Children's Rights or Settler Sovereignty? Rights Declarations, Curriculum Policy, and Settler Colonial Governance

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ABSTRACT

This paper interrogates the coloniality of (human) rights and inclusion by tracing their function within Aotearoa New Zealand's education policy. Beginning from the global frame of Gaza, where human rights instruments are mobilised to obscure rather than prevent mass violence, the analysis demonstrates that rights frameworks are never neutral. In settler-colonial contexts, they operate as technologies of governance that both promise protection and reproduce dispossession. In Aotearoa, curricular and policy discourses of diversity, biculturalism, and inclusion similarly depoliticise the foundational violence of colonisation. By collapsing the distinct realities of Māori, Pasifika, refugee, and immigrant communities into state-managed categories, the education system sustains the hierarchies it claims to redress. For immigrant children, rights are extended only conditionally, tied to neoliberal benchmarks of economic utility and assimilation, while Māori rights remain constrained within Crown-defined parameters. Drawing on Wolfe's theorisation of settler colonialism as a structure of elimination and decolonial theory, the paper argues that both Māori dispossession and immigrant conditionality are relational components of a single settler-colonial project. Education, rights, and inclusion thus function less as emancipatory frameworks than as instruments for managing populations and consolidating white settler sovereignty.

INTRODUCTION

At a time when genocide unfolds in real time, live streamed onto our phones, documented by survivors as it happens, the grand architecture of international law and human rights discourse exposes itself as always-already conditional (Ibhawoh, 2008; Maldonado-Torres, 2021; Suárez-Krabbe, 2015). The so-called "rules-based international order" has been exposed as fragile, selective, and unevenly enforced, while the "international community" reveals itself less as a community than as a fragmented chorus, often unable or worse, unwilling to act (Anghie, 2007; Moses, 2025; Qutami et al., 2023). This rupture is made most

visible in the lives of children: bombed into pieces, maimed, orphaned, starved, or cut off from the infrastructures that give them a future - family networks, kinship ties, schools, teachers, homes, books and so on, the very environments in which knowledge is transmitted (Dader et al., 2024; Hajir & Qato, 2025). If human rights are to mean anything, what does it mean to speak of 'the rights of the child' while watching children's lives reduced to casualty counts and their education turned into rubble?

From Aotearoa New Zealand, these questions resonate in a particular way. Positioned at the edge of the 'world' if we were to believe Eurocentric and distorted maps (Saarinen, 1999), we are often described as geographically distant, buffered from the world's crises, and imagined as a peaceful outpost of liberal democracy[1]. Yet that distance also risks turning into detachment, producing the illusion that atrocities are someone else's problem, happening in another place, to other people. The global circulation of images and testimonies from zones of mass violence collapses that distance, demanding that we rethink not only the limits of international law and rights discourse, but also our own place within them.

While Palestinian children are killed, maimed, or displaced human rights institutions issue statements, highlighting a persistent gap between the ideals of rights and their enforceability (Moses, 2025). This stark disjuncture illuminates the limitations of a 'rights-based order': rights are framed as universal, yet their realization is contingent on geopolitical, racialized, and colonialized hierarchies. As Maldonado-Torres's analysis of the *coloniality of human rights* reminds us, these frameworks historically and structurally produce zones of salvation and zones of damnation, determining whose lives are considered fully human and whose are not (Maldonado-Torres, 2021).

Aotearoa New Zealand positions itself as a committed actor in global human rights frameworks, notably through its ratification of the United Nations Convention on the Rights of the Child (UNCROC) and its stated focus on children's rights in education (Te One, 2011). On paper, this presents the state as a guarantor of rights for all children, including those from immigrant backgrounds. Yet closer scrutiny reveals persistent tensions: rights are often framed rhetorically, while their realization is constrained by legal, cultural, and institutional structures shaped by the country's settler-colonial history (Lynch, 2021). For example, Jane D'Souza's exploration of whether policy prioritises children the "case study found that from the time Aotearoa ratified UNCRC in 1993, profound structural barriers were in place to hinder child-centred policy" (p. 313). She demonstrates that within government, UNCRC principles have remained peripheral, often treated as symbolic commitments rather than guiding frameworks for policy design. Implementation has been fragmented and largely confined to small-scale initiatives or compliance exercises. State logics thus continue to regulate inclusion, categorize belonging, and reproduce hierarchies of value, limiting the conditions under which rights can be exercised in practice (D'Souza, 2023).

