

Prisoner Voting Rights and Wāhine Māori: An Exploration of the Relationship Between Wāhine Māori and the State

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Abstract

In 2010, the Electoral (Disqualification of Sentenced Prisoners) Amendment Bill marked a significant change in prisoner voting rights policies in New Zealand, disenfranchising all prisoners regardless of sentence length. A decade later in 2020, the Electoral (Registration of Sentenced Prisoners) Amendment Bill re-enfranchised prisoners serving sentences of less than three years. Over this time, a Waitangi Tribunal Inquiry and a number of Māori politicians and public figures highlighted the disproportionate effects of prisoner disenfranchisement for Māori given over-representation of Māori in the prison population. However, less attention has focused on the specific effects of disenfranchisement for wāhine Māori (Māori women) in prison, and what this reflects about the relationship between wāhine Māori and the state. While women make up a significantly smaller percentage of the general prison population than men, wāhine Māori made up 61% of the women's prison population in 2021 (Office of the Inspectorate, 2021). Additionally, wāhine Māori had a drastically different experience of colonisation to tāne Māori (Māori men). Colonial actions worked to destroy traditional Māori social organisation, which disrupted the balance between men and women and confined wāhine Māori to a social position that falls behind Pākehā men and women and Māori men.

This thesis takes a Māori-centred, Mana Wahine lens to draw on the content of interviews with key informants and analysis of parliamentary readings of the 2010 and 2020 bills in order to explore how prisoner disenfranchisement in the 21st century reflects broader patterns regarding the treatment of wāhine Māori by the state. Disenfranchisement is likely to uniquely affect wāhine Māori due to their importance in te ao Māori as nurturers, the managers of households, and their centrality to the intergenerational transfer of knowledge. This not only presents barriers to voting and re-enrolment on the electoral roll post-release from prison, but also serves to practically disenfranchise the whānau and communities that wāhine Māori belong to. The lack of consideration of the needs and experiences of wāhine Māori in state discussions of prisoner voting rights mirrors the ongoing invisibility of wāhine Māori in state policy. The state has

framed prisoner voting rights around male and tāne Māori norms, which cannot account for wāhine Māori. Moving forward, if prisoner voting rights policies are revisited in the future, an intersectional approach must be taken that effectively addresses the needs of wāhine Māori.

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Glossary

Explanation of the meaning of Māori words, or translations in brackets, are provided upon first use of the word in this thesis. The meanings outlined in this glossary are primarily based on the Te Aka Māori Dictionary (2022).

Aotearoa	Current Māori name for New Zealand, is used interchangeably with New Zealand throughout this thesis
Ara Poutama Aotearoa	New Zealand Department of Corrections, used interchangeably with Department of Corrections depending on context and time period referred to
Atua wāhine	Māori goddesses, woman spiritual figures in Māori spirituality
Hapū	Understood in western terms as sub-tribe, the primary group outside of the whānau in Māori social organisation, but can also refer to being pregnant and pregnancy
Hikoi	Walk, march, can refer to Māori protest marches
Iwi	Tribe, group of people
Kanohi ki te kanohi	Face to face, in-person
Karakia	Prayers, blessings, chants
Kaupapa Māori (research methodology)	Research that is by Māori, for Māori, and centred around Māori principles
Kāwanatanga	Governorship
Mana	Status, authority, power, prestige
Manaakitanga	A principle involving kindness, respect and generosity for others
Mana Wahine	A research methodology that centres the experiences of wāhine Māori and privileges Māori knowledge
Māori	The Indigenous people of Aotearoa New Zealand

Mātauranga	Knowledge, wisdom
Mātauranga Māori	Māori knowledge
Moko kauae	Māori facial tattoo worn by women that can be representative of a woman's whānau, mana, whakapapa and position in the community
Muru	Confiscation or to take compensation
Oranga Tamariki	New Zealand Ministry for Children
Pākehā	A term for New Zealanders of European descent
Papatūānuku	The land, a mother earth figure in Māori spirituality
Poutokomanawa	Central pillar of the wharenui
Pūtea	Money, funding
Rangatira	Chief, high-ranking person
Rāhui	to put in place a prohibition, often over land, resources or water
Rangatahi	Youth, to be young
Rangatahi Māori	Young Māori, Māori youth
Rangatiratanga	The right to exercise authority, chieftainship
Rongoā	Treatments, medicines
Tāmaki Makaurau	The Māori name for Auckland
Tamariki	Children, young
Tamariki Māori	Māori children
Tāne	Man, men, male
Tāne Māori	Māori men, Māori man
Tangata whenua	People of the land

Taonga	Treasured possessions, can refer to physical objects and also social and cultural concepts
Tapu	Sacred prohibition
Te ao Māori	The Māori world view
Te Puni Kōkiri	The New Zealand Ministry for Māori Development
Te reo Māori	The Māori language
Te Tiriti o Waitangi	The te reo Māori version of the Treaty of Waitangi
Tikanga	Correct practice, procedure, custom
Tikanga Māori	Practises, behaviour and procedures drawn from Māori cultural values and knowledges
Tino rangatiratanga	Self-determination, self-chieftainship
Tohunga	Priest, healer, skilled person
Utu	Repayment, reciprocity
Wahine/Wāhine	Woman, women, female (Without a macron over the letter “a” this is singular, a macron over the “ā” is plural)
Wahine/Wāhine Māori	Māori woman, wāhine Māori, is used interchangeably with the term wāhine Māori throughout this thesis
Wairuatanga	Spirituality
Whenua	Can refer to land, but can also refer to the placenta
Whakamā	Feelings of shame and/or embarrassment
Whakapapa	Genealogy, layers of descent
Whānau	Family group, usually encompasses a wider group of people than Western understandings of family and can include extended family
Whare	House
Whare mātauranga	Repositories of knowledge

Whare tangata	Procreators
Whanaungatanga	Relationships, connections between people

Chapter One: Introduction

Over time, colonisation has had ongoing effects for wāhine Māori¹. wāhine Māori have experienced a drastic change in social position due to the effects of sexism, racism, and the imposition of Pākehā social values. This has meant that opportunities for wāhine Māori to exercise the power they held in society pre-contact has been limited, and wāhine Māori are now overrepresented in a range of social issues. Wāhine Māori are now severely overrepresented in the New Zealand women's prison population. Despite Māori constituting only 17.1% of the general population, Māori make up 52.5% of all prisoners (Statistics New Zealand, 2021, Department of Corrections, 2021). In the women's prison population, this figure rises to 61% (Office of the Inspectorate, 2021). While a persistent overrepresentation of wāhine Māori exists, an intersectional analysis to this data is largely absent from state understandings (Quince, 2010). This absence is reflected across justice policy and the design of prisons, where the specific cultural and gender-related needs of wāhine Māori are not met (Office of the Inspectorate, 2021).

One area in which a similar invisibility of wāhine Māori is observed is in prisoner voting rights policies. Policies of prisoner disenfranchisement in New Zealand can be linked back to the English concept of 'civil death', in which offending imprisonment is considered punishable by deprivation of voting rights (Pereira, 2008). Some level of direct disenfranchisement of prisoners through laws barring prisoners from registering to vote has long been the status quo in New Zealand (Gavey, 2014). However, 2010 saw the first major legislative change to prisoner voting rights since 1993 (Geddis, 2011). The 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill saw a shift from disenfranchisement of prisoners serving prison sentences of three years or longer, to a complete blanket disenfranchisement of all prisoners (Geddis, 2011). A decade on, the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill effectively re-enfranchised prisoners serving sentences of less than three years (New Zealand Law Society, 2020). In the same year, a Waitangi Tribunal report on Māori Prisoners voting rights also drew

¹ While this thesis uses the term wāhine to refer to those who identify as women and are recorded as women by the Department of Corrections, it is important to acknowledge that there is also a range of gender diversity in Aotearoa that does not fit into the gender binary. This is touched on in this thesis, however is not explored in depth due to the limited scope of this thesis, although it is very worthy of further investigation.

attention to the disproportionate impact that disqualification from voting had on Māori (Waitangi Tribunal, 2020). Due to this period of change, the 21st century has been selected as the time period to be examined by this thesis.

It has been established by the Waitangi Tribunal (2020) that prisoner disenfranchisement disproportionately affects Māori. Compared to non-Māori, Māori were 11.4 times more likely to be removed from the electoral roll in 2018 (Waitangi Tribunal, 2020). However, how this has affected wāhine and tāne Māori (Māori men) in distinct ways is largely unexplored. State discourses surrounding this issue fail to recognise the unique position and experiences of wāhine Māori, and how wāhine Māori are affected by policy in ways that are different to tāne Māori and Pākehā women. Additionally, there is an absence of research and general public attention in this area. Given that men constitute a far greater number of those in prison in New Zealand and around the world, policies that address those in prison are necessarily constructed around a male norm (Department of Corrections, 2021; Adelberg & Currie, 1987).

This thesis uses Māori-centred and Mana Wahine lenses in order to argue that wāhine Māori are impacted by prisoner disenfranchisement in ways that cannot be explained by current literature around prisoner voting rights. State framing over time has ignored and marginalised the voices and experiences of wāhine Māori, and this theme is clearly reflected in policy. The roles of wāhine Māori as central pillars of whānau (family group, usually encompasses a wider group of people than Western understandings of family; and can include extended family) and intergenerational knowledge bearers are left unacknowledged by the state in prisoner voting rights policies. This works to reinforce the ongoing invisibility of wāhine Māori and mātauranga Māori (Māori knowledge) in legislation and policy.

Research Questions

This thesis seeks to address a number of research questions in order to ascertain how prisoner voting rights policies reflect the relationship between wāhine Māori and the state. Currently, these questions are largely under-explored in academic literature. These include:

- What roles did wāhine Māori play in political life and general society both pre-colonisation and post-colonisation?
- What is understood about the relationship between wāhine Māori and the state, and how this has affected the social position of wāhine Māori?
- What effects have changes to prisoner voting rights had on wāhine Māori, and what are the wider implications of these effects?
- How do changes to prisoner voting rights in the 21st century reflect the relationship between wāhine Māori and the state?
- What are some of the key considerations that must be taken on board in regard to future changes to prisoner voting rights and the needs of wāhine Māori?

Thesis Outline

This thesis consists of eight chapters. **Chapter One** has outlined the overrepresentation of wāhine Māori in prison and invisibility of wāhine Māori in policy. Prisoner voting rights policies have failed to acknowledge the complex and unique experiences and roles of wāhine Māori. This chapter has also introduced some of the key changes to prisoner voting rights in the 21st century, and justified why the 21st century has been selected as an area of focus for this thesis. The research questions are included in this chapter, and will be returned to throughout this thesis and in the concluding chapter.

Chapter Two sets out the methodology and methods used in this research project. I discuss my positionality and subjectivities that inform my construction of this thesis. This research project is informed by Kaupapa Māori and Mana Wahine methodologies, which centre Māori knowledge, cultural values, and the experiences of wāhine Māori. However, this project is more accurately labelled Māori-centred research, as more would need to be done to include Māori in research design and research outputs in order for this research to be considered Kaupapa Māori. The data analysed for the research project includes interviews with key informants in the areas of wāhine Māori and prison, and parliamentary readings of the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill and the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill. These data sources are thematically

analysed using the Braun and Clarke (2006) method of reflexive thematic analysis. The limitations of this project are also discussed; these include lack of voice in the research project for wāhine Māori in prison, a small number of key informant interviews, and a research gap in the area of wāhine Māori and prisoner disenfranchisement.

Chapter Three seeks to give historical context to the position and experience of wāhine Māori today. This chapter identifies that wāhine Māori were central pillars of the whānau and occupied roles as leaders pre-contact. Tāne Māori and wāhine Māori held complementary but equally important roles, and the imposition of Pākehā values related to gender led to a subordination of wāhine Māori on the basis of both race and gender. It also traces key developments regarding the introduction of colonisation, signing of the Treaty of Waitangi and Te Tiriti o Waitangi, development of the colonial political system, and mechanisms for redress of Treaty grievances through the Waitangi Tribunal. Over time, wāhine Māori have continually resisted state attempts at subordination, and have been central figures in Māori protest and political movements.

Chapter Four begins by highlighting Māori views of justice pre-colonisation and how colonisation invalidated Māori practises and imposed a Western justice system on Māori. This chapter then explains the significant developments in prisoner voting rights in 21st century New Zealand, summarising the key effects of the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill and the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill. It is theorised that public sentiment regarding crime, penal populism and party ideology have influenced the creation and passing of the 2010 and 2020 bills. Additionally, the Waitangi Tribunal's findings and recommendations regarding Māori prisoner's voting rights are examined, and identified as an influence on the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill. This chapter goes on to highlight some of the major discourses surrounding prisoner voting rights that stem from analysis of parliamentary readings of the 2010 and 2020 bills and literature regarding these changes. Western discourses tend to focus on the right to vote in an individual sense. Voting rights are important in a symbolic sense as a marker of inclusion or exclusion from society. Finally, social contractarian arguments for

disenfranchisement are explained, and criticised for their lack of adequacy when applied to Indigenous populations, such as Māori.

Chapter Five argues that wāhine Māori have experienced unique effects as a result of prisoner disenfranchisement. wāhine Māori are central to the intergenerational transfer of knowledge, and the disenfranchisement of an individual woman is likely to have ripple effects for her whānau and communities she belongs to. This is supported by literature on voter behaviour, which recognises how family is an influence on voter turnout, and prisoner disenfranchisement can cause lower levels of turnout among families of the disenfranchised. It is also argued that as wāhine Māori in prison often have experiences of marginalisation and disadvantage, removal of voting rights for wāhine Māori in prison can reproduce further marginalisation and exclusion from society. Finally, it is argued that because prisoner disenfranchisement laws have involved removal from the electoral roll, there are specific barriers that wāhine Māori face to getting back on the roll after prison. This is because women in prison in New Zealand and around the world often bear responsibility for the management of households and family, and going to prison has unequal effects on the lives of men and women.

Chapter Six discusses disenfranchisement as a reflection of the relationship between wāhine Māori and the state. It reminds readers of the ways in which the state has framed wāhine Māori over time, which is marked by a marginalisation of wāhine Māori, invisibility of wāhine Māori in policy and underrepresentation of wāhine Māori in institutions of power. Prisoner voting rights policies have been constructed around male and tāne Māori norms, which reflects broader themes in justice policy. Additionally, state framing of voting and disenfranchisement as individual issues ignores the important roles of wāhine Māori as central to the whānau and the transfer of knowledge between generations. Ultimately, prisoner voting rights policies in the 21st century have worked to uphold state framing of the role of wāhine Māori from colonisation until present.

Chapter Seven highlights key considerations that must be taken into account if future changes to prisoner voting rights are proposed. Firstly, policy needs to look beyond the male norm of prisoners in order to recognise and respond to the needs of wāhine Māori. An

intersectional approach is needed to provide better opportunities for wāhine Māori to exercise their political voice. Secondly, solutions need to be driven by Māori. Kaupapa Māori responses to state failures to achieve equity have proven successful in addressing issues that disproportionately affect Māori. Māori need to be partnered with and empowered to create solutions to such issues. This approach would also give effect to Te Tiriti. Lastly, policies that aim at engaging prisoners with voting need to be responsive to the experiences and position of prisoners. Complex social circumstances lead to barriers to voting, and experiences of the state can lead to a mistrust of the state. It is essential to understand this in the process of policy design.

Finally, **Chapter Eight** concludes this thesis by returning to the research questions set out in Chapter One. The main arguments outlined in this thesis are summarised, and the invisibility of wāhine Māori in state discourses around prisoner voting rights is highlighted. This chapter emphasises that despite state framing, wāhine Māori continue to make their voices heard on issues that disproportionately affect their communities, and act as change-makers in Aotearoa (New Zealand).

Chapter Two: Methodologies and Methods

Introduction

This chapter outlines the methodologies and methods involved in the design of this research project. Initially, it is important to identify my positionality in relation to the research project in order to demonstrate how my subjectivities may influence knowledge construction (Finlay, 2002). This research employs elements of Kaupapa Māori and Mana Wāhine research to take a Māori-centred approach to research. It is intended that research amplifies Māori knowledge and primarily serves the interests of Māori. The research methods are outlined, which include thematic analysis of interviews with key informants and readings of the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill and the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill. Secondary sources are analysed and integrated into arguments to support the themes that are generated through thematic analysis. Finally, several limitations of this research project are highlighted and addressed.

Positionality and Reflexivity

As a social science researcher conducting a qualitative research project on a topic of importance to Māori, it is important to identify my positionality in relation to this research project.. My subjectivity has informed the choices I have made throughout the process of designing this research project, interpreting data, and creating this thesis (Finlay, 2002).. Discussing my subjectivities allows the reader to understand how my positioning has influenced the construction of knowledge (Finlay, 2002). Insider researchers who conduct research into their own communities can offer unique insights that outsider researchers cannot (Smyth & Holian, 1999). Smith (2012) recognises that Indigenous researchers conducting Indigenous research can be positioned as both insiders and outsiders due to the complex ways that individuals can be both insiders and outsiders. In this research project, I consider myself both an insider and outsider researcher within the different contexts travelled through.

I am of Ngāti Raukawa ki te Tonga and Pākehā descent. As a Māori researcher, my experiences inform my understanding of Māori culture. I come from a whānau of both Pākehā and Māori teachers and nurturers, who have engaged with te reo Māori and te ao Māori regardless of their personal identity throughout their lives and my upbringing. However, I cannot speak te reo Māori fluently, which has sometimes been a source of whakamā (feelings of shame and/or embarrassment). Additionally, I have pale skin and blonde hair, and have often had my identity questioned by Pākehā who do not understand the complexities of Māori identity. This is an experience that is shared by many Māori who may be socially assigned as Pākehā (Gillon, 2016). This can lead to distinct experiences of privilege and racism that may be different to the experiences of Māori who are socially assigned as Māori (Gillon, 2016). These factors have led to a self-consciousness about being ‘Māori enough’ to conduct Māori-centred research. My deep passion for Māori research has driven me to carry on through these feelings, and undertaking this research project has allowed me to develop my understandings of te reo Māori and tikanga Māori, as well as what it means to be Māori. I am very open with the fact that I am still on a learning journey in regards to these aspects. In the sense that I am a Māori researcher, I may be considered to have insider status in this research project, however it is important to acknowledge the wide diversity across all Māori. My whānau have complex histories that include experiences of state care and interaction with the justice system, however I have not personally experienced imprisonment within a Correctional facility or faced restrictions of my voting rights. In this sense, I am an outsider; I have no intimate experience with the topic I am studying. Knowledge of my outsider status in this area was an important consideration in research design, and a key reason why the perspectives of those with knowledge of Māori and justice were sought for interviews.

Methodologies

Kaupapa Māori Research

According to Smith (2012), Western research has historically undermined Māori and Indigenous knowledge and has been linked with processes of colonisation and imperialism. Research often has served as a justification for the subjugation of Indigenous peoples, dehumanised Māori, and framed them as experiencing cultural deficit (Smith, 2012; Cram, 1997). This has led to an

outright rejection of research by some Māori (Smith, 2012). In response to these challenges, Kaupapa Māori research frameworks have been developed. Kaupapa Māori research is underpinned by Māori values and knowledge, assumes the validity of these values and knowledge and is concerned with “the struggle for autonomy over our own cultural well-being” (Smith, 1992, p. 3). There is no singular definition of Kaupapa Māori research, however it is underpinned by principles of whakapapa [Genealogy, layers of descent], te reo, tikanga Māori and rangatiratanga [The right to exercise authority, chieftainship] (Smith, 2015). It is research that is “by Māori, for Māori and with Māori”, in which Māori control the design of research (Smith, 2015, p. 47).

