

**FREE TRADE, RACISM AND TE TIRITI****PROFESSOR JANE KELSEY****19 MARCH 4 pm**

>>RINGA HĀPAI: Kia ora koutou katoa, ngā mihi nui ki a koutou and welcome to yet another fabulous webinar as part of Te Tiriti futures series. This one is about the essential issue of Te Tiriti and free trade with a global expert, so get ready to enjoy it.

Just a little bit of housekeeping first, people. You would have seen just before a code that said about what kind of community we are. Please remember that this is a respectful space as was outlined, and also if you wish to, and we want you to, ask questions of Jane, please put them in the Q&A as soon as you think of them and we'll collect them, and in the second half of the session Jane will be able to answer your questions.

As I omitted to say, my name is Catherine Delahunty and it's my very great privilege today to facilitate this session from the Kauaeranga Valley in Hauraki in Ngāti Maru whenua where I live. Before I welcome Jane, I just want to read you a quick quote from Ngāpuhi Speaks, which reminds us that trade is not intrinsically contaminated. Just reminds you of our history and the history of tangata whenua.

"In the period leading up to the signing of He Whakaputanga, our tupuna were already beginning to reap the benefits of their efforts and were thriving. Trade was booming and our rangatira were able to take advantage of the need for food and other provisions by visiting vessels. In the light of this context, the most compelling reason for my tupuna to enter into He Whakaputanga was to secure international trade interests."

That's where it was. Now to tell us where we are now and what needs to be done is Emeritus Professor Jane Kelsey. Jane needs no introduction. She is a fantastic academic as well as an activist. She has written many incisive books on neoliberalism and globalisation and free trade. She has changed students' lives, she has been in the engine room of negotiating against the negative aspects of free trade agreements, and she has the trust of many, including tangata whenua, who have asked her often to do this work.

If you want a definition of what tangata Tiriti is and how to be that, this is it. This mahi and this wahine. So I'm going to hand over to you now, Jane, welcome.

>>MS KELSEY: Kia ora e hoa, kia ora koutou katoa, e mihi mahana ki a koutou. It will be lovely to see you all in real life, but that's not where we're at at present, so thank you for those who have come on to this session and all the sessions for the first part of today and hopefully the next few.

I am going to be speaking about the contemporary part of globalisation, in particular in the context of the so-called free trade and investment agreements. And I want to try to make it as uninteresting as possible.

So let's see how we go and Catherine will kind of interrupt and ask a few questions along the way. And I've tried to make sure that we've got plenty of time for your interventions and questions towards the end. And so let me just start with a little bit of a reflection on the title, because it sounds a bit heavy: From neoliberal globalisation to tino rangatiratanga, what Tiriti-based globalisation should look like.

Let me tackle first up this term globalisation, because it's not intrinsically bad. Its virtues and its evils really depend on the drivers and the power dynamics, the objectives, the values, the priorities that underpin it. And as we know, the history of the world is one of movement over millenia, not least the movements of Māori and of Pākehā and of tauīwi, but that does not mean that we can simply conflate and reduce everyone to the same status of early or more recent migrants to Aotearoa, or that the drivers behind those different movements are the same.

And so we need to interrogate globalisation a bit more to look at its context, its era, its power dynamics, its values and so on. And as Catherine started off with the reference to both He Whakaputanga me Te Tiriti, if we start to think about globalisation in the trade context in Aotearoa, Māori were massive traders, traders internally and traders externally, and when we look at He Whakaputanga and then we look at Te Tiriti, they were essentially trade and immigration agreements. They were from a position of strength, they were from a position of understanding of what the world looked like from Te Ao Māori, and the understanding of trade was relational, enduring, values-based, values-based around the entire frameworks of manaakitanga, whanaungatanga, kaitiakitanga, the fundamental responsibilities in relation to whakapapa, in relation to Te Taiao. And so a very broad and rounded understanding of trade relationships. And when Te Tiriti guaranteed the continuation of the rangatiratanga that was the essence of He Whakaputanga, that is what they expected to continue. They expected the right of Treaty making to reflect the rangatiratanga, kāwanatanga relationship embedded in those instruments.

