place and, since place is itself a moral concept, mobility is 'antithetical to moral worlds' (Cresswell 2006: 31). Categorising colonisers as 'settlers' operates to position them within these discourses of civilisation as *not* wanderers or nomads, and *not* mobile. When this is combined with the characterisation of indigenous peoples as wandering savages, or nomadic, it positions the settler colonials higher up on the chain of civilisation. The colonisers who did not establish roots, or participate in the civilising project, or who operated outside the civilising discourses of projects of colonisation — the restless, rootless colonisers — could also be classified as pathological, 'lawless ruffians' and 'lawless rabble' (Wolfe 2006: 391-2), or ostracised as 'villains' (Malkki 1992: 30; Rice 1990: 164-6).

These ideas which opposed 'wandering' as uncivilised to agriculture, settling, and living in a fixed abode as civilised, are reflected in the dynamics of settler colonial law and administration. In New Zealand the *Royal Instructions of 1846*, 'On the Settlement of the Waste Lands of the Crown', declared that the Maori people could only make claims to land where they:

... have actually had the occupation of the lands so claimed, and have been accustomed to use and enjoy the same, either as places of abode, or for tillage, or for the growth of crops, or for the depasturing of cattle, or otherwise for the convenience and sustentation of life, by means of labour expended thereon.⁵

This 'wastelands policy' reflected John Locke's assertion that ownership of land required mixing one's labour with the land, or cultivation (1955 [1681]: ss25-39):⁶

As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is in his property. He by his labour does, as it were, enclose it from the common. ...Tis labour then which puts the

greatest part of value upon land, without which it would scarcely be worth anything; 'tis to that we owe the greatest part of all its useful products, for all that the straw, bran, bread of that acre of wheat is more worth than the product of an acre of as good land which lies *waste* is all the effect of labour (emphasis added) (1955 [1681]: ss32 & 43).

Settlement, then, involved cultivating the land which results in individual ownership of property. Failure to settle and lack of cultivation results in 'wasteland' which belongs to no one and which, thereby, can be appropriated for cultivation by civilised men. The despatch accompanying the *Royal Instructions of 1946* further emphasised the connection between civilisation and settling in colonial policy:

'So much does the right of property go along with labour, that civilised nations have never scrupled to take possession of countries inhabited only by tribes of savages — countries which have been *hunted over*, but never *subdued* or cultivated'... all lands not actually occupied in the sense in which alone occupation can give a right of possession, ought to have been considered as the property of the Crown ... to determine in what manner and according to what rules the land hitherto waste should be assigned and appropriated to individuals.⁷

Here the mobility of indigenous peoples in 'hunting over' land rather than settling results in justifying 'civilised men' in stepping in and taking 'possession of the vacant territory'.⁸ The mobility of hunting is opposed to the labour of civilised nations.

Under the wastelands policy any Maori land not directly used for cultivation, or not 'settled', was to be declared 'wasteland' belonging to the Crown.⁹ Further, the *Royal Instructions* required Maori to make claims and prove their occupation and cultivation of the land in order to receive recognition of their ownership.¹⁰ The wastelands policy reflected the views of 'almost every politician in the [English] Colonial Office between 1840 and 1846' and there was considerable pressure from some settler colonials for its implementation (Adams 1977: 189-90; Hackshaw 1989: 102). However, other colonial administrators and officials recognised Maori claims to ownership over the islands of New Zealand in 1840, and that a guarantee of their lands had been

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necessary to convincing Maori to sign the Treaty of Waitangi 1840 (Treaty) (Adams 1977: 176-83).

The guarantee in the English version of Article II of the Treaty covered 'Full exclusive and undisturbed possession of their Lands and Estates Forest Fisheries and other properties which they may collectively or individually possess' (Kawharau 1989: 316). Further, it was clear that Maori commanded significant political and military power, and both Maori and settler colonial actors knew that the wasteland policy, if implemented, would provoke Maori resistance and, potentially, rebellion, resulting in a 'serious crisis' for the project of colonisation (Adams 1977: 186-9; Orange 1987 126-32; Hackshaw 1989: 104; Williams 1989: 73-5; Seuffert 2006: 18-21). As a result of the actions of Maori leaders and colonial officials in New Zealand, the policy was suspended and, thereafter, Maori land was obtained through a strict implementation of the pre-emption clause of the Treaty. This allowed Maori to sell Maori land to the government at a price that was only a small fraction of what the government charged when it onsold the land to settlers (Adams 1977: 195, 209). In this way, between 1846 and 1853 a bit less than half of the country — 32.6 million acres — was purchased by the Crown at very low prices (Belich 1996: 225).

The politics of the constructions of mobility and settlement contained in the wastelands policy are highlighted by noting that the Crown, or the colonisers, were not required to occupy and cultivate the land in order to assert ownership over it. Indeed, it has also been noted that the 'uncultivated hunting lands of the English nobility were considered a different matter altogether'; there the fact that the land was left idle, or used only for the sport of hunting, did not affect its ownership, or leave it vulnerable to claims by the Crown or anyone else (Ward 1999: 108-9).