This project has been conducted by a Māori student, supervised by a Māori supervisor, and Māori participants serve as the key sources of knowledge that inform this thesis. My personal position and the fact that I am a Māori researcher is not enough to categorise this research as Kaupapa Māori research. Rather, this research would be much more accurately labelled as Māori centred, as it aims to produce “research that is primarily of benefit to the Māori community and for which the researcher is primarily accountable to that community” (Cram, 1997). Māori-centred research incorporates elements of kaupapa Māori research, as does this research project. No official consultation process has occurred in the planning of this research project, however the research questions and methods were discussed with Māori academics and Māori cultural advisors outside of academia, and feedback was sought from them throughout the research process. This is a masters project that is limited by time pressures and a deadline, and is also a project that examines an under-researched area. While this research project serves as the first investigation of this specific topic, if I was to revisit this topic in the future, more consultation, and potentially co-design of the research project, would occur. Measures have been taken to ensure that research methods have remained culturally appropriate. Cultural elements such as the saying of karakia (prayers, blessings, chants) and building of whanaungatanga have been built into the interview process. Interviews were intended to be held kanohi ki te kanohi (face to face, in-person), however this was disrupted due to the COVID-19 pandemic and lockdowns in Tāmaki Makaurau (Auckland). At the centre of this research project are the interests of Māori, and the research methods for this project have been designed to reflect this.

Mana Wahine

This research project not only examines an issue of importance for Māori, but particularly examines the relationship between wāhine Māori and the state and how prisoner voting rights reflects this relationship. As such, this research is especially important for wāhine Māori and incorporates elements of Mana Wahine. Mana Wahine “explicitly examines the intersection of being Māori and female” (Simmonds, 2011, p. 11). Some may characterise this as similar to intersectionality, a type of feminism that explores the intersecting oppressions that women may face, however Mana Wahine differs from intersectionality as it represents “an extension of kaupapa Māori theory” that validates both Māori knowledges and the knowledges of wāhine Māori (Simmonds, 2011). Mana Wahine seeks to centre the experiences of wāhine Māori, and define the position of wāhine Māori in their own words (Simmonds, 2011; Pihama, 2001).

This research project examines the social position of wāhine Māori both before and after the introduction of colonisation. This is primarily done in Chapters Three, Five and Six, however this theme is central to all aspects of this research project. Mana wahine is also discussed in further detail later in this thesis, after the historical context is provided. A Mana Wāhine lens is utilised to deconstruct the relationship between wāhine Māori and the state, and examine how wāhine Māori are affected by prisoner voting rights policies. The voices of wāhine Māori are included in this research as participants, who serve as sources of knowledge that inform the arguments presented in this thesis.

Sources of data

Interviews with Key Informants

Ethics approval was granted for this research project on the 28th of July, 2021 by the University of Auckland Human Participants Ethics Committee (Reference Number UAHPEC23047). Originally, five interviews with key informants who had experience and knowledge in the areas of wāhine Māori in prison and/or Māori women’s political participation were planned for August-September of 2021, however opportunities for those invited to be interviewed were left open until January. In August of 2021, the country entered a nationwide lockdown, and

Auckland ultimately ended up in various stages of lockdown for just over three months (Unite Against COVID-19, 2021). Interviews were originally intended to be held *kanohi ki te kanohi*, however following the announcement of lockdown an ethics amendment was submitted and approved allowing interviews to be held online via Zoom Video Conferencing. Interviews were chosen to be conducted due to the absence of research on this topic, giving very little data to draw on for this thesis. Particularly, very little data exists on this topic that comes from Māori sources of knowledge.

Those approached for interviews included wāhine Māori who are researchers, academics, activists, journalists, politicians and community leaders. Potential participants were invited to participate in the research project based on their knowledge and experience regarding wāhine Māori and prison and/or wāhine Māori and political participation. Initial contact with participants was made via email invitation. In some cases, email contacts were difficult to find. This may be due to some wāhine Māori in the public eye intentionally making their contact details harder to find; the past year has seen a large increase in the digital and physical harassment of wāhine Māori, and Māori campaigners (Duff & Johnston, 2021; The Manaaki Collective, n.d.). Due to Covid-19 restrictions, recruitment at in-person events was not possible.

Despite over 25 potential participants being invited to participate in the research project, only two interviews eventuated. It is likely that this can be attributed to two key causes. Firstly, the COVID-19 pandemic and its flow on effects such as working remotely have had disproportionate effects for women in academia and people of colour. Pay disparities between men and women and the distribution of service responsibilities in academia were amplified by the Covid-19 pandemic (Augustus, 2021; DeThorne, Hamilton & Santhanam, 2021). Additionally, Covid-19 and its subsequent effects on all aspects of life have been particularly detrimental to people of colour around the world, and highlighted many already existing inequities (Committee on Investigating the Potential Impacts of COVID-19 on the Careers of Women in Academic Science, Engineering, and Medicine, 2021). Secondly, in the areas of wāhine Māori in prison and the political participation of wāhine Māori, only a few subject experts exist in academia. This is likely due to the underrepresentation of Māori in academia more broadly; between 2012 and 2017 Māori made up only 5% of the academic workforce

despite the numbers of qualified Māori candidates for academic positions increasing (McAllister, Kidman, Rowley & Theodore, 2020). McAllister, Kidman, Rowley and Theodore (2020) argue that hiring practises privilege Pākehā candidates, and once employed Māori academics are presented with fewer opportunities for career advancement. Only a small proportion of researchers employed by New Zealand universities are Māori, and there is also likely a significant number that have research interests outside of Māori centred topics, and so an absence of research on topics such as those covered in this thesis exists. Although there is an absence of research into some of the other career paths of those invited to be interviewed, it is likely that a wide range of women have experienced similar pressures throughout the Covid-19 pandemic.

Ultimately, interviews with two participants were able to be conducted, who were selected due to their knowledge and expertise related to justice policy, Māori and prison and wāhine Māori and prison. The participants were:

- Professor Tracey McIntosh, Co-Head of Te Wānanga o Waipapa (School of Māori Studies and Pacific Studies) at the University of Auckland, who has a track record of research into incarceration of Māori, Indigenous peoples and Māori women and girls
- Associate Professor Khylee Quince, Dean of the School of Law at Auckland University of Technology, who has expertise in criminal law and Māori legal issues

Upon being invited to participate in the research project, participants were provided with an information sheet outlining the purpose of the research project and what participation would involve, as well as a consent form. After completing their interview, participants were provided with a transcript of their interview (transcribed by myself) and were allotted 30 days to notify me of any editing or clarifications they would like to make regarding their answers. Participants were able to choose to consent to being named as contributors in the research, or advise me of whether they would like their identities to remain confidential in the final research output. Often, Indigenous research considers participants as co-constructors of knowledge (Apgar et al., 2016). Additionally, the anonymisation of participants has the potential to cause harm where participants may wish to be recognised as contributors to research (Svalastog & Eriksson, 2010).

Within this research project, Tracey McIntosh and Khylee Quince serve as key sources of knowledge. I am incredibly thankful that they shared their time and insights to contribute to this research project. I also draw heavily on their published research throughout this thesis, and it is important to recognise the work that both of them have done in the Māori and justice area.

Readings of the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill and the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill

Parliamentary readings of the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill and the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill were obtained from the New Zealand Parliament website. These were included in the data to be analysed as they reflect the views of parliamentarians, as actors of the state, on issues of prisoner voting rights. The first, second, and third readings of the bills, as well as the bill in the Committee of the whole house were analysed. Readings are debates that occur in the House, where different parties have different representatives speak regarding a bill (New Zealand Parliament, 2016). These debates are transcribed and made publicly available, and transcriptions of the readings of the 2010 and 2020 bills were retrieved from the New Zealand Parliament website.

Methods of Data Analysis

Thematic Analysis of the Data

In summary, the data for this thesis consists of interview transcriptions and transcriptions of parliamentary readings, all of which is qualitative data. Many variations of thematic analysis exist, and there is no one agreed upon method of thematic analysis (Braun & Clarke, 2013). For this research project, Braun and Clarke (2006) method of reflexive thematic analysis was used in order to analyse both the readings of the 2010 and 2020 bills and key informant interviews. This approach involves the coding of data, grouping of codes into themes, and development of themes and sub-themes (Braun & Clarke, 2013). Reflexive thematic analysis is different from other approaches to thematic analysis in the fact that codes can evolve and be developed throughout

the coding process, and themes can be considered to communicate meanings derived from combinations of codes that may reflect implicit or explicit meanings within the data (Braun & Clarke, 2013).

The thematic analysis process begins with familiarisation with the data (Braun & Clarke, 2013). I transcribed audio recordings of the key informant interviews myself, which allowed me to become more familiar with the data. After this, I was able to read through both the transcripts of interviews and content of parliamentary readings of the 2010 and 2020 bills. Data was coded using the comment feature on Microsoft Word, which allowed codes to be continually added to, edited and combined where similar. The continual evolution of codes reflects a thematic analysis approach (Braun & Clarke, 2013).

Thematic analysis may be inductive, deductive, or a mixture of inductive and deductive (Braun & Clarke, 2013). This thesis employed a mixture of inductive and deductive approaches to thematic analysis. Inductive approaches allow the content of data to determine the themes explored, whereas deductive approaches come to the data with an expectation around the themes to be found based on theoretical perspectives (Braun & Clarke, 2013). A mixture of approaches was suitable due to the existence of some key theoretical perspectives on the topic which were to be explored in further depth by the research project. However, an absence of widespread research on the topic means the analysis is driven by both existing knowledge and research in the areas explored by this thesis as well as the determination of themes from the data analysed. After all data was coded, codes were organised into groups to create themes, which were synchronised with existing literature, and are explored in later chapters of this thesis. A large number of secondary sources were analysed and integrated into this thesis in order to support the arguments presented. These were read and analysed throughout the duration of work on this thesis, and allowed some broad assumptions to be made about the themes expected to be found in interviews and readings of the 2010 and 2020 bills based on prior research.

Limitations

There are a number of limitations to the research methods outlined. Firstly, two key informant interviews is far from an adequate number to analyse in order to reach data saturation or come to

substantive conclusions (Braun & Clarke, 2013). In order to mitigate this, analysis of other content, such as the readings of the 2010 and 2020 bills, has been conducted in order to provide a wider scope of analysis. Secondly, in order to fully understand the implications of the removal of voting rights for wāhine Māori in prison, ideally wāhine Māori with experiences of incarceration and disenfranchisement would be interviewed as part of this research. This would also complement a Mana Wahine approach; the narratives and experiences of wāhine Māori should be central in Mana Wahine (Pihama, 2001; Simmonds, 2011). However, it was determined early on in the process of this research project logistical and ethical matters associated with either interviewing women in prison, or finding women with experiences of prison, would be too large for a standard Masters in Politics and International Relations thesis. In order to still centre the experiences of wāhine Māori, only wāhine Māori participants were sought to be interviewed and participants had extensive experience with Māori in prison. While this does not provide a full understanding of the effects of disenfranchisement for wāhine Māori in prison, it is hoped that the knowledge of participants can shine a significant light on these effects as well as the implications of disenfranchisement for the relationship between wāhine Māori and the state. Lastly, there is an absence of research into prisoner disenfranchisement and wāhine Māori. This meant that many of the arguments presented in this thesis have not been investigated in previous research, and therefore very little published evidence exists that aligns with the main points of this thesis. This fact highlights the need for further research into prisoner voting rights, wāhine Māori and the state. Future directions for research and investigation are revisited in the later chapters of this thesis.

Conclusion

This research project utilises elements of Kaupapa Māori and Mana Wahine methodologies in order to produce a piece of research that is intended to be Māori-centred. Data is thematically analysed as per the Braun & Clarke (2006) method of thematic analysis. This data includes the content of interviews with key informants in the areas of wāhine Māori in prison, and parliamentary readings of the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill and the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill. A number of limitations to this research exist. A low number of interview participants is supplemented by analysis of bill readings. While wāhine Māori with experiences of prison were

unable to be interviewed for this research, it is hoped that interview participants can shed light on prison experiences due to their own knowledge of justice and prison as researchers. While little research on this thesis topic currently exists, this allows this piece of research to begin to fill the research gap in this area.

Chapter Three: Historical Context

Introduction

Over time, the social position of wāhine Māori has changed drastically, and has been influenced by a number of historical factors. Pre-colonisation, wāhine Māori exercised a large degree of power in the community, and occupied leadership roles at all levels of society (Mikaere, 1994). Colonisation, which involved the imposition of English norms and social values, triggered a “societal reassignment” that has had wide-ranging effects of wāhine Māori over time. (Cadigan, 2012, p. 293). This chapter gives an overview of the historical context for the relationship we see between wāhine Māori and the state today, and highlights how despite marginalisation by the colonial state, wāhine Māori have continued to make their voices heard in political contexts, and have rejected assumptions placed on them about the place of women in politics.

The first section of this chapter highlights the complementary nature of gender roles in Māori society pre-colonisation (Jahnke, 2019). The roles of wāhine Māori and tāne Māori were both valued and considered part of the collective whole (Mikaere, 1994). Section two explores the importance of the Treaty of Waitangi and te Tiriti o Waitangi to analyses of the roles and position of wāhine Māori following the introduction of colonisation. The following two sections examine how colonisation has impacted Māori social organisation and the whānau unit broadly, and with reference to wāhine Māori specifically. wāhine Māori were subject to oppression on the basis of both race and gender, and had Pākehā values regarding gender imposed on them resulting in a lowered social position within colonial society (Cadigan, 2012; Mikaere, 1994). The fourth section outlines how Māori, and wāhine Māori particularly, were excluded from political participation in the colonial state. Despite this, wāhine Māori have continually made their voices heard and engaged in civic action (Rei, 1993; Paterson & Wanhalla, 2017). Section Five provides an overview of the Waitangi Tribunal as a mechanism for redressing Treaty breaches. Finally, the position of wāhine Māori today is briefly summarised. Despite considerable challenges, wāhine are still central leaders in the political realm, serving as advocates for change.

Wāhine Māori Pre-colonisation

The importance of wāhine Māori is evidenced in all aspects of te ao Māori (the Māori worldview). In Western terms, te ao Māori places large emphasis on collectivism; both women and men were respected as important parts of the collective whole (Mikaere, 1994). One of the key values in te ao Māori is whanaungatanga (Mikaere, 1994; Cadigan, 2012). Whanaungatanga can be understood as “the practice of right relationship that ordered life in the Māori world”, and emphasises the relationships all people have with each other and the environment (Cadigan, 2012, p. 293; Mikaere, 1994). All people, including wāhine Māori, constituted an important part of this network of connections, taking on responsibilities that allowed communities to function and thrive. The roles of wāhine Māori and tāne Māori were considered complementary to each other (Jahnke, 2019). In Māori cosmology, women were represented as powerful figures that had a large influence over the world. Atua wāhine (Māori goddesses, woman spiritual figures in Māori spirituality) are often present in multiple forms of Māori storytelling, demonstrating the centrality of women in Māori life and spirituality (Yates-Smith, 2003). Whenua (land) is referred to as Papatūānuku, the Earth Mother, who is a crucial figure in Māori spirituality (Royal, 2007). The word whenua can also refer to the placenta, reflecting how it is believed that all life is born from the womb of Papatūānuku (Royal, 2007). Ultimately, this representation of women echoes the importance of wāhine Māori in pre-contact society.

The social position of wāhine Māori before European contact was vastly different to the social position we understand wāhine Māori to occupy today. The individual status of women was determined by a number of factors, such as iwi (generally understood in Western terms as tribe) affiliation and genealogy (Smith, 1993). While gender dynamics varied between hapū (understood in Western terms as sub-tribe, the primary group outside of the whānau in Māori social organisation), it is generally understood that wāhine Māori exercised a large degree of power within the whānau and wider community (Mikaere, 1994). The concept of whānau varies greatly from Western conceptions of the ‘nuclear family’; whānau encompasses a number of people in the community, can span three or more generations and allows individuals their own rights as well as responsibilities to whānau (Mikaere, 1994; Walker, 2011). Mikaere (1994) argues that the whānau unit encompassed many individuals in the community, was not clearly separate from the public sphere, and included multiple generations that were involved in

child-rearing. These factors enabled wāhine Māori to take on leadership roles beyond caregiving (Mikaere, 1994). Women were active spiritual and political leaders, regularly exercising power in these realms (Mikaere, 1994; Ruwhiu, 2009). Many wāhine Māori were also regarded as competent military strategists, and fought in both inter-tribal conflicts and the New Zealand Wars (Mikaere, 1994). It is clear that women made extremely valuable contributions to society in their roles as leaders pre-colonisation. As this chapter will explore further, women have continued to make such contributions regardless of the effects of colonisation.

Wāhine Māori were regarded with respect and retained a number of individual rights within their communities, regardless of relationship status. In interpersonal relationships, wāhine Māori held a large amount of authority over themselves, their children and their bodies (Mikaere, 1994). In cases of a relationship split, guardianship of children was organised within the whānau, and women did not suffer from the social stigma related to divorce that was present in English society at the time (Mikaere, 1994). The abuse of women and children was understood to be highly unacceptable, and perpetrators of such behaviour would face clear punishments (Mikaere, 1994). This granted wāhine Māori protection from violence and allowed them rights over themselves, rather than being under a man's control as English common law dictated at the time.

Evidence also exists to suggest drastic differences between traditional Western conceptions of gender and Māori understandings of gender pre-colonisation. The Māori worldview “did not perceive relations between men and women in terms of gendered hierarchies of power that privileged men over women” (Jahnke, 2019, p. 184). Relationships between wāhine Māori and tāne Māori were underpinned by the theme of complementarity (Jahnke, 2019). A number of examples illustrate less of a distinction between genders in Māori society compared to European society. Mikaere (1994) argues that the clearest example of this is the use of the ‘ia’ pronoun in te reo Māori; this pronoun is used for people of all genders, and gendered pronouns are not used. wāhine Māori and men were also known to dress in similar clothing (Mikaere, 1994). Kerekere (2017) states that pre-colonisation, Māori gender expression was fluid, and those who did not express their gender identity in line with the gender binary were not punished or subject to social stigmatisation. Ultimately, women in Māori society were not subject to some of the gendered treatment that existed in Western cultures around the same time

period. No one gender was considered to be subordinate to another, and the importance of the specific roles of wāhine Māori were held in high regard.

The Treaty of Waitangi/Te Tiriti o Waitangi

Any Mana Wahine analysis is an analysis of Treaty rights and obligations (Simmonds, 2011). As such, it is important to outline the Treaty and its importance prior to addressing the research questions of this thesis. The Treaty of Waitangi and te Tiriti o Waitangi established a formal relationship between Māori and the Crown. Today, it is widely understood that Māori-Crown relations are guided by principles such as partnership between the Crown and Māori, active protection of Māori interests and Māori participation (Te Puni Kokiri, n.d.). This section sets out the key points of each article of the Treaty, the main differences between the English language Treaty and the reo Māori Tiriti, and some of the issues surrounding practical applications of the Treaty. It then summarises the Treaty's specific relevance for issues of importance to wāhine Māori and the topic of this thesis.

Background to the Treaty

As a European presence began to grow in New Zealand, it was decided that a Treaty would be brokered between the British Crown and Māori. There are a number of reasons as to why a Treaty was sought by both sides. Rangatira (Māori chiefs) had witnessed the behaviour of numbers of unruly settlers in Aotearoa, and in their view this was a problem that should be dealt with by a British authority (Cadigan, 2012). Anderson, Binney and Harris (2015) state that the practice of land-jobbing (exploitative speculation of land for purchase and sale) was becoming more commonplace, prompting concerns from Rangatira. The motivations of the Crown for facilitating a treaty are highly contentious. One reason that is frequently cited in discussions of the Treaty of Waitangi is the concept of 'the French threat'; the presence of French colonists in Akaroa (Ministry for Culture and Heritage, 2020). Two clear objectives of the Crown were to establish a government in New Zealand and acquire land for settlement (Anderson, Binney & Harris, 2015). After negotiations at Waitangi, a Treaty was established with three articles that aimed at addressing sovereignty, land and resource rights and equality of rights. A fourth article of the Treaty was also verbally promised, but not included in written versions. English and te reo Māori versions of the Treaty were signed at Waitangi, and taken around the country to be

presented to Rangatira to sign. Over 500 Rangatira and a Crown representative signed the Treaty and te Tiriti, however a number of Rangatira refused to sign (Orange, 2015; Anderson, Binney & Harris, 2015). Thirteen women are known to have signed the te Tiriti, however this does not reflect a lack of engagement on the part of wāhine Māori; rather, this reflects the unwillingness of the Crown to negotiate with women due to English understandings of the role of women (Mikaere, 1994). Ultimately, the signing of the Treaty of Waitangi and Te Tiriti of Waitangi has had a number of far-reaching implications that extend from the past into the present.

