

TRACING THE INTERSECTIONS OF WĀHINE MĀORI, WHAKAPAPA AND MANA IN THE NATIVE LAND COURT, 19TH CENTURY AOTEAROA

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Abstract

Connection to land through whakapapa is premised on mana inherited at birth from the atua. These fundamental principles have supported land claims in the Native Land Court since 1865 and were of importance to Ngāti Kahungunu women in the late 19th century. Yet, exactly how whakapapa and mana informed cases for wāhine Māori has been difficult to examine, due to the omnipresent patriarchal workings of the Native Land Court and its comprehension of customary principles. This article highlights the interconnected relationship between whakapapa and mana, wāhine Māori and the Native Land Court in Hawke's Bay and adds to a more balanced gendered scholarship of the Native Land Court. I argue that the power of whakapapa and mana transcended into a Western infrastructure of land legislation and management—one of the first times these two systems of law had to intersect. Furthermore, for a small period in New Zealand's nation-building histories, the Native Land Court respected these principles and also provided a platform for Māori women to become equal players in the management and distribution of tribal lands within a European legal framework. Yet, wāhine Māori involvement in tribal land affairs was not uncommon in Māori society because of whakapapa and mana. Centring wāhine Māori is vital to tribal narratives and history more broadly, but also in tracing the intersections of gendered roles in traditional Māori society, and European society, which was dependent on colonial patriarchal operations upheld by the Native Land Court.

Keywords

colonialism, mana, Mana Wāhine, Native Land Court, whakapapa, women

Ko Inano tōku ingoa

Nō roto mai 'au i te 'ōire Arorangi Vaka Puaikura te tapere o Tumu-te-varovaro

Ko Ikurangi te maunga

Ko Apai-pai-moana te vaka

Ko Ngāti Makea te ngāti

Ko Taripo tōku ingoa kōpū tangata

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Nō Tumū-te-varovaro e Akatokamanāva mai 'au

Inano is my name

I am from the district Arorangi that is in the Puaikura subdistrict of Rarotonga

Ikurangi is my mountain

Apai-pai-moana is my canoe

Ngāti Makea is my tribe

I descend from the Tariipo family

I am from Rarotonga and Mauke

My 'akapapa connects me to Tumū-te-Varovaro (Rarotonga) through my tupuna tane and Akatokamanāva (Mauke) through my tupuna va'ine in the Southern Cook Islands. I have papa'ā heritage through my father and I was raised and have lived my whole life in Aotearoa New Zealand. I was born into a network of strong va'ine Māori and they are the drivers of social change in our kōpū. Thus, as a history scholar I am interested in Polynesian women's influences during key moments of critical change. The findings from this article are based on my master's thesis written in 2017, and the impetus for this project was driven by my children's Māori heritage (Ngāti Kahungunu), to foreground the inspiring mana wāhine they descend from and who were key drivers of social change in 19th century Aotearoa.

Introduction

Airini Donnelly, Arihi Te Nahu and Hera Te Upokoiri were all prominent women from Ngāti Kahungunu exercising their mana through the Native Land Court. Kenehuru, meanwhile, was from Ngāti Mahuta. Although not from the Ngāti Kahungunu region, her case provides valuable insight into the overlap of customary marriage practices and Western marriage. In this article, I use these four women to make the point that they were active participants educated and well-versed in the operations of the Native Land Court who held the whakapapa and mana to be able to do so. The Native Land Court remains a central site for investigating the injustices faced by Māori during the 19th century, yet few studies have analysed the Native Land Court within a gender-specific framework (Walter, 2017). Scholars to date have not focused directly on Māori women's experiences of the Native Land Court. As Williams and Hohepa (1996) state, it was a "patriarchal institution in the way it was organised and, in its operations" (p. 27). Thus, I start by outlining the framework for this project developed from Mana Wāhine theory and historical methods to reveal wāhine Māori narratives. Next, an overview of whakapapa and mana and connection to land for

women sets the scene. I am not so concerned with asserting the workings and legal infrastructure and language of the Native Land Court here as this has been thoroughly examined already. Rather, I aim to shed light on the fluidity and power of whakapapa and mana, and to privilege the voices of wāhine Māori through four case studies. Mana Wāhine theory is utilised to foreground the murkiness and colonisation tactics of the Native Land Court. I argue here that this murkiness stemmed from the Native Land Court's inability to wholly understand customary practices, rather than an initial "goodwill and intent" by the Native Land Court judges and administrators for fair legal land processes.