Policy in Australia in the mid 19th century also integrated ideas about mobility and civilisation into projects of colonisation (Standfield, this volume). Because missionaries attributed traits of 'savagery' to the 'demands' and 'entrenched attitudes' of a 'wandering' lifestyle in aboriginal peoples (Russell 2009: 332), it was thought that the

project of civilisation required encouraging indigenous peoples to live permanently in houses. Colonial administrators used such ideas to intervene in indigenous cultures by encouraging '[the] building [of] suitable Habitations ...' (Buchan 2005: 45). Relations between indigenous peoples were also seen as 'determined by their nomadic patterns of life', a 'continual and undisciplined "wandering about the bush"' that was characterised as 'erratic' (Buchan 2005: 43). The civilising project, therefore, involved 'settling' indigenous peoples in one place, inducing them to accept a more 'settled' way of life, and inculcating 'settled' habits (Buchan 2005:44). They were to be given reserves to live on and encouraged to cultivate the land rather than living as hunters, 'in which case no good would be done' (Anderson 2007: 26).

2 Civilisation, Evolution, Progress and Mobility

Section 1 demonstrated how, in dominant 19th century conceptions, civilisation was opposed to savage ways of life, wandering and nomadism, and closely associated with settling, agriculture, and the building of towns and cities. In reality, this simple dichotomy was far more complex, with aspects of mobility contained within concepts of civilising and civilisation, and aspects of sedentarism contained in concepts of savage. Penny Edwards (2003) underscores the complexities of this settler/nomad dichotomy in the context of 19th century colonisation:

Colonialism — with its travelling and often savage circus of European itinerants promising to bring settlement and civilisation — complicated [this settler/nomad binary]. ... European administrators subscribed to this paradigm of the mobile, border-crossing native as politically insubordinate and morally transgressive while simultaneously subverting it by their [own] ... propensity for travel and displacement, ... [indeed] the notions permeating colonial discourse and apparently transcending the local vernaculars of settlerdom and colonisation, which held that the coloniser was civilising, settled and sedentary, and that the colonised were nomadic, unsettled, and itinerant, were thus — like the category "settler" itself — hugely unstable (Para 10-11).

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Edwards highlights the centrality of mobility to the colonising project and the period, while her use of the term 'savage' in reference to European itinerants, in the sense of unjustly violent, simultaneously suggests the deeply political aspects of the civilising settler/ wandering savage dichotomy. The association of settlers, colonisers and colonial administrators with civilisation, civilising projects and progress, as well as the moral connotations surrounding the movements of missionaries and other facilitators of colonisation, operated to privilege their movements at the same time movement by and among colonised people was denigrated.

Attention to the construction of each part of the settler/nomad dichotomy by focusing on the movement embedded within conceptions of settling and civilisation, and through uncovering the sedentarism encompassed within concepts of the wandering savage or nomad, assists with a more nuanced analysis of the settler/nomad dichotomy. In New Zealand, for example, it has been argued that the settler colonials were far more mobile than is often recognised, more mobile than the term 'settler' suggests, and that this mobility or transience has been misunderstood (Fairburn 1989: 127). To some extent, geographical mobility was supposed to facilitate upward mobility; blue collar workers moved in search of new forests to fell, seasonal work, new construction jobs, and better pay in response to areas of fluctuating prosperity; many small proprietors and land owners moved repeatedly in search of better markets or new or better land for speculation (Fairburn 1989: 134-41). On the other hand, transience could result in the negative label 'vagrant', a category argued to represent 19th century New Zealand's 'folk devil' and, more pragmatically, downward mobility (Fairburn 1985: 502-5).

Fairburn argues that negative connotations attached to mobility and transience travelled with immigrants from England where they provided a convenient foil against which the pious, industrious, respectable middle class could define itself. A popular revulsion to vagrancy as a 'potent symbol of the horrors of downward mobility' was reflected in the high rate of convictions of criminal vagrants as 'lazy,

idle itinerants' (Fairburn 1985: 503, 505). Constructing the vagrant as a folk devil facilitated its opposition to the folk hero settler; the settler was a property owner or prospective property owner, a family man who accumulated and advanced materially through his capacity for discipline and hard work (Fairburn 1985: 513). He was, therefore, upwardly mobile and associated with the civilising projects of colonisation: most likely a relatively large landowner, perhaps facilitated by an inheritance or political connections (Fairburn 1989: 140), male and with a family, and someone who engaged in appropriately pious behaviour.

This more nuanced analysis of the settler/nomad dichotomy is facilitated by another strand of the genealogy of concepts of civilisation. The first use of the term 'civilisation' in English has been traced to the Scottish Enlightenment thinker Adam Ferguson's 'Essay on the History of Civil Society', which was published in 1767 and is sometimes referred to as a history of civilisation (Bowden 2004: 33). Ferguson argued that the term had at its core the progress of humankind and society: 'progress in the case of man' advances from 'rudeness to civilisation' by analogy to the advancement of the individual 'from infancy to manhood [sic]' (Ferguson 1995 [1767]: 7). Indeed, Ferguson and a group of Scottish intellectuals including Adam Smith developed the notion of history as *progression through* the four stages of society discussed above (Harkin 2005: 433). Ferguson's concept of progression was complex; he also believed that relatively highly developed societies could degenerate, or move backwards, into barbarian despotism as a result of the tension between material progress and moral advancement (Oz-Salzberger 1995: xx).