By contrast, what we see in terms of notions of trade in the western context of globalisation is very different. It's based on a transactional approach between strangers in markets that are based on supply and demand with a view of profit being generated with a win-win, supposedly of the producer and consumer of a commodity that is extracted and

detached from the relations in which it was produced, whether that was its relationship to the resource base or to the human labour invested in it and so on.

So we had right from the beginning of the colonial era in Aotearoa quite conflicted notions of trade. Of course the globalisation into which that existed was an imperialist and colonial form of globalisation, based on from extracting wealth, from exploiting resources and people in the outreaches of empire, achieved through conquest, through repression, through dishonour, rationalised by that ideology of a superior civilisation, a superior religion, a culture, social and political institutions, that meant that those who did not meet those standards decided by empire were not defined as states, and therefore had no rights that would be protected. And those who are at all familiar with the history of how Te Tiriti was viewed in, and is still viewed, in colonial law in this country will know that that notion of statehood is still used to deny the statehood of Māori.

So that colonial form of globalisation, to which those trading relationships were integral, forms the foundation for what we end up with in the more recent form of neo-liberal globalisation; an especially toxic, noxious form of capitalist globalisation. And we know it in Aotearoa from the 1980s, some of you will be old enough to remember that, as the Rogernomics era when we had -- followed by Ruthanasia of the 1990s, the mass privatisations that opened up resources stolen by colonial governments to plunder by local and foreign corporations and individuals.

The rolling back of the State in its more benign welfare state form, which still sought to mediate some of those inequalities that were a part of globalised capitalism, but where we were told that markets would be freed but not on a level playing field, freed to allow those who had wealth and power to get more and create the kind of obscene levels of poverty, inequality and exploitation that we see today reminiscent of those of the mid-19th century. And the free trade agreements that we had developed during this later period were fundamental to drive open and lock in this noxious form of neo-liberal globalisation. And Māori were at the centre of resistance to this just as they were to the previous colonial periods, and that, I think, is the kind of stepping point to what we need to talk about today.

>>RINGA HĀPAI: Kia ora Jane. I think that some of the stories of resistance are really inspiring, and I know that you were in the frontline of those and not everyone was born, but these are the stories that help us continue resistance. So if you'd like to talk a little bit about some of how you saw the struggles played out in Aotearoa in terms of Treaty-based resistance.

>>MS KELSEY: Kia ora Catherine. Yeah, I mean there are endless stories, and there are many who are on this session who I'm sure could tell those stories, including those who've spoken

in earlier sessions, Mereana, Margaret Mutu and so on, and who are continuing those struggles today.

I thought I might just talk about three of them because they have a really important legacy for some of the debates that we're dealing with now. The first is one I often refer to, because it really highlights the chasm between Tikanga Maori and Te Ao Māori and the neoliberal world views embodied in these agreements.

Back in the later 1980s and early 1990s, at the same time as we were having the neoliberal revolution here, of course there was Thatcher doing her thing and Reagan doing her(sic) thing and Pinochet had already done his thing in Chile and so on. And they had this idea of setting up a global body that would basically run neoliberal globalisation through binding in enforceable agreements that were adopted at the global level. And they used a really expansive notion of trade. Basically trade became every form of regulation of capitalism. And there were some fights to keep some bits out, some bits of investment and so on, but it became a catch-all to develop binding and enforceable rules for global capitalism.

And one of those areas, which the US insisted was part of this new framework of what became the World Trade Organisation, was intellectual property rights. And that was because the US, whether it was Hollywood or the emergent Silicon Valley or the big pharmaceutical companies, they were the ones who had the innovations that they wanted to guarantee US monopoly right protections on would go global. So rights over knowledge, over technologies, over creations, over seeds and plants, over cultural icons and so on would all become the private exclusive property of the corporations that claimed rights to them, even where what they'd taken was theft from others, especially from indigenous peoples. And of course if we remember here that Te Tiriti guaranteed Māori continued rangatiratanga, absolute authority over taonga katoa which includes all such things Māori, so there was an obvious collision here.