Prior to European arrival, Māori land was owned collectively, based on Māori customary practices that were upheld by a kinship structure of whānau, hapū and iwi documented extensively by the likes of Biggs and Jones (1995), Ballara (1998) and more recently Stevens and Brown (2022). The context in New Zealand in the 1860s was that customary law was still paramount in areas where there was a dense Māori population, but there was an expectation by colonists that customary laws would eventually become obsolete (Boast, 2013). Formation of the Native Land Court along with its associated legislation represented a turning point in the struggle for land control in colonial New Zealand. To achieve its prime directive—of transferring native communal land to individual title—the Native Land Court had to grapple with the principles of customary practice (or not) and understand how these could be reconciled with European legal systems (Boast, 2013). Each case that went before the Native Land Court involved lengthy debates about the historical and cultural settings of the land and its claimants. They also included a recognition of tribal variations in tenure practices (Williams, 1999). Such discussions were central components of customary decision making around land and should have assured representative and equitable outcomes for Māori.

From 1865 onwards, the overarching goal for policymakers was to bring customary lore and European law under a united jurisdiction and early

policymakers had to proceed in a way that would not immediately disrupt relationships between Māori and Pākehā (Ward, 1974). British colonies achieved global expansion by forcibly removing Indigenous peoples off their land through massacre and introduced diseases, such as in the case of Indigenous Australians (Jalata, 2013). To avoid the same level of scrutiny, politicians and leaders were initially cautious in their approach to secure land throughout New Zealand (Moon, 2012). A “resourceful” system of land exchange in New Zealand was then created as a response to imperial domination and was the beginning of major land loss for Māori (Walter, 2017).

Mana Wāhine theory

The injustices of the Native Land Court’s land grabbing have predominately been revealed through the lens of Māori men (Boast, 1999, 2013; Williams, 1999). The Pākehā-controlled specialised Native Land Court allowed traditional communal landholdings to be transferred to individual title, making it easier for Pākehā to purchase land. Commonly cited as a “land grabbing engine”, the Native Land Court has been harshly critiqued by historians and law experts (Williams, 1999)—and rightly so as ongoing effects of land loss and colonisation continue for Māori today. Kawharu (1977) contests that the law and the Native Land Court were a “veritable engine of destruction for any tribe’s ambition for long term and secure land tenure” (p. 15). Yet a key area of analysis by scholars that remains nascent is the narratives of Māori women in the Native Land Court. Boast (2008) proposes that “the role played by women in the Native Land Court and Crown granting process is not well understood and could do with more research” (p. 83). Being both Māori and female in the 19th century meant being entangled with multiple oppressions arising from sexism, racism and colonisation. Mana wāhine knowledge systems faced spiritual questioning, and those very same institutions that were crucial to Māori society were expected to adapt and adopt Pākehā norms (Simmonds, 2011). This included the Native Land Court, a system that was meant to protect Māori land, not facilitate land loss, and which pitted wāhine Māori against one another.

Mana Wāhine theory extends beyond Kaupapa Māori theory by exploring the nuances of being Māori and female and the ways this can be analysed. Making visible the narratives and experiences, in all their diversity, of Māori women sits at the core of Mana Wāhine theory (Johnston & Pihama, 1995). Mana Wāhine can be thought of

as “on our own terms and in our own way, (re)defin[ing] and (re)present[ing] the multifarious stories and experiences of what it means both currently and, in the past, to be a Māori woman in Aotearoa New Zealand” (Simmonds, 2011, p. 12). Central to Mana Wāhine is the concept and practice of mana, which is interconnected and relational and can be diminished or increased depending on those interactions (Pihama, 2020). It is through whakapapa that Māori affirm these relationships and whakapapa and mana are therefore central concepts for understanding the way in which wāhine Māori had connection to people and land. Adopting facets of Mana Wāhine theory in this article provides a starting point for historians to consider and include the narratives of wāhine Māori through a framework that not only makes sense to wāhine Māori but also sits alongside historical methods—the very methodological tools created by Western scholars to demonstrate the way colonial and patriarchal ideologies entrenched in legislation and settler policy have posited Māori women as inferior (Pihama, 2001).