These ideas were echoed in the work of Johann Forster, a member of the Royal Society who accompanied Cook on his second voyage on the *Resolution*, and who 'synthesised sustained reflections on fundamental questions ... with the description of the manners and customs of particular people' in his work on peoples of the Pacific, *Observations Made During a Voyage Round the World* (Thomas 1996: xv). Forster stated:

Mankind is therefore to be considered in various situations, comparable

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with the various ages of man from infancy to manhood; with this difference only, that men in their collective capacity ripen but slowly from animality, through stages of savages and barbarians into a civilised society, which has again an infinite variety of situations and degrees of perfection (Forster 1996 [1778]: 342).

It is important to note the complexity of Forster's 'infinite variety'; while he did not directly categorise specific Pacific peoples with, for example, adolescents, he did at times find the traits of some peoples equated to particular stages of society (Thomas 1996: xxxix).

The linking of ideas of progress and civilisation was crucial throughout the 19th century. It has been argued that British thinking on the concept was 'neatly captured' in 1892 by Herbert Spencer's claim that civilisation was 'progress towards that constitution of man and society required for the complete manifestation of every one's individuality' (Bowden 2004: 36). Progress is movement forward, and civilisation during the late 19th century was also closely aligned with evolution and the ways in which human life has 'raised itself above animal conditions' (Bowden 2004: 38-39).¹¹ Civilisation was seen as the:

... [p]rocess through which individual[s] and societies became civilised
... this idea of a processus was related to a universal view of history moving through stages ... [this was] a process of evolution that human societies go through ... civilisation is thus a concept of time and movement (Ifversen nd: 6-8).

As Thomas Gondermann has shown, the core of Spencer's theory of social evolution was progressive evolution, a dynamic 'process of growth, improvement and refinement on a social level' (2007: 24-5). In this formulation civilisation encompasses movement; it is movement forward through stages of history and upward through stages of development, progress and advancement. Movement upward, or a type of upward mobility, movement forward through history, and advancement and progress, are seen as generally positive and beneficial.

While movement forward and upward may be associated with improvement and civilisation, movement downward and backward may be linked through concepts of civilisation with degeneration, savagery

and barbarism. Ferguson's ideas, as noted above, encompassed the possibility that relatively advanced societies could degenerate. A close reading of Spencer's treatment of so-called savages and paupers reveals a dichotomous approach that encompasses notions of degenerative social development or retrogression and arrested upward development that are raced and classed (Gondermann 2007 26-7, 30). Movement in directions other than upward and forward may also be denigrated; thus the 'savage wanderer' was characterised as rootless and directionless, moving over land without advancing or progressing. The reference from Australian colonial officials to continual and undisciplined wandering about the bush in an erratic manner, discussed above, suggests this movement is both directionless and unpurposeful .

While directionless wandering may indicate a lack of movement forward or upward, a lack of any movement may also be associated with a lack of civilisation. Lack of movement is encompassed by the concepts of savage and barbaric through the notion of static development. The 'native' may be seen as part of nature — local, particular, static and unmoving (see Ballantyne 2009). Echoing Bacon's use of 'displanting' to refer to the displacement of indigenous peoples, the 'native' may be seen as permanently rooted to a particular place, with a type of 'ecological immobility', almost like a plant (Malkki 1992: 29-30; Appadurai 1988). This characterisation of 'native' may be associated with positioning as an object of inquiry for the naturalist as well as the anthropologist (Malkki 1992: 30). Similarly in the 19th century, the imperialist gaze turned to agriculture in England where the lower class agricultural population and farmers on small plots were identified and denigrated as 'native-like men' who lived a life close to that of domestic animals (Rickards 2004: 322). This type of farming was considered as akin to, or closely associated with, nature. In this configuration agriculture was part of nature out of which the most advanced civilisation had arisen, one of 'the earliest major signs of civilisation' (Rickards 2004: 326).

The opposition of the concept of civilisation and progress to lack of movement, or a static culture and lack of advancement, can be seen in

immigration law and policy in New Zealand in the late 19th century Parliamentary debates on the so-called 'Asiatic' immigration laws. In the mid-1860s, in one of the few exceptions to New Zealand's 'whiter than white' immigration policy, Chinese men were invited into the country by influential businessmen as a result of a shortage of labour in the South Island goldfields (McKinnon 1996; Brooking 1995). By the late 1870s this limited immigration had become controversial and, from 1881, a series of acts were passed imposing and increasing a poll tax.

The New Zealand legislation was passed during a period when actual numbers of Chinese were decreasing; in the broader context, Europe's increasing imperial powers and its corresponding views of itself as industrial, enlightened and progressive required offsetting by a backwards 'other' (see Anderson 1987: 591). Race purity had become integral to New Zealand's colonial nationalism and the project of creating a 'better Briton'. This project was assisted by the construction of internal and external enemies against whom a relatively new, anxious and atomised group of settlers could bond (Moloughney 1999: 45-50; Seuffert 2006: 55-60). Many of the prominent opponents of Chinese immigration were arguably colonial nationalists who included such 'political heroes' as the Labour leaders M J Savage and Harry Holland, and Liberals W P Reeves, Robert Stout and Richard Seddon (Moloughney 1999: 45-6; Ip 1995: 174). As Manying Ip argues, these 'eminent politicians were well-supported by popular xenophobia' (1995: 174).

In 1859 John Stuart Mill opposed individualism, progress and advancement to despotism, remaining stationary and lack of progress:

The despotism of custom is everywhere the standing hindrance to human advancement, being in unceasing antagonism to that disposition to aim at something better than customary, which is called, according to circumstances, the spirit of liberty, or that of progress or improvement. The greater part of the world has, properly speaking, no history, because the despotism of Custom is complete. This is the case over the whole East. ... We have a warning example in China ... they have become stationary — have remained so for thousands of years; and if they are ever to be farther improved, it must be by foreigners

(Mill 1974 [1859]: 136).