Article One

The first article of the Treaty is primarily concerned with sovereignty, however differences in interpretation and meaning between the English and te reo Māori versions of the Treaty have made this issue contentious (Anderson, Binney & Harris, 2015). In the English Treaty, Rangatira “cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty” (Te Tiriti O Waitangi/The Treaty of Waitangi, 1840). In Te Tiriti, the word *kāwanatanga* is used in place of sovereignty. However, many have argued that *kāwanatanga* does not adequately summarise the meaning of ‘sovereignty’ in the Māori language. *Kāwanatanga*, a transliteration by missionary Henry Williams, is literally understood as governorship (Mulholland, 2015). Due to this, it could be argued that Rangatira understood themselves as entering into an agreement where a British governor would rule over the settlers in New Zealand (Mulholland, 2015). Additionally, five years prior to the Treaty’s signing, an assertion of Māori sovereignty is seen in He Whakaputanga o te Rangatiratanga o Nu Tirene (the Declaration of Independence of the United Tribes of New Zealand) (Ministry for Culture and Heritage, 2022). He Whakaputanga clearly ascribes that sovereignty lies with Te Whakaminenga, the Confederation of United Tribes, made up of rangatira from hapū throughout the North Island (Mutu, 2020). Despite this, the Crown took the view that their sovereignty usurped any Māori claims of sovereignty (Orange, 2015). The colonial assertion of sovereignty has meant that Māori have had to struggle and resist the state in attempts to assert sovereignty and self-determination (Smith, 1989). The differences in understandings of sovereignty have been disputed since the Treaty’s signing, and arguments are made even more complicated when the wording of the second article of the Treaty is considered. This article has particular relevance to the topic of this thesis, as it has direct implications for governance and politics.

Article Two

In the second article, the Crown guarantees Rangatira “full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession” (Te Tiriti O Waitangi/The Treaty of Waitangi, 1840). The article goes on to ascribe that should Māori choose to sell their land, the Queen has the exclusive right of sale (Te Tiriti O Waitangi/The Treaty of Waitangi, 1840). In Te Tiriti, the Rangatira are guaranteed possession and protection of their taonga (treasured possessions, can refer to physical objects and also social and cultural concepts), and “tino rangatiratanga” (self-chieftainship) (Te Tiriti O Waitangi/The Treaty of Waitangi, 1840). The idea of tino rangatiratanga has gone on to become central to Māori struggles against the state, and is a key argument for Māori sovereignty and self-determination. The state has continually attempted to deny Māori rights to rangatiratanga through attempts to destroy Māori culture, knowledges and language (Mutu, 2020). Such disruptions have resulted in the subordination of wāhine Māori, as wāhine Māori have been forced to conform to assimilatory state policies and practises that undermine the important roles they occupy, as outlined in detail in this thesis (Mikaere, 1994).

Article Three

The third article of the Treaty grants Māori “all the Rights and Privileges of British Subjects” (Te Tiriti O Waitangi/The Treaty of Waitangi, 1840). While not as controversial as the first two articles, over time this article has also come to be debated, as Māori do not experience equality of outcomes in New Zealand. In the present, Māori are persistently overrepresented in a range of negative social issues and are more likely to experience a lower socioeconomic position than Pākehā due to the ongoing effects of colonisation (McIntosh & Mulholland, 2011). In more recent times, applications of the third article often consider that the state has a duty of active protection in regard to Māori interests, and take action to achieve equity of Māori outcomes (Waitangi Tribunal, 2019). Article Three has relevance to the social position that Māori, and wāhine Māori, experience today. As explored in this thesis, attempts to address prisoner voting rights have a duty to address equity issues in order to uphold the principles that stem from the Treaty.

Article Four

An additional unwritten article of the Treaty promised the right to freedom of belief and religion (Human Rights Commission, n.d.; State Services Commission, 2005). However, state attempts to suppress Māori wairuatanga (spirituality) have been observed over time. Legislation enacted by the state has suppressed the practises of tohunga (priest, healer, skilled person), including traditional Māori healing methods of rongoā (treatments, medicines) (Glover et al., 2004; Le Grice, 2014). This has in turn marginalised Māori knowledges, and undermined the roles wāhine occupy related to Māori spiritual practises (August, 2004).

Colonial Actions and Effects on Māori

Over time, colonial actions worked to disrupt the way of life of Māori and render them a minority in New Zealand. Directly after the signing of the Treaty, Māori made up the majority of the population in New Zealand (Anderson, Binney & Harris, 2015). However, in the years following the Treaty's signing, these demographics began to change and Māori soon became a minority. By 1840, it was estimated that there were around 80,000 Māori and 2,000 Pākehā settlers in New Zealand, however by 1874, Māori only made up approximately 14% of the population (Durie, 1998). Additionally, the introduction of European weapons and diseases that had the effect of rendering Māori inter-tribal conflicts even more deadly, and causing greater numbers of Māori to suffer from these diseases they did not have immunity to, ultimately reducing the Māori population (King, 2003). While these factors significantly reduced the Māori population, other state actions attempted to destroy Māori social organisation.

As earlier discussed, whenua is central to te ao Māori and Māori spirituality. Land was not regarded as a commodity to be used for profit; rather, whānau and hapū could have rights to land, but land was not 'owned' in the European sense of the word (McAloon, 2008). The Native Land Acts 1862 and 1865 had the effect of individualising land titles, and established the Native Land Court that aimed to establish who held title to Māori land (Sorrenson, 2014). Essentially, this meant that one person could sell land where an entire community of people had lived, as Māori shared land communally (Sorrenson, 2014; McAloon, 2008). While this process freed up land for settler purchase, it was also intended to disrupt Māori social organisation. Former

Minister of Justice Henry Sewell said of the land courts that they would “destroy, if it were possible, the principle of communism upon which their social system is based and which stands as a barrier in the way of all attempts to amalgamate the Maori [sic] race into our social and political system” (Williams, 1999, p. 87-88). Ultimately, these actions by the state took land from Māori and placed it in the hands of Pākehā, and had wide-ranging consequences for Māori.

Alongside the cultural impacts of isolation from whenua and whakapapa, confiscation of land dispossessed Māori of their economic base (Poata-Smith, 2013). As a result, many Māori had no choice but to form nuclear family structures and urbanise (Mikaere, 1994; Poata-Smith, 2013). They became dependent on wage labour, often occupying low-wage, blue collar jobs with poor working conditions (Poata-Smith, 2013). Low-wage work forced Māori into a lower socioeconomic position, and many urban Māori lived in conditions of overcrowding and inadequate housing (Poata-Smith, 2013). Māori ultimately suffered, both culturally and economically, and were forced to conform to a Western way of life in towns and cities, which had specific impacts on wāhine Māori.

The Effect of Colonial Actions on wāhine Māori

The colonial actions described, along with the introduction of English social norms and values, were devastating for wāhine Māori. While all Māori felt the effects of colonisation, wāhine Māori were subject to subordination on the basis of both race and gender. This section takes an intersectional approach to examining the effects of colonisation on wāhine Māori.

Intersectionality refers to the ways in which identities such as race and gender, among others, can intersect to shape the specific experiences of individuals and groups, and was first used to map the experiences of Black women in the US (Crenshaw, 1989; Crenshaw, 1990). State actions have been destructive to the social position of wāhine Māori.

According to English common law, women were regarded as chattels of their husbands, and had limited rights over property, children and their own bodies (Cadigan, 2012; Mikaere, 1994). Urbanisation left wāhine Māori dependent on the income of male family members and forced to take on unpaid caregiving roles in the home (Mikaere, 1994). Men were considered the ultimate head of the family unit, which contrasted greatly with the pre-colonial Māori

understandings of gender roles in the whānau (Mikaere, 1994). Property owned by women was considered her husband's entitlement upon marriage, and fathers were considered to hold ownership over any children women bore (Naffine, 1990). The imposition of these values and the social norms that came with them undermined the mana (status, authority, power, prestige) of wāhine Māori. It exposed wāhine Māori to sexism and discrimination on the basis of gender, which compounded with the oppressions wāhine Māori faced as Māori (Mikaere, 1994). In this way, colonisation affected wāhine Māori in very different ways to how it affected Māori men.

The imposition of English values infiltrated many aspects of Māori culture, and erased the importance of wāhine Māori from history. In Māori cosmology and storytelling, the role of atua wāhine was marginalised (Sharman, 2019). Mentions of wāhine goddesses in written records of Māori cosmology are largely absent or fractured, reflecting an erasure of wāhine Māori from spirituality (Yates-Smith, 2003). Where wāhine Māori are presented, settlers omitted the importance of atua wāhine from written records, or altered stories in order to construct new meanings around the role of wāhine Māori (Sharman, 2019). Sharman (2019) argues that this reflects a European fear of women's spirituality, and was destructive to the relationships between wāhine Māori and men. The urbanisation of Māori and population loss through events such as the Influenza pandemic also contributed towards a loss of traditional stories of Māori cosmology (Yates-Smith, 2003). The voice of wāhine Māori in the colonial archives is similarly marginalised, resulting in an erasure of their importance in society in these records (Paterson & Wanhalla, 2017). These actions worked to undermine the role of wāhine Māori, and extended to politics more broadly.

Political Systems and Participation

A Westminster system of government was established in New Zealand, which has failed to uphold Māori political participation promised under Te Tiriti o Waitangi. The New Zealand Constitution Act 1852, an Act passed in the UK parliament, established a representative system of government in New Zealand (Ministry for Culture and Heritage, 2020). Initially, prerequisites to voting included being a male British subject over the age of 21 who owned or leased property in New Zealand (Atkinson, 2015). These requirements clearly disenfranchised all women, but also disenfranchised large numbers of Māori men, as much Māori land was held communally and

not in individual title (Williams, 1999). In 1867, the Māori Representation Act established four Māori seats in Parliament, representing four electorates; Northern, Southern, Eastern and Western Māori (Ministry for Culture and Heritage, 2018). While this established some form of representation in parliament, this was an inadequate number of seats in comparison to the Māori population. According to the Ministry for Culture and Heritage (2018), “on a per capita basis at that time, Māori deserved 14 to 16 members”, but were only represented by their four seats. Other inequities also affected Māori participation. The secret ballot was introduced for Pākehā in 1870, however this was not extended to Māori until 1938 (Ministry for Culture and Heritage, 2018). Māori also faced barriers that prevented them from freely choosing which electorate to vote in. Until 1975 only ‘half castes’ (Māori with one Māori parent and one European parent) could choose between voting in a Māori or general electorate, and all ‘full blooded’ Māori had no choice but to vote in Māori electorates (Ministry for Culture and Heritage, 2018). This not only limited the ability of Māori to elect more representatives that represented them, but also conflicted greatly with Māori understandings of identity, which are connected to whakapapa rather than blood quantum (Edwards, 2020). Ultimately, Māori political participation in the colonial state was severely limited.

For wāhine Māori, political participation through voting was even more restricted. Women’s suffrage campaigns resulted in women receiving the vote in with the passing of the Electoral Act 1893, which enfranchised both Māori and Pākehā women (Ministry for Culture and Heritage, 2018). wāhine Māori were active campaigners for the vote, speaking in the Māori parliament and being heavily involved in the Women’s Christian Temperance Union (Rei, 1993). Meri Te Tai Mangakāhia, a Māori woman of Te Rarawa descent, became the first woman to speak in the Kotahitanga parliament when she argued for wāhine Māori to receive the vote and be able to sit in the Māori Parliament (Ballara, 1993). Despite receiving the vote later than men, wāhine Māori remained active leaders in a number of social and political movements. Throughout the 19th century, records of wāhine Māori exist engaging in civic action such as appearing before commissions of inquiry and the Native Land Court (Paterson & Wanhalla, 2017). As early as 1893, wāhine Māori established tribal committees known as Ngā Komiti Wāhine, which worked to address social issues within their communities, and by 1894 Māori unions had been created within the Women’s Christian Temperance Union (Te Rūnanga o Ngāi

Tahu, 2018; Rei, McDonald & Te Awekōtuku, 1993). Despite the constraints placed on them by the colonial state, wāhine Māori have continued to assert their power in political life and reject assumptions regarding a woman's place in politics using whatever tools available to them, including the Waitangi Tribunal.

The Waitangi Tribunal

In the late 20th and 21st century, both Māori and the state have sought to find ways to redress some of the historical injustices that came about through colonisation and breaches of te Tiriti. It is now widely accepted by many, including the Crown, that the Treaty has been breached repeatedly by the Crown. Discontent among Māori about loss of land and Treaty violations grew in the mid-20th century, and sparked an “era of modern Māori protest” (Harris, 2004, p. 13). Land occupations at Raglan Golf Course and Takaparawhau (Bastion Point) in the 1970s brought more attention to the ongoing alienation from land that Māori face. In 1975, Dame Whina Cooper led the Māori land hīkoi (walk, march, can refer to Māori protest marches), spanning from Northland to parliament in Wellington. Ultimately, this contributed to the establishment of the Waitangi Tribunal in the same year (Melvin, 2004). The tribunal serves as a permanent commission of inquiry investigating historical and contemporary grievances related to The Treaty, and makes recommendations as to how the Crown can address Treaty breaches (Melvin, 2004). From here, the Crown can negotiate settlements with claimants, that can include actions such as apologies, financial redress or the return of land (Mulholland, 2016). Despite the tribunal providing a mechanism to address violations of the Treaty, it still faces a number of challenges. Settlements are considered ‘full and final’ and are unable to be revised in the future, which limits the scope of redress (Mulholland, 2016). Tribunal recommendations are not legally binding, and successive governments have been criticised for ignoring recommendations and taking no action to address them (Melvin, 2004; Hurihanganui, 2018). The Crown has demonstrated a preference for negotiating with iwi in the settlement process, which perpetuates inequities between Māori groups and excludes large numbers of Māori who do not know their iwi affiliation. There is a large backlog of contemporary claims spanning over 20 years that have not yet been investigated (Waitangi Tribunal, 2014). Finally, as settlements are made there has been a rise of ‘anti-Treatyism’ that propagates the idea that Māori are being unfairly privileged by redress, which threatens public understanding of the purpose of the tribunal (Mulholland, 2016).

Wāhine Māori were central in advocating for action to address Treaty breaches, and are now also proving to be central in the fight for the needs of wāhine Māori to be addressed. One notable claim currently being investigated by the Waitangi Tribunal is the Mana Wahine Kaupapa Inquiry, which will examine claims that “allege prejudice to wāhine Māori as a result of Treaty breaches by the Crown” (Waitangi Tribunal, n.d.). This is the first claim before the tribunal that focuses on the mana of wāhine Māori specifically, and its findings are likely to bring to light many of the ways in which Treaty violations have affected wāhine Māori. Additionally, the Waitangi Tribunal has been central to highlighting how prisoner disenfranchisement has affected Māori, through the investigation of Māori prisoner’s voting rights. This is explored further in Chapter Four.

Wāhine Māori Today

wāhine Māori are still underrepresented throughout institutions of power (Mikaere, 1994; Waitere & Johnston, 2009; Ministry for Women & the Office of Ethnic Communities, 2019). Waitere and Johnston (2009) argue that the lack of representation of wāhine Māori reflects the state’s refusal to negotiate with Māori, which spans back to the first European contact and signing of the Treaty. As a result of this pattern, the needs of wāhine Māori are “legislatively invisible” (Mikaere, 1994, p. 144). While Māori-specific policies to address Māori overrepresentation in social issues are becoming more commonplace, these often do not address wāhine Māori and their specific needs. They are also often not designed by those who will use or benefit them (Smith et al., 2019).

Due to the ongoing effects of colonisation and the marginalisation of wāhine Māori by the colonial state, wāhine Māori today occupy a lower social position than they did pre-contact, but still face barriers to addressing these issues through participating in politics. wāhine Māori are more likely than Māori men and Pākehā women to experience multiple forms of discrimination, which Cormack, Harris and Stanley (2020) characterise as a “persistent breach of rights”. Wāhine Māori are overrepresented in a range of social issues, as are Māori in general. Despite this overrepresentation, the state has demonstrated an unwillingness to deal with wāhine Māori in political contexts and limited their engagement in addressing these issues.

In spite of all of the aforementioned challenges, wāhine Māori are still at the forefront of political movements in New Zealand, defying state attempts at subjugation of their role. Recent Māori protest movements have had strong wāhine Māori leaders, such as Pania Newton of Save Our Unique Landscape and the multiple women leading protests against construction over a kororā (little penguin) habitat at Putiki bay (Hancock & Newton, 2022; Misa, 2019; Franks, 2021). In the House of Representatives, many wāhine Māori are serving in positions of power. Two out of five of the parties currently represented in parliament have wāhine Māori leadership; Debbie Ngarewa-Packer is co-leader of the Māori Party, and Marama Davidson is co-leader of the Green Party (Māori Party, n.d.; The Green Party of Aotearoa New Zealand, 2021). Within the government, Nanaia Mahuta is currently serving as the first Māori woman Minister for Foreign affairs, and is also the first Minister for Foreign Affairs with moko kauae (a Māori facial tattoo worn by women that can be representative of a woman's whānau, mana, whakapapa and position in the community) (Borissenko, 2021). However, while this represents an increase in the visibility of wāhine Māori in politics, representation is not always effective at creating change. While inclusion of individuals with certain characteristics (e.g. Māori and women) can satisfy demand for representation of disadvantaged groups, the actions of those representatives within institutions can be limited by the nature of these institutions and the dominant values they often reinforce (Grant, 2017). Over time, wāhine Māori have consistently resisted attempts to render them invisible, and made their voices heard in political contexts.

Conclusion

It is important to recognise the historical context and processes of colonisation that have shaped the experiences of wāhine Māori and inform this thesis. Colonisation and the imposition of Pākehā gender roles on wāhine Māori have disrupted Māori social organisation and the whānau unit, and caused wāhine Māori to occupy a social position subordinate to both Māori men and Pākehā women. Also central to understandings of wāhine Māori and prisoner voting rights are analyses of the Treaty, political systems and methods of redress for Treaty violations. Over time, state actions have reinforced Pākehā dominance and tried to diminish the mana and power of wāhine Māori. This chapter has summarised the key historical events and processes that give context to the social position and experience of wāhine Māori today.

Chapter Four: Giving Context to Prisoner Voting Rights Discussions: Key Developments Regarding Prisoner Voting Rights in 21st Century New Zealand

Introduction

Within the global context, New Zealand is an outlier in regard to its stance on prisoner disenfranchisement. While most Western democratic nations move towards enfranchising more of the population (Gavey, 2014), changes to voting rights for prisoners in New Zealand in the 21st century have been marked by a removal of rights, then partial restoration of rights for those serving lower-level sentences. Moreover, New Zealand is also significant in the way in which prisoner disenfranchisement is framed in public discussion, as the issue is of importance to Māori and affects Māori political participation (Waitangi Tribunal, 2020). While arguments regarding social contract theory and political citizenship echo overseas discourses, some discussion has focused on whether changes to the franchise uphold the principles set out by the Treaty, and how changes to the franchise for prisoners affect Māori, who are vastly overrepresented within the justice system (Waitangi Tribunal, 2020). The presence of these elements has increased over time with action from justice advocates and the findings of a Waitangi Tribunal inquiry, however Western theories based in individualism are still dominant in mainstream discourses.

