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Māori and Prison

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The crisis of Māori imprisonment is sustained and embedded. In any 1 year, around 55.7% of prisoners are Māori (Statistics New Zealand 2016). Historically, New Zealand has always had a high imprisonment rate. This willingness to imprison large numbers of the population has continued apace, although there has been a significant change in *whom* we imprison. Pratt (2006, 542) has noted how contemporary imprisonment in New Zealand is shaped by its “ethnic toxicity”. In 1936, Māori prisoners were 11.1% of the total prison population; by 1944, that percentage had increased to 26.4%. Today, Māori make up 15% of New Zealand’s population but, as already noted, represent nearly 56% of New Zealand’s prison population (Statistics New Zealand 2016).

While it has been established that Māori are more likely to be imprisoned than non-Māori, the disparities are even greater in some age groups. For example, in 2009, 3% of 25-year-old Māori men were in prison, which is over seven times the rate of 25-year-old Pākehā men. In the same year, 19- and 28-year-old Māori men had imprisonment rates nearly 10 times that of Pākehā men of the same age (National Health Committee 2010). While ethnicity data that look at the security classifications of prisoners—maximum, high, medium, low, etc.—are not publically available, the authors’ own

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observations over a significant period of time shows that the disproportionality is marked at the highest categories. Given that the experience of prison differs markedly depending on one's security classification, the fact that Māori are disproportionately represented in higher classifications has implications in terms of the degree of institutionalisation that they are likely to experience and their ability to integrate on release.

The ongoing carceralisation of Indigenous communities has resulted in a profound un-freedom for Māori (McIntosh and Radojkovic 2011). Prisons are seen as a natural attribute of the social landscape, and it is difficult to imagine a world without them. While they remain unproblematised and largely invisible both as an institution and as experience, they are, however, not invisible from headlines, not invisible as a metaphor of society gone wrong, not invisible as a "solution" to problems and not invisible as the most overt manifestation of state power and as architectures of control. But they are invisible as receptacles of confined experience, as institutions of stone, concrete, wire, but most importantly as holders of flesh and blood. Prisons are peopled. In Aotearoa, they are largely holders of Māori flesh and blood. More specifically, they are the holders of particular veins of Māori society. If it was simply a Māori issue, then we would expect to see Māori prisoners coming from all socio-economic categories and reflecting the broader Māori population. Yet, the Māori prison population overwhelmingly comes from communities that live under conditions of scarcity and deprivation. Moreover, it is difficult to not recognise the significance of gang membership in terms of the prison population. While gang members do not comprise the majority of the prison population, gang members, particularly Māori, are overrepresented. Two-thirds of all gang members belong to the two largest ethnic gangs in New Zealand, the Mongrel Mob or Black Power (Taonui and Newbold 2011). If we include those that associated with gang members through familial ties and relationships, then the numbers are significant.

There are competing narrative flows that, on the one hand, profess knowledge of the overrepresentation of Māori in prison—which is probably the most widely known social statistic in New Zealand—and, on the other hand, continue to disavow the damage that high incarceration incurs for whānau and communities. This ability to simultaneously reveal and conceal the nature of the experience of prison in Māori life-worlds shows the power of a discourse that renders the prison a natural part of the social environment for marginalised and criminalised groups.

Disproportionality

Mass incarceration in New Zealand is *Māori* incarceration. Mass incarceration can be said to occur when the rates of incarceration impact negatively on sectors of society who share similar ethnic and socioeconomic characteristics; characteristics which create the conditions for cumulative and intergenerational disadvantage. Mass incarceration impacts not only those who are behind the wire but also the whānau and communities they come from. American criminologist Elliott Currie notes that “short of major wars, mass incarceration has been the most thoroughly implemented social program of our time” (Currie as cited in Davis 2003, 11).