China was often imagined as changeless or static, uniform and homogenous. It was seen to lack proper history as a result of the assumption that it hadn't changed or progressed over time. In this quotation from the New Zealand Parliamentary Debates on one of the bills on Chinese immigration, the speaker positions Chinese people as backwards, unfit for freedom, progress and participation in democracy:

The Chinaman, however docile, however imitative, and however industrious he might be, in so far as he knows nothing about free government, was unfitted to take any part in the government of a free country the institutions of which rested upon the suffrage of the people. So far as the Chinaman knew anything about government, he believed in an autocracy. ... A servile race meant a race which, ... *not seeking to rise in the social scale in any way*, might come here or to any country, and be capable of underselling the labour of the American or European workman (Hutchison 1880: 91-2, emphasis added)

Translated into Mill's terms, Chinese people could be seen as unfit for improvement, progress and liberty. Their characterisation as 'imitative' suggests stasis in the ability to learn while their portrayal as 'servile' suggests they are below Europeans, static and not seeking upward mobility through the social scale. The assumption was that Chinese people were 'stuck' at the bottom of the social scale without any motivation for upward mobility. So, while on the one hand Chinese immigrant men were termed 'sojourners', a term that embodies mobility (Cresswell 2008: 3), on the other Chinese people more generally were characterised as a 'people of eternal standstill' (Anderson 1987: 597). Not just lacking in progress and upward mobility, but also at times seen as having the ability to pull the settler colonials down to their level:

It is a grave danger to our race to allow the Chinese to come here in large numbers. ... I say if we place ourselves in a position of having to descend to their plane we shall be doing an injury to our race. Anything that will tend to degenerate the race, or bring it down to a lower level of civilisation, should be steadfastly resisted ... (Seddon 1896: 471).

Here the lack of civilisation of Chinese people is represented as

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contagious; allowing them to enter New Zealand poses a threat of degeneration to the settler colonials, and particularly to their colonial project of building a racially better Briton.

As Moloughney and Stenhouse argue so well, it is important to note that not all colonial politicians and other actors were anti-Chinese and, certainly, Chinese people in New Zealand were not passive victims (Moloughney 1999). The Final Report of the Chinese Immigration Committee in 1871 concluded that Chinese people were industrious, frugal and orderly and presented no moral security or disease risks (4). It also described them as 'well-adapted for menial and light mechanical and for agricultural occupations' (4). As I have argued elsewhere, while these characterisations may not be negative, they do assume an essentialised identity that accords with relatively menial tasks (Seuffert 2006: 54). Other analyses of positive characterisations during the period emphasise (although not exclusively) the suitability of Chinese people as labourers, and sometimes as providing a market for products (Moloughney 1999: 57-8). Sometimes such statements took the form of contrasting industrious Chinese with local 'loafers', the downwardly mobile of the colonial population:

This anti-Chinese agitation was an American product. ... certain loafers there, found that they could not compete with the industrious, temperate and frugal Chinese, ... [the same thing could happen here, and they should welcome a moderate number of Chinese] ... They were known to be, as servants, very docile, and less insolent than servants of our own race. They were more industrious, more temperate, more thrifty, and more law-abiding than the people of our own race (Wallis 1880: 93).

The characterisation of Chinese people as industrious and frugal, docile servants and, repeatedly, as labourers, may also reflect assumptions that they belonged essentially in the working class, without aspirations for upward mobility.

The parliamentary materials and debates on Chinese immigration also positioned Chinese people as threats to agriculture and cultivation, and repeatedly referred to them as travelling in 'swarms' and as locusts,

as bio-hazards:

They come down with the monsoon wind in swarms, and return when the season is over (Interim Report of the Chinese Immigration Committee 1871: 10)

This horde of Chinese had taken such a hold on that place as to drive white people out of it (Seddon 1880: 98)

If they brought their women they would take up the country like locusts, to the exclusion of Europeans (Interim Report of the Chinese Immigration Committee 1871: 12)

They come like an army of locusts, and get all they possibly can from the civilisation and commerce of other places, and they take the money they make back with them to their own country (Hogg 1896: 312).

Swarms of locusts pose a threat to agriculture as they can quickly strip vegetation. The threat to agriculture posed by Chinese people as swarms and armies of locusts may be read as a threat to civilisation as settlement through agriculture. It is simultaneously a threat to the colonial construction of the 'native' as a plant integral to the land and permanently rooted.

Another quotation from the Chinese immigration debates portrays absent-minded dispersal throughout the islands of the South Pacific:

You can scarcely go to one island in the South Pacific without meeting one or two Chinese who have already found their way there, how they scarcely know, but they have found their way there as the ant finds its way before its companions; and, as the ant is inevitably followed by its companions, so the Chinese will be followed by thousands of their countrymen (Waterhouse 1881: 213).