Now I was monitoring these negotiations even though they were taking place in secret, and was working with Moana Jackson and some others on aspects of this, because this was at the same time as the discussions were beginning around Wai 262, and the Tribunal inquiry that would become so iconic in dealing with what started as flora and fauna but in the Tribunal report ended up being ko Aotearoa tēnei.

I often tell this story because it's stuck in my memory. We were at a hui at Waiwhetu Marae that was called by the then National Māori Congress, which was trying to bring together a unified Māori voice in relation to what was happening to Māori at the time.

And I remember we were sitting in the whare and Moana explained, in his usual quiet and compelling way, what intellectual property rights meant through a Māori lens and why the proposed TRIPS agreement as it was known, trade related aspects of intellectual property rights, was anathema to that and would violate Te Tiriti.

And then I remember the MFAT trade official standing up and saying "yes, but what precise provision of this are you saying you have a problem with?" And it became so apparent at that time that the Crown had zero capacity and zero will to in fact understand or hear what Māori were saying. And out from that and other discussions happening around that with people like Aroha Mead and others, there was a development, 1993 was the first international conference on cultural and intellectual property rights of indigenous peoples, it was held in Mataatua; which condemned the next wave of colonisation through the formal international legal assumption of rights over what it was already being plundered.

And so in 1993 they developed the Mataatua declaration. And that happened to be the UN year of indigenous peoples. And so that declaration was tabled in the United Nations and signed up to by a significant number of indigenous peoples, and it's been a touchstone for opposition to the repeated strengthening of western intellectual property rights through these so-called trade agreements ever since then, including most recently the New Zealand-UK FTA that was signed on 28 February this year.

That, of course, underpinned the Wai 262 inquiry and report, and when we were doing the Waitangi Tribunal inquiry into the TPPA -- which I was a technical advisor on, I'll refer to that as my third example -- we brought together many of those who were involved in the original Wai 262 to talk amongst themselves about the fact that these new agreements were still being developed that were doing the same thing over and over again, whilst the Wai 262 report was sitting there on the shelf. And even though there had been a commitment in what's known as Te Pae Tawhiti to actually implement the report, it was still moving at snail pace while these negotiations were continuing. And there was a discussion at lunchtime in that workshop that we had with some of the MFAT negotiators, and this was the first time they had been confronted by these stories in such a forceful way and they admitted how uncomfortable they were, sadly, and hasn't changed.

So my second story, which goes back to 1998, and foreign investors had basically had doors of many countries, including this country, thrown open to them, but they were very worried that there was a growing backlash. And so they wanted not only to lock open rights to go and invest in countries, but they wanted to have special guarantees given to them that governments wouldn't pass new laws, adopt new policies etc, that might

undermine the value of their new investments, including all their future anticipated profits, even if they were doing really bad things to the country, like with mining and so on.

And so they proposed, well, they didn't propose, they got their parent states to propose and begin negotiating, in the rich country club of the OECD, a multilateral agreement on investment, or the MAI. And not only would this guarantee them entry to countries and have rules that governments should not do things that might undermine the value and profitability of their investments, but it would give the investors the right to sue governments in off-shore arbitration in forums that weren't part of the domestic courts for not just the impact on their investment but all their lost future profits and so on.

And so there was, in Aotearoa and internationally, a successive international campaign that actually stopped the MAI. And that included indigenous Sami in Norway, Sweden and Finland, first nations in Canada and Māori, who were amongst those who took to the streets on the political stage to stop this. Māori led a hikoi in Aotearoa from Tai Tokerau to parliament, including over the harbour bridge, opposing the MAI as a threat to Te Tiriti and to reclaiming stolen land and resources that foreign investors were now locking in their legal rights to. And again, this was a collaboration, the campaign against the MAI was a collaboration where we pooled our strengths led by tangata whenua and the understanding our shared fight to stop the MAI was underpinned by a mutual commitment to Te Tiriti o Waitangi.

