

Land occupation

This exercise describes a hypothetical land occupation in 2040. Check the boxes if you think an action or process is fair or unfair.

Aotearoa in 2040

Parliament is comprised of 6% Pakeha, although Pakeha are 40% of the population.

Occupation

1 A Pakeha family wakes up one morning to find that Maori are occupying their section.

Is this fair? *Is this unfair?*

Investigating title

2 They complain to the police, who tell them that Parliament has established a process for investigating titles to land owned by Pakeha. Under this process, Maori are allowed to claim any land they believe to have been wrongly taken from them.

Fair? *Unfair?*

Hearings process

When the family asks how it was determined that their section was wrongfully taken, they are told -

3 They should have attended a hui at the marae.

Fair? *Unfair?*

4 The hui was publicly notified on Te Karere.

Fair? *Unfair?*

5 They would have had to employ a Maori consultant to present their case.

Fair? *Unfair?*

6 They would have had the opportunity to present evidence that their title was valid, as long as their evidence went back to the time that the land was first acquired from Maori.

Fair? *Unfair?*

7 As the homeowners, they would have had to employ Maori experts to identify the property's



traditional Maori boundaries.

Fair? *Unfair?*

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8 The household would have had to remain at the marae throughout the hearings for all land in their section's immediate area.

Fair? *Unfair?*

9 The hospitality provided by the marae would be expected to be returned in kind at a later date.

Fair? *Unfair?*

Missing the hearing

10 However, as the family didn't appear at the hui, the Government made the land available to Maori claimants on payment of a price set by the Government. As the Pakeha family no longer owns the land, they will not receive any of the payment.

Fair? *Unfair?*

11 If the family had attended the hui and participated in the process appropriately, the chances are that their title would have been found to be valid.

Fair? *Unfair?*

Changing the nature of ownership

12 However, because the Government now believes that individuals do not have the right to own the earth, only to occupy it, property which has been found to be validly owned by individuals is now recorded as owned and managed by the local council.

Fair? *Unfair?*

13 In New Zealand law, nothing can now happen on land without consensus agreement in the community. Pakeha families with valid titles no longer have individual property rights, even though this fundamentally contradicts Pakeha concepts of land ownership.

Fair? *Unfair?*

Compare this to the 1860s >>

Land occupation/2

Aotearoa in the 1860s

The Maori Representation Act (1867) restricts Maori seats to four (approximately 6% of the total), although Maori at the time make up more than 40% of the population.

Occupation

1 Hapu are surprised to have Pakeha arrive to claim ownership of their land.

Investigating title

2 They complain to the authorities. They are told that Parliament has passed a law creating the Native Land Court to investigate titles to land owned by hapu. A court case can be triggered by any settler declaring to the court that they want to buy the land, regardless of whether hapu want to sell.

Hearings process

Maori learn belatedly from other hapu that -

3 The Native Land Court has travelled round the country

4 English-language notices of hearings about their land were posted in nearby towns

5 Hapu were required to use Western lawyers

6 They would have had the opportunity to present evidence that their title was valid, but their evidence had to relate to the competing settler claim

7 Hapu had to employ surveyors to locate their traditional boundaries on cadastral maps

8 If hapu representatives were not present on the day their case is called, they forfeit title

9 Hapu members have to pay for food and accommodation in the town; if they can't afford it, this debt is to be repaid by selling land.

Missing the hearing

10 If hapu do not appear at the hearing, the Government sells disputed land to settlers and uses the revenue to offset Government costs.*

11 In virtually all cases when hapu do contest settler claims, the hapu occupying the land are determined to be the rightful owners.

Changing the nature of ownership

12 However, the Government doesn't want land to be recorded as owned by entire hapu, because having to get agreement from so many owners makes it difficult for settlers to buy and is administratively complicated. So even when a hapu is shown to have a valid title, their land is sub-divided into a maximum of ten sections and allocated to up to ten members of the hapu.

13 In New Zealand law, these ten owners now have the rights to sell individually, even though this fundamentally contradicts Maori concepts of community and land occupation.

* See Oliver, W.H., (1988). *Social Policy: An Historical Overview*. In Royal Commission on Social Policy, *The April Report*, (1). Wellington: Royal Commission on Social Policy.

For more details about Native Land Court operations, see Williams, David. (1999). *Te Kooti Tango Whenua*. Auckland: Huia Publishers.