A concrete illustration of this tension is New Zealand's engagement with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

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[1] For some billionaires, Aotearoa has become the ultimate apocalypse hideout (O'Connell , 2018), a place to build luxury bunkers and survivalist mansions to escape the very social and ecological collapse their own wealth accumulation and exploitation help produce.

New Zealand was one of only four countries to vote against the Declaration when it was adopted by the United Nations in 2007. While the government reversed its position in 2010, expressing support for the Declaration's principles and linking them to the Treaty of Waitangi, its non-legally binding status meant that implementation remained aspirational. In 2023 the National-led government reiterated that UNDRIP was not going to have any binding effect on internal politics and announced that the government was no longer advancing a national plan. This example demonstrates that it is always the state who mediates recognition according to political priorities, negotiating rights within the bounds of settler-colonial structures rather than fully realizing them. To return to the rights of children, the implications of declarations of rights and their limitations in terms of application become apparent. If rights for Māori as the Indigenous population, historically subject to dispossession, marginalization, and systemic inequality, are mediated and conditional, then the realization of immigrant children's rights is similarly structured by institutional priorities, socio-political expectations, and above all settler-colonial logics. In both cases, rights frameworks operate as governance tools: they define who is recognized as a legitimate participant in education and civic life and under what conditions.

This paper advances a twofold argument. First, it critiques United Nations declarations of rights and related global frameworks, exposing the colonial logics embedded within ostensibly universal legal regimes and highlighting how rights are operationalized in ways that manage, regulate, and contain difference rather than enabling genuine participation and self-determination. Second, building on this critique, it examines how policy and curriculum in Aotearoa construct immigrant children's rights in ways that are simultaneously progressive and constraining. Drawing on decolonial scholarship, we show how the state frames immigrant children as both "vulnerable" and "at risk," a dual characterization that rests on normative assumptions about citizenship, culture, and inclusion, while obscuring structural conditions such as colonial legacies of dispossession and land seizure, racialized hierarchies of inclusion and exclusion (linguistic marginalisation), global and local capitalist exploitation (racism and economic precarity), and state-sanctioned bureaucratic control over mobility and access, that shape children's lived realities and limit their capacity to exercise rights. Situating Aotearoa's policies and curricula within the broader context of universal frameworks such as the UDHR, UNDRIP, and UNCROC compels us to ask: when we speak of immigrant children's rights, whose humanity is recognized, and whose remains conditional? How do local institutional practices reproduce, mediate, or contest the hierarchies that global human rights frameworks have historically entrenched? By linking global declarations with settler-colonial realities on the ground, we interrogate how rights are mobilized, constrained, and stratified across distinct political, social, and colonial contexts.

SETTLER COLONIALISM, EDUCATION AND RIGHTS

Building on Wolfe's framework, the settler-colonial structure in Aotearoa continues to shape social, political, and cultural relations, enacting elimination not only through historical dispossession but through ongoing institutional, epistemic, and symbolic strategies that marginalize Māori authority, land, and language, thereby securing settler sovereignty. Education, in particular, functions

as both a site and instrument of this ongoing structure, shaping knowledge, identities, and social hierarchies through curriculum and policy (Ka'ai-Mahuta, 2011; Walker, 1990). Within these frameworks, migrant children are constructed as subjects to be integrated into the "national story," a narrative that presumes the legitimacy of the settler state while marginalizing Indigenous sovereignty. In doing so, the state frames their inclusion as evidence of a progressive, rights-based ethos, even as it continues to limit Māori access to land, language, and political self-determination, demonstrating how ostensibly universal principles are operationalized in ways that manage, regulate, and contain difference.