My third and last story is much more recent, and involves the eight-year battle to stop the Trans-Pacific Partnership Agreement, or the TPPA. And some of you will remember that, hopefully most of you will remember that because it's much more recent. Some of you will have taken part in the protests, or in hui in different parts of the country, or up at Waitangi, or signed the Avaaz or Action Station petitions. And again, Māori played an absolutely pivotal role, incredibly visibly in the later stages of the campaign. And when they decided to have the signing here in Aotearoa around the time of Waitangi Day, not only did Ngāti Whātua Ōrākei refuse to provide the pōwhiri for the visiting ministers, instead it led the hikoi of 25,000 down Queen Street on the day of the signing in February 2016. And to the forefront of that was the same refrain about stopping colonisation, about recognising rangatiratanga and about our mutual benefits from campaigning against this model.

So in all of those instances, we've had mobilisations that have in fact been incredibly effective as consciousness raising and as, in the case of some of those agreements, actually stopping things happening. So Catherine that's some stories.

>>RINGA HĀPAI: Bringing back some very positive memories for those of us who are quite old.

The MAI, beating the MAI, these things are possible, Jane, which is what's exciting about these stories. And I'm aware that -- I've seen you on many a frontline with other people who are on this webinar today, but there's also a huge amount that goes on behind the scenes that the rest of us don't really know about. I won't say smokey rooms, because I'm sure they're very comfortable well-lit rooms, but I'd be really interested to hear what your perspective is about the Treaty issues that get fought over behind the scenes.

>>MS KELSEY: I suppose the first thing I want to say about that, Catherine, is that protests have always been at the heart of shifting power to deliver justice. And we can't kid ourselves that those who have power are ever going to decide to be good human beings and just give power away. And so protests always have been and remain at the heart of shifting power. And I mean even that story I told about the MAI, one of the contemporary gains on that is that this Government, shameful as it was that it agreed to sign up to the successor of the TPPA after the US withdrew from it, the so-called comprehensive and progressive agreement for trans-Pacific partnership, it did commit to not allowing those rights of foreign investors to sue the New Zealand Government in any future agreement, and it's actually stuck to that. That doesn't guarantee that future ones won't, but so we can see that there is a legacy that builds over time from those protests that does shift the ground and government policy and legislation.

But there's also a less public side to how some of this plays out. And you'll be aware of that from your time in politics. Well, in parliamentary politics, you've always been in politics politics.

I suppose the one that's closest to my memory at present is when the TPPA was becoming better known, despite the fact that the negotiations were secret, no-one could see what was in them, a number of different hapū and Māori entities, I think there were nine altogether, decided to lodge a Waitangi Tribunal claim against the TPPA. That ran for six exhausting years. And I was asked to come in, once they'd decided to do it I was asked to come in and act as an advisor to them.

And I thought oh, because I'm a Tribunal sceptic. The Tribunal is a creature of the Crown, it's part of the Crown's judicial machinery, the Crown decides who it's safe and unsafe to appoint. There's a threat of judicial review in the courts if its reports go too far. And so the Tribunal very often has pulled its punches and let the Crown off the hook, or developed Treaty principles that are basically around the English version of the Treaty and leave the Crown in power.

Although there have been some recent reports where it has shown a backbone, its recognised the authority of mana motuhake and rangatiratanga, for example in the 1040 Te Raki claim there was no cession of sovereignty to the Crown. Unfortunately in most of the TPPA inquiry the tribunal lacked backbone, at least until the final report in November last year, where it actually found for the claimants.

And in the initial reports it fell back on the Treaty principles of okay, there is a Treaty exception that's rolled over since 2001 and these free trade agreements, and that shows the Government's kind of trying and it's not perfect but it's likely to provide some reasonable protection, or in another report incremental progress is still progress. So, you know, that was hugely frustrating, because the Māori evidence was absolutely compelling about what the impacts of TPPA were likely to be on a whole range of matters Māori, including Wai 262.

But the final report actually did find that the Crown breached its obligations of active protection of Māori rights in the e-Commerce chapter, which basically gives big tech the rights to take data anywhere in the world and do what it likes with it. And it recognised that data is basically part of matauranga Māori, it is whakapapa, it is fundamental, in the Tribunal's words, to being Māori. But then the Crown breached it by repeating the same key elements in the UK FTA.

So the Tribunal reports themselves were very much a mixed bag, and of course the Tribunal doesn't have any power, and as occurred with the UK FTA, the Crown could decide that it wasn't going to change what it did anyway.