The causes of disproportionality within the criminal justice system are complex. Some contend that higher Māori offending is the product of certain developmental pathways. They argue that Māori are particularly vulnerable to adverse early-life family and environmental factors which may contribute to subsequent offending behaviour. Such factors are closely linked to socio-economic status, marginalisation and structural and institutional racism (Department of Corrections 2007; Quince 2007; Webb 2011; Workman and McIntosh 2013). Former Police Commissioner Peter Doone (2000) suggested that factors leading to criminal behaviour include family instability and violence, lack of social ties or antisocial peers, lack of vocational skills or employment prospects, drug and alcohol abuse, poor self-management, aggressiveness, truancy and poor educational outcomes, living in overcrowded housing and disconnection from cultural institutions such as whānau, hapū and iwi. Many whānau may lack the means to access the support needed to address these risk factors or to respond to the offending once it occurs.

To better understand the “statistical gulf” (Quince 2007, 12) that exists between Māori and Pākehā, Māori researchers insist that they must be interpreted in the broader context of colonisation, dispossession of land, Māori urbanisation, the imposition of the Western system of common law, cultural assimilation and the undermining of tikanga and traditional forms of Māori social control (Andrae et al. 2016; Jackson 1998; Quince 2007; Tauri 2014). The Māori experience of colonisation is paralleled by struggles of Indigenous peoples in other settler states which have also been systematically brutalised and marginalised by state policies and practices, and where they continue to be overrepresented in prison populations (Webb 2011).

Māori Men Prisoners

Māori men make up well over 50.4% of the sentenced prisoner population (Statistics New Zealand 2016). Like prison populations all over the world, most prisoners come from backgrounds that have been characterised by deprivation and scarcity. The age profile of Māori men prisoners is younger than the non-Māori prisoner population, but as sentences become longer we can expect some ageing in this profile. In 2012, 41% were under 30 years. However, the highest proportion of prisoners by age group were those aged 40–49, who made up 21% of the male prisoners. Thirteen per cent of prisoners were 50 years of age or over (Statistics New Zealand 2013). Formal educational qualifications were low, with less than 25% having completed a high school qualification, though a higher proportion reports some form of vocational qualification. Over 50% were in paid employment prior to conviction. The majority had very low incomes, whether they were in paid employment or not (Abbott et al. 2005). Many Māori men enter prison with poor health. Forty-seven per cent have a diagnosed chronic disease with the most common diagnosed disease being asthma with a prevalence of 21%. Māori men were much more likely than non-Māori males to have a history of head injury (Ministry of Health 2008).

The average sentence for male prisoners is approximately 4 years. In 2014, the most serious offences that sentenced prisoners were imprisoned for were acts intended to cause injury, and sexual assault and related offences. However, it is important to note that this varies considerably across age groups. For example, only 9% of those under 20 years were imprisoned for sexual or related offences, while 50% of prisoners over 50 years were imprisoned for the same offences (Statistics New Zealand 2015).

Gang members do not comprise the majority of the male prison population, but Māori gang members are overrepresented in prisons. In 2008, 18% of all prisoners were gang members (Taonui and Newbold 2011). Two-thirds of all gang members in prison belong to either the Mongrel Mob or Black Power and constitute 11.7% of all male prisoners (Taonui and Newbold 2011). However, it is likely that if gang-associated whānau members were counted, they would make up a much higher number. It would be difficult to contend that the integration of prisoners is well done for any group in New Zealand, but it is clear that the stigmatisation and marginalisation of whole sectors of Māori communities means that the effects of prison are likely to be more keenly felt within that community. Moreover, the Māori prison identity has a collective element that means that the rejection of mainstream

values can be seen as an act of dissent and resistance. It is important to appreciate that gang affiliation—as a “patched” member, as an associate, or as a family member—has contributed strongly to the contemporary Māori prison identity. Carr and Tam (2013) note that it was during the 1980s that the traditional prison culture became dominated by gang prison culture. While gang affiliation in the general population is small, its presence within the criminal justice system and specifically the prison system is marked.

Prisons and other places of confinement, particularly youth justice reform institutions, have been seen as important spaces for gang formation. The pathways from institutional care, where the state is the parent, to prison is a well-trodden one for Māori men and women prisoners, who have had lives shaped and informed by state institutions and state confinement. This must be situated in “wider historical and socio-economic memories, whereby being poor, Māori, deprived and disconnected are located in the loss of ethnic and cultural identity and the impact of colonisation” (Andrae et al. 2016, 7).