This chapter begins by giving context to Māori overrepresentation in prison, and discusses how colonisation disrupted Māori systems of justice and replaced these with a systemically racist colonial justice system (Webb, 2017). This sets the context for discussions of the treatment of prisoner disenfranchisement in New Zealand. This chapter then gives an overview of the adoption and effects of the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill and the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill. The 2020 bill disenfranchised all prisoners, while the 2010 bill restored voting rights for those serving sentences of less than three years (Geddis, 2011; New Zealand Law Society, 2020). The findings of the Waitangi Tribunal in regard to Māori prisoners' voting are summarised. The potential motivations for changes to prisoner voting rights are explored in

terms of party ideology, support for tough-on-crime approaches, and penal populism. The major discourses surrounding the disenfranchisement of prisoners are summarised. While Western political and rights theories are often used to justify disenfranchisement or enfranchisement, these are ultimately inadequate in illustrating the complete picture of how prisoner disenfranchisement has affected Māori, and particularly wāhine Māori, who are persistently overlooked in these discussions.

Māori and Justice

Prior to colonisation, Māori systems of justice were based within the community, and were centred around Māori spiritual beliefs and collectivism (Webb, 2017). Laws as we understand them in the Western context did not exist, however social organisation was governed by values such as mana (status, power or prestige), tapu (sacred prohibition), rāhui (to put in place a prohibition, often over land, resources or water), utu (repayment, reciprocity) and muru (confiscation or to take compensation) (Taonui, 2012). After 1840 and the signing of the Treaty, some attempts were made to incorporate Māori values and justice into the settler justice system. In some cases, forms of muru were permitted as a consequence for crime such as theft, and rangatira (Māori chiefs) assisted magistrates in deciding the verdict of disputes that only involved Māori (Taonui, 2012). However, soon after the Treaty's signing, policy focused on replacing Māori systems of justice with British ones, and myriad colonial actions had the effect of disrupting Māori social organisation and prohibiting traditional Māori practises (Webb, 2017; Taonui, 2012). The end goal of these actions was to assimilate Māori into a British way of life.

The settler justice system came to become a means of enforcing colonisation and quashing Māori resistance to the settler state. After the signing of the treaty, the Crown assumed it held sovereignty over New Zealand and implemented legislation that targeted Māori challenges to its power (Webb, 2017). The Suppression of Rebellion Act 1863 and the Land Settlement Act 1863 enabled the state to confiscate land from Māori who rebelled against the Crown (Webb, 2017). This had the effect of both extending the power of the Crown and legitimising their claim of sovereignty, and alienating Māori from their whenua. Māori protest and resistance has also historically been met with instruments of the justice system (Webb, 2017). The Māori Prisoners Trials Act 1879 enabled the state to imprison Māori without a trial, a

practice that was used to punish leaders at the Parihaka pacifist settlement in the 1870s-1880s (Webb, 2017). In the 20th and 21st centuries, police deployment to Māori protest has been observed in the cases of the Ngāti Whātua occupation of Bastion Point in 1978 where protesters were removed from the site, and at the occupation of Ihumātao by Save Our Unique landscape, where eleven activists were initially arrested, sparking a much larger occupation and an ongoing police presence (Ministry for Culture and Heritage, 2021; *Ihumātao: Police deploy more officers*, 2019). Responses to Māori resistance by the state have consistently been marked by the use of the colonial justice system, from the 1880s to present.

Settler justice systems have long been recognised as a key project of colonising powers in enforcing colonisation on Indigenous peoples around the world. Tauri (2014) argues that colonial justice systems are a contemporary manifestation of state violence. It is no longer acceptable to enact “direct violence” or “hard-line assimilatory policies”, however these themes are more subtly continued through the over-policing of Indigenous peoples, and overrepresentation of Indigenous peoples throughout justice systems (Tauri, 2014). Tauri (2014) argues that this structural violence works to subjugate and control Indigenous populations. There is certainly a vast range of evidence to support Tauri’s arguments. Over time, the colonial-based justice system has disproportionately affected Māori at every level from police to prisons. Māori are significantly more likely to be charged by police and convicted of crimes by courts than Pākehā offenders (Department of Corrections, 2007). Māori are also seven times more likely to be on the receiving end of police force than Pākehā (New Zealand Police, 2019). As of September 2021, Māori made up 52.5% of New Zealand’s prison population, despite Māori being estimated to make up only 17.1% of the general population (Department of Corrections, 2021; Statistics New Zealand, 2021).

The root of this overrepresentation of Māori lies in a number of interconnected factors. These include colonisation, dispossession, socioeconomic inequality and systemic racism within the justice system, however this is a fact that has not been acknowledged by the state until as of late (Jackson, 1987; McIntosh & Workman, 2013; McIntosh & Workman, 2017; Mihaere, 2015). Māori scholars have highlighted the inability of successive governments to adequately address how colonisation has led to the vast overrepresentation of Māori in prison (Mihaere, 2015). State

attempts to address this disproportionality in the 21st century have been varied. In 2000, a report by the Crime Prevention Unit of the Department of the Prime Minister and Cabinet asserted that policy interventions were needed in order to address “risk factors” for Māori offending (Doone, 2000). A report in 2007 by the Department of Corrections emphasised this focus on risk factors, identifying social and environmental influences that make Māori more likely to exhibit offending behaviour (Department of Corrections, 2007). This approach individualises offending and views the offender in isolation from the social and cultural context that caused them to end up in the position they experience (Jackson, 1987). Additionally, the deployment of statistics about Indigenous peoples are often used to frame a group as experiencing a deficit (Walter & Andersen, 2013). Policy that attempts to address this perceived deficit often has the objective of ‘raising up’ Indigenous people to meet the dominant group within the general population (Walter & Andersen, 2013). In Aotearoa, this ‘raising up’ can be understood to include the adoption of Pākehā norms and values (Jackson, 1987). This approach fails to recognise the true cause of offending risk factors; the processes of colonisation that dispossessed Māori from their whenua, disrupted the Māori way of life and resulted in a lowered socioeconomic position for Māori (Mihaere, 2015; McIntosh & Workman, 2013; Stanley & Mihaere, 2018). As the question turns to addressing this overrepresentation, the state has also failed to take effective action to meet the needs of Māori.

The state has continually framed Māori as experiencing a deficit, failed to adequately investigate the causes of crime and used statistics to highlight Māori offending in isolation to its context. These actions have worked to sustain public ignorance about Māori offending and incarceration. Media coverage and Western-framed research into Māori offending constructs negative images of Māori, generating prejudice and misunderstanding of Māori offenders in wider society (Jackson, 1987). Nairn et al. (2012) find that stories about Māori in English-language television news often emphasise Māori criminality, and this in turn feeds into negative perceptions of Māori by the New Zealand public. Research that highlights Māori offending statistics without providing adequate context in turn feeds into further systemic bias within the justice system, as those who apply discretionary power within the system are influenced by these representations (Jackson, 1987). Today, we observe a justice system that Māori are disproportionately represented within, and limited public understanding as to why this

has occurred. Additionally, wāhine Māori in prison have unique experiences and social circumstances that are distinct from tāne Māori; this is explored in later chapters of this thesis.

Prisoner Voting Rights in the 21st Century

The 21st century has seen two major changes to the franchise for prisoners in New Zealand, in which all prisoners were disenfranchised, and then the voting franchise was restored for a select group of prisoners. This section maps out the major changes to prisoner voting rights in the 21st century, and what they mean for the prisoners' franchise.

The 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill - Adoption and Effects

Until 2010, those imprisoned for sentences less than three years retained the franchise while serving sentences of imprisonment. The pre-2010 enfranchisement of those serving shorter sentences stemmed from a change in 1993, which reflected advice of the Royal Commission on the Electoral System (Geddis, 2011). At this time, the commission recommended that restrictions should only apply to those convicted of high-level offending (Geddis, 2011). In 2010, the Electoral (Disqualification of Sentenced Prisoners) Amendment Bill barred those serving sentences less than three years from registering as an elector, thus removing the right of all prisoners to vote. In effect, this meant that those in prison were unable to register on the electoral roll, and those already on the electoral roll prior to entering prison would be removed from the roll (Geddis, 2011; Gavey, 2014).

Notably, the bill arose through a private member's bill submitted by National MP Paul Quinn, rather than as a government bill. However, the National Party led the government at the time. The bill was referred to the Law and Order Select Committee (Geddis, 2011). This decision was met with criticism, and the Labour Party argued that the Justice and Electoral Committee would have been more appropriate to scrutinise the bill (Geddis, 2011). Additional criticism of the select committee process by the opposition was sparked when the effects of a select committee recommendation would have had the effect of retrospectively enfranchising all prisoners regardless of sentence (Law and Order Select Committee, 2010). The vast majority of

select committee submissions regarding the bill were in opposition to it, with common arguments being the bill's inconsistency with the New Zealand Bill of Rights Act and New Zealand's international human rights commitments (New Zealand Parliament, 2011). Multiple submitters also highlighted at the time that the bill would likely disproportionately restrict Māori voting due to the numbers of Māori in prison (New Zealand Parliament, 2011). Geddis has labelled the select committee scrutiny of the bill "cursory and deeply flawed" (2011, p. 444). Despite significant opposition, the Law and Order select committee recommended that the bill be passed with few amendments (Law and Order Select Committee, 2010). The bill was passed at its third reading, with the National (58) and ACT (5) parties voting in favour, and Labour (42), the Green Party (9), the Māori Party (5), Progressive (5), and United Future (5) voting against the bill (New Zealand Parliament, 2010).

The 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill - Adoption and Effects

In September of 2020, the Labour government restored the voting franchise for prisoners serving sentences less than three years. The 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill effectively repealed the disqualification of prisoners established by the 2010 bill (New Zealand Law Society, 2020). The bill was analysed and reported on by the Justice Select Committee (Justice Select Committee, 2020). A large proportion of select committee submissions were in favour of restoring voting rights for prisoners, with many arguing for the enfranchisement of all prisoners regardless of the length of sentence (New Zealand Parliament, 2020; Justice Select Committee, 2020). This time a government bill, the bill was passed with the support of Labour (46), the Green Party (8) and New Zealand First (9), with National (55), ACT (1) and independent MP Jami-Lee Ross (1) opposing (New Zealand Parliament, 2020).

Findings of the Waitangi Tribunal

As highlighted in later chapters, state discourses surrounding prisoner voting rights have for the most part failed to recognise the Crown's responsibility to actively protect Māori interests. In 2020, a Waitangi Tribunal inquiry into Māori prisoner's voting rights found that discussions of the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill often focused

heavily on how it violated the Bill of Rights Act, however much less discussion highlighted the fact that it was a violation of the Treaty (Waitangi Tribunal, 2020). According to the Waitangi Tribunal, the state has a responsibility to uphold voting as both a fundamental right within democracies, but also as an obligation to protect Māori political participation under the Treaty and te Tiriti (2020). The effect of policies of disenfranchisement combined with the overrepresentation of Māori in prison generally meant that Māori were 11.4 times more likely to be removed from the electoral roll (Waitangi Tribunal, 2020). The tribunal also criticised the fact that Māori consultation on the bill was lacking, and the advice provided to the government on the 2011 Act failed to examine the Crown's Treaty obligations (Waitangi Tribunal, 2020). Ultimately, the tribunal found that the law disproportionately affected Māori, had wide-ranging implications for Māori political participation and was a breach of the Treaty of Waitangi (Waitangi Tribunal, 2020).

It was also argued that loss of voting rights was inconsistent with the purpose of the prison system, which should be to rehabilitate (Waitangi Tribunal, 2020). Rather than serving any kind of rehabilitative purpose, the removal of voting rights served to further marginalise prisoners and could have the effect of causing them to feel even more disconnected from general society and the state (Waitangi Tribunal, 2020). The final recommendations of the tribunal were to enfranchise all prisoners regardless of sentence (Waitangi Tribunal, 2020). The tribunal also recommended the Crown begin a process to re-enrol prisoners in time for the 2020 general election, and that processes are created that ensure "Crown officials provide properly informed advice on the likely impact that any Bill, including members' Bills, will have on the Crown's Treaty of Waitangi obligations" (Waitangi Tribunal, 2020, p. 35).

Influences and Support for Changes to Prisoner Voting Rights

The New Zealand National Party and Labour Party have been key in driving changes to prisoner voting rights in New Zealand. This section outlines the stances of each of the major parties on crime and justice, and how these stances may have influenced support for, or opposition to, prisoner disenfranchisement. It is also highlighted that the rise of penal populism in New Zealand could have contributed to advancing prisoner disenfranchisement.

The bulk of support for disenfranchising prisoners over time has come from the New Zealand National Party. The party can be characterised as economically liberal, and right of centre on a western left-right political spectrum (Gibbons, 2011). Emphasis is placed on “individual freedom and choice, [and] personal responsibility” (New Zealand National Party, 2021), and over time the idea of having a strong and limited government has consistently been promoted as a key value of the party (Gibbons, 2011; New Zealand National Party, 2021). Gibbons (2011) notes that the party has also continually emphasised its commitment to fighting crime. On a more symbolic level, the National Party platform can be interpreted as emphasising formal equality (equality of treatment) over substantive equality (equality of outcomes) due to its focus on individualism. Bêteille et al. (1986) highlight that focus on individual mobility fails to recognise the group-based barriers to equality that some may experience, and how affirmative discrimination (the privileging of one group based on collective need) can address equity gaps. From a kaupapa Māori perspective, an individually-framed approach certainly fails to take into account the ongoing impact of colonisation and dispossession on Māori, which has led to Māori being overrepresented in a multitude of social issues; a fact that substantive equality policies often seek to address.

The Labour Party opposed the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill while in opposition, and introduced the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill. The party’s origins lie in democratic socialism, and the party states commitment to upholding basic democratic and human rights (New Zealand Labour Party, n.d.). While party values likely influenced Labour’s support of prisoner enfranchisement, it is likely that the Waitangi Tribunal’s Report into Māori Prisoner’s Voting and recommendation to re-enfranchise prisoners spurred action on the issue. Labour Minister Andrew Little highlights the Waitangi Tribunal’s recommendations in the first reading of the bill, stating that Labour has chosen to return to pre-2010 status quo rather than go as far as the Tribunal’s recommendations, which would enfranchise all prisoners.

Despite its recent support for enfranchising prisoners, Labour, like the National Party, has demonstrated punitive approaches to law and order in response to public sentiment, similarly to its opposition, National. In 2002, the Labour-led government introduced both the Sentencing

Act 2002 and Parole Act 2002 (Williams, 2012). The creation of the legislation is understood to have been prompted by widespread public support for a 1999 Citizen Initiated Referendum that questioned:

Should there be a reform of our justice system placing greater emphasis on the needs of victims, providing restitution and compensation for them and imposing minimum sentences and hard labour for all serious violent offences?

The 2002 Acts implemented the handing down harsher punishments for serious offenders and replaced existing legislation regarding sentencing and parole, thus reflecting public sentiment regarding law and order at the time and desire for more punitive responses to offending (Roberts, 2003). Williams argues that since the 1999 referendum, politicians have been inclined to support policies that take a hard-line approach to crime in order to align with public sentiment (2012).

It is possible that public support for hard-line approaches to crime have influenced prisoner voting rights policies. Williams (2012) argues that the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill Act could be the result of penal populism. Penal populism involves the endorsement of excessively punitive laws that are perceived to be reflective of public opinion (Williams, 2012). In cases like this, the electoral advantage that comes with promoting such policies takes priority over the actual effectiveness of policy (Williams, 2012). While there was no clear public calling for the disenfranchisement of prisoners in 2010, Williams (2012) argues that the Electoral (Disqualification of Sentenced Prisoners) Amendment Bill could represent a pre-emptive populism response. According to Williams, “such an appeal resembles what was described in 1776 by John Adams as a “democratic despotism”, where the perceived popular opinion of the majority becomes a sufficient political incentive to subvert the voting rights of minority groups” (Williams, 2012). With this reasoning in mind, it may be that extending the disqualification of prisoners could serve as a strategy for gaining political support. When dominant discourses surrounding the franchise are highlighted, it is clear that Indigenous ways of thinking may be marginalised by these approaches and understandings.

Discourses Surrounding the Franchise

Discussions of disenfranchisement and prisoner voting rights inherently reflect assumptions about prisoners and their place in society. Therefore, it is important to summarise some of the discourses surrounding prisoner voting rights in order to understand the values that these discourses reflect in New Zealand. This section outlines the discourses in New Zealand and internationally.

Western Rights Discourses and Individualism

In the 21st century, changes to the franchise for prisoners have been framed in multiple ways by different discourses. Western rights discourses primarily focus on the importance of the vote as a right in liberal democratic societies. In New Zealand, many analyses of the changes have highlighted how the Electoral (Disqualification of Sentenced Prisoners) Amendment Act 2010 was inconsistent with both domestic and international law regarding the right to vote. The High Court declared that the bill was inconsistent with Section 12(a) of the New Zealand Bill of Rights Act 1990, which ascribes that every New Zealand citizen 18 years or older “has the right to vote in genuine periodic elections of members of the House of Representatives, which elections shall be by equal suffrage and by secret ballot” (Gavey, 2014; New Zealand Bill of Rights Act 1990). Geddis (2011) argues that Members of Parliament at the time of the Act’s passing failed to adequately discuss the implications of its effects in terms of the loss of rights that prisoners would experience, and how this clashed with existing legislation that set out the rights of New Zealand citizens. According to Geddis (2011), this reflects a “lack of legislative care”, demonstrating a disregard for the individual rights of citizens.

Geddis (2011) also highlights how the Act represents a breach of international human rights norms. The Act can be seen as inconsistent with Article 25(b) of the International Covenant on Civil and Political Rights, which asserts that every citizen should be able to, without unreasonable restriction, “vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors” (Geddis, 2011; International Covenant on Civil and Political Rights, 1966). Additionally, courts internationally, such as the Supreme Court of

Canada, the High Court of Australia and the European Court of Human Rights, have ruled against blanket disenfranchisement of prisoners on the grounds that it is an unjustifiable restriction (Gavey, 2014).

Symbolic Importance of the Vote

The Waitangi Tribunal (2020) highlighted how removal of voting rights serves to disconnect prisoners from the society they are meant to return to post-release. Similarly, Easton (2009) argues that “the act of voting is a reaffirmation of citizenship”, and that this act has symbolic importance as it reiterates the importance of an individual’s social participation. In this way, enfranchising prisoners may further rehabilitative efforts (Easton, 2009). Conversely, removing the voting right places an excessive punishment on prisoners, that goes beyond the limits already placed on their individual freedoms by being in prison (Geddis, 2011).

Additionally, discourses that focus on rights as an individual concept are inadequate in describing the full impact of disenfranchisement for Māori. Colonial legal and political systems established a focus on individualism and individual rights and freedoms in New Zealand (Cheyne, O’Brien & Belgrave, 2005, p.140). This was most obviously seen through actions such as the imposition of Western land ownership concepts, where land was held in individual title (McAloon, 2008). In the justice area, a transition from Māori methods of justice based in the community to a Western focus on individual action and responsibility has been observed (Taonui, 2012). As has been established, traditional Māori social organisation places a large emphasis on collectivism and whanaungatanga, and each person plays an important role that makes up the collective whole (Cadigan, 2012). To view disenfranchisement as having importance only to an individual’s rights fails to take into account the consequences that imprisonment and disenfranchisement have not only for the prisoner, but for whānau, hapū, iwi and the wider community that that person is a member of.

When it comes to what the Act may mean for wāhine Māori, both in the symbolic and practical sense, there is a very large absence of both research and public discourse beyond the voices of a few wāhine Māori. Gavey (2014) argues that the disenfranchisement of prisoners in New Zealand indirectly discriminates against wāhine Māori due to the disproportionate

incarceration of wāhine Māori and how the effects of disenfranchisement disadvantage wāhine Māori and all Māori. According to Gavey (2014), the impact of disenfranchisement for wāhine Māori is “qualitatively distinct”, as disenfranchisement has a wider effect on whānau and the communities that women belong to due to the centrality of wāhine Māori within these social structures. Similarly, WAI2870 claimant and justice advocate Awatea Mita gave evidence before Waitangi Tribunal regarding the potential benefits of voting as a rehabilitative tool, stating that:

We have a missed opportunity here. We could be teaching our whānau who are in prisons about the history and Māori experience of voting in Aotearoa, and especially our wāhine Māori who are mothers that will return to their families. To reintegrate into their community understanding the importance of voting could be a means for the intergenerational transmission of a voting culture within whānau that is fully participatory in the political futures of our nation. (Waitangi Tribunal, 2020).