But to talk about the last element of the behind the scenes stuff I want to be much more positive because I've been pretty negative to date. The reports have proved to be less important than the dynamics that the claim set in place.

The tribunal is, whatever comes out in the reports, an invaluable and, in this case, really the only arena in which the Crown can be held to account for the negotiation and outcomes of free trade agreements. Because we don't get to see the agreements that are being secretly negotiated until the negotiations are done and by that time you can't change them.

The negotiations and virtually everything is done in secret, so there is no exposure and there is no accountability for those who are negotiating them. And whilst MFAT refused even to let the Waitangi Tribunal confidentially see the TPPA provisions, what it did do, what the Tribunal did do was that it forced trade officials to answer for their

decisions. It required them to read and sometimes to listen to what Māori had to say and face questioning about their failings. And there was nowhere else that that could happen.

And that was a real shock to trade officials who had treated Māori rights and the Crown's Tiriti obligations as peripheral. They revealed zero understanding of Te Tiriti, zero institutional commitment to building that knowledge. They had real token Māori policy units within MFAT, let alone giving any effect to Te Tiriti. They were working off this appalling mishmash of statements of what their obligations were. And then, of course, there was the tick the box passive forms of consultation and occasional chats to Māori business.

So the Tribunal process was incredibly powerful. I don't want to pretend it was easy. The stakes were really high and the Crown was extremely adversarial, really hostile. And in the digital trade part of the inquiry, the last one, contemptuous of what Māori had to say. The whole of the evidence in there, they said we're not going to bring any evidence about what Māori rights under Te Tiriti are, we're just going to bring a trade lawyer to say that the correct legal interpretation of this Treaty, this trade Treaty text, means the Crown can implement Te Tiriti of Waitangi. This was a Melbourne trade lawyer, Pākehā trade lawyer who did that.

Māori gave evidence that was incredibly powerful, including evidence, again, from Moana Jackson that rangatiratanga includes the right to make international treaties, Māori never gave that away; it involved protection of taonga, that was a responsibility that weighed really heavily on the shoulders of kaitiaki, frustrations over consultations never being listened to, the process was exhausting for the lawyers, especially for Annette Sykes who bore the brunt of the legal advocacy and for myself as the technical expert. My role was to kind of analyse these alien agreements that belonged to Te Ao Pākehā and try to connect them to Te Ao Māori.

But after a while the Crown actually realised that it couldn't continue with business as usual, that the game was up. It was very exposed. And to give them credit, there was a new trade negotiation boss who actually wanted to ever having to appear before the Tribunal appear(sic).

So by the time we got to the middle of last year, issues 1 and 2 of the claim, which were about engagement in secrecy, still had to be addressed. And these ended up in a mediation that resulted in an agreement to set up a new entity, to be known as Ngā Toki Whakarururanga, that would have a firm Treaty-based kaupapa to interface with the Crown

on trade policy at all stages of negotiations with a commitment to having genuine influence on those negotiations.

That was the easy part, because MFAT and the Crown are dinosaurs and breaking down their obsession with secrecy, lack of cultural competence of trade officials, their inability like that Waiwhetu Marae experience to conceive how a trade agreement might look through the lens of Te Ao Māori and the practice of rolling over the same template has made this a slow and frustrating business.

But the constitutional challenge is the one that's really much harder. The Crown believes it has an exclusive right to make these agreements and that only the Crown should sit at the negotiating table and decide the mandate. And it clings desperately to discredited Treaty principles as the source of that power, while Māori assume the right to exercise rangatiratanga, sourced in He Whakaputanga me Te Tiriti.

So the establishment process for Ngā Toki Whakarururanga is a work in progress. Sometimes this feels like a farce and nothing's going to change. At other times the ground has shifted significantly. There is goodwill on the part of some of those in the Crown, but only within the parameters that leave them in control. And getting to this point is the culmination of many strategies over many decades.