The differential positioning of Māori and migrant children within education policy is not accidental. It reflects a broader settler logic that depends on both the erasure of Indigenous presence and the strategic management of diversity (Rata & Al-Asaad, 2019). The idea of the "child with rights" thus becomes racially and politically conditioned: full recognition is extended to those who align with settler narratives of inclusion, development, and multicultural citizenship, while Māori children's rights are framed through deficit lenses and thus pathologised, problematised, or rendered exceptional - rather than grounded in tino rangatiratanga or under Te Tiriti o Waitangi. In this sense, education serves as a central site where settler colonialism, rights discourse, and coloniality converge (Jackson, 2007).

COLONIALITY OF LAW

Liberal rights frameworks, especially those rooted in international human rights law, present themselves as universally applicable, yet often serve to obscure the violence of the colonial order. Decolonial scholars have shown that human rights regimes, while claiming moral neutrality, are shaped by Western epistemologies that render colonial violence invisible and delegitimise Indigenous forms of justice and governance (Suárez-Krabbe, 2015; Maldonado-Torres, 2008; Wynter, 2003). Rights become instruments through which the state adjudicates legitimacy, rather than vehicles for dismantling structural inequality. In Aotearoa, the state's claim to protect the rights of children, including immigrants, does not require a reckoning with its foundational breach of Te Tiriti o Waitangi. Instead, it reinforces the Crown's unilateral authority to define rights, culture, and belonging. Similarly, rights become instruments through which the state adjudicates legitimacy, rather than vehicles for dismantling structural inequality.

This critique is grounded in a longer genealogy that links the discourse of human rights to histories of colonial violence. Rosa-Linda Fregoso (2014) argues that rights are "intrinsically species-centred" and dominated by understandings of rights as the property of the human, a category that has always been racially ordered. The modern ideal of universality is frequently traced to the European Enlightenment, the French Revolution, and the U.S. Declaration of Independence, where the human—"endowed with reason"—was positioned as the "originator and destination" of law and knowledge, displacing "the natural tradition of God as the sources of rights" (Fregoso, 2014, p. 589). Yet the supposedly universal figure of the human that emerged was never neutral, but defined through whiteness, rationality, and constructed as the "human as property-owning man who is an entity separate from nature" (Suárez-Krabbe, 2016, p. 55).

The Valladolid debates of 1550–1551 further illustrates this colonial genealogy. Convened by Charles V in the Monastery of San Gregorio, they marked an unprecedented imperial pause in Spain's wars of conquest, as a junta of jurists and theologians was tasked with weighing the morality of domination in the Americas (Maldonado-Torres, 2007; Jackson, 2007). At their centre was the question of Indigenous humanity: Juan Ginés de Sepúlveda, drawing on Aristotle, claimed that Indigenous peoples were by nature destined for servitude rather than participation in civic or free life, justifying conquest and forced conversion, while Bartolomé de las Casas contended that they were rational beings who could be incorporated into Christendom only through peaceful persuasion. Although Las Casas secured limited recognition of Indigenous humanity, it remained a "theocentric" recognition, grounded in the "True Christian Self" (Fregoso, 2014, p. 590; Wynter, 2003), and thus did little to challenge Spain's presumed right to rule. Sepúlveda's arguments continued to underpin "war by fire and blood," while Las Casas' fragile victories only slightly moderated colonial practice, as missionaries documented languages and cultures even while presuming the inevitability of conversion. In the end, Valladolid crystallised the enduring colonial paradox: the humanity of Indigenous peoples was acknowledged only to the extent that it could be redefined within European-Christian thought, leaving intact the violence of dispossession and the authority of empire to adjudicate who counted as fully human. Maldonado-Torres (2007) names this logic "Manichean misanthropic scepticism," where the colonial statement "you are human" was always shadowed by the suspicion "are you completely human?" (p. 246). As he explains:

> Misanthropic skepticism provides the basis for the ego conquiro, which explains why security for some can conceivably be obtained at the expense of the lives of others. The imperial attitude promotes a fundamentally genocidal attitude in respect to colonized and racialized people. Through it colonial and racial subjects are marked as dispensable." (2007, p. 246; emphasis in original)

Through this misanthropic framework, the Fanonian "non-being" (the colonial subject) was excluded from any conception of "common humanity." The destruction of colonised humanity was constitutive of modern whiteness, and with it the production of "white humanity" as the universal measure. Contemporary rights regimes continue to reproduce this dynamic, positioning racialised and Indigenous peoples as aspirants to universality, while never fully belonging. As Azarmandi (2017, 2022) demonstrates in the context of settler colonial New Zealand, liberalism sustains this contradiction not merely through the co-existence of performative inclusion and structural exclusion, but through racial logics that organise and legitimise these hierarchies. Race, while foundational, is minimised or erased in liberal discourses that frame colonialism as a historical problem supposedly resolved through treaty 'partnership,' where sovereignty is displaced and partnership presented as the only viable path; consequently, even antiracist interventions occur on a terrain where Pākehā presence, established colonial realities, and the impossibility of 'land back' prefigure the terms of justice (Azarmandi, 2022).

Decolonial thinkers situate these inequalities within the broader concept of coloniality. Quijano (2000 argues that coloniality is a constitutive dimension

of the global pattern of capitalist power, rooted in racial hierarchies that organised labor relations worldwide. In this model, "the control of labor in the new model of global power was constituted thus, articulating all historical forms of labor control around the capitalist wage-labor relation" (p. 68). Unpaid labor was assigned to colonised populations—Indigenous peoples, Africans, and others—while wage labor was reserved for colonising Europeans, producing a social geography in which capital, resources, and power were concentrated in Europe and among Europeans globally. Walter Mignolo calls it "the hidden face of Modernity" (2000), while Boaventura de Sousa Santos describes the operation of "abyssal lines" that divide the world into zones of the fully human and the excluded (2007, p.53). Importantly, coloniality is not limited to social or political organization; it is also an onto-epistemic regime (Andreotti et al., 2015), in which European epistemologies are elevated as rational, universal, and scientific, while knowledges from the colonial peripheries are dismissed as particular, irrational, or incapable of challenging metropolitan 'truths' (Lander, 1993). Law plays a central role in this process: even after formal colonialism ended, "the way of organizing the community through the law existed," and new European legal paradigms were imposed on independent states (García-López & Winter-Pereira, 2021, p. 163). Law is never neutral; as the authors note, "law produces subjects, produces truths and produces power. Or to put it another way: subjectivation, veridiction, jurisdiction" (ibid, p. 164). From this perspective, human rights are inseparable from the coloniality of law itself. Nelson Maldonado-Torres critiques human rights scholarship for often neglecting the decolonial perspective: human rights are not universal moral grammars but part of a colonial architecture of knowledge, power, and being (2017, p. 118).

Human rights frameworks are also historically and structurally embedded within Western liberalism. As Peter Fitzpatrick notes, human rights are "integral to liberalism, democracy, individualism and progressive change, all of which happen to be typified in the West" (2001, p. 209). The very grammar of rights presupposes an individualist ontology rooted in a European conception of the human (Maldonado-Torres, 2007; Suárez-Krabbe, 2015; Wynter, 2003;). Maldonado-Torres deepens this critique by showing that the category of the "human" emerges out of a history of exclusion. He cites Mignolo to note that concepts such as "'man' and 'human' were an invention of European humanists of the fifteenth and sixteenth centuries…an invention that served them well for several purposes" (Mignolo, 2009: 8, cited in Maldonado-Torres 2015, p. 9). One purpose was to detach European elites from the authority of the Church; another was to establish hierarchies separating those considered fully human from those considered less-than-human. This produces what Maldonado-Torres terms the onto-Manichean colonial line: "the most basic and primary expression of coloniality, understood as the production of ontological differences hierarchically organized in colonial forms as part of the modern civilizational order" (2015, p. 18). Anti-colonial thinkers recognized both the tactical importance of the Universal Declaration of Human Rights and its limitations. Aimé Césaire and Frantz Fanon pursued a more radical project: a new "oration" rethinking the human from the lived experience of the colonized. As Maldonado-Torres explains, "Césaire and Fanon were pointing to a more fundamental task…the equivalent of which, if there is any, is a discourse along the lines of Pico's Oration, with significant differences, of course" (2015, p. 15). Fanon rejected the idea of extending existing "Rights of Man" to colonized populations, insisting that