Here the movement of Chinese people is again seen as directionless; it is assumed they do not know how they arrived, their migration is characterised as instinctive in the manner of ants and, also in the manner of ants, 'thousands' more Chinese would follow. It is worth noting that early European explorers sometimes landed in places that they did not previously know existed, and that they were not

infrequently followed by thousands of their countrymen; they were called explorers, adventurers, settlers and colonisers. Further, the expansionist policies of China, supported by Chinese diplomats and politicians, involved creating Chinatowns in Pacific rim countries in response to China's rising population (Moloughney 1999: 51-2). In this sense the presence of Chinese people on islands in the South Pacific was likely to have been far from directionless.

3 Colonialism, Modernity and Mobility

In Part 2, I discussed how 19th century discourses on civilisation contrasted purposeful, upward, progressive mobility with notions of directionless, wandering, erratic movement and a static lack of movement often associated with colonised peoples and Chinese immigrants. It demonstrated that ideas about mobility and civilisation were malleable in the context of settler colonialism and shaped class distinctions within the colonial population: distinctions between settler colonials and colonised peoples and distinctions between settler immigrants and other immigrants. Mobility was also integral to conceptions of modernity, and modernity was often associated with commerce. The 19th century ideas of progress, movement through stages of history, and evolution as advancement are all closely linked with modernity, and 'settler colonialism was foundational to modernity' (Wolfe 2006: 394). Ideas of circulatory movement as healthy and moral emerged in the 19th century, and mobility as liberty, progress, freedom and opportunity accompanied these ideas (Cresswell 2008: 24; 2006: 2). Mobility, and a kind of imperial cosmopolitanism, may be seen as closely associated with colonisers and universality (see Ballantyne 2009). These ideas co-existed with ideas of mobility as shiftlessness and deviance (Cresswell 2006:2).

Technologies of mobility also emerged with modernity. As Zygmunt Bauman argues, modernity was born with acceleration and land conquest (Bauman 2000: 112), as well as the technologies of travel and colonisation. Mobility was associated with present and future modernity, while stasis and stagnation were consigned to the

past (Cresswell 2008: 28). Coinciding with these technologies was the emergence of industry and heavy machinery in the industrial revolution; and the age of commerce represented Smith's fourth stage of society (as discussed above). The colonies rose in their importance to western industries as the cost of ocean travel fell; the volume of world trade increased tenfold between 1850 and 1913 (Northrup 1995: 30). The circulation of capital and commodities in the era sometimes known as free trade imperialism saw the privileging of mobility associated with commerce, trade, and colonisation. The 'driving engine' of settler colonialism and modernity — international market forces — linked remote colonial frontiers to the market metropolis; the industrial revolution required colonial land and labour for raw materials as well as metropolitan factories for production (Wolfe 2006: 394).

Constructions of mobility in relation to 'Melanesian' indentured labourers in Queensland in the late 19th century provide a rich source for exploring the politics of mobility discussed in this article and the associations between mobility and concepts of modernity. Indentured labour during the second half of the century was integral to imperialism and expanding international markets; it filled the gap left by the labour shortage when slavery was abolished (Northrup 1995: 41), and was crucial to colonial projects and colonial commerce in a number of places across the empire (Galenson 1984: 1-26; Cohen 2006: 40). In Queensland the phrase 'Pacific Labour Trade' referred to the recruitment by Europeans of Pacific Island workers as the result of an inability to attract an adequate supply of local cheap labour. It involved indentured workers being employed for a fixed period of three years usually to do agricultural work, particularly on the sugarcane plantations (Shlomowitz 1989: 585-92). The development of sugar plantations in areas where slavery had not existed was a new phase of imperialist expansion of western capital, settlers and technology (Northrup 1995: 41-2). Sugar production was an important and significant contributor to the tenfold increase in the volume of 19th century world trade because its production increased by a factor of 30 in that century (Northrup 1995: 30).

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Pacific Islander participation in the trade between 1860 and 1905 left many island communities significantly depopulated (Shlomowitz 1989: 586). On their arrival on the Queensland plantations, however, they found their movements and activities restricted. At first this was done by the plantation owners, and later by legislation. Islanders' mortality rates were also significantly higher than for other populations (Shlomowitz 1989). Scholarly debate continues on the extent to which Islanders were coerced into participating in the trade (Moore 1992; Munro 1995; Shlomowitz 1989; Banivanua-Mar 2007: 14-17, 43-6). There are well-documented instances of the use of violence and abuse against Islanders by Europeans operating in the trade, and some argue that this violence actually underpinned it (Banivanua-Mar 2007).

Some representations portrayed the trade as legitimate capitalist business in support of the enterprise of colonisation (Johnston 1980: 51); the sugarcane plantation owners were honest merchants who needed agricultural labourers and were linked to civilising and settling through agrarian development, providing employment in commercial enterprise, and contributing to their labourers' upward mobility (Phillips 2000).¹² Those who voyaged throughout the South Seas to find labourers were sometimes characterised as 'recruiters', legitimate participants in the projects of colonisation and civilisation, who persuaded the labourers to join in the enterprise for their own advantage.¹³ In this version, mobility was a sign of enterprise and movement forward into modernity. The characterisation of the labourers and the labour as a 'trade' fit with this valorisation of enterprise.

In the legitimate enterprise version the labourers benefitted from their participation in the trade and in the hard agricultural work of the plantations. A worker was said to be better off 'working on a plantation than idling away his time in a state of semi-starvation on his native island.'¹⁴ In *The Daphne*, an 1869 case in New South Wales, the Court stated that '[t]he pursuits of civilised life might be beneficial to these savages, and ultimately to their race, equally as to their employers' (40). Here the colonised people travel under the steam of the coloniser to a more civilised place and state. Their mobility, uprooting and

displacement from their homelands is beneficial as they were seen as 'idle', static and not progressing on their islands. The trade is justified by the assumption that employment — even hard physical labour for little money, under difficult conditions, and accompanied by a high mortality rate — provided a civilising influence.