Māori Women Prisoners

As Davis (2003, 79) notes, many men “experience a perilous continuity” in the way that they are treated in school, in the streets, by police and in prison. For incarcerated women, “the continuity of treatment from the free world to the universe of prison is even more complicated since they also confront forms of structural violence in prison that they have confronted in their homes and intimate relationships”. The international evidence strongly suggests that a distinguishing feature of incarcerated women—one which sets them apart from both the general female population and the male prison population—is their common histories of victimisation (Kruttschnitt and Gartner 2003). In New Zealand, female prisoners are also likely to have histories of abuse and trauma (Kingi 1999), although official statistics are sparse. Kingi notes, however, that the 1989 Roper Committee Report on New Zealand Prisons refers to claims by prison staff that 80% of female prisoners had been abused sexually prior to incarceration (Kingi 1999). In a study of young female prisoners’ relationships with older female prisoners, Goldingay (2007) gained access to her study participants’ files. This revealed that four out of the nine young girls had suffered severe parental abuse or neglect.

Women in prison tend to share a number of characteristics. They are a disadvantaged and marginalised population and one that is disproportionately drawn from the most deprived and marginalised sections of society. They often have histories of poorer physical and mental health and issues associated

with alcohol and drug misuse. Incarcerated women are also disproportionately likely to come from economically disadvantaged backgrounds, be poorly educated, un- or under-employed, and recipients of state benefits (Bentley 2014). Over the past 15 years, New Zealand has sent greater numbers of women to prison. Produced by Te Puni Kokiri in 2000, a report on programmes and services to reduce Māori youth offending titled *Whanake Rangatahi* also found that there had been a noticeable increase in Māori female prisoners aged 17–19 since 1996 (Becroft 2005). Bentley (2014) notes that these increases have occurred despite the fact that women's offending rates have been stable and even in decline for some offences. She argues that more women are “going to prison for minor crimes, first time offences and breaches to community based orders that are unattainable, unrealistic and are not tailored to the gendered needs of women” (44). The cost of not having access to gender-specific programmes means that women leave prison with their issues and needs unaddressed, and with the increased burden of being labelled an ex-prisoner. The failure of effective reintegration strategies and the burden of complying with onerous release conditions produce a cycle of criminality (or breach of parole conditions) that is ongoing and damaging (Bentley 2014). A recent study on women's experiences of reoffending and rehabilitation asserts that “common situational factors influencing women's offending include relationship dysfunction, substance abuse, financial distress and social isolation. These issues were often intertwined and would compound in multiple ways leading to reoffending. For those leaving prison, accommodation and financial difficulties combined with the stress of providing financial and emotional support to family members, with the re-appearance of antisocial associates leading to stress, frustration and eventually return to crime. For others, traumatic events such as deaths, abusive relationships, and child custody issues lead to emotional instability and substance abuse also leading back to crime (Bevan and Wehipeihana 2015, 33).

Māori women in prison are a socially submerged population. Moreover, the disproportionality of Māori in the criminal justice system is particularly pronounced for Māori women, who are even more overrepresented than Māori men in apprehensions, convictions, and imprisonments (Morris and Reilly 2003). These women come out of communities where they are members of whānau, have iwi and hapū connections, and have intimate and complex ties that link them to places, histories, and to people. They are likely to have experienced multiple forms of social harm and may have gone on to perpetrate social harm on others. Moreover, their experience and knowledge of incarceration usually significantly predate their own confinement (McIntosh 2011).

‘Cultural’ Responses to Disproportionality

Mihaere (2015) looks at the responses by Department of Corrections to over 30 years of Māori overrepresentation in the criminal justice system. Notions of Māori cultural identity have informed policy and programme development focussed on meeting the perceived cultural identity needs of Māori prisoners. They draw on the assumption that offending and recidivism are partly attributable to a compromised or failed Māori identity. These programmes are meant to not only introduce Māori prisoners to *tikanga* Māori that will not only reduce rates of recidivism but also enhance prison environments for Māori and better support rehabilitation efforts (Mihaere 2015).

The Risk, Needs, Responsivity (RNR) model, which first emerged out of Canada in the 1980s, became the primary mode of addressing offender behaviour in New Zealand. The developers of RNR took the view that there was no need to acknowledge variances in racial background amongst offenders because race was not regarded as a major factor in offending behaviour (Bonta et al. 1997). Race and other markers of difference were explicitly excluded in the design of RNR, and offender attributes were presented as “universals” (Spivakovsky 2013, 22).