decolonization required "a new start, a new way of thinking, and the creation of a new man" (Fanon, 2004, p. 239, cited in Maldonado-Torres 2015, p. 20). Maldonado-Torres also notes that "diversity, inclusion, and development are forms of coloniality [...] should be distinguished from decolonization. They all work within the modern/colonial order of things and fail to address the specificity of damnation and the lived experience of the damnés" (2015, p. 19). Thus, when we speak of the coloniality of human rights, we are speaking not only of the exclusions built into the international system after 1945 but of a much deeper genealogy in which the very concept of "the human" was constructed through racial and colonial hierarchies.

POLICY AND CURRICULUM ANALYSIS: IMMIGRANT CHILDREN IN THE RIGHTS DISCOURSE

Contemporary policy and curriculum continue the settler-colonial logic embedded in law and human rights, claiming to include while reproducing hierarchies that marginalize Indigenous and racialized populations. Contemporary policy and curriculum are a continuation of this logic: over the past two decades reveals that its core priority is not genuine inclusion, but the advancement of a neoliberal agenda aimed at producing economically productive citizens. The shift from the 1993 curriculum to the 2007 version explicitly embraced global neoliberal frameworks, emphasizing competencies that prepare students to "participate in and contribute to the economy" (Standing, 2021). Graham Smith powerfully described this as Pakeha capture in 1990, when he demonstrated how policies aimed at incorporating Māori culture into mainstream education and government often "domesticate" and dilute its radical or transformative potential, recentering Pākehā interests while merely appearing inclusive. The 2023–2025 policy further entrenched this logic by mandating minimum teaching time for narrowly defined "core skills" in literacy and numeracy, tying educational value directly to standardized assessment and economic utility (New Zealand Government, 2023). Gestures toward Māori or immigrant inclusion remain subordinate to this economic framework.

Neoliberal imperatives intersect with settler colonial structures to produce layered exclusion. Māori and Pacific knowledge systems continue to be optional rather than foundational components of the curriculum (Hoskins & Jones, 2022). Kuokkanen's (2007) concept of epistemic ignorance captures how non-Western epistemologies are actively denied legitimacy: Western science and mathematics are framed as universal truths, while Indigenous knowledge is treated as peripheral or illustrative. Even policies such as the 2022 mandate for Aotearoa New Zealand Histories, designed to counter a "pedagogy of forgetting," operate within a settler framework that continues to assess Māori knowledge by Eurocentric standards, thereby instrumentalizing inclusion without dismantling the underlying colonial epistemic hierarchy.

Moana Jackson (2007) traces the Valladolid legacy directly to Aotearoa. Jackson notes that European jurists and theologians in the sixteenth century sought to define "who these people were that Christopher Columbus had discovered in the America[s]" and decided they were "yes, sort of" human—children of God but not fully sentient adults—a juridical classification that rationalised the denial of Indigenous sovereignty and established that

"indigenous peoples as sub-humans are entitled to sub-rights." This conceptual architecture informed Cook's possession rituals in Aotearoa, which, absurd in a European context, were permitted against "sub-humans such as us," (p.62) embedding the assumption that Māori were legally and socially inferior. Against this history, He Whakaputanga Declaration of Independence and Te Tiriti o Waitangi affirm Māori full humanity and sovereignty, claims persistently denied in domestic and international law, where Indigenous tikanga is "redefined, squashed, or squeezed within our so called 'universal notion of human rights,'" (p. 62) and governments, including New Zealand, have refused to recognise Article 3 of the UN Declaration on the Rights of Indigenous Peoples, asserting Indigenous self-determination.