So the challenge that Ngā Toki Whakarururanga is going to face, in contrast to some of the Māori entities like FOMA, Federation of Māori Authorities, in Te Taumata that are there basically to advance Māori commercial interests, is to look at what Treaty-based globalisation in Aotearoa should look like. Whose world view does it embrace, what values, what relationships, who are the parties to it, who has the power, to whom are they accountable, how do we make this a win-win in Aotearoa and how do we face the challenges of the climate crisis, inequality and poverty, the dominance of big tech, big pharma and so on in a new era of globalisation.

And I have to say that when we look at the UK FTA that was signed at the end of last month, there is a deep sigh about whether anything will change. You would think that an agreement between the UK and New Zealand, the UK as the original signatory to Tiriti would have Te Tiriti as its centre piece and backbone. Instead we have the UK saying "oh we note that we were original signatories to the Treaty", but then washed its hands of it altogether and said it's now a matter they've handed over to the New Zealand Crown.

MFAT, of course, was obsessed with getting more market access for agriculture, the UK was obsessed with getting as many notches on its belt for free trade agreements having exited the EU as it could, but making sure there were no bad precedents in it that might

affect countries that matter more, such as Canada. And so they weren't going to have a bar of Te Tiriti.

There was a Māori reference group that was set up, but it was invited only to talk about a Māori economic chapter which, when there was an attempt to convert it into a Treaty chapter that would have Maori at the table and look at harms as well as benefits of the agreement, you can see from the outcome that didn't occur.

So what we see in the outcome is basically a Māori trade and economic cooperation chapter that is unenforceable, talks about cooperation, but explicitly no legal commitment or commitment of resources to anything specific that's set out there, a whole pile of other chapters that use Māori terminology and then ignore it for the rest of the chapter, a repeat of the data rules that the Tribunal found were a breach of the Crown's fundamental Treaty obligations.

And this, we're told, is basically the gold standard, because it was between the UK and New Zealand. Then they release it after signing, release it on the Tuesday morning our time, the select committee then on the Wednesday announces ten days to make submissions on a 1,700 page secretive text, and then within a couple of days says we're going to have the first hearings on Thursday and you each have 10 minutes.

So Ngā Toki Whakarururanga has actually done a full Treaty assessment that runs to about 26 pages of this agreement, putting the UK free trade agreement through the test of a Treaty lens. And that will continue to happen until there is an understanding of the fundamentals of what has to change.

So is the glass half full or half empty? It really depends on which day of the week you look at it. Things have certainly advanced from where they were before, but there is still an awfully long way to go.

>>RINGA HĀPAI: Kia ora Jane, that was definitive and terrifying. Just the thought of all the hours of work that's gone into then you get 10 minutes in front of the select committee to condense the entire global nightmare. But thank you so much. We've now got quite a few quite incisive questions, so we'll just take a few of those.

One of the first ones was "what are your thoughts about free trade agreements that are referred to as a gold standard, such as this recent one?" And I feel like you've just answered that in terms of concepts of gold standard, but do you want to add anything to that?

>>MS KELSEY: Yeah, well let me -- I mean I've said why it's not a gold standard through a Treaty lens and there's lots of other reasons I could give for that, including that it just

repeats the same old intellectual property rules that Moana was talking about back in the early 90s.

But even if you look at a gold standard from the free trade perspective, I think they're talking about it now being a 0.1% increase in New Zealand's GDP at the end of the 15 years transition. If you think about other things that affect our trade, leaving aside pandemics and so on, but even currency fluctuations and so on, I mean it's nonsense.

But if you look at Māori advances, we were told from a report that Te Taumata said it had commissioned but has declined to actually provide, the figure they gave was 13 million gains, 13 million gains to the GDP and the Māori economy. Now the Māori economy is estimated at about \$68 billion; 13 million in terms of increased returns to the Māori economy once costs are removed, we calculated is about 0.0003% return, increased return.

So we need to take the rhetoric and actually put it into perspective. And the problem is that the media, especially the Pākehā media, just roll this out and they're lazy, and they just don't address it. The Māori media actually has been much better and did quite a lot of interviews around this FTA, but because the information was put out there for them.

>>RINGA HĀPAI: Thanks very much, Jane, I think the gold standard is very -- is no longer -- I think the gold standard's been defined.

>>MS KELSEY: A bit tarnished.