Methods

My children whakapapa to the rohe of Ngāti Kahungunu and descend from, amongst other strong wāhine Kahungunu, Arihi Te Nahu, who was one of those very women subjugated to the turmoil of the Native Land Court. Understanding the narratives of my children’s tūpuna further adds to the layering and understanding of their own whakapapa and mana and my responsibility as their mother to ensure this is protected and enhanced. Just over a million acres of land had been purchased by the British Crown from Ngāti Kahungunu six years before the Native Land Court’s inception, which accounts for increased land involvement in the Native Land Court, particularly by wāhine once the court was established. With this in mind, the Napier Minute Books are rich, with prominent women from the Ngāti Kahungunu rohe appearing in the land records multiple times. It is clear that the organising and management of land for many Māori in Ngāti Kahungunu was of serious concern. The fact that there is no cohesive compilation of wāhine Māori ki Ngāti Kahungunu to date demonstrates the ongoing effects of patriarchal understandings of a Western court system. To trace these narratives, I localised my research to the Ngāti Kahungunu region and collated the women that appeared numerous times in different land proceedings. These women could be identified in colonial newspapers under the search phrase “wahine, native land court”, but more effectively

through the Napier Minute Books. In analysing these historical documents, a broad understanding of these women's experiences can be revealed. The Native Land Court Minute Books show case by case how these negotiations played out. Legal historian Paerau Warbrick (2015) clarifies that these Minute Books total over 3,000 pages, providing a wealth of information, including whakapapa and relations attached to the land.

The narratives of Airini Donnelly, Arihi Te Nahu, Hera Te Upokoiri and Kenehuru are particularly compelling and have been chosen to be highlighted in this article. Their narratives involve contestations for land, Crown grants, petitions, and contesting of wills, suggesting they had extensive legal expertise on the Native Land Court. They also indicate their mana through their connection to their whenua and their tenacity to protect their rights as wāhine Māori, as land proceedings could be prolonged and expensive. I use other examples of whakapapa and mana in practice as counter-arguments to highlight the Native Land Court's lack of comprehension of customary practice but also the gaps in the system which allowed Māori women to be exploited.

These wāhine Māori's experiences were during a period of rapid land loss in late 19th century when whakapapa and mana was of crucial importance to retain hapū and iwi land. In most cases, the complexity of the negotiations was focused on interpretations of whakapapa and mana. They also highlight the ways in which customary practices empowered women while also opening the doors to subsequent land loss. I acknowledge that there are most likely records held in possession by whānau regarding important land claims that are not freely accessible. The aim of this article is to explore how four Māori women conceptualised their role and how they exercised it in the Native Land Court whilst utilising mana and whakapapa. This is done through an analysis of the Native Land Court minutes to prioritise their experiences while recognising the colonialism, prejudices and sexism faced by these wāhine.

Whakapapa and mana

Whakapapa refers to the family or tribal lineage and is the central organising principle of Māori society. Although many customs and practices have changed, whakapapa has remained a centre point of Māori social life (Marsden, 2003). As well as connecting people across time, whakapapa connects kin groups to place or whenua through the agency of key ancestors in the whakapapa, whose names are written into the landscape (Tapsell,

1997). Like whakapapa, mana is acknowledged as a principle with several dimensions. The Rev. Māori Marsden (1992) considers mana to be the "lawful permission delegated by the gods to their human agents and accompanied by the endowment of spiritual power to act on their behalf and in accordance with their revealed will" (p. 4). Therefore, an individual who could whakapapa most directly to an atua retained more mana and would be ushered into leadership roles in society. But mana was also contingent upon the ability to act effectively in the world—it was not simply hereditary status (Goldman, 1970).

Within the context of the Native Land Court, between the 1840s and the 1870s a wāhine Māori from Heretaunga, commonly referred to as "Queen Hineipaketia" in colonial newspapers, had such mana that she did not even need to be present in court to have influence over land proceedings, as "land sales relied on her endorsement" (Brookes, 2016, p. 78). Pākehā described her as a "queen" in so much as their understanding of the role and authority of a queen rested on their knowledge and understanding of their own monarch, Queen Victoria, traits they saw replicated in Hineipaketia. She was of high rank through both her father and her mother, and the eldest child whose whakapapa was from a line of eldest sons going back to Tama-i-awhitia, Te rangi-ko-i-a-anake and Te Whatu-i-apiti, all prominent Māori chiefs during the 19th century (Ballara, 1998). Despite Hineipaketia's hereditary status, she still needed to make informed land decisions that benefited her hapū, such as the negotiations involving government agent Donald McClean for a considerable block of land, with the final decision resting with Hineipaketia.