These representations of the trade as legitimate enterprise are put into context by Banivanua-Mar:

Throughout the life of the trade, a lack of consent from individual Islanders rarely stood in the way of recruiters' profits, and while not always overt and ever-present in labor recruiters' behavior, violence and aggression continued to underpin the viability of colonial trades in the Western Pacific (Banivanua-Mar 2007: 27).

While, as mentioned, the extent to which the Islanders were coerced or participated willingly in the trade is a matter of debate, the point here is that the profits of the labour trade, the linchpin of its commercial aspect, and not the interests of Islanders, were of primary importance in colonial projects.

The construction of the trade as legitimate enterprise was countered by those who saw it as illegitimate because of its similarities with slavery, kidnapping, piracy and other illegal activities. In response to the racial basis of the trade and reports of associated violence, some of the Australian and British public, perhaps including remnants of the humanitarian movement for the abolition of slavery, opposed the trade (Banivanua-Mar 2007: 21; Lester 2002; Phillips 2000: 19). They characterised the 'recruiters' pejoratively as 'blackbirders', 'slavers' or 'pirates' who used deception and coercion to carry out activities that echoed the slave trade (Lack 1960: 367). These European ship owners and captains, 'so-called civilised' men,¹⁵ were perceived as carrying out morally decrepit activities and operating outside the boundaries of civilisation. The trade they engaged in was referred to by some as an 'infernal traffic in human flesh' or a 'cursed traffic'.¹⁶ Characterisations of 'blackbirder', 'slaver' or 'pirate' embody an excess of the appropriately moral and commerce-related mobility. In this version the trade is linked to pre-modern and barbaric practices of slavery and a lack of civilisation.

R v Coath

An excellent example linking cultivation, civilisation, mobility, commerce and modernity in a manner that facilitated colonial projects can be found in the 1871 Queensland case of *R v Coath* (hereinafter *Coath*). Coath was the captain of the ship *Jason* and was prosecuted for kidnapping Islanders for the trade. The context for the case was a recent massacre on another ship, the *Carl*, which resulted in pressure from the Aboriginal Protection Society and abolitionists to ban the trade (Banivanua-Mar 2007: 140). After suspicions of abduction on a voyage of the *Jason* that returned to Maryborough (Queensland) in March 1871, a government agent, John Meiklejohn, joined the crew for its next voyage. Meiklejohn, who witnessed the abduction of nine men and a boy, protested to Coath (Mortenson 2000: 5), and was threatened by Coath with a revolver and later chained to a ring-bolt in the hold of the ship for five weeks with the abducted men (Docker 1970: 72-2; Mortenson 2000: 5). When he was found he was in a mentally deranged state and his feet had been gnawed by rats (Docker 1970: 73; Banivanua-Mar 2007: 140; Mortensen 2000: 5). The resulting investigation eventually led to charges against Coath for the abductions during the first voyage (Meiklejohn was unable to testify regarding the second voyage because he was still incoherent) (Banivanua-Mar 2007: 140; Mortensen 2000: 5). At trial Coath was convicted of kidnapping, sentenced to five years imprisonment, and fined 50 pounds (2 QSCR 178). He appealed, and the Chief Justice upheld the conviction.

The judgment links the concepts of mobility and modernity. The defence argued that no offence had been committed as it was not illegal to remove 'savage and barbarous people' from their islands and bring them under the protection of British law; kidnapping as the forced removal of people against their will could not be perpetrated against such people (179-180). This argument inscribed the dichotomy of savage and civilised, delineated them by coverage of British law, and legitimated the forced mobility of so-called savages. The Chief Justice in *Coath* set out the issue as:

Whether one subject of Her Majesty is at liberty to fit out a vessel to

sail amongst these apparently savage and guileless islanders, and seize them and appropriate their property as appears to have been done in this case (182).

The Court's reference to 'apparently savage and guileless islanders' may have reflected the view that the Pacific Islanders were gentle and helpless savages (as opposed to treacherous murderers) who were being turned into 'demons' as a result of the Pacific Labour Trade (Docker 1970: 92). This sentiment was particularly strong after the murder of Bishop Patteson, apparently in revenge for the forced removal of five boys from the islands in September 1871, and other abuses of the trade, a few months before the decision in *Coath* in December. The Bishop's death resulted in public demonstrations throughout Australia and New Zealand and was led by those opposed to the trade (Docker 1970: 92).

The Court's reasoning on the issue of the forced or coerced mobility of Islanders was couched in the language of the evolution and advancement of civilisation:

With the improved manners and greater knowledge of succeeding ages, the maxims of previous ages are deviated from ... with the increasing culture and humanity, and toleration of ages, some of the old maxims should be moderated. ... when it comes to the question of deciding upon the rights of a man to his liberty, we are called upon to narrowly scrutinise the old doctrines (182-3).

Here the Court purports to progress beyond inhumanities such as slavery and the idea that people can be transported against their will.