>>RINGA HĀPAI: Yeah, I hate gold standards. This next question is quite interesting given the current global situation around war. So one of the ideals of globalisation is interdependence and the reduction of war between nations because of interdependence. They're thinking of Ukraine at this precise moment, there's many other wars. "How would a Te Tiriti-based trade system incorporate that ideal, or should that ideal be taken seriously in the first place in the trade context?"

>>MS KELSEY: Well, I mean in a way that's a question you need to put to Margaret Mutu, for example, rather than myself. I remember we had a conversation about this, about investment and investment in Ngāti Kahu, and the relationship-based agreement that they'd reached, I think it was with Chinese investors, but that was based on the recognition of rangatiratanga and that set down what the framework and accountabilities were to be and so on. And that was an investment driven by their decision on how they wished to pursue that.

And I know that there are a number of indigenous to indigenous trading relationships that have been established, and outside the framework of these agreements the problem is that these agreements often cut across what can be done.

In taking the foreign policy and the human rights issue seriously, there's been some very interesting developments. There's a recent agreement that New Zealand has just signed with 14 other countries from the Asia-Pacific known as the Regional Comprehensive Economic Partnership Agreement. And that includes Burma, Myanmar.

And New Zealand notified, quite quietly, notified before it adopted this agreement as applying to New Zealand, which went through the same farcical secrecy and select committee processes, but notified that it did not recognise the junta in Myanmar as having the authority to commit Myanmar to that agreement and therefore it would not apply as between New Zealand and Myanmar.

Ironically the other country we know that has done that is the Philippines, whose human rights violation record is legendary, especially under the current president. And now New Zealand is wanting to reactivate negotiations with the Gulf Cooperation Council, which includes Saudi Arabia and a range of others. Saudi Arabia just executed 80-plus people a couple of days ago, kidnapped and murdered Khashoggi, you know, and so there is a real hypocrisy here. And then the WTO is currently imploding over Russia, but it didn't implode over what the US did with invasions in other places.

So this is a really difficult set of questions and, as Moana J has always said, Māori have their rules for Treaty making. And yes, there were wars between them, between hapū. There were processes for resolving those, there were treaties and agreements that were made. And so it's not as if there's a void, there is a framework, but it's based on different relationships and values and forms of resolving disputes. Sorry, that was a very long answer but I wanted to kind of share some of that information with you.

>>RINGA HĀPAI: It's all awesome, we need to know this. The next question is about the shift that can be seen in opposition to globalisation in FTAs, which has started to emerge recently in the global north. So what used to be grounded in solidarity often in the south, rangatiratanga etc, is now often right wing populist and nationalistic. So have you got any comment about what that shift actually means?

>>MS KELSEY: Let me talk about it as a principle base first, which is that they have nothing in common. Because if you are values-driven, there is nothing in common. If you are cynical, and I remember when Trump pulled out of the TPPA, being interviewed on Morning Report and saying "oh you must be really happy with President Trump?" I thought how shallow can you get. Because the basis on which the TPPA was being opposed was nothing to do with the reasons that Trump withdrew.

But if we talk in a more tactical and campaigning basis, it can be really difficult. If you think, for example, about the US, and it's not just Trump, anti-China in the US is bipartisan across the board with NGOs, unions, basically everyone, almost everyone. And whilst I have zero truck for the regime in China, the caricatures in the US actually are a false narrative and don't help us understand what's happening or the geopolitical crisis that's involved there.

And so when we're having to work out joint international campaigns, that's problematic. And I was talking to someone yesterday who's involved -- from the US, but who's involved in setting up a global campaign on trade and climate change, and I said "you're going to need to understand that climate change for indigenous people is fundamentally crucial, but the kind of campaign you're going to develop for the US steelworkers union is not going to be one that resonates there."

And so I think there's a lot of thinking and learning that has to happen when we're trying to work out how to navigate, not just the right wing populism, but the fear that globalisation has instilled in so many people.

>>RINGA HĀPAI: Yeah, I think that's a really great start to that huge question, because it's just -- it is an interesting shift, but I think you took us back to the core things in our own campaigning fight, so thank you for that. We have to face those issues within many campaigns.