Jackson insists that the Treaty must be understood as an international agreement between sovereign nations, "an expression of sovereignty never ceded by iwi and hapū and never ceded because of the fullness of our humanity" (2007, 63). To treat it otherwise perpetuates the Valladolid logic, presuming Māori are less than fully human and incapable of exercising sovereignty. He therefore concludes that debates about human rights and Te Tiriti must begin with iwi and hapū themselves, who alone can define their own tika:

> the only people who can determine what is tika for Ngāti Kahungunu is Ngāti Kahungunu. I have the right to be a fully human mokopuna of Ngāti Kauhungunu, as indeed I believe do mokopuna of Ngāi Tahu, Tainui, and Ngā Puhi. It is a matter for those iwi and hapū to define. It is not for the Crown. The notion then of our human rights in the sense of the right to be human are sourced in the uniqueness of our Kahungunutanga, our Raukawatanga, our Te Atiawatanga, because those things come from the papa, from the earth, which gave birth to the whakapapa that in the end makes us fully human. (p.64)

Contemporary education policy in Aotearoa New Zealand continues the logic of colonial assimilation. The phrase "Māori achieving success as Māori" gestures toward cultural recognition, yet intelligence and achievement remain measured through Eurocentric benchmarks such as PAT and NCEA, ensuring recognition does not disrupt existing hierarchies of knowledge and power. Similarly, the 2022 mandate for Aotearoa New Zealand's Histories—introduced after campaigns like the 'Give me my History!' petition (Ardern & Hipkins, 2019; Belgrave, 2020)—requires engagement with mātauranga Māori but leaves intact the epistemological dominance of Eurocentric assessment. Māori knowledge thus becomes incorporated as content while settler institutions retain authority to define what counts as valid knowledge and success. The Education and Training Act 2020 mandates "diversity," "inclusion," and "Te Tiriti" (c)(i–iii), but these goals privilege symbolic recognition of voices over centring Indigenous or migrant communities, collapsing distinct experiences into depoliticised categories such as "culturally diverse" (Ahmed & Swan, 2006; Kuokkanen, 2007). Likewise, policies such as the NZC's directive to "recognise and meet the learning needs of all ākonga" (2007) often operate through deficit framings that position Māori, Pacific, and immigrant students as needing to "catch up" to Eurocentric standards (Kuokkanan, 2007). In her 2023 case study exploring the centrality of children in policy across various context, including Aotearoa, D'Souza found that

> there appeared little evidence of sustained child-centred policy development within Aotearoa's institutions [...] Reporting against UNCRC had some impact but general implementation has been weak, with minimal leadership, training, planning, and resourcing other than the small Office for the Children's Commissioner. Strategic policy documents were identified but these seemed to have a limited impact on routine policy development. This case study suggests that dismantling of entrenched barriers will require a seismic shift in cultural and systems change that embeds children and whānau as a priority across public policy. (p. 314-315)

Immigrant children experience a parallel dynamic: their rights to inclusion is conditional on assimilation to state-defined economic and cultural norms. The Sixth Periodic Report (2021) on UNCROC frames refugee and immigrant belonging in terms of successful integration into labor markets and social life. Programs like Welcoming Communities equate "feeling welcome" with economic participation, reinforcing a logic where children's rights are contingent upon productivity and utility. Financial and regulatory structures amplify this effect: tertiary financial support is denied to non-citizens with less than three years' residency (Ministry of Social Development [MSD], 2022). For example, University and government information pages (e.g. Studylink, Connected.govt.nz) restate this: permanent residents are ineligible for student loans and allowances until they have both three years' residence and three years holding a residence-class visa. This shows rights for migrants in the settler colonial state are ultimately constrained and mediated by immigration policy.(Sharifkhani, 2023).