Whakapapa as "genealogy"

Sir Apirana Ngata, a prominent East Coast elder, explained that whakapapa can be likened to the process of "laying one thing upon another", and offers an extensive list of the different types of whakapapa (Ngata, 1972, p. 6). Whakapapa is understood in this article in two ways: to support land claims by demonstrating fluency in genealogical connection and descent to land, whānau, hapū and iwi; and to highlight the process of "laying one thing upon another" not just through a te ao Māori framework but also through a European framework to bridge the gap between the two spaces. Powell (2021) describes the use of 'akapapa'anga ara tangata in the Cook Islands as a technique that can help Cook Island Māori locate themselves and their relations that are "constantly moving and

growing those practices”, and to make sense of a relational network (p. 48). In a sense, this is what these prominent wāhine Māori were doing in the 19th century; they were traversing and making sense of these newly found spaces mainly through the Native Land Court, despite the many ongoing challenges they experienced.

Mana as “mythic”

Mitchell and Olsen-Reeder (2021) state that early ethnographers described Māoridom as steeped in “whim and fancy”, and some Native Land Court records are less helpful than others (p. 85). Although the Minute Books are detailed, they were produced solely by European court officials, leaving an authentic wāhine Māori worldview overlooked in favour of the lens of European males. The intimate connection between mana, whakapapa, land and wāhine Māori can be clearly articulated through the creation myth of Ranginui and Papatūānuku. In the beginning, there was nothing, or Te Kore, a period of darkness. From here Ranginui and Papatūānuku formed and were connected with all their children born between them. This epoch is commonly called Te Pō, or “the long night”. The children of Ranginui and Papatūānuku wanted to separate their parents to allow light to enter the world. Once the children separated their parents, they entered the epoch known as Te Ao, or “the light” (Ihimaera & Hereaka, 2019). There are tribal variations in this story, but the most common theme that arises from this creation narrative is the interaction between each state—Te Kore, Te Pō and Te Ao—that takes the form of a literary device to recite whakapapa. Like a descent line, one is born from another, and this ordering helps make sense of the world as we know it today.

This creation narrative centres woman as earth mother; she is personified as nurturer, protector and life giver and is connected directly to the whenua, whereas the sky father looks after the domain above: the sky, heavens and clouds. Papatūānuku made the ultimate sacrifice to separate from her beloved husband so that her children could fashion the world and take care of different domains (e.g., Tāne Mahuta, Tangaroa, Hine-nui-te-po). This sacrifice of love as well as the ability to create life and bear pain for the human race through childbirth meant Papatūānuku, an atua, symbolised great mana, retaining respect and prestige for all women who descend from her. As well as the above points, examining whakapapa, mana and wāhine Māori through a creation myth prompts us to consider gender roles in traditional

Māori society. The equal balance between wāhine and tāne in these roles reaffirms that women were central to Māori society, and it was not uncommon for them to be involved in tribal political decision making—unusual perhaps in a Western legal system but not in te ao Māori. Due to the patriarchal workings of the Native Land Court, the stories and narratives of wāhine Māori have remained hidden.