It is clear that prisoner disenfranchisement has unique implications for wāhine Māori that are distinct from those that both Pākehā women and Māori men experience. However, there is a void of discussion or investigation into this issue, and the impacts of law changes on wāhine Māori are essentially invisible in public discourse; this will be explored further in subsequent chapters.

From a symbolic standpoint, the right to vote is connected to notions of citizenship. Easton (2009) states that “the act of voting is a reaffirmation of citizenship”. By removing the right to vote from prisoners, this frames the imprisoned as undeserving of this citizenship (Easton, 2009). Orr (1998) argues that the universal franchise, with “exceptions based on an assumed inability to understand the importance and process of voting”, is the central feature of democracy. Therefore, decisions to exclude groups from political citizenship may be a threat to democratic ideals (Dhami, 2005).

Civic Death, Social Contractarianism, and Criticisms of This Approach

In both the UK and New Zealand, the removal of the franchise from prisoners has been based on the concept of ‘civil death’; the idea that a breach of the social contract will result in the removal

of a range of rights of the offender (Pereira, 2008). A key theme drawn from transcripts from the readings of the Electoral (Disqualification of Sentenced Prisoners) Amendment Bill was that many MPs in favour of the bill predicated their arguments on social contract theory. Simon Bridges, National MP for Tauranga, spoke in detail about how this concept justified the removal of the franchise for prisoners during the first reading of the bill:

If we like, we can put it this way: there is a social contract between individuals and the State. The State makes the rules. It compulsorily takes taxes and does all manner of things. In return, we receive all sorts of things: warm shelter sometimes, hospitals, schools, and of course the power of the ballot to elect or “unelect”, and, in our privileged case in this House, to be elected. Prisoners, however, have opted out of that social contract. They have not gone just against the State’s and society’s basic rules, they have gone against the big ones, which means that incarceration has resulted... Voting is a fundamental right, but it is also a precious one. By committing serious crime, prisoners opt out of the social contract between citizens and the State, and they lose the right to vote. (New Zealand Parliament, 2010).

However, there are many weaknesses to applying a social contract argument to the franchise in regard to prisoners. In the case of Australia, Pereira argues that the social contract is an inappropriate argument in justifying policy that disproportionately restricts Indigenous Australians from voting (Pereira, 2008). A social contract is “based on an assumption of mutual respect of social values and benefit to the state and the individual”, however multitudes of evidence point to the fact that the Australian government has allowed and enabled breaches of the social contract on their half throughout their colonial history (Pereira, 2008). Many incarcerated Indigenous Australians have histories of dispossession and abuse at the hands of the state (Pereira, 2008). Additionally, higher levels of offending and apprehension of Indigenous Australians can be explained by the inter-connected effects of colonisation that have caused aboriginal people to occupy a lowered socio-economic position (Pereira, 2008). The inequities experienced by Indigenous Australians further exclude them from social and economic participation in Australian society (Pereira, 2008).

While Māori and Indigenous Australians had different experiences of colonisation, similar arguments regarding social contract theory can be applied in reference to prisoner disenfranchisement. Māori have too suffered numerous breaches of the social contract by the Crown; including but not limited to dispossession from land and resources, destruction of taonga and disruption of social organisation. The very premise of the social contract argument rests on the idea that at some point the incarcerated person was included in mainstream society.

Conclusion

A key theme that runs through the way in which prisoner disenfranchisement in 21st century New Zealand is discussed and justified is that it has traditionally been dominated by Western rights discourses and theories premised on individualism. These discourses fail to account for Indigenous understandings and experiences. Changes to prisoner voting rights by National and Labour governments have been framed by Western understandings of voting rights and social and political participation. Many arguments that oppose the removal of voting rights based on these understandings have been inadequate at dissecting how and why prisoner disenfranchisement uniquely affects Māori. Notably absent from almost all discussion is the meaning of these changes for wāhine Māori. Following on from this, Chapters Five and Six will examine the unique effects of prisoner voting rights for wāhine Māori, and how prisoner voting rights policies reflect the relationship between wāhine Māori and the state.

Chapter Five: The Distinct Effects of Prisoner Disenfranchisement for Wāhine Māori

Introduction

While much attention has been given to the effects of prisoner disenfranchisement for Māori more generally, very few studies have examined what distinct effects policies of disenfranchisement have for wāhine Māori in prison. Analysis of offending and incarceration is often only separated out by race or gender; therefore missing an intersectional examination of the experiences of wāhine Māori (Quince, 2010). Justice policy and the design of prisons is often necessarily based around a male norm due to the overwhelming numbers of men in prison, and therefore fails to cater to the needs of women and women of colour in particular (Adelberg & Currie, 1987; Chamberlen, 2018). A similar phenomenon has occurred both in New Zealand and globally surrounding discussions of prisoner disenfranchisement, where an intersectional approach is absent.

In the absence of research on wāhine Māori and prisoner voting rights, this chapter seeks to identify the unique effects that prisoner disenfranchisement may have for wāhine Māori. Combining content drawn from interviews with key informants, contextual information about wāhine Māori and prison, and research into voting behaviour and disenfranchisement internationally, this chapter explores three key potential implications of the removal of voting rights for wāhine Māori. The first section of this chapter argues that disenfranchisement has the potential to practically, if not formally, disenfranchise those in a prisoner's whānau or community. Wāhine Māori play a central role in the intergenerational transfer of knowledge and often act as nurturers and creators (George et al., 2019). Studies on voter behaviour establish that voting is a habit, and turnout can be influenced by family voting or nonvoting (Cutts, Fieldhouse, & John, 2009; Gerber, Green, & Shachar, 2003; Glaser, 1959). Therefore, it is argued that due to the centrality of wāhine Māori to whānau and their importance as intergenerational knowledge bearers, the disqualification of wāhine Māori from voting is likely to disenfranchise beyond the individual in prison. Section two highlights how political disenfranchisement produces further marginalisation of wāhine Māori prisoners from broader society. Gemmell (2013) argues that

decades of assimilative policy and actions that disrupted traditional Māori social organisation have led to a disadvantaging and marginalisation of wāhine Māori. wāhine Māori in prison particularly are likely to experience situations of extreme disadvantage (McIntosh & Radojkovic, 2012). Restrictions to voting rights of marginalised populations, such as prisoners, reproduces further marginalisation from public consciousness (Easton, 2009). Given that those currently disqualified (prisoners serving sentences longer than three years in prison) are likely to be drawn from situations of severe disadvantage, it is likely that disenfranchisement serves to further marginalise.

The final section of this chapter argues that wāhine Māori face unique pressures related to the management of households and whānau both while in prison and upon release, which may act as barriers to re-enrolment on the electoral roll. A significant proportion of women in New Zealand prisons are estimated to have a parenting role, and women face unique stresses related to managing whānau while in prison and upon release (Gordon, 2009; Office of the Inspectorate, 2021). These pressures likely serve as barriers to re-enrolling on the electoral roll following release, as the management of whānau takes priority over civic duty. Ultimately, existing accounts of the effects of prisoner disenfranchisement in New Zealand and globally fail to take into account the complex realities of the lives of wāhine Māori in prison and what disenfranchisement means for them.

Implications of Disenfranchisement for Whānau, Community and the Transmission of Knowledge

wāhine Māori, Intergenerational Transfer, and Prison

One of the key impacts of prisoner disenfranchisement for all Māori is the implications for the intergenerational transfer of knowledge. Wāhine have long been central to the transferral of many different types of knowledge between generations. George et al. (2019) state that wāhine Māori can be seen in many ways, as poutokomanawa (central pillar of the wharenui) of their whānau, role models, teachers and nurturers. According to George et al., “conscious and unconscious learning occurs as wāhine Māori perpetuate the intergenerational transmission of

practical and esoteric knowledge through active and experiential lives” (2019, p. 67). Similarly, Ruwhiu emphasises the important role of wāhine Māori as “whare tangata (procreators) and as whare mātauranga (repositories of knowledge)” within iwi, hapū and whānau, stating that over time wāhine Māori have passed te ao Māori knowledge down through generations in a multitude of ways as primary carers of children (2009, p. 2). Interview participant Tracey McIntosh, in speaking about the role that wāhine Māori play in their whānau and communities, noted that:

We look at the intergenerational transfer of knowledge, of wealth in the broader sense of understanding wealth, we see how significant women are...women play an important role in terms of that intergenerational transfer, both of things that are very positive and of things that are very negative.

Wāhine Māori have always held an important role as mothers, nurturers and creators (Yates-Smith, 2019). This role can be traced back to Papatūānuku, the earth mother, from which all life originates (Yates-Smith, 2019). Interview participant Khylee Quince highlights the some of the roles of wāhine Māori in te ao Māori “to be te whare tangata, the childbearers, the protectors of whakapapa, the protectors of tamariki and rangatahi Māori [Māori children and young people], protectors of mātauranga Māori [Māori knowledge]”, reinforcing the centrality of wāhine Māori to whānau.

This intergenerational transfer is not always positive. According to McIntosh & Radojkovic, “A significant aspect of inter-generational transfer of social inequalities is the normalisation of socially harmful activities and the normalisation of prison” (2012, p. 44). Many young Māori girls and women in prison already have knowledge of prison prior to entering prison, having had whānau or others known to them having served prison sentences (McIntosh & Radojkovic, 2012). Australian research has demonstrated that in communities and families with histories of incarceration, the event of going to prison is not unexpected (Roettger, Lockwood & Dennison, 2019). Additionally, the effects of having an incarcerated parent can differ depending on whether a mother or father is imprisoned. Paternal imprisonment is more common than maternal imprisonment, and is known to result in higher incidence of poverty, abuse, neglect and exposure to violence in Indigenous communities (Roettger, Lockwood & Dennison, 2019).

While less common, Roettger, Lockwood and Dennison (2019) argue that the effects of maternal imprisonment may be more severe, resulting in effects such as loss of a primary caregiver and the placement of children into state care. As research suggests that there are severe implications that stem from the incarceration of Indigenous women for families and children, it can be assumed that at least some of these effects would be likely observed in the whānau and children of wāhine Māori in New Zealand, although more investigation is needed in this area.

Historical trauma has also been passed between generations. Over time, experiences of colonisation, dispossession, legal imperialism and attempts at assimilation have disrupted Māori social organisation, and destroyed traditional relationships within whānau and communities (Wirihana & Smith, 2019). Particularly relevant is the effect that this trauma has had on relationships between Māori men and wāhine Māori, as Wirihana & Smith argue that these processes have “ruptured the sacredness of relationships between men and women and destroyed the nurturing protective environments required for child-rearing” (2019, p. 5). Exposure to this trauma has had severe impacts for Māori; we now see higher rates of abuse, psychological issues and the presence of a range of social issues within Māori communities (Wirihana & Smith, 2019).

The effects of historical trauma can clearly be observed in incarcerated wāhine Māori in New Zealand. As part of a postdoctoral research project, Lily George interviewed wāhine Māori, some of whom have whānau links between them, who have experiences of incarceration and found that shared experiences of colonisation as a historical trauma (George et al., 2019). Interviewees “and their whānau demonstrate factors such as poverty, cultural disconnection, and dysfunctions such as violence, drug and alcohol abuse, and/or educational underachievement”, exhibiting many of what George et al. describe as “risk factors that make them vulnerable to social ills” (2019, p.68). Despite this, the transmission of intergenerational trauma does not permanently assign a person or whānau to a life of negative outcomes. George et al. (2019) note that multiple women have expressed a desire to help others and to use their experience to produce positive outcomes in their communities. Additionally, patterns of positive change and resilience were observed through generations and across mother and daughter relationships (George et al., 2019).

Patterns of Voting Behaviour and the Ripple Effects of Disenfranchisement

In the context of prisoner disenfranchisement, it is clear that policy can have a multitude of effects on the knowledge that is passed through whānau, communities and generations. White (2019) identifies that voters in the US who live with someone who have come in contact with the criminal justice system are less likely to vote in the short-term, potentially due to feelings of withdrawal from the state. A US-based study of states with policies of disenfranchisement found that harsher criminal disenfranchisement policies resulted in lower voter turnout among those still enfranchised (McLeod, White & Gavin, 2003). It is suggested that this is due to the fact that a person's level of political participation is influenced by those within their social networks and their level of political participation (McLeod, White & Gavin, 2003; Verba, Schlozman & Brady, 1995). In this sense, disenfranchisement laws have an impact on political participation beyond the disenfranchised person, and ripple out into the communities the individual is a part of.

Previous literature on imprisonment emphasises how the effects of imprisonment go beyond the individual and affect the whānau and communities that the imprisoned person belongs to (McIntosh & Radojkovic, 2012). Multiple studies highlight that voting turnout and behaviour is influenced by family. In the US context, Akee et al. find a “strong positive correlation between parents’ and children’s voter turnout in U.S. Presidential and Midterm elections” (2018, p. 2). Much research also points to the fact that political partisanship is heavily influenced by the attitudes of family members, among others, and can influence vote choice (Antunes, 2010; Miller & Shanks, 1996). Glaser identifies that voting and non-voting often occurs as a family unit (1959). While this is partially due to members of a family likely experiencing the same influences on voting outside of the family unit, evidence suggests that interaction within family is a crucial influence on voter turnout or non-turnout (Glaser, 1959).

It is also widely understood internationally that voting is habit-forming; voting in one election increases the likelihood of voting in subsequent elections (Cutts, Fieldhouse, & John, 2009; Gerber, Green, & Shachar, 2003). Additionally, early voting experiences are likely to shape voting patterns later in life, meaning that voting at a young age is likely to predict voting

in the future (Dinas, 2012). It is theorised that a key reason behind the habit-forming nature of voting is the increase in the consumption value of voting serving as a motivator to vote again; essentially, voters may feel satisfied with the outcomes they experience following voting, causing them to vote repeatedly (Fujiwara, Meng & Vogl, 2016).

wāhine Māori and Disenfranchisement Beyond the Individual

The Waitangi Tribunal's investigation into Māori prisoner voting rights found that the disqualification of a prisoner likely had ripple effects for an individual's whānau and the communities they belong to (Waitangi Tribunal, 2020). For imprisoned wāhine Māori, this effect may be amplified. Research into voting behaviour identifies that turnout is heavily influenced by family, and that voting or nonvoting often occurs across family groups (Glaser, 1959; Akee et al., 2018). Voting is also considered a habit-forming behaviour, and participation in voting, especially at a young age, is likely to predict future participation (Cutts, Fieldhouse, & John, 2009; Gerber, Green, & Shachar, 2003; Dinas, 2012). Studies into disenfranchised populations in the US find that disenfranchisement can feed further non-voting in a disenfranchised person's family and social networks (McLeod, White & Gavin, 2003). Given the effect of all of these factors on voting behaviour, and the centrality of wāhine Māori in the whānau, it is likely that the disenfranchisement of wāhine Māori will have various effects on voting beyond the incarcerated woman. As interview participant Tracey McIntosh alluded to, wāhine Māori play a central role in the transmission of both positive and negative elements. The removal of the vote is yet another marker of wider exclusion from mainstream society that wāhine Māori face in prison, a pattern which has the potential to be transferred to others within a woman's whānau and community. However, wāhine Māori have significant impacts on those around them, which presents a potential to use enfranchisement as a positive tool that can have positive and educational effects not only for an incarcerated woman, but for her whānau too.

The Production of Further Marginalisation Through Disenfranchisement

When assessing the impact of disenfranchisement for wāhine in prison, it is important to examine the social position that wāhine Māori who serve prison sentences occupy. wāhine Māori in prison often come from places of extreme disadvantage and marginalisation, and interview participants Tracey McIntosh and Khylee Quince both highlight that enrolling on the electoral

roll and voting are not likely to be features in the lives of wāhine Māori in prison due to disconnection and marginalisation. By removing voting rights from some of the most marginalised communities in the country, this serves to further disconnect them from the state and broader society, reproducing further marginalisation.

The Social Position of wāhine Māori with Experiences of Incarceration

While each incarcerated woman has lived unique experiences of imprisonment, there are a number of similarities between many incarcerated women. According to the International Centre for Prison Studies, imprisoned women “are a very disadvantaged group even amongst the disadvantaged”, and are likely to have experienced violence, abuse, substance abuse and mental and physical health issues (2008). In New Zealand, women in prison share similar characteristics to imprisoned women globally (Office of the Inspectorate, 2021). Women in New Zealand prisons generally have low levels of education, and the majority are serving sentences of less than two years (International Centre for Prison Studies, 2008). Often they have lower levels of literacy and numeracy, have high healthcare needs, and come into prison with experiences of abuse and trauma (Office of the Inspectorate, 2021).

McIntosh & Workman highlight that “the Māori prison population overwhelmingly comes from communities that live under conditions of scarcity and deprivation” (2017). Of young wāhine Māori in particular, McIntosh & Radojkovic state that:

These young women come out of communities (often small town and rural communities). They are members of whānau (extended family), they have iwi (tribal) connections and have intimate and complex ties that link them to places, histories and to people. Too many of them have also had lives marked by violence and suffering. They have had social harm done to them and many of them have more recently enacted social harm on others. Their experience and knowledge of incarceration usually significantly predates their own confinement. Again for far too many they are treading a well-worn path that many of their whānau, neighbours and peers have already taken. (2012)

Marginalisation and Voting

It is clear that many wāhine Māori in prison come from an extremely disadvantaged position. Previously, the removal of the voting right has been premised on a social contractarian argument; essentially, that offending is a violation of the social contract and that disenfranchisement is a consequence of this. However, if an imprisoned woman is already experiencing disadvantage or marginalisation, it may be questioned whether the removal of voting rights has any relevance as a consequence to a breach of the social contract. Additionally, for many that enter prison, enrolment on the Electoral Roll or engaging in the act of voting is not a priority, due to the levels of marginalisation they are facing in their lives. Interview participant Tracey McIntosh states that:

When you disenfranchise it usually is just an indicator, or even a symbolic marker, of far greater levels of disenfranchisement. The vast majority of women that I work with would not be on the electoral roll. And so that would be when they're on the outside. The loss of connection, the loss of the sense that this would make any difference in your life at all.

McIntosh suggests that actions of civic engagement such as voting are likely absent from the lives of wāhine Māori in prison due to broader disconnection. Additionally, McIntosh highlights that:

We're also talking about people who come under much higher levels of surveillance and securitization than other people. They don't want to be on anything. All of their interactions with the state have shown them that when the state knows about them, things go badly for them...I think it speaks to when you're under that level of scrutiny and surveillance by the state, the electoral roll, you'd rather be off every roll.

This presents an important consideration regarding attitudes to voting; many of the life experiences of those in prison may predispose them to mistrust of the state, therefore discouraging them from civic engagement. Indeed, Galicki (2018) similarly highlights that a key cost of voting identified by individuals from lower socio-economic groups, young voters, and migrants in New Zealand and Switzerland was concern regarding state holding of information

about themselves. These concerns were often shaped by negative experiences of the state (Galicki, 2018). Wāhine Māori have been severely impacted by state actions, some of the effects of which have included a drastic shift in social position, disruption to traditional Māori social organisation, over-policing and surveillance of their communities, the disproportionate uplift of tamariki Māori by the state, and abuse in state care (Mikaere, 1994; Te Whaiti & Roguski, 1998; Mayron, 2021; Ihi Research, 2021). These experiences may feed into a mistrust of the state, therefore causing enrolment and voting to be perceived negatively.