This dual dynamic - conditional inclusion for immigrants and superficial recognition of Māori rights - exemplifies Azarmandi's (2018) critique of performative inclusion operating alongside structural exclusion. Wolfe's (2006) concept of settler colonialism as a structure clarifies how inclusion functions: the system recruits immigrant children into a pre-defined social and economic order that maintains the foundational hierarchies of dispossession and authority. The state, in effect, grants rights while simultaneously conditioning belonging on compliance with neoliberal and settler-colonial norms. Other critics have raised similar issues when pointing out how UNCRC places too much emphasis on individual protections—such as safeguarding children from abuse or neglect—while overlooking wider structural and societal harms like racism, poverty, and social inequality (Simon, 2000). Focusing narrowly on individual rights, policy may fail to address the broader systems and power imbalances that shape children's lives. Similar, Harris-Short draws attention to UNCRC as a form of Western imperialism failing to consider local (and diverse) cultural context.

The state's definition of rights is explicitly exclusionary based on residency or citizenship (Ong, 2006), creating a system of "differentiated citizenship" in which even permanent residents occupy a secondary tier of belonging (p.15). While they may enjoy limited political privileges, such as voting, they are systematically excluded from full entitlements. This is evident where access to higher learning and financial support is contingent on citizenship or length of residency (MSD, 2022). Non-citizens youth who have had residency for less than three years face significant barriers to higher education due to their ineligibility for government student loans and allowances (Sharifkhani, 2023). This often

becoming dependent on family resources, which can constrain autonomy and align educational trajectories with familial economic strategies rather than personal potential (Russell et al., 2025). Simultaneously, neoliberal curricula perpetuate systemic ignorance of Māori rights. The 2022 mandate for Aotearoa New Zealand's Histories, which aims to counter the 'pedagogy of forgetting' through mātauranga Māori, exists in tension with the dominant economic agenda. By failing to challenge the settler-colonial structures that dispossess Māori, the education system reproduces the very hierarchies the history curriculum purports to address. Consequently, immigrants are positioned to intentionally or unintentionally perpetuate this system; their struggle for conditional inclusion and economic security within the settler state necessitates their participation in an economy built on, and that continues to marginalize, Māori sovereignty. The question of rights, their recognition as well as application is mediated via existing power structures that are stratified by colonial as well as racial power.

CONCLUSION: SETTLER COLONIALISM, RIGHTS, AND THE LIMITS OF INCLUSION

The urgency of examining human rights frameworks becomes especially clear when we consider contemporary sites of extreme violence and genocide in Gaza (de Vogli et al., 2025; Pratt et al., 2025). Here, children's rights are not only violated but made hypervisible through social media, livestreams, and global news, yet visibility does not translate into protection. This global failure of rights enforcement is not an anomaly but a revealing reflection of the same colonial logic that structures the conditional inclusion of marginalized children within settler states in Aotearoa New Zealand.

Here, state-led discourses of inclusion in education policy operate through a settler colonial logic that depoliticises and sanitises the foundational violence of the state. Rather than addressing ongoing dispossession and structural genocide inflicted upon Māori, curricula and policies foreground abstract notions of diversity, belonging, and state-sanctioned biculturalism. This rhetorical shift - from reparative justice toward state-mediated inclusion - consolidates settler sovereignty while marginalising Māori claims to *tino rangatiratanga* (self-determination/ sovereignty). Inclusion functions as a homogenising tool, collapsing the distinct historical, cultural, and political realities of Māori, Pacifika, immigrant, and refugee communities into a singular, state-managed category of "other," requiring assimilation into dominant systems (Kuokkanen, 2007).

Crucially, immigrant inclusion is contingent on a settler-colonial hierarchy that enlists newcomers into civic and economic infrastructures defined by the state. Inclusion functions not as a corrective to exclusion but as a reconfiguration that maintains the structural logic of elimination (Wolfe, 2006). The possibility of migrant children being "included" in national imaginaries is premised on the ongoing erasure of Māori sovereignty. The state's invocation of children's rights, through instruments like the UNCROC, is similarly limited. As Stewart-Harawira (2005) and Jackson (2011) argue, liberal human rights frameworks universalise Western epistemologies of personhood and childhood, rarely accounting for Indigenous relational ontologies grounded in whenua, whakapapa, and tikanga.