Mana and whakapapa were so crucial to Māori worldview and society that they could be transferred to a framework of European land law and inheritance. I argue here that whakapapa and mana not only supported Māori women’s land claims in the Native Court but were also legible within a European jurisprudence. Further to this argument, Māori wāhine were not just using whakapapa and mana to support court cases; they were in fact using their whakapapa to justify their positioning within a legislative setting (Walter, 2017). Māori women were engaging with a new legal framework in which they were empowered to establish their customary rights. This engagement did not always run smoothly, and it was not easy for the Native Land Court to really understand the notion of “customary practice” (Boast, 2013). For a small period, some Māori women participating in the judicial process proved to be very successful. I use the example of the Ngapeke case of Katerina Te Kaaho (Mrs D. Asher) of Ngāti Pukenga, who applied to have her relatives and her own interests recognised by the Native Land Court in 1869 (“The Ngapeke Case”, 1897). This case not only highlights the intricacies of whakapapa in that when one’s ancestry was undeniable—the Native Land Court had no choice but to recognise and uphold customary practices—it also shows the power of whakapapa used in practice within a specialised European court. To claim right of possession, Katerina demonstrated her proficiency tracing her ancestry back to Toroa through her whakapapa. Toroa was one of the first ancestors to come from Hawaiki 15 generations earlier, the commander of the *Mataatua* waka. Judge Wilson awarded Katerina the block of land in question based on her ability to claim kinship rights upheld through the recitation of her whakapapa (“The Ngapeke Case”, 1897). To recite whakapapa not only demonstrated the mana you embodied; it also exhibited an impressive ability to wholly understand the Native Land Court’s legislation and procedures, even if this relationship was not always reciprocal and the Native Land Court did not necessarily understand customary practices.

Meurant vs Grey: Customary and European marriage

The *Meurant vs Grey* case reveals the relationship between customary lore and European law that affected wāhine Māori land ownership when marriages were formalised under European law. In 1835, Kenehuru, daughter of the Ngāti Mahuta chief Te Tuhi-o-te-Rangi, married Pākehā man Edward Meurant and was gifted 30 acres of land as a customary marriage gift by three chiefly relatives. Meurant's familiarity with land deeds and his role as a native interpreter prompted Kenehuru to formalise her land ownership through the Native Land Court ("The Meurant Case", 1878). On behalf of Kenehuru, Meurant applied for a Crown grant through the Native Land Court but only received a Crown grant for 10 acres, and the remaining 20 acres were confiscated. Appointed governor of New Zealand in 1845, George Grey, alongside his lieutenant, Donald McLean, negotiated the purchase of large areas of fertile land. As a result of these purchases, European settlement grew rapidly during the 1870s, which included illegitimate land confiscations. It was Governor Grey who appointed 10 acres of the wife's land to the husband, claiming he had put the rest of the land into a trust when he had sold the other 20. Members of Parliament were unclear if this was a normal practice—that is, when a European man marries a Māori woman her land would be seized ("Case of Widow Meurant", 1854). One politician of the time, Henry Sewell, clarified that even under the law of England husbands did not have such power upon marriage ("Case of Widow Meurant", 1854). Another said that "had the woman lived in concubinage with Meurant, and not in marriage, the Government would never have dared to touch the land" ("Case of Widow Meurant", 1854, p. 220). A commonly held assumption was once Māori women married under colonial law, the management of their land would also fall into this category, which was governed through the Native Land Court (Biggs, 1970). Historian Angela Wanhalla (2009) adds that *Meurant vs Grey* highlighted the failings of the "racial amalgamation policy" and the Crown's scramble over land purchases which fell under the category of pre-emption. *Meurant vs Grey* was more than a land case—it prompted legislative reforms to protect the rights of Māori women that married outside of their race, including their land rights (Wanhalla, 2009). Eventually, in 1875 Judge Fenton ruled in Kenehuru's favour, stating that she had been poorly treated and that the land was rightfully hers (Luttrell, 2020).

The equivocal role of marriage under the Native Land Act 1865 was recognised by the Crown and a new Native Land Act was passed in 1869 that would allow Māori women to continue owning property after marriage, which gave them the legal capacity of a *feme sole* under clause 22 of the new Act. This clause was important because it protected Māori women's rights, and effectively supported land tenure arrangements associated with customary marriage practices. These amendments, however, did not stop some husbands trying to challenge their wife's privileges given by the Native Land Court, as when William Cannon attempted to access and control his wife's customary land (Appendix to the Journals of the House of Representatives, 1873). It is clear from this case study that the Native Land Court did not understand customary marriage, and with more mixed-race relationships forming throughout the colony, this opened up debates in Parliament about who sanctified and governed women's property. Beyond these discussions in the political chambers, *Meurant vs Grey* is a clear example of the power of whakapapa and mana that could directly inform legislative change and protect women's property under *feme sole*.