If wāhine Māori in prison are coming from a disadvantaged and marginalised position, many would argue that the addressing of the social conditions that these women come from is more important than ensuring enfranchisement. While voting is not a solution to the social exclusion that many prisoners face, Easton (2009) argues that the right to vote is especially important for prisoners in symbolic and rehabilitative senses. The act of voting reinforces that the voter has a political voice, promotes social inclusion and acts as an important symbolic marker of citizenship (Easton, 2009). Conversely, being barred from voting may have opposite effects. Exclusion from voting further marginalises prisoners from public consciousness (Easton, 2009). Geddis highlights how the removal of voting rights reflects an assumption that a prisoner is excluded from the social contract while in prison (Geddis, 2011). This assumption is at odds with the idea that a prisoner is supposed to re-join society upon their rehabilitation and release (Geddis, 2011). For wāhine Māori in prison, who we know already come from some of the most disadvantaged and marginalised sections of society, disenfranchisement may have significant symbolic meaning. The removal of the right to vote may denote further social exclusion of imprisoned wāhine Māori.

Between 2011 and 2017, when all prisoners were disenfranchised regardless of sentence, the implications for the social exclusion of wāhine Māori were particularly relevant. As all prisoners were disenfranchised, wāhine Māori already coming from disadvantaged and marginalised sectors of society were subject to further disconnection from society through disenfranchisement. However, prior to 2011 and after the 2017 change, the disqualification of prisoners serving sentences longer than three years further demonstrates consequences of social exclusion for wāhine Māori. As interview participant Khylee Quince states:

You're a serious offender if you're serving a sentence long enough to trigger the disenfranchisement, prisoner voting rights regime. So you're in a very small pool of offenders there, and then of course there will be a correlation between the type of offending that qualifies you to A) get that kind of sentence and then B) trigger the legislation, and the correlation is likely to be serious or dangerous offending that means you are in a more precarious social position than other wāhine Māori. As I said, the below three year sentence which is effectively a short sentence tends to be poverty related, drug and property related offending, so theft and drugs. Higher than that is violence, so women of any colour or demographic that commit violent offences are a particular kind of offender with a particular kind of social context, and that means much more likely to be in extremely dire circumstances. The logic here then, is that voting will not be part of your everyday life because civic engagement generally won't be part of your everyday life. And the effects are then that intergenerational cycle of disengagement and really being marginalised.

If marginalisation produces disenfranchisement from society more generally, then the current policy of political disenfranchisement for those serving prison sentences of more than three years serves to exclude the most socially excluded, marginalised groups in society. However, the enfranchisement of prisoners presents a rehabilitative opportunity in prison that can serve as a step towards reconnecting with society (Easton, 2009). Although the vote can in no way address the underlying causes of marginalisation, this is an area that warrants further investigation.

The Uneven Stressors on Wāhine Māori as a Barrier to Re-enrolment on the Electoral Roll

In New Zealand and internationally, women in prison tend to face unique stressors whilst serving their sentence that men are less likely to experience. Many of these are related to the maintenance of households and whānau, as such responsibilities often tend to fall on the shoulders of women regardless of socioeconomic status and whether or not they are serving a prison sentence. However, this effect is magnified for wāhine Māori in prison due to the large

numbers of women who are mothers in prison and overrepresentation of wāhine Māori in prison populations.

Children, Households and Women in Prisons Globally and in New Zealand

Women globally often play a central role in the management of children and households, stemming from the gender-based division of labour that has been present throughout history in most Western cultures (Mies, 2014). In the United Kingdom, roughly one third of women in prison lose their homes, which can be partially attributed to the fact that women often bear sole responsibility for the management of their households prior to entering prison (Chamberlen, 2018). Because there are proportionally fewer female prisoners than male prisoners, women's prisons are often geographically dispersed, and as a result women are often imprisoned away from their primary homes in the UK (Chamberlen, 2018). A study of the children of prisoners in New Zealand found that similarly, over half of children of prisoners involved in the study live over an hour's drive away from the prison where their parent is residing, and face challenges in visiting their parent in prison (Gordon, 2009). Additionally, only half of prisoners who are mothers report receiving visits from their children (Chamberlen, 2018). This may be due to both the distance between the sites of prisons and family homes, as well as the loss of control over household management that some women may experience in prison (Chamberlen, 2018). The loss of household and family connection that women in prison experience is especially concerning given that higher levels of family support post-release has resulted in lower likelihood of recidivism, and conversely the absence of family support makes an individual significantly more likely to reoffend in the year following their release (Mills & Codd, 2008; Ditchfield, 1994).

Many women in prison are mothers to children. Estimates on the actual numbers of prisoners who are parents varies; one study on the children of prisoners in New Zealand estimated that 87% of women and 65% of men in prison have children (Gordon, 2009). More recently, the Department of Corrections has estimated that approximately 29% of women in New Zealand prisons have a direct parenting role prior to entering prison (in this case, a 'direct parenting role is defined as "a child under 18 living with a parent prior to imprisonment"), however Corrections states that "this is likely to underestimate the number of children women

are concerned with” (Office of the Inspectorate, 2021). A long-term overrepresentation of wāhine Māori in prison exists, with wāhine Māori recently making up 61% of the women’s prison population despite Māori only constituting approximately 17.1% of the general population (Office of the Inspectorate, 2021; Statistics New Zealand, 2021). Given the sheer numbers of wāhine Māori in the women’s prison population, and the fact that a vast majority of these are likely to be mothers to children, this issue is of particular relevance for wāhine Māori. Additionally, 43.3% of sole parents in New Zealand are Māori, and women make up a vast majority (86%) of sole parents overall, indicating that wāhine Māori are disproportionately represented as sole parents (Social Policy Evaluation and Research Unit, Ministry of Social Development, 2018). In these conditions, responsibility for the management of households, whānau, and children falls solely on women, and this is seen clearly through the experiences of women in prison.

Women in New Zealand prisons bear similarities with the profile of women in prison globally (The Office of the Inspectorate, 2021). The Office of the Inspectorate reports that “connections with family and whānau heavily influenced women’s lives in prison” (2021). The Department of Corrections notes that many women continue to manage households while serving their sentence in prison (The Office of the Inspectorate, 2021). Additionally, organising child care upon entry into prison has been identified as a significant cause of stress for imprisoned women (Office of the Inspectorate, 2021). Interview participant Khylee Quince emphasised the difference between men and women’s experiences of prison, and the management of their outside households, stating that:

One of the major distinctions between the way men serve their prison sentences and women serve their prison sentences, is that men serve their prison sentences and the women on the outside maintain their lives for them. So they maintain their address, they maintain their children, they maintain all of the aspects of life, and the men just do whatever the hell they like in prison. Life goes on for their family because it's held together by either their partner, their mother or their sisters. For women, they lose everything. They lose the children, the man pisses off, so they lose their tenancy, they lose their address, the children go off to Oranga Tamariki [New Zealand Ministry for Children] or a whānau placement. Men hardly

ever maintain the whānau life that they had, so the women attempt to, but their relationship with Crown agencies and with their family members is completely different during a prison sentence. So the impact of imprisonment is so much more, well it's more impactful and serious for women than it is for men, no matter what colour they are, because they lose everything. So their priorities, it's going to be easier for a man, he'll go back and he'll have everything still lined up for him, he will have visits during his term of imprisonment, women do not. So he could have space in that for thinking about things like registering to vote, whereas women, literally the first thing they do is they have to and sort out MSD and Oranga Tamariki.

Quince highlights a key distinction between the stresses placed on men and women in prison; generally, male prisoners may have fewer responsibilities related to the management of whānau, children and households when compared to female prisoners. A study of women in New Zealand who have served sentences in prison and re-offended found that upon release, women also face unique pressures that can affect their likelihood of reoffending (Bevan & Wehipeihana, 2015). These include economic pressure, a lack of “pro-social support networks and services” in the communities that women returned to post-release, and relationship pressures that may lead to offending (e.g. offending with, or to provide for, partners and whānau) (Bevan & Wehipeihana, 2015). Notably, identity played a key role in re-offending post-release from prison; as women, gender identity is heavily tied to relationships with others as partners and mothers, and often a “tendency to ‘people please’” can be observed, in which the needs of others are prioritised regardless of the detrimental personal effects it may have (Bevan & Wehipeihana, 2015).

Effects of Whānau and Household Responsibilities on Re-enrolment on the Electoral Roll

In its investigation into Māori prisoners voting, the Waitangi Tribunal found that the “overwhelming nature of release” served as a significant barrier to re-enrolment on the electoral roll (Waitangi Tribunal, 2020). Organising employment, accommodation and financial support is likely to be prioritised above re-enrolment immediately post-release (Waitangi Tribunal, 2020). Another potential barrier identified includes the lack of a long-term address post-release, as an

address needs to be provided in order to re-enrol (Waitangi Tribunal, 2020). Given that men and women generally have vastly different experiences of imprisonment and release, it is likely that a policy of disenfranchisement will have differing consequences for men and women. Research has established women face unique pressures post-release due to the relationships they have with partners, children and whānau, and interview participant Khylee Quince highlights how the continued maintenance of households places additional pressure on women in prison. Aside from the gendered pressures that women face post-release, there are also specific obligations that all prisoners must fulfil upon release, such as securing accommodation and employment, organising finances and reconnecting with whānau (Waitangi Tribunal, 2020). It is likely that the task of re-enrolling on the electoral roll will be less of a priority when compared to more pressing post-release matters for women surrounding whānau and children, as well as general pressures that prisoners face following release. This effect is likely to be much more pronounced for women and wāhine Māori, who constitute the majority of New Zealand's women's prisons, due to the disproportionate nature of child rearing and household responsibilities across male and female prisoners.

Conclusion

Wāhine Māori in prison live a very different experience than Māori men in prison and non-wāhine Māori in prison. Given this, it is highly likely that policies directed at prisoners, such as prisoner disenfranchisement, have very differing effects for wāhine Māori. This chapter has explored three of these potential effects. Due to the centrality of wāhine Māori to whānau and the intergenerational transfer of knowledge, and the influence of family relationships on voting behaviour, restrictions on the voting of wāhine Māori in prison may practically disenfranchise a woman's whānau and communities. As wāhine Māori in prison tend to have experiences of disadvantage and marginalisation, further disconnection from society through exclusion from voting may reproduce further disconnection and marginalisation of wāhine Māori. Increased barriers to re-enrolment on the electoral roll due to the additional pressures wāhine Māori face related to the maintenance of whānau and households may also disproportionately bar wāhine Māori from re enrolling to vote.

Aside from a limited amount of research and advocacy, potential distinct effects of disenfranchisement for wāhine Māori are under-researched. Research on prisoner disenfranchisement generally fails to adequately articulate how those at the intersection of race and gender (such as wāhine Māori) and the communities those prisoners belong to experience unique challenges as a result of restrictions to voting. While this chapter has explored three likely effects, in order to develop a full understanding of the range of effects of prisoner disenfranchisement for wāhine Māori, further research is needed to fill the research gap and substantiate these arguments.

Chapter Six: Disenfranchisement as a Reflection of the Relationship between Wāhine Māori and the State

Introduction

Policies of prisoner disenfranchisement in 21st century New Zealand reflect the nature of the relationship between wāhine Māori and the state. This chapter first traces how the state marginalises wāhine Māori. A process of ‘othering’ has occurred, that has driven the subordinated group (in this case, wāhine Māori) to the margins of the dominant centre (Hall, 1999; Hall, Stevens & Meleis, 1994). This has occurred through disruption to Māori social organisation and destruction of the whānau unit, which has triggered a drastic shift in the social position of wāhine Māori (Mikaere, 1994). The imposition of Pākehā norms and values related to gender have attempted to confine wāhine Māori to a position with little voice in the institutions of power that seek to address social problems that disproportionately affect wāhine Māori (Mikaere, 1994).

This chapter goes on to identify two key ways in which the state’s prisoner voting rights policies in the 21st century reflect this framing, through thematic analysis of parliamentary readings of the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill and the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill, and analysis of the content of interviews with key informants. Firstly, offending and imprisonment are constructed as overwhelmingly male experiences (Adelberg & Currie, 1987). Approaches that are not intersectional (that is, do not examine the experiences of those at the intersections of race and gender) fail to account for the experiences of wāhine Māori (Quince, 2010). Policy that addresses prisoners generally, including policies of prisoner disenfranchisement, have failed to respond to the needs of wāhine Māori.

Finally, this chapter argues that in the construction of prisoner voting rights policies, parliamentarians have individualised voting. Voting rights are framed as an individual concept, reflecting Pākehā rights discourses. This disregards the widespread effects of disenfranchisement for the whānau and community of those in prison, and the importance of wāhine Māori as the

bearers and teachers of knowledge in these communities. Overall, state discourses and actions around prisoner voting rights in the 21st century reflect the ongoing themes of the dominance of Pākehā values and the individualisation of justice. Wāhine Māori are once again rendered invisible in state policy.

State Framing of Wāhine Māori from Colonisation-present

In order to discuss how policies surrounding prisoner voting rights reflect the relationship between wāhine Māori and the state, this relationship must first be understood. Processes of colonisation imposed Pākehā values on Māori, and in turn marginalised wāhine Māori. A general trend that has been observed over time involves a purposeful ignorance on the part of the state in regard to the important roles that wāhine Māori occupy, the effects of colonisation on these roles, and how this has affected the lived experience and position of wāhine Māori. As a result, wāhine Māori are practically invisible in much state policy, and their specific needs related to gender, culture, and a combination of these factors are left unaddressed.

State actions from colonisation to present have resulted in the marginalisation of wāhine Māori. Though various definitions of marginalisation exist, it can broadly be understood as a process in which the privileging of a dominant group in society occurs, and other groups of people are socially excluded and pushed to the margins (Hall, 1999; Hall, Stevens & Meleis, 1994). The marginalised group is subject to a process of ‘othering’, in which the group is constructed as the a socially subordinate ‘other’ to the dominant group, non-conforming to the norms of this group (Foucault, 1964). In the case of wāhine Māori, the position of wāhine Māori pre-colonisation differed drastically from British assumptions of the role of women; wāhine Māori assumed significant positions of power, holding complementary roles to those that men held (Mikaere, 1994). The introduction of English laws and social norms undermined the position that wāhine Māori occupied, and dispossession from land and processes of urbanisation were destructive to the whānau unit, shifting power into the hands of men as the breadwinners of family groupings (Mikaere, 1994). wāhine Māori in New Zealand society now exist on the margins, outside of the dominant centre; occupying a social position behind that of Māori men and Pākehā women. Marginalisation has allowed dominant voices, such as that of the state, to define the position of wāhine Māori. While processes of colonisation around the world have

impacted on Indigenous woman in various different ways, the United Nations identifies that the norms of colonising and dominant groups have eroded the traditional relationships between men and women in Indigenous cultures, resulting in a social and economic marginalisation of Indigenous women around the world (United Nations Office of the Special Adviser on Gender Issues and Advancement of Women & the Secretariat of the United Nations Permanent Forum on Indigenous Issues, 2010).

In response to state definitions of wāhine Māori, Mana Wahine approaches make explicitly visible the experiences of wāhine Māori, seek to redefine the position of wāhine Māori on their own terms, and challenge state assumptions about the position of wāhine Māori (Simmonds, 2011; Pihama, 2001). The Mana Wahine kaupapa claim, a claim before the Waitangi Tribunal alleging breaches of the Treaty of Waitangi, is currently being heard and investigated. Claimants allege that breaches of the Treaty on the part of the Crown have resulted in significant injustices and inequalities for wāhine Māori (Simmonds, 2011; McCaw Lewis, 2021). According to Mikaere, the lack of opportunities for equal participation of wāhine Māori constitutes a breach of equal partnership between Māori and the Crown as the Treaty envisioned (Mikaere, 2003).

The state's undermining of the importance of wāhine Māori can be observed as far back as the 19th century and the signing of the Treaty of Waitangi. Crown representatives demonstrated a clear unwillingness to trade or negotiate with wāhine Māori, stemming from British assumptions about the role of women which were projected onto Māori society (Mikaere, 1994). Wāhine Māori were barred from much of the negotiation with the Crown regarding the Treaty of Waitangi (Mikaere, 1994). As a result, only thirteen women are currently known to have signed te Tiriti (Mikaere, 1994). It is well established that many wāhine Māori wanted to sign te Tiriti, with many protesting their exclusion (Mikaere, 1994). This incident is only one example of many, demonstrating a clear imposition of British social norms and values on wāhine Māori, and is part of a long history of state refusal to hear and listen to the voices of wāhine Māori.

In contemporary times, we can observe clear repetition of this pattern. Waitere & Johnston (2009) note that although wāhine Māori are overrepresented in a number of social

issues, they still lack a voice in the forums designed to resolve these issues. Similarly, Mikaere (1994) highlights the lack of wāhine Māori represented on consultative and advisory organisations created to provide Māori advice to the Crown. As of 2019, wāhine Māori constituted only 11.4% of members on state sector boards and committees (Ministry for Women & the Office of Ethnic Communities, 2019). The Ministry for Women & the Office of Ethnic Communities (2019) identify a severe lack of representation of wāhine Māori at the decision-making level within these groups. Such underrepresentation in leadership and governance has become a central focus of the Mana Wahine Kaupapa Inquiry before the Waitangi Tribunal, with some claimants arguing that the Crown has breached the Treaty in its partnerships with Māori due to the lack of opportunities for wāhine Māori to exercise their voice and power (Ministry for Women & the Office of Ethnic Communities, 2019; Waitere & Johnston, 2009). Again, this underrepresentation is not due to wāhine Māori lacking willingness to address these issues; by all means, wāhine Māori have continually made their voice heard throughout history, and been at the forefront of Māori protest movements and activism related to social issues and Treaty grievances (Waitere & Johnston, 2009; Mikaere, 1994). Rather, this lack of voice stems from a purposeful exclusion of wāhine Māori, that can be traced back to colonisation and the imposition of colonial social norms and values regarding gender.

In instances when wāhine Māori are the focus of the state, often they are framed as a group experiencing a deficit. Walter & Andersen highlight how statistics that demonstrate the over-representation on Indigenous groups in social indices are often used to frame such groups in this way, and “position the Indigenous population as in need of being ‘brought up’ to the non-Indigenous standard” (2003, p. 22). Subsequently, policies designed to address this overrepresentation attempt to enforce the norms of the dominant group in society upon Indigenous groups (Walter & Andersen, 2003). Similarly, Waitere & Johnston argue that:

Discourse about ‘others’ have been the vehicle through which a myriad of dominant groups have vested in themselves the power and authority to definitively define what Māori look like, how Māori behave, what Māori believe and how Māori need to change. This has in turn been translated into support for political agendas that have a greater interest in the

subordination of indigenous cultures and the pacification of colonised groups rather than in enabling partnerships (2009, p. 25).

Such approaches continue to marginalise wāhine Māori, and fail to recognise or respond to the way in which the colonial experience has impacted wāhine Māori through dispossession from land and their economic base, disruption of the whānau unit and erosion of the complementary roles of Māori men and women. Ultimately, wāhine Māori have been framed by the state as silent ‘others’, invisible and unaddressed in policy and holding a subordinate position to those who are Pākehā and/or male.

The Construction of Policy around Tāne Māori Norms

In the justice area specifically, state responses to offending and incarceration are constructed around male and Māori norms. Māori men’s masculinities have often been portrayed as aggressive and violent, leading to a widespread representation of tāne Māori as violent criminals. Additionally, men make up an overwhelming number of criminalised people internationally and in New Zealand (Adelberg & Currie, 1987; Quince, 2010). As a result, women are often considered ‘too few to count’ within justice policy and overlooked (Adelberg & Currie, 1987). Combined with the ongoing marginalisation and invisibility of wāhine Māori in state policy, this has led to an ongoing invisibility of wāhine Māori in both justice policy and policies that affect prisoner voting rights.