This disjuncture positions Māori and migrant children as subjects of the Crown, not of their own sovereign worlds. Structural genocide, as theorised by Walters and Kuokkanen, encompasses both historical violence and ongoing devaluation of Indigenous governance, education, and care. A racialised hierarchy is maintained through educational policies and practices that pathologise Māori and Pasifika students. Estellés et al. (2023) illustrate this by showing how safety policies cast Pasifika girls in a paradoxical dual role: as vulnerable subjects in need of protection and as disruptive agents who pose a threat. This construction frames their very identity as a problem, justifying interventions that control their behaviour in the name of safety. A parallel dynamic pathologises Māori and Pasifika boys, whose physical labour is often valued over their intellectual development, as seen when school leaders routinely pull them from class for manual tasks (Alam-Simmons, 2023). These pathologising practices stand in contrast to a superficial, celebratory discourse of inclusivity. The result is a system that celebrate the 'hard-working' immigrant for their economic potential while problematising the 'disengaged' Māori and Pasifika student.

The NZC and Te Marautanga o Aotearoa, while nominally bicultural, reflect asymmetrical power relations. Biculturalism limits Māori aspirations to a Crown-defined partnership model (Ritchie & Rau, 2006), and Treaty-based obligations are often vague and depoliticised. Bicultural education policies frequently position immigrant children as the new face of diversity, displacing Māori as tangata whenua and obscuring the structural injustices underpinning their marginalisation. Meaningful solidarity between Indigenous and migrant communities cannot be brokered through institutions that exist to secure Indigenous dispossession. As Azarmandi (2022) insists, solidarity requires a decolonial understanding of how colonialism and race structure belonging in settler states, recognising that Indigenous and migrant communities are differently but relationally positioned. For migrants, particularly those racialised as non-white, resisting co-optation demands rejecting privileges derived from conditional inclusion at the expense of Māori sovereignty.

Aotearoa's immigrant rights policies are not separate from the dispossession of Māori; they are its contemporary, sophisticated expression. By framing immigrant rights in ways that obscure Māori sovereignty and reinforce settler authority, policy and curriculum enact what Wolfe (2006) identifies as structural genocide. In its "positive" guise of building an inclusive, multicultural society, the state actively erases Māori political claims, presenting itself as the natural arbiter of rights for all. Its liberal rights discourse is not a neutral commitment to justice but, as Lloyd and Wolfe (2006) observe, a "repertoire of strategies" (p.404) to manage populations that threaten its hegemony, a logic neoliberal states reproduce through conditional forms of inclusion that sustain settler colonial governance.

As we have demonstrated, the discourse of 'rights' is not a neutral tool for justice but a mechanism of governance. Rights are deployed selectively by the settler state, stratifying humanity based on citizenship status, race, and Indigeneity. To acquire the 'rights' of a citizen is to accept the state's authority to distribute them, an authority built upon the denial of Māori sovereignty and the right to be fully human on Māori terms. This process demands that immigrants prioritise a Western, individualist model of rights, sidelining the profound understanding articulated by Moana Jackson:

> The notion then of our human rights in the sense of the right to be human are sourced in the uniqueness of our Kahungunutanga, our Raukawatanga, our Te Atiawatanga, because those things come from the papa, from the earth, which gave birth to the whakapapa that in the end makes us fully human. It seems to me that the discourse needs to begin at a different place. The issue is not how does tikanga fit within the current human rights discourse? But rather, what steps can that discourse take to recognise the different philosophical base of the right to be human? (2007; p. 64)

The contemporary genocide in Gaza and the bureaucratic violence of settler colonialism in Aotearoa reveal different expressions of the same eliminatory logic: one operating through brutal immediacy, the other through the slow, grinding machinery of law and policy. This coercive process demands that immigrants adopt a Western, individualist conception of rights, displacing the deeper relational ethics articulated by Moana Jackson (2007), in which being fully human is sourced in whakapapa, place and connection to earth and not in state recognition.

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