The Donnellys: Colonial marriage

At face value, the case of George and Airini Donnelly suggests that some wāhine Māori adjusted and operated quite well under the administration of colonial marriage. Airini Karauria and Irishman George Prior Donnelly married on 6 December 1877 at the Anglican Church of St John the Evangelist in Napier (Binney, 2006). Donnelly's arrival in New Zealand in 1862 led to a marriage with a high-ranking woman who used her positioning under colonial marriage to attain and protect tribal land. Their marriage was the beginning of years of land claim negotiations, and Donnelly assisted Airini in numerous land cases, persuading Airini's relatives to obtain Crown grants. Airini had substantial knowledge in tribal lore and whakapapa that contributed to her overall success in pursuing certificates of title to large tracts of land throughout Hawke's Bay (Binney, 2006).

In 1909, Airini died and her land was bequeathed to her husband, which he sold by auction in 1911 (Binney, 2006). If Donnelly and Airini had married under customary law, the land would have reverted to the whānau or been inherited by their children, but because there was no issue, Airini could distribute her lands as she wished. This included the jurisdiction of common law as her

land had been received as a Crown grant, which overrode customary practices. Historian and gender scholar Bettina Bradbury (1995) states that until 1860, the only wives who avoided their property going into the hands of their husbands fell into three categories: Māori women marrying Māori men who dealt with Māori land outside of European courts; women who had conducted a marriage settlement (similar to a prenup) before marriage; and women who had an arrangement that if the marriage should end they could keep their share of the property or income. Once Māori land passed through the Native Land Court and received a Crown grant, dealings from that point on fell under the governance of European law, which included the right for husbands to control it during marriage and after death.

The literature surrounding Airini Donnelly celebrates her as a generous and knowledgeable woman, particularly in litigation affairs (Grant, 1993). She was at the forefront of opposing lease or sale to Pākehā; on the other hand, she worked to obtain land for herself and her husband sometimes under varying circumstances. Customary Māori marriage practices were always performed with whakapapa as the underlying principle. It was vital that you knew whom you were marrying, sometimes under taumau or betrothal during your childhood, to protect tribal lands and to avoid incest. In a way, Airini choosing to marry Irishman George Donnelly was a way of safeguarding her land interests. Not only would being married to a white man support her land claims, but it gave her respectability in both worlds: te ao Māori and the Western world. This case shows that there was sufficient flexibility in the Native Land Court to allow women to acquire title to land and otherwise influence land outcomes, but that European marriage laws effectively counteracted that advantage by passing the rights on to the husband. For this reason, some Māori women chose not to marry under European rules to protect their tribal lands. In those cases, of course, they were unable to acquire a certificate of title, which meant that the land could not be considered a financial asset for husband or wife. The point I really want to make using this case study is that whakapapa and mana worked in a myriad of ways. Rather than focusing on Airini's genealogical connections she had to the land, the tutelage she received under her great grand uncle, Renata Kawepo, a prominent chief of Ngāti Kahungunu, was of more influence since he showed her the sophisticated nature and fluidity of whakapapa that could be re-enacted and used in the Native Land Court, which saw her rise as

an advocate for her people as a teenager. I argue that it was these practices of whakapapa history, oratory performance and connection to place that led to her success in the Native Land Court; this very tutelage would be used against Renata, as we see in the next case study.

The Arihi Te Nahu and Airini Donnelly will cases

One of the most influential cases was regarding two Māori women that manipulated the Native Land Court and inheritance systems to achieve outcomes that reflect their sensitivity to colonial attitudes to race. Arihi Te Nahu visited her uncle, Haurangi, and asked him to make his will in her favour before he passed, but he responded that he wanted his assets to go to his mokopuna instead. When the will was presented in court, Arihi produced a second will in her favour, supposedly drawn up by Arihi's husband, Hamiora. According to Arihi, she "guided Haurangi's hand while he made his cross to his name, which was signed by Hamiora" ("Another Māori Will Case", 1889, p. 5). This case shares similarities with a case Airini Donnelly was involved in which was against her uncle, Wiremu Broughton, and demonstrates the way women were increasing their authority within the Native Land Court (Walter, 2017). The case between Donnelly and Broughton became known as the infamous Omaha case and gained national and international coverage for involving the Privy Council in London. It was centred around the death of a wealthy man, the above-mentioned Renata, in 1888. Under his will, he bequeathed all his tribal interests and property to Wiremu Broughton. The probate was granted to Wiremu, but several months after the probate was granted, Airini produced a second will in her favour. On the day of Renata's death, Airini testified that she went to his house, in which his two wives were sleeping. The Omaha Block was a large tract of land situated between Napier and Hastings, and was of significance to Ngāti Kahungunu. The block had not been investigated until 1890 and Boast (2015) suggests earlier attempts to gain a certificate of title had been fruitless. By the time the block was investigated, the principal hapū were Ngāti Hinemaru and Ngāi Te Upokoiri. On the day Renata died, Airini had gone to his home, produced a pen and paper, and Renata had put a cross to mark his signature ("Renata Kawepo's Strange Will Case", 1888). Airini stated that Renata had changed his will and wanted to leave his assets and tribal interests to her. The jury were suspicious of her motives as she had kept the