According to Hokowhitu (2007), Māori masculinity has been portrayed as hyper-masculine, in the manifestation of violence and aggression. Additionally, Māori masculinity has been framed as lacking in intelligence and emotional maturity (Hokowhitu, 2007). Māori men are often portrayed in a limited number of categories, including as violent criminals (Hokowhitu, 2007). These portrayals of masculinity posit tāne Māori as the ‘Other’, and centre Pākehā as the norm (Hokowhitu, 2007). Tāne Māori in New Zealand Indigenous men around the world bear some similarities to wāhine Māori, in the fact that they are often overlooked by mainstream discourses and subject to marginalisation (Innes & Anderson, 2015). When attention is cast upon Indigenous men, this often focuses on criminal behaviour and violence (Innes & Anderson, 2015).

Interview participant Khylee Quince highlights the concept of women offenders being “too few to count”, and the fact that wāhine Māori are an even smaller “subset of that subset”. Justice policy around the world is often necessarily focused on addressing male offenders, as they make up a significant proportion of offenders (Adelberg & Currie, 1987). Internationally, and in New Zealand, male offenders are also convicted of more violent offences, whereas women are more likely to be convicted of lower level offences related to drug use and property (Chamberlen, 2018; International Centre for Prison Studies, 2008). As a result, the needs of women are often left addressed, as systems of incarceration are designed around male norms (Adelberg & Currie, 1987). Prisons in the US and UK lack the range of programs that men’s prisons do, and are often constructed based on a masculine perception of those in prison (Rafter, 1985; Chamberlen, 2018). The focus on the male offender means that justice systems subsequently fail to accommodate the needs of all women; this theme is clearly observed in New Zealand.

In its Women’s Strategy 2017-2021, the Department of Corrections accepted that women in prison have unique experiences leading to offending and imprisonment that largely differ from the experience of men (Office of the Inspectorate, 2021). However, the Office of the Inspectorate (2021) finds that the specific needs of women in New Zealand prisons have not been adequately met. A multitude of areas such as the resourcing of healthcare, the amount of space for different activities in women’s prisons and the processes of transferring and induction to prison were identified as not being adequately responsive to the needs of women (Office of the Inspectorate, 2021). The Office of the Inspectorate reports that both women in prison and Corrections staff identified that “more work was needed to provide comprehensive kaupapa Māori pathways and care for wāhine Māori” (2021, p.4). While the Department of Corrections’ is now developing more culturally-specific support for wāhine Māori in prison, in the past two decades such support has been lacking for wāhine Māori as the provision of culturally-specific services, such as Māori Focus Units, has often been available only in men’s prisons (Ara Poutama Aotearoa: Department of Corrections, 2021; Department of Corrections, n.d.).

Unique to the New Zealand context is the fact that state responses to incarceration are generally constructed around male Māori norms. Across gender, Māori make up 53.2% of the prison population (Ara Poutama Aotearoa: Department of Corrections, 2021). While wāhine Māori constitute 61% of the women's prison population, women only make up 5.8% of New Zealand's total prison population (Office of the Inspectorate, 2021; Ara Poutama Aotearoa: Department of Corrections, 2021). Interview participant Khylee Quince summarises the focus on Māori as a large proportion of the prison population in New Zealand with regard to the recently adopted Hōkai Rangi Corrections strategy, stating:

We are a big visible minority, and so our justice policy is generally Māori focused. So I was on, and I am on, the Corrections advisory group that framed Hōkai Rangi, their new policy, which was quite groundbreaking in the fact that what, and as you know most public, most government and Crown entities and ministries for the past thirty years have had a Māori strategy alongside their general strategy, and so Hōkai Rangi was quite unique in the fact that the Māori strategy became the general strategy. Which is quite horrific in some senses because that's all about responding to need, that's not about being a good Treaty partner, that's just about...all of our inmates are Māori so the Māori strategy will be the general strategy. However, there is very little gender distinction in that strategy. 'Māori' means male Māori, just by virtue of the numbers.

As Quince highlights, recent correctional policy has been constructed with male Māori offenders in mind. The specific needs of women, and particularly wāhine Māori, are often unaddressed in justice and correctional policy. These policies mirror the broader pattern of the invisibility of wāhine Māori in state policy.

Analysis of parliamentary readings of the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill and the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill demonstrates evidence of offenders who go to prison being represented as overwhelmingly both male and Māori. The occurrence of gendered language when discussing those that would be enfranchised or disenfranchised was high; in all instances male pronouns and

descriptors were used. In one example, former National MP Agnes Loheni states in the first reading of the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill:

This Government's proposal is that we change the name of criminals to men in our care, or clients, because to label them as criminals is to stigmatise them...they are now asking the public to accept giving these men in our care the right to vote whilst they are in care facilities, which we in National, and New Zealanders, call prisons (New Zealand Parliament, 2020).

Such discussion of prisoners, which was common in readings of both the 2010 and 2020 bills, characterises those affected by prisoner voting rights as male, and reflects the male norm seen in policies addressing those in prison. The construction of policy around a male Māori norm of prisoners is also reflected further by the use of anecdotal tales of criminal offending by MPs from both the National and Labour parties in readings of the 2020 bill. Narratives of criminal offending almost always involved a male Māori perpetrator. While the stories told reflect the lived experience of individuals who have been to prison, and these experiences should not be invalidated, there was an absence of any mention of the experiences of wāhine Māori, or the experiences of women in prison at all, reflecting the male-focused nature of state discourses regarding justice and imprisonment. Of prisoner voting rights policies, Interview participant Khylee Quince states that:

The voting right framework, is it a reflection of general Crown responses, and characterization of wāhine Māori generally...this is a study in intersectionality, that wāhine Māori are characterised, as all minority women are, as not men and not white women. That's the problem. That's the problem. So their lives in general society are characterised by that, that they are neither men nor Pākehā. And all Crown policy tends to be constructed around male-ness or Pākehā-ness, which means that we are never accounted for. Whether you're talking about welfare policy, education, health housing, you name it, there will be a general policy, and then there will be an add-on for Māori, but there's hardly ever an add-on for women and there hardly ever an add-on for wāhine Māori. And yet, neither of those big categories account for the position and life experiences of wāhine Māori.

Quince highlights how prisoner voting rights policies reflect a reinforcing of the ongoing invisibility of wāhine Māori in state responses to offending and incarceration generally. wāhine Māori are represented as invisible in state discourses, pushed to the margins and into a subordinate social position. The absence of discussion of wāhine Māori as a group affected by changes to prisoner voting rights, as well as the focus on offenders as Māori and male, once again mirrors the state's framing of wāhine Māori.

Individualism and the Roles and Experiences of Wāhine Māori

As established in Chapter Four, one key effect of the disenfranchisement of wāhine Māori in prison may be broader disenfranchisement in a practical sense of children, whānau and the communities to which imprisoned women belong. The way in which voting rights are framed as an individual concern, and disenfranchisement as a result of the violation of the social contract, further disregards the roles wāhine Māori have played throughout history. The individualisation of the importance of voting rights fails to recognise the ripple effects that the disenfranchisement of any prisoner, but particularly wāhine Māori in prison, has for the whānau and communities of the imprisoned person.

Interview participant Tracey McIntosh highlights how in many instances the state now recognises the impact of colonisation on wāhine Māori, however responses to this have not adequately addressed impacts and have been framed in individualism. McIntosh states that:

One of the real issues, and I think we see that with all state policy, is that you constantly individualise the issues...I think people recognise the impact, they might not recognise the disproportionate impact. But that largely, is constantly then moved into, how do you support this woman, that woman, rather than thinking about the types of strategies and policies that you need to have in place that will collectively work to restore the mana of women within the broader society.

Essentially, policies that attempt to address issues with an individual focus have failed to address the collective experiences of wāhine Māori. Analysis of readings of the 2010 and 2020

bills shows an overwhelming focus on imprisonment and disenfranchisement as an individual issue, related to individual rights. In the second reading of the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill, former National MP Jo Goodhew concisely summarises the position of many MPs in government on the issue of prisoner voting rights, stating that:

This bill makes it clear that our democratic rights as citizens include obligations to obey the law. People who break the law and are sentenced to prison have not met those obligations, and while they are in prison they should lose their right to vote (New Zealand Parliament, 2010).

Such rhetoric links back to the concept of civil death, in which perceived breaches of the social contract through offending are treated as punishable by removal of the voting right (Pereira, 2008). These arguments individualise actions and experiences such as offending, incarceration and voting. This framing is problematic for a number of reasons. Firstly, it is reminiscent of explanations of criminal behaviour as related to individual pathology. A clear pattern of the individualisation of Māori offending has been observed in the 21st century, and particularly between 2000-2010. Reports by the Department of the Prime Minister and Cabinet and the Department of Corrections during this time suggested that high rates of Māori offending can be explained by the high prevalence of social and environmental “risk factors” in the lives of offenders (Doone, 2000; Department of Corrections, 2007). Such approaches fail to recognise that the overrepresentation of Māori in the social indicators framed as risk factors is heavily related to how the colonisation experience disrupted the pre-colonial Māori way of life, had destructive effects for the whānau unit, and dispossessed Māori from their whenua and economic base (Mihaere, 2015; Stanley & Mihaere, 2018; Mikaere, 1994). In readings of the 2020 bill that would re-enfranchise those sentenced to less than three years in prison, a key argument of those opposing the bill was the need for social investment into the lives of those at risk of offending rather than enfranchisement of those in prison, reflecting an approach that once again individualises the causes of offending. National MP Mark Mitchell discussed the example of a 17 year old male Māori offender, stating that:

It's much better for us, as a Government and a Parliament, to make the investment in his life—maybe when he was a baby, with helping his mother with some training, with budgeting skills, helping his father to try and get out of the gangs and break that cycle...The best thing, Kelvin, that you can do, or that Māoridom can do, is look at ways that you can get into that young guy's life—the young guy back in Gisborne, on the East Coast. How to get into his life with social investment. Invest early to get him off that track, to keep him out of the criminal justice system. That's the best thing that you can do.

Similarly, National MP Dan Bidios stated in his opposition to the 2020 bill:

Another aspect of the debate that's raised is around how we can help Māori. Well, how we can help Māori that are in our prison system is to teach them not to offend in the first place...We've got to keep these Māori in education, training, or employment to give them a sense of a better life, a life without crime, a life without breaking law, and that is the way we will keep these people out of our prison systems (New Zealand Parliament, 2020).

Such approaches not only frame the causes and consequences of offending for the offender as an individual concern, but also in turn disregard the importance of wāhine Māori as whare tangata and whare mātauranga. The effects of incarceration and disenfranchisement are not limited to the individual; US-based research demonstrates how prisoner disenfranchisement has ripple effects in the communities of those disenfranchised, leading to further practical disenfranchisement within those communities (McLeod, White & Gavin, 2003). Chapter Four argued that given the centrality of wāhine Māori to whānau and communities, the effects of disenfranchisement likely have widespread effects beyond the woman in prison. Parliamentary readings of the 2010 and 2020 bills show practically no consideration of the effects of the removal of prisoner voting rights for the whānau and communities of those in prison, and a complete absence of any consideration of the important role that wāhine Māori play in these whānau and communities. One of the only mentions of the potential effects of prisoner voting rights changes for groups other than those incarcerated came from Green Party co-leader Marama Davidson, stating in regard to the 2020 bill that:

When we distance and further diminish and further dehumanise people in prisons, we are not just distancing them; we are distancing their whānau who are living in our communities today. We are sending a strong message, not just to that person in prison but to that whole whānau, that their life too is worthy of being dehumanised, is worthy of not having access to engage in democracy (New Zealand Parliament, 2020).

Beyond Davison, no consideration of the effects of disenfranchisement for whānau and communities occurred in parliamentary readings of the 2010 and 2020 bills. Research suggests that disenfranchisement of prisoners has implications for the communities that a prisoner belongs to, reproducing disenfranchisement (McLeod, White & Gavin, 2003). Beyond Davidson's comments, no mention of these implications occurred, and no consideration of the significant role that wāhine Māori play as bearers of knowledge occurred. This reflects a general tendency to disregard the important roles that wāhine Māori take on in their whānau and communities by the state.

Conclusion

Two key themes have been identified in this chapter that demonstrate how state actions and discourses regarding prisoner disenfranchisement reflect the relationship between wāhine Māori and the state. The first is that policies of prisoner disenfranchisement have failed to examine prisoners as anything other than fitting a male norm, and recently a tāne Māori norm, and therefore have not taken into account the experiences of wāhine Māori. This is reflective of the state's histories of treating wāhine Māori as both subordinate to men and subordinate to Pākehā (Mikaere, 1994). Additionally, voting and the loss of voting rights has been framed as an individual concern, rather than an action that has the potential to reproduce disenfranchisement for the whānau and communities to which a prisoner belongs. In this way, Pākehā values are privileged and Māori are once again framed as experiencing individual deficit. This framing also ignores and undermines the important roles that wāhine Māori play in their communities. The absence of mentions of wāhine Māori and the impact of disenfranchisement on wāhine Māori prisoners speaks to a larger absence and invisibility of wāhine Māori in legislation and policy that has occurred since the advent of colonisation.

Chapter Seven: Looking Forward: Considerations for Future Policy

Introduction

Following the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill, prisoners serving sentences of less than three years in prison no longer face removal from the electoral roll, and instead retain their voting rights. Ara Poutama Aotearoa (the Department of Corrections) staff serve as the primary civics educators for prisoners. Ara Poutama Aotearoa guidelines dictate that prisoners are provided with information regarding their eligibility to vote and how to register to vote, and are assisted with this process if necessary (Ara Poutama Aotearoa, n.d.). Upon release, prisoners who were previously disqualified from voting (those serving sentences in excess of three years) are provided with a voting pack, which is to be explained to them by a Corrections staff member (Waitangi Tribunal, 2020). While the restoration of voting rights for some prisoners in 2017 lessens the restrictions on voting from prisons, legal and practical barriers to voting for all prisoners still remain.

This chapter identifies three key areas of consideration that need to be taken into account if future changes to prisoner voting rights and its associated procedures are pursued. Firstly, any policy that addresses an issue that has unique effects for wāhine Māori needs to consider and respond to the specific needs of wāhine Māori. Historically, prisons have been constructed around a male norm, however recent developments have seen a recognition that wāhine Māori have distinct needs different to those of Māori men and Pākehā women. Secondly, future policy development should take a by-Māori, for-Māori approach. Kaupapa Māori solutions in areas such as health and education have demonstrated that Māori are experts of their own condition, and Māori should be empowered to address issues that disproportionately affect Māori. Lastly, the practical costs of voting and mistrust of the state that prisoners may experience need to be considered. It is essential that future changes to prisoner voting rights policies keep these considerations in mind.

Addressing the Unique Needs of Wāhine Māori

One of the key considerations that must be taken into account when revising future policy are the specific needs of wāhine Māori. As explored in the earlier sections of this thesis, wāhine Māori have continually been overlooked by the state; underrepresented in institutions of power and barred from access to negotiation with the state (Mikaere, 1994). As a result, wāhine Māori are essentially invisible in legislation (Mikaere, 1994). Women more broadly are often characterised as ‘too few to count’, and women of colour are an even smaller group within this (Adelberg & Currie, 1987). Prisons are constructed around a male norm due to the vast overrepresentation of men in the numbers of prisoners globally, and in New Zealand (Adelberg & Currie, 1987, McIntosh & Radojkovic, 2012). Criminal justice data in New Zealand is generally analysed along the lines of gender or race, and rarely are the intersections of these two categories examined (Quince, 2010). This means that very little attention is paid to wāhine Māori, whose lives are influenced by both of these characteristics (Quince, 2010). Quince argues that an intersectional analysis of justice is essential, as “we cannot hope to address the causes of social harm if we do not contextualise the experiences of the specific peoples involved in offending” (2010, p. 128).

In recent times, a shift towards the recognition of the fact that wāhine Māori need unique support has been observed. The Ara Poutama Aotearoa Women’s Strategy 2017-2021, ‘Wāhine - E rere ana ki te pae hou’, represented a shift towards acknowledging that wāhine Māori have distinct needs and experiences that differ to Pākehā women in prison (Ara Poutama Aotearoa, 2017). However, the Office of the Inspectorate found that support for women set out in the strategy was not fully realised, and that more needed to be done in order to provide support for wāhine Māori (2021). The 2021-2025 Women’s strategy again acknowledged the needs of wāhine Māori, recognising their role as te whare tangata and their importance to whānau, and that historical trauma from colonisation was a significant influence on Māori women’s offending (Ara Poutama Aotearoa: Department of Corrections, 2021). Kaupapa Māori pathways and support for wāhine Māori in prison are set to be built upon, however it remains to be seen as to how this will eventuate (Ara Poutama Aotearoa: Department of Corrections, 2021).

In the formulation of future legislation and policy that affects wāhine Māori in prison, including changes to prisoner voting rights and civics education in prisons, it is essential to ensure that the effects of policy for wāhine Māori are considered. As Quince highlights, an intersectional approach is needed in order to understand the needs of wāhine Māori in prison (2010). Without this understanding and recognition, it is not possible to formulate policy that effectively supports wāhine Māori. In regard to prisoner voting rights specifically, this is needed when both making changes to the nature of voting rights and when providing opportunities for women in prison to vote or enrol to vote.

One potential way to ensure that the needs of wāhine Māori are considered in formulation of future policy is the effective representation of wāhine Māori in institutions of power. A large number of claims within the The Mana Wahine Kaupapa Inquiry before the Waitangi Tribunal concern the restriction of wāhine Māori from leadership and governance roles (Ministry for Women & the Office of Ethnic Communities, 2019). The barriers that wāhine Māori have faced to access to the institutions of power likely constitute a breach of the Crown's responsibility to ensure partnership under the Treaty (Ministry for Women & the Office of Ethnic Communities, 2019). As the Crown guaranteed partnership with all Māori, it is essential for wāhine Māori to have power over decision making processes (Simmonds, 2011). Annette Sykes makes the point that "because wāhine Māori constitute over 50% of Tangata Whenua [people of the land] there must be equal representation in all areas of decision making in the future" (Sykes, as cited in Simmonds, 2011). Promising examples of such partnership can be observed as of late; the reference group that informed the Ara Poutama Aotearoa Women's Strategy 2017-2021 was predominantly comprised of wāhine Māori, including representatives from He Korowai Trust, Te Rūnanga o Ngāti Whātua, Te Pūtahitanga o Te Waipounamu and the Māori Women's Welfare League (Ara Poutama Aotearoa: Department of Corrections, 2021). More action is needed to ensure that systemic change across the decision-making institutions occurs and barriers that prevent the voices of wāhine Māori being heard are broken down. Importantly, the inclusion of wāhine Māori must lead to effective change and cannot occur at a tokenistic level.

Partnership, Tino Rangatiratanga and Resourcing of Māori Solutions

Correctional policy has historically reinforced Pākehā dominance and excluded te ao Māori and Māori knowledge. Rehabilitative policies in prison have generally been centred around Western models of rehabilitation (Tauri, 2005). The use of tikanga Māori has often been co-opted into these models, ultimately rendering it an ‘add-on’ to a Pākehā concept (Tauri, 2005; Mihaere, 2015). More recently, a shift towards policy constructed around a Māori norm has been observed. In 2019, Ara Poutama Aotearoa (Corrections) introduced its new Hokai Rangi strategy, which seeks to address the overrepresentation of Māori in Corrections care and set out to implement a number of new initiatives that aim at providing culturally-specific support for Māori (Ara Poutama Aotearoa, 2019). Interview participant Khylee Quince notes that Hokai Rangi “was quite unique in the fact that the Māori strategy became the general strategy”, due to the increasingly large numbers of Māori represented in the justice system. In the making of Hokai Rangi, Ara Poutama Aotearoa recognised that it had a duty under the Treaty to take on a role of active protection of Māori interests, and partner with Māori in the design and implementation of the strategy (Ara Poutama Aotearoa, 2019)

Beyond partnerships between the state and Māori, kaupapa Māori services have increasingly been developed to meet the needs of Māori where the state is failing to (Smith, 2012). Kaupapa Māori services can loosely be understood as those that take Māori knowledge and perspectives for granted, are framed in te ao Māori and designed by Māori, for Māori (Smith, 2012; ACC, 2020). In other policy areas, such as health and education, kaupapa Māori solutions have more effectively met the needs of Māori than state policies that seek to target perceived Māori deficit in these areas (Whitinui, 2011; Smith, 2012).