In the argument of the Attorney-General prosecuting *Coath*, and the Chief Justice's response, it is suggested that this progress will be interpreted in the public interest: 'It is the public peace that has been injured, and the public has a right to demand punishment even in a greater degree than the persons directly injured' (181). The Chief Justice stated that he gave 'considerable scope' to this argument, which emphasised the importance of the injury to the public (colonisers') interest as greater than the injuries to the Pacific labourers.¹⁷

The maintenance of the 'public peace' was seen as being in the interests of progress because commerce and enterprise were important

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factors in the case:

This [labour] trade is carried on across the highway through which much of the commerce of these parts passes ... ; and if once amongst these nations an opinion could get abroad that our law proceeded on principles so inhumane that their rights could be violated with impunity by any man who may choose to sally forth to outrage them, I say that the safety of commerce itself and the blessings it maintains ... would be endangered (184).

The Court's concern was with the mobility of commerce, and the damage that might be done to commerce if inhumane treatment were allowed on its 'highway', the South Seas. The focus on the public interest in international commerce was consistent with the argument that commerce was the overriding concern of the imperial government (Phillips 2000: 15).

It has been argued that the *Coath* case involved an 'identifiable villain' in John Coath, who served under Henry Ross Lewin, who had the 'doubtful reputation of being the toughest villain in the South Seas' (Banivanua-Mar 2007: 140; Lack 1960: 368). It has also been suggested that the case represents 'a tough assessment of a European labour recruiter' for the times, a 'singular precedent' and the 'most severe judgment made for blackbirding before the [Pacific Islanders Protection Act]' (Mortenson 2000: 6). Meiklejohn's links, and the particular historical moment, including the massacre on the *Carl*, Patteson's murder and the resulting protests by those long opposed to the trade, may have influenced the outcome in the case, resulting in punishment that would not otherwise have been handed down (Banivanua-Mar 2007: 140). Coath served three years of his five year sentence, and the Attorney-General prosecuting the case eventually recommended his pardon. By the time he was released, seven of the nine men he abducted had died in Queensland (Banivanua-Mar 2007: 141).

In the wake of Patteson's murder, the *Coath* case, and rising public opinion both in the colonies and in London, the *Pacific Islanders Protection Act* 1872 was drawn up '[i]n an astonishingly short time considering the number of years that memoranda on the subject had

been passing from one bored department to another' (Docker 1970: 92). In the face of calls to abolish the Pacific Labour Trade, the imperial legislation made simple kidnapping an offence (which went no further than *Coath*, where a conviction for kidnapping had already been attained), and ships engaged in kidnapping, or suspected of such engagement, could be seized (s16). In addition, ships used for recruiting had to be licensed and a bond of 500 pounds against kidnapping was required (s3). The Act allowed the trade to continue by defining it as 'not slavery' and regulating it. Rather than abolishing it, and risking calling into question practices involving indentured labourers throughout the British Empire (Phillips 2000: 21; see Northrup 1995: 29-42), Queen Victoria's Speech From the Throne in 1872 set out the role the Act was to have in ending the worst excesses of the trade:

The slave trade and practices scarcely to be distinguished from slave trading, still pursued in more than one quarter of the world, continue to attract the attention of my Government. In the South Sea Islands the name of the British empire is even now dishonoured by the connexion of some of my subjects with these nefarious practices; ... A Bill will be presented to you for the purpose of facilitating the trial of offences of this class in Australia, and endeavours will be made to increase, in other forms, the means of counter-action (Queen Victoria 1872: 3-4 UK Parliamentary Debates, 6 February 1872).

The Act operated as assurance that incidents such as those perpetrated by *Coath* were exceptions that had been responded to, and a clean break had been made with the 'bad old days'. The focus of approbation on a few extreme or otherwise exceptional incidents left the trade as a whole untouched, and facilitated its legitimization in the Pacific and that of the international trade in sugar (Banivanua-Mar 2007: 21; Phillips 2000: 20). The mobility of Pacific Islanders was in the interests of this international trade, as well as the individual interests of the settler colonials, whether or not the Islanders' interests coincided.

Conclusion

Mobility shaped the colonial period in the Pacific. Ideas about mobility operated with concepts of civilisation, savage and nomad, opposing civilising settlers to savage wanderers. This configuration underpinned justifications for colonisation and for the displacement of indigenous peoples from their land in the interests of colonisation. Constructions of the 'other' by the coloniser, such as the construction of indigenous peoples as savage wanderers, offer a wealth of information about the coloniser and little about the colonised people.

The pejorative categorisation of 'wandering savage' offers insight into the value systems and struggles for self-perception of the colonisers. The politics of mobility identified here suggest the colonisers' need to find a purpose and value for their own 'rootlessness' and colonising behaviours. As a concept, mobility was central to key 19th century conceptions of progress, advancement and evolution, and these concepts figured prominently in excluding immigrants who were seen as threats to colonial settlement. Modernity and mobility were co-constitutive. In the example of the Pacific Labour Trade, the mobility necessary to international markets in the circulation of labour, commodities and colonisers was privileged, sometimes at the expense of mobile Pacific Islander labourers. The centrality of mobility to the politics of these key 19th century configurations suggests the fruitful possibilities of further research on mobility, colonisation and modernity.