will a secret for a long time. Airini had opposed Wiremu's application for probate, and the Native Land Court investigation of title into Omaha had become entwined in the litigation of the will in the ordinary courts.

In both cases, Airini and Arihi produced second wills and assent was attained in a similar manner using "a cross" as a form of signature. Despite Arini being unsuccessful in this instance, this case sheds light on the extent to which some women were going to gain access to land. It also reveals the growing suspicion about the operations of the Native Land Court, which was becoming more and more embroiled with illegal land confiscation. As New Zealand was becoming a settler colony, there was an urgent need for land for the new settlers, so the ways in which land was governed were increasingly undercut by inconsistencies in the Native Land Court, creating more and more murkiness.

Hera Te Upokoiri and the Ohiti Block

The last case considered here suggests the law favoured Māori women who had recognition and familiarity with the Native Land Court proceedings. Rather than the women working together to claim tribal lands, they were in fact in direct contestation with each other and used the court system to their advantage, which sometimes meant dismissing whakapapa and mana to get the desired outcome. Hera Te Upokoiri had a rich whakapapa, as her father and mother were both people of high standing in their respective communities. Hera returned to Ngatarawa and Ohiti to claim her mother's tribal lands, a claim that was challenged by Arihi Te Nahu. Under customary marriage laws, immediate descendants could return to take up occupation even if they had never physically spent time or lived on the land in question. If three generations had passed without any descendants returning to the land, however, the rights of that particular family line then became null. The judge in this case stated:

As for the claim of Hoana Pakapaka and Hera Te Upokoiri, we reject that of the latter on the grounds that she has never occupied Ohiti. It is true that she returned to Heretaunga in 1860, but we doubt whether her parents or grandparents ever occupied this block. Certainly, her brothers and sisters never returned to this district. ("Native Land Court", 1897, p. 4)

The judge rejected Hera's claim to the Ohiti Block because the land had not been occupied by

her whānau for three generations. The primary hapū for the Omaha Block and its kaitiaki was Ngāi Te Upokoiri, which was also Hera's primary hapū. With regard to Ohiti, she was claiming from her mother's bloodlines, and the courts justified their rejection of her claim through a lack of occupation. It is actually more likely that her claim was rejected on the basis of its boundaries aligning with the Omaha Block, a large piece of land that Airini Donnelly and her brother Wiremu were contesting, as described above. The fact that the courts dismissed Hera's primary relationship with land through whakapapa signalled the beginning of an assimilation agenda which chose to ignore customary principles that were once pivotal to the outcome of land cases. Historian Judith Binney (1990) agrees, describing the court as an extension of the tools of war and "an act of war" itself (p. 143). All scholars agree that the Native Land Court was a central institution in Māori life and touched the lives of every whānau and hapū through its investigations into title, as well as its partition and succession orders, for all land in Māori hands came under the court's purview. This makes the Native Land Court a pertinent site for tracing the way wāhine Māori fared in a colonial jurisdiction, and for revealing the social histories, oppression and patriarchal prejudices these wāhine faced. Māori women appear to have freely participated in court proceedings, and the case studies in this article demonstrate that whakapapa and mana were not just fundamental principles of 19th century Māori society: they were also pivotal to the way land tenure was decided at the time. We have seen that Arihi Te Nahu had three court cases well documented in the newspapers: the contestation of her uncle's will by producing a second document; another case involving Wiremu Broughton which resulted from a family member's death; and the contestation of a piece of land Hera Te Upokoiri was trying to inherit through her mother's whakapapa. All these cases took place in the Hawke's Bay region. In addition to appearing in well-known court cases, Arihi was petitioning the government on various issues concerning wāhine Māori, like the Native Marriage Validation Marriage Bill 1877. Hera Te Upokoiri's case reveals the way in which the court was starting to override the importance of whakapapa towards the end of the century. Obtaining Māori land was at the heart of settler colonialism, but assimilation also encompassed the eradication of customary practices, such as customary marriage and whakapapa. Even though the courts recognised and respected customary Māori

