

THE FOURTH WORLD IN THE FIRST WORLD – THE MAORI IN NEW ZEALAND

by Jeff Berryman *

Introduction

This essay is an attempt to describe some of the specific legal provisions relating to aboriginal rights which have been enacted to accommodate the Maori, the indigenous people of New Zealand, in New Zealand society.

External assessments of New Zealand's human rights record have identified the nation as maintaining an exemplary and enviable reputation.¹ However, such assessments compare a nation's protection of human rights against an ideal standard which is dominated by western democratic jurisprudence towards human rights. Numerous critics have cautioned against applying these same standards to third world nations.² Rather, they suggest that human rights must be viewed within the cultural context of the nation under examination.³ For instance it is folly to balance within a legal system the protection it accords to free expression over the relief it gives from abject poverty.⁴ A similar caution has been issued by members of the fourth world (the world of the aboriginal people) pertaining to the recognition of aboriginal rights.⁵ But theirs is an invidious position. They have difficulty asserting claims to self determination of aboriginal rights in the face of the universality of domestic law imposed by a different cultural majority.

Harmonizing the competing claims of diverse cultures requires mutual respect and understanding of each other's position. To facilitate understanding we need to know something of the cultural values of the minority and what that minority perceives as their fundamental rights. We need to examine history and search out past violations of those rights. Failure to do so will only engender distrust. We need to audit present practices to determine the extent to which the

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