Notes

- 1 Professor of Law, University of Waikato, JSD, LL.M, JD, BA. I would like to thank the University of Waikato Contestable Research Trust Grants for funding 'Under the Eye of the Law: Mobile Peoples in the Pacific to 1910', a symposium held at the University of Waikato in December 2010. I also want to thank Associate Professor Cathy Coleborne for her invitation to join the research project out of which this symposium emerged, for her great ideas about mobility and for her collegiality and support. Thanks also to the anonymous referees of this article, all of whom actively engaged

with the ideas in it, and provided expert and insightful suggestions. Any faults that remain with the article are, of course, mine.

- 2 I use quotation marks around ‘Melanesian’ to emphasise the construction of a racial category with particular colonial implications. As Banivanua-Mar notes:

Western Pacific Islanders, whether as ‘Polynesians’, ‘Melanesians’, or ‘Kanakas’, have been wedded to violence in colonial records and the story of the labour trade by a common discursive tradition. ... arguably as total in its representation and social impacts as any Orientalism. ... representations of Islanders as black, savage, tribal, violent, and physical were intimately related to the colonial project of constructing and containing a colonizable, oppressable, and exploitable object and were more than just a set of haphazard similar constructions (Banivanua-Mar 2007: 3).

- 3 Bauman (2004) states, ‘[i]n modernity time has *history* ... Time acquires history once the speed of movement through space ... becomes a matter of human ingenuity, imagination and resourcefulness’ (9).
- 4 Bacon, 1625: 106. On Bacon and colonization see Irving (2006). For a discussion of the terms ‘plantation’ and ‘colony’ in the 16th and 17th centuries see Jones 1942: 448-50.
- 5 ‘The Queen’s Instructions Under the Royal Sign Manual and Signet, accompanying the New Zealand Charter’, 28 December 1846, British Parliamentary Papers, Correspondence Relative to the Affairs of New Zealand, Vol 5, Encl. No 43: 85.
- 6 Locke ‘administered and invested in the imperial system in practice and justified it in theory’ (Tulley 1995: 71; Hackshaw 1989).
- 7 ‘Despatch from the Right Hon. Earl Grey to Governor Grey’, 23 December 1846, British Parliamentary Papers, Correspondence Relative to the Affairs of New Zealand, Vol 5, Encl. No 43: 68-69 (quoting Arnold 1845: 157).
- 8 ‘Despatch from the Right Hon. Earl Grey to Governor Grey’, 23 December 1846, British Parliamentary Papers, Correspondence Relative to the Affairs of New Zealand, Vol 5, Encl. No 43: 68.

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- 9 'The Queen's Instructions Under the Royal Sign Manual and Signet, accompanying the New Zealand Charter', 28 December 1846, British Parliamentary Papers, Correspondence Relative to the Affairs of New Zealand, Vol 5, Encl. No 43: 85.
- 10 'The Queen's Instructions Under the Royal Sign Manual and Signet, accompanying the New Zealand Charter', 28 December 1846, British Parliamentary Papers, Correspondence Relative to the Affairs of New Zealand, Vol 5, Encl. No 43: 85. The 'wastelands policy' was controversial in New Zealand even among some settlers and colonial administrators, particularly in light of the fact that Maori had repeatedly been assured that ownership of their lands was recognised and would be protected, and this was reflected in Maori understandings of the Treaty of Waitangi 1840. As the result of a challenge to the policy, and the fact that Maori dominated the country and were increasingly unhappy with the imposition of British laws, it was suspended for five years (See Hackshaw 1989: 108-109; Seuffert 2006: 18-20).
- 11 Quoting Freud S 1949 [1928] *The Future of an illusion* Trans WD Robson-Scott London The Hogarth Press and the Institute of Psycho-analysis
- 12 Citing G Palmer (1871) *Kidnapping in the South Seas*.
- 13 'Recruiting vessels' and 'recruits' are discussed in a strident contemporary defence of the labour trade, 'South Sea Massacres', in Papers Communicated by 'The Vagabond', Julian Thomas, to the Sydney *Daily Telegraph*, included in the Minutes of the Proceedings of the Intercolonial Conference Held at Sydney, 1881 in *Appendix to the Journals of the New Zealand House of Representatives* (1881) s I, A-3: 23; 'Recruitment was a business, run under the fairly loose rules of free, capitalist enterprise'.
- 14 Papers Communicated by 'the Vagabond', Julian Thomas, to the Sydney *Daily Telegraph*, included in the Minutes of the Proceedings of the Intercolonial Conference Held at Sydney, 1881 in *Appendix to the Journals of the New Zealand House of Representatives* (1881) s I, A-3: 23.
- 15 'Our vessel was at first supposed to be a "man-stealing ship", and the poor creatures had determined to defend themselves against their "civilized" assailants', *Area, Population, Trade & c., of the Principal Groups of Islands*, Mr W Seed, Secretary of Customs, laid before the Convention by the Representatives of New Zealand in the Minutes of the Proceedings of the

- Intercolonial Conference Held at Sydney, 1884 in *Appendix to the Journals of the New Zealand House of Representatives* (1884) s I, A-3: 103.
- 16 'Why should valuable lives be endangered through the abuse of this infernal trade in human flesh? ... this cursed traffic'. Letter to the Editor signed J G K to the *Sydney Daily Telegraph* 8 December 1880 included in the Minutes of the Proceedings of the Intercolonial Conference Held at Sydney 1881 in *Appendix to the Journals of the New Zealand House of Representatives* (1881) s I, A-3: 32.
- 17 The Chief Justice did note that 'he could not help thinking that some disregard for these [Islanders] was shown' (182).

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