marriage at the Native Land Court's inception, women's experiences with the Native Land Court increasingly led to land alienation and thus assimilation. This was the case for Airini Donnelly, who despite having individual title to land was married under European law, which meant her tribal lands eventually became the property of her husband. Mana Wāhine theory at its core is about tracing the intersections of being Māori and being female. This is one aspect of mana wāhine within the wider social and political fabric of New Zealand. Mana Wāhine theory allows us to critique the impact of colonisation on Māori women using the concepts of mana and whakapapa.

Conclusion

The Native Land Court, perhaps surprisingly, gave opportunities for Māori women to assert their rights in property transactions under European law. This article builds on previous scholarship on the Native Land Court and highlights that the activating principles of whakapapa and mana supported land settlement outcomes for wāhine Māori. This enabled them to be equal players in the management of hapū and iwi land through the Native Land Court. This was one of the first times in New Zealand's history when both Māori lore and European law had to deal and interact with one another. These interactions were timely, methodical, and well documented, but not always favourable to Māori. Though this "murkiness" can be attributed to a lack of understanding of customary practices by the Crown, in the end it led to assimilation processes that facilitated land loss and colonisation.

Women used whakapapa and mana in differing ways, sometimes to advance the aspirations of whānau and hapū and at other times for individual goals. The four case studies in this article enhance our collective knowledge by looking at the interface of colonisation between wāhine Māori and a colonial judicial system. Scholars concur that the Native Land Court was a patriarchal institution that sustained and upheld land law over wāhine Māori. The voices of Māori women involved with the court have traditionally been silenced, and until the present research, it has not been analysed using a Kaupapa Māori framework, specifically Mana Wāhine theory. I have used Mana Wāhine theory as a way to interpret these women's experiences. This research invites further conversations to explore whether Māori women's participation in the Native Land Court influenced the political lobbying by Pākehā women in the latter part of the 19th century, which led to suffrage in 1893. What

were Pākehā women doing while Māori women were going through the Native Land Court? Were they allies or supporters? What sort of political rallying were they doing alongside these activities? The focus of this article has been on wāhine Māori and their power of activating whakapapa and mana to have their court cases validated, but there is definitely scope to research the overlap of Māori feminism and Pākehā feminism.

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Glossary

Cook Islands Māori

‘akapapa	genealogy
‘akapapa’anga ara tangata	genealogical practices
Akatokamanāva	original name of the island Mauke in the Cook Islands
Arorangi	district in Rarotonga
kōpū	relation
kōpū tangata	descend from a common ancestor
papa‘ā	European
Tumu-te-varovaro	ancient name of Rarotonga
tupuna tane	grandad
tupuna va‘ine	grandma
va‘ine	woman

Māori

atua	gods
hapū	subtribe

Hawaiki	ancient homeland—the places from which Māori migrated to New Zealand
Hine-nui-te-pō	goddess of the underworld
iwi	tribe
Kaupapa Māori	research methodologies that are “by Māori, for Māori”
mana	prestige
mokopuna	grandchildren
Ngāi Te Upokoiri	subtribe within Ngāti Kahungunu
Ngāti Kahungunu	tribe located along the eastern coast of the North Island of New Zealand
Ngāti Mahuta	tribe that is part of the Waikato Tainui confederation of tribes in the North Island of New Zealand
Pākehā	European
Papatūānuku	earth mother
Ranginui	sky father
rohe	district
tāne	male(s)
Tāne Mahuta	god of the forest
Tangaroa	god of the ocean
taumau	betrothal
Te Ao	the light
te ao Māori	Māori worldview
Te Kore	the potential
Te Pō	the darkness
tūpuna	ancestors
wahine	woman
wāhine	women
waka	canoe
whakapapa	genealogy
whānau	family
whenua	land; placenta

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