Just a couple more questions, Jane, because we're just about out of time. But there was a couple that kind of are asking about tactics and strategies for now. One from our friend, Tim Howard, on where do we think the sharpest focus and opportunity might be for organised resistance against this, where do you remain most hopeful; combined with another question which someone asked which was about boycotts and are they of value and are they effective around issues like child labour and free trade etc. So I don't know if you want to comment on those sites where you see hope or organised resistance and in terms of strategy and tactics.

>>MS KELSEY: Maybe if I can presage some of what the thinking in Ngā Toki Whakarururanga has been, is that the purpose is empowerment, the purpose is not to have an entity that's going to speak for Māori. And the purpose is not to advance commercial interests, it's to provide a Treaty-based approach that means rights, interests, duties and responsibilities are addressed.

And part of what it will do is to have a bit of a core, but outreach to a whole range of different pods, sectors, communities, for which there will be wānanga, for which there

will be joint resource development where hopefully there'll be a liaison, predominantly with Māori, but in relationships with Pākehā as well, and building the knowledge base and linking that in to existing networks, so not trying to create, you know, a zero-based approach around trade, because that's where the strengths are. Whether we're talking about those who are fighting off-shore mining, those who are dealing with the water issues, they're all there.

And so how do we empower them to understand, and I'm saying "we" here in the sense of those of us who are doing the technical translating work and then the Ngā Toki leadership in taking that out to Te Ao Māori. How do we strengthen that so that the challenges that have been successful continue to be and there is added strength on both sides in a reciprocal way to make the Crown have to move.

>>RINGA HĀPAI: Indeed. I think there's basically a couple of questions about like boycotts or particular ways we can change things. What do you think, do you have any comment on those kind of strategies?

>>MS KELSEY: I think we need to be clear what the underpinning values about the boycotts are. So I have no problem with part of the South Africa and Rhodesia boycotts, obviously the Palestine boycotts because they're underpinned by liberation politics. Boycotts that aren't underpinned by sound values are more problematic and that's why we always have to be clear about what our starting points are in looking at strategies.

And from my viewpoint, I look at all of the campaigns that we've had dealing with trade and investment issues, and the starting point has been around education. But education in a people-friendly way, like Moana Maniapoto, who's part of this entity who was one of the claimants in the Tribunal claim, we're looking at how to do TikToks and things. In the old days, in the 1980s we had something called He Mohi Mokea(?) Marama Trust that used to do lots of cartoon stuff, so how do we make that 21st century-friendly for rangatahi. And so it's getting those resources to those who can then work with them that is, I think, the step to then thinking about informed strategies and how we can link those strategies up together.

>>RINGA HĀPAI: Kia ora Jane, thank you for this master class on free trade, and the grounding of Te Tiriti has been in every sentence of your korero, and there's been many thank you's online, people just saying how much they've appreciated this, how much they've appreciated your endurance and tenacity for being there for us and helping us as an activist, as an academic, as a translator of these important issues.

So we've reached the end of our session, but there is a huge love and respect for what you do, and it's not something all of us can do. Some of us can get out on the street with a megaphone, but we need something to say and if we don't understand this issue we can't say it clearly as Jane has asked us to do and Jane does teach us how to do.

So that's awesome Jane. We look forward to you keeping us fully briefed so we can actually act with principle and act with a genuine understanding, and well done for everything you've achieved.

Kia ora everybody. I'm just going to close our session as I began with the past with just a little extract from a poem by Jacquie Sturm, Jacquie Sturm being a poet from Taranaki me Whakatohea called "History Lesson".

"Because there is always history to guide us in front of us. Believe me when I tell you with no introduction, in spite of its beauty the planet is an urupā. Don't be dismayed, out of its concrete graves children grow like grass perpetuating us. We are simply variations on original themes. Why are you dismayed? We carry history in our genes."

Tihei mauriora everybody. Thank you Jane, that was wonderful.

>>MS KELSEY: Kia ora e te whānau. Thank you Caroline(sic), thank you to all the team, kia kaha to you all.

>>RINGA HĀPAI: Kia ora. Fresh air now people.