The exclusion of ethnicity from the RNR model presented the Department of Corrections in New Zealand with a problem. Presenting cognitive behavioural therapy as a culturally neutral intervention was inconsistent with their stated commitment to biculturalism. To respond to this, they developed a bicultural therapy model to deliver a more culturally appropriate service to Māori. The co-option of Māori culture, collectively bound into a narrow behavioural model and redefined as Māori Criminogenic Needs (MaCRN), transformed Māori culture from being a protective factor to being a psycho-social factor associated with an individual’s offending.

Following a claim to the Waitangi Tribunal (2005), the use of the MaCRN was discontinued, and a new tool—the Specialist Māori Cultural Assessment (SMCA)—was introduced. The co-option of Māori culture continued in this way. It identified culture as the property or element that is *particular* to Māori offenders and sets them apart from Pākehā offenders. In doing so, it excluded consideration of such factors as the colonisation experience, over-policing of marginalised communities, stop-and-search processes and systemic discrimination as contributing to Māori overrepresentation.

Despite research that showed that the RNR model was flawed in its capacity to address Indigenous populations (Day 2003), New Zealand’s belief in the efficacy of the model meant that Indigenous initiatives that should have

been developed within a kaupapa Māori paradigm were subsumed within a Western framework.

Kaupapa Māori and the Use of Māori Cultural Identity in Prison

What has emerged over the last 20 years is a corrections-led approach to the reduction of Māori reoffending, which has been largely ineffective and alien to Māori thinking. In the case of the RNR model, the pairing of tikanga Māori with Western cognitive behavioural approaches has not made any significant difference to Māori overrepresentation. Moreover, it has been resisted by Māori. Mihaere (2015, 167–168) summarises the situation:

Despite the strength of conviction regarding the potential benefits that might be gained as a result of strengthening the Māori cultural identity status of Māori people, this should not be interpreted that Māori cultural identity can be linked with reducing offending behaviour. On the contrary, there was almost universal accord ... that the cause of Māori offending was the social, political and cultural devastation that has resulted from generations of enforced marginalisation of Māori people by Pākehā throughout colonisation. Against that backdrop, the idea that Māori cultural identity loss should form the criminal justice system's fundamental response to Māori offending while the wider social environment that sees Māori continuing to scratch out a marginal existence at the socio-economic fringes of New Zealand society elicited responses of contempt.

Mihaere (2015) proposes that, if Māori cultural identity policies and programmes were framed in a Māori worldview, Māori could develop and deliver a more systematic kaupapa Māori approach.

The approach taken by the Department of Corrections has failed to make any impact on Māori overrepresentation in prisons. Mihaere (2015) is of the view that four things would need to occur for that to happen. Firstly, that the Department of Corrections develop a more systematic approach to cultural identity and kaupapa Māori interventions in prison. Secondly, that it cease to use Māori cultural identity as a tool to attempt to satisfy Treaty obligations. Thirdly, that the management of prisons be given over to kaupapa Māori principles, with prisoner empowerment as an end goal. Finally, that Māori with an interest in criminal justice responses direct all their energies to the process of decarceration and community responses to crime.

Conclusion

One aspect of prison systems that appears to have been largely overlooked is the fact that the impact of incarceration is not purely limited to the individual who is imprisoned. Rather, there are collateral effects and consequences which spread from the individual outwards to whānau and community. There is also evidence to suggest that once set in motion, these reverberations can persist over time, increase in resonance, and then feed back upon themselves, generating long-lasting and potentially intergenerational effects.

As Indigenous criminologists and allied researchers, we have a contribution to make in ensuring that those with institutional knowledge gained under conditions of incarceration are supported in telling their stories; identifying that which needs to be changed, and articulating a way forward that would reduce social harm within our communities. Part of a social harm reduction programme is ensuring that victims do not become perpetrators. A prison identity is neither an ascribed identity nor a natural identity conferred by descent. It is an identity that emerges out of structural violence (Galtung 1970), and, like the structures of society, it is amenable to positive change.

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