The shift towards state partnership with Māori to design solutions to problems that disproportionately affect Māori should be extended into the realm of prisoner voting rights. Interview participant Khylee Quince highlights how the state has a duty to actively protect Māori interests under the Treaty in regard to prisoner voting rights, stating that:

Pākehā rights discourse and practice tends to be very laissez faire, in that okay, there’s your right, the law enables something or prohibits something but it doesn’t do anything. Whereas,

of course, a Treaty analysis requires active protection of Māori rights. That means that the Crown has to actively step in, the Electoral Commission has to have a strategy and pūtea [money, funding], they have to have money and a program to physically enable education, and you can't just leave it and say 'there you go, now re-register'.

It is widely established and agreed upon that the state has a duty of active protection regarding the interests of Māori (Te Puni Kōkiri, n.d., Hayward, 2015). The Waitangi Tribunal found that the effect of the the 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill constituted a breach of the Crown's duty of active protection, due to the fact that it "prejudices the rehabilitation and reintegration of Māori prisoners" (2020, p. 25). In order for Māori interests to now be actively protected, effective action must be taken in two areas; firstly, in the way in which prisoners are still disenfranchised, and secondly, in the actions being taken to ensure that those removed from the electoral roll while in prison are given the support and resources to enrol upon release from prison.

While the Waitangi Tribunal recommended that restrictions on voting rights be removed regardless of a prisoner's sentence, the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill instead removed disqualification for those sentenced to less than three years in prison, effectively reverting to pre-2010 conditions (New Zealand Parliament, 2020). The most simple first step towards protecting Māori interests in regard to prisoner voting rights would be to re-enfranchise all prisoners. As the Waitangi Tribunal states, "All Māori have a Treaty right to exercise their individual and collective tino rangatiratanga by being able to exercise their vote in the appointment of their political representatives" (2020, p. 34).

Restoring voting rights for all prisoners would be one action that could contribute toward active protection of Māori interests, however in the absence of this, effective actions are needed that enables Māori, and wāhine Māori, to re-enrol to vote and participate in elections. Currently, the Department of Corrections provides information to prisoners regarding their eligibility to vote, registering to vote, and supports prisoners to register on the electoral roll if possible (Ara Poutama Aotearoa, n.d.). Those disqualified from voting while in prison receive an enrolment pack upon their release, and are provided with explanation regarding this from Corrections staff

(Waitangi Tribunal, 2020). However, as the Waitangi Tribunal (2020) has established, prisoner disenfranchisement has disproportionately affected Māori. Kaupapa Māori solutions to challenges that disproportionately affect Māori have proven effective in cases where the state has failed to provide for Māori (Smith et al., 2019). The provision of civics education in prison and upon release is one area where by-Māori, for-Māori solutions may be more effective than the current method of service provision. Interview participant Khylee Quince highlights how the state responses must take into account the both the equity gap between Māori and Pākehā, and opportunities for Māori-centred solutions that assert tino rangatiratanga, stating that:

The balance is between Article 2 and 3, you have self determination, tino rangatiratanga for Māori, but you need to bridge the equity gap in relation to breaches of Article 3. Nowhere is that more important than in prisons. The equality gap is what explains the literacy, the offending itself, beneficiary dependency...all of the things that make life difficult, is the Crown's responsibility to mitigate or address those things...This is not going to be solved by sending in a Corrections officer to talk to people, it has to be a by Māori, for Māori response in ways that tick Māori responsivity...You balance Māori priorities, so cultural priorities around whanaungatanga, in that sense, and manaakitanga [a principle involving kindness, respect and generosity for others], with Pākehā or Crown priorities of resourcing capability, funding. And you have to come up with something that is, really, bespoke for Māori. That's the challenge.

In order for the Crown to uphold its Treaty obligations, action is needed to ensure that Māori interests are protected and that Māori have the opportunity to exercise tino rangatiratanga in response to this issue. Additionally, this needs to be delivered in a way that has an appropriate level of content given the literacy levels of prisoners, and in a way that enhances the mana of prisoners. It is essential that in future consideration of policies related to prisoner voting rights, the principles of the Treaty are upheld and Māori are empowered to develop solutions to a problem that disproportionately affects Māori.

Barriers to Voting and Enrolling and Mistrust of the State

In the formulation of any policy to address prisoner voting rights, it is important to note that firstly: those in prison may have faced multiple barriers to enrolling to vote and voting in their lives before and after coming to prison, and secondly: enrolling or re-enrolling to vote is likely to be low on the list of priorities a prisoner faces upon release.

Much research into voter turnout identifies that the costs of voting outweigh the perceived benefits of voting, an individual is less likely to take part in the act of voting (Aldrich, 1993; Colomer, 1991; Niemi, 1976). Some of the costs commonly theorised to be associated with voting include factors such as the distance to a polling booth, the time taken to research and make a decision regarding your vote, and the amount of time and effort taken to register to vote (Niemi, 1976; Blais, Daoust, Dassonneville & Péloquin-Skulski, 2019). Galicki (2018) finds that for individuals from lower socio-economic groups, young voters, and migrants in New Zealand and Switzerland, other risks outweigh the aforementioned costs. These include personal data needed to enrol to vote being misused by the government or made available to others, and being uncomfortable with the electoral roll holding a record of their details (Galicki, 2018). Additionally, many of Galicki's research participants "viewed voting as engaging with the state or giving something to the state. Therefore, they were less willing to vote if they held negative emotions towards the state, perceived the state as unfair to them or hostile" (2018, p. 149).

Similarly, interview participant Tracey McIntosh highlights that wāhine Māori who experience imprisonment may be less likely to have previously enrolled to vote due to mistrust of the state. Māori experience higher levels of policing and surveillance, which has led to outcomes such as increased use of police force on Māori and large numbers of uplifts of tamariki Māori by the state (Ihi Research, 2021; Te Whaiti & Roguski, 1998). McIntosh states that:

The ability to think that being on the electoral roll is in any way useful, we're also talking about people who come under much higher levels of surveillance and securitization than other people. They don't want to be on anything. All of their interactions with the state have shown them that when the state knows about them, things go badly for them. So particularly those who have been uplifted themselves or have had children uplifted from them, things that

note where they live, where they're from, it's just not good for them. So I think it speaks to when you're under that level of scrutiny and surveillance by the state, the electoral roll, you'd rather be off every roll.

While the life experiences that large numbers of prisoners experience prior to entering prison may foster mistrust in the state and serve as a deterrent to enrolling and voting, these experiences often continue beyond prison and can be compounded with the stresses of release to create an even greater barrier to re-enrolment. Release from prison can be characterised as “overwhelming”, as individuals are required to organise accommodation, finances, employment and manage whānau, and these issues likely take precedence ahead of enrolling to vote (Waitangi Tribunal, 2020, p. 22). Support and education around voting for prisoners must take into account the broader context of the lives of prisoners, and ensure that the process of enrolling to vote and voting is made accessible.

Conclusion

The 21st century has seen a period of change for prisoner voting rights in New Zealand. The 2010 Electoral (Disqualification of Sentenced Prisoners) Amendment Bill and the 2020 Electoral (Registration of Sentenced Prisoners) Amendment Bill were the first changes seen in the realm of prisoner voting rights since 1993. While policy has returned to the pre-2010 norm of disqualification of prisoners serving sentences in excess of three years, we may well see further change in this area. In the future, any changes must consider wāhine Māori and look beyond the norm of the male prisoner. A failure to do so risks continuing the absence of wāhine Māori in prisoner voting rights policies, despite the unique effects that voting restrictions have for wāhine Māori as outlined in this thesis. Other policy areas have demonstrated that effective solutions to problems that affect Māori come from Māori, and so Māori should be a leading voice in discourses about prisoner voting rights. Doing so would allow opportunities for tino rangatiratanga to be asserted by Māori, and uphold the ideals set out in te Tiriti. Additionally, the specific barriers to enrolment on the electoral roll and the act of voting the prisoners face before, during and after imprisonment should be a key point for consideration. Voting support and education need to respond to these challenges.

Chapter Eight: Conclusion

Introduction

Wāhine Māori occupy a unique position in Aotearoa that can only be understood through examining how colonisation, destruction of Māori social organisation, and the imposition of Pākehā values related to gender have impacted wāhine Māori. The way in which prisoner voting rights policies affect wāhine Māori cannot be understood through male or Pākehā-centric analyses of prisoner disenfranchisement, however these are the analyses that have dominated state discourses. This fact reflects the theme of an ongoing ignoring of wāhine Māori by the state that is a hallmark of the relationship between wāhine Māori and the state.

This thesis has sought to identify how prisoner disenfranchisement in the 21st century has impacted wāhine Māori, how this reflects the relationship between wāhine Māori and the state, and what considerations need to be taken into further development of prisoner voting rights policies. However, this thesis does not make specific policy recommendations. This is because there is a large absence of research into this topic. More research is needed in order to develop effective policy approaches that respond to the needs of wāhine Māori.

This chapter concludes this thesis by addressing the research questions set out in the introduction. Key arguments related to the research questions from the thesis are summarised. Finally, this chapter identifies areas for future investigation and progress.

Addressing Research Questions

What roles did wāhine Māori play in political life and general society both pre-colonisation and post-colonisation?

Chapter Three highlights how prior to colonisation, wāhine Māori exercised power at the whānau and hapū level. They often occupied different but complementary roles to tāne Māori. wāhine Māori were known to be crucial to many aspects of life, acting as spiritual and political leaders. Colonisation triggered a drastic change in the position of Māori, constricting the roles that they

played. The introduction of Pākehā gender roles meant that wāhine Māori were now considered subordinate to men. Women, according to English laws, were regarded as property of their husbands, with limited rights over property, children, and themselves. This change affected wāhine Māori significantly; they shifted from exercising a great degree of power, to a social position behind that of tāne Māori and Pākehā women.

What is understood about the relationship between wāhine Māori and the state, and how this has affected the social position of wāhine Māori?

Chapters Three and Six argue that from the advent of colonisation, the state has attempted to restrict the voices of wāhine Māori. wāhine Māori were barred from negotiation with the first representatives of the Crown due to assumptions about the role of women, are now underrepresented in institutions of power, and marginalised from public consciousness. This has led to wāhine Māori being rendered invisible by policy, with their needs left for the most part unacknowledged and unaddressed. State marginalisation, as well as decades of assimilatory policies, have led to a lowering of the social position of wāhine Māori. wāhine Māori are now overrepresented in many social indices, however the state has failed to recognise how colonisation and dispossession has impacted on this overrepresentation.

What effects have changes to prisoner voting rights had on wāhine Māori, and what are the wider implications of these effects?

According to Chapter Five, wāhine Māori have been uniquely impacted by changes to prisoner voting rights. Due to the centrality of wāhine Māori to the whānau unit, it is likely that the disenfranchisement of wāhine Māori in prison has ripple effects for the whānau and communities a woman belongs to. This may contribute to broader disenfranchisement in the practical sense. Given that wāhine Māori in prison tend to come with experiences of marginalisation and disadvantage, there is a potential for disenfranchisement to further marginalise and exclude wāhine Māori. Finally, wāhine Māori face distinct pressures in prison and following release related to whānau and children. These extra stressors may serve as barriers to enrolment on the electoral roll.

How do changes to prisoner voting rights in the 21st century reflect the relationship between wāhine Māori and the state?

Chapter Six highlights that a complete absence of the needs and experiences of wāhine Māori in state policies and discourses regarding prisoner voting rights has been observed in the 21st century. As established, the state has a history of rendering the experiences of wāhine Māori invisible in legislation and policy. This thesis found that the same is true for prisoner voting rights policies; as with justice policy more generally, the issue is centred around male norms. Additionally, no evidence of consideration of the unique and important roles wāhine Māori play can be found in the state discourses analysed in this research project.

What are some of the key considerations that must be taken on board in regard to future changes to prisoner voting rights and the needs of wāhine Māori?

While not enough literature on this topic exists to formulate specific policy recommendations, a number of points should be considered should prisoner voting rights policies be revisited and are outlined in Chapter Seven. There is a need for acknowledgement of the needs of wāhine Māori, as currently most policy in the justice space is centred around male and tāne Māori norms which fail to effectively address wāhine Māori. There is also a need for partnership with Māori and Kaupapa Māori driven solutions. These approaches have proven effective at addressing state failure to achieve equity for Māori in other policy areas, and uphold the principles of the Treaty. Lastly, policies that seek to re-enrol prisoners on the electoral roll, or educate surrounding voting, must be responsive to the life experiences of prisoners.

Concluding Comments

Over time, the state has consistently left the needs of wāhine Māori unacknowledged and unaddressed in justice policy. This thesis found that the same theme was present in regard to prisoner voting rights policies. The state has failed to recognise the unique impacts of prisoner disenfranchisement for wāhine Māori, and has formulated policy around male and tāne Māori norms.

Given previous research into the invisibility of wāhine Māori in policy, this may not be considered a surprising finding. However, as a researcher in this area, I believe this is an important area to investigate. This thesis contributes to the large research gap in this area; very little analysis has examined prisoner disenfranchisement and wāhine Māori. More research is needed to test the findings of this thesis, and inform future changes to prisoner voting rights. In the process of writing this thesis, a number of other areas emerged that were under-researched. These include: the effects of disenfranchisement on a prisoner's family, the intergenerational effects of disenfranchisement, the attitudes and opinions of prisoners towards voting in New Zealand, and the potential effects of civics education and voting as a rehabilitative tool in prison. I also wish to acknowledge the work of Māori researchers in the realm of wāhine Māori, prison, and justice. This knowledge was integral to this thesis, and a few subject experts have produced a range of high-quality pieces of Māori research in this area that highlight the complex experiences of wāhine Māori in prison. However, due to the persistent underrepresentation of Māori in academia and institutions of power, as discussed in Chapters Two and Three, research in this area is limited. Ongoing research is needed in this area.

The needs of wāhine Māori are absent from a range of policy realms; this phenomenon is not just limited to justice. Despite this, wāhine Māori are resilient. wāhine Māori continue to lead the way, as they have since before colonisation. wāhine Māori are key to addressing the social issues that disproportionately affect their communities. They are change-makers, political figures, and community leaders. Wāhine Māori will continue to resist state attempts to define their position, and will continue to make their voices heard.

Appendices

Appendix 1: Letter of Approval from the University of Auckland
Human Participants Ethics Committee



The University of Auckland
Private Bag 92019
Auckland, New Zealand
Level 3, 49 Symonds Street
Auckland, New Zealand
Telephone 86356
Facsimile +64 9 373 7432

UNIVERSITY OF AUCKLAND HUMAN PARTICIPANTS ETHICS COMMITTEE (UAHPEC)

28/07/2021

Dr Lara Greaves

Re: Application for Ethics Approval (Our Ref. UAHPEC23047): Approved

The Committee considered your application for ethics approval for the study entitled "**Prisoner Voting Rights and Wāhine Māori: An Exploration of the Relationship Between Māori Women and the State**".

We are pleased to inform you that ethics approval has been granted for a period of three years.

The expiry date for this approval is **28/07/2024**.

Completion of the project: In order that up-to-date records are maintained, you must notify the Committee once your project is completed.

Amendments to the approved project: Should you need to make any changes to the approved project, please follow the steps below:

- Send a request to the UAHPEC Administrators to unlock the application form (using the Notification tab in the Ethics RM form).
- Make all changes to the relevant sections of the application form and attach revised documents (as appropriate).
- Change the Application Type to "Amendment request" in Section 13 ("Submissions and Sign off").
- Add a summary of the changes requested in the text box.
- Submit the amendment request (PI/Supervisors only to submit the form).

If the project changes significantly, you are required to submit a new application.

Funded projects: If you received funding for this project, please provide this approval letter to your local Faculty Research Project Coordinator (RPC) or Research Project Manager (RPM) so that the approval can be notified via a Service Request to the Research Operations Centre (ROC) for activation of the grant.

The Chair and the members of UAHPEC would be happy to discuss general matters relating to ethics approvals. If you wish to do so, please contact the UAHPEC Ethics Administrators at humanethics@auckland.ac.nz in the first instance.

Additional information:

- Do not forget to fill in the 'approval wording' on the PISs, CFs and/or advertisements, using the date of this approval and the reference number, before you use the documents or send them out to your participants.

All communications with the UAHPEC regarding this application should indicate this reference number: **UAHPEC23047**.

UAHPEC Administrators

University of Auckland Human Participants Ethics Committee

c.c. , Miss Ella Morgan

Appendix 2: Participant Information Sheet



ARTS
SCHOOL OF SOCIAL SCIENCES

16 Symonds Street
The University of Auckland
Private Bag 92019
Auckland 1142
New Zealand

PARTICIPANT INFORMATION SHEET

Project Title: Prisoner Voting Rights and Wāhine Māori: An Exploration of the Relationship Between wāhine Māori and the State

Name of Principal Investigator/Supervisor (PI): Dr Lara Greaves

Name of Student Researcher(s): Ella Morgan

Researcher Introduction

My name is Ella Morgan and I am of Ngāti Raukawa ki te Tonga and Pākehā descent. I am a University of Auckland studying towards a Master of Arts in Politics and International Relations. My research is being conducted under the supervision of Dr Lara Greaves from the Politics and International Relations department of the University of Auckland.

Project Description

The research project seeks to understand how changes to prisoner voting rights in the 21st century have reflected the ongoing relationship between the state and wāhine Māori. I will examine how the state has framed wāhine Māori over time, and look at the issue of prisoner voting rights to identify whether this framing is replicated.

Project Procedures/What does Participation Involve?

I would like to invite you to participate in one interview about your thoughts on how prisoner voting rights have affected wāhine Māori. The interview would take approximately one hour, at a time that suits you, in a meeting room at the University of Auckland City Campus, in a public location such as a cafe or online via Zoom Video Conferencing. Your answers will be audio recorded and later transcribed by Ella. You will then have the opportunity to look at the transcription of your answers and make any edits or clarifications within one month of receiving this.

Your answers will be analysed by Ella for her Masters thesis. Once you receive a copy of the transcription of your interview, you may decide whether you would like to be named as a contributor or have your identity remain confidential. If you would like your identity to remain confidential, any identifying details you may have mentioned in your interview will be omitted from discussion in the research, and Ella will work with you to ensure that you are not identifiable in research outputs. You are also able to request a copy of the audio recording of your interview at any time.

Benefits and risks

There is currently no research that focuses specifically on wāhine Māori and prisoner voting rights in the 21st century. By participating, you would be contributing to filling a gap in the literature. This research seeks to centre Māori voices as the sources of knowledge on this topic, and participating provides an opportunity to develop Māori-focused research further. You may request a summary of the research project's results.

By participating in the interview, you will be answering questions about a topic (wāhine Māori in prison) that is potentially upsetting. You will be provided with a resource sheet that includes contact details for support organisations, should you feel upset after discussing this topic.

Data Storage/Retention/Destruction/Future Use

Interviews will be transcribed by Ella. Digital copies of audio recordings and transcriptions will be kept password protected. Any physical forms signed will be kept in a secure, locked place separate from your recordings or transcriptions. Access to your consent forms will be restricted to only the research team (Ella Morgan and Dr Lara Greaves). These will all be kept for six years, after which time digital files may be deleted and physical forms may be disposed of following university processes if there is no longer any interest in the research project. During the interview, you have the right to ask for recording devices to be turned off at any time, without giving reason. Only Ella Morgan and Dr Lara Greaves will have access to your consent forms, audio recordings of your interview and transcriptions of your interview.

Withdrawal

As a participant you reserve the right to withdraw from the research project at any point, without giving reason. You may request your contributions to be deleted up to one month following your interview.

Confidentiality

Your identity will remain confidential in research outputs. Should details be discussed in your interview that may potentially identify you, Ella will work with you to omit these details from your transcript and the research discussion. After receiving a copy of the transcript from your interview, you may choose whether to be identified in research outputs, or remain confidential.

Contact Details

If you would like to participate in this research project, please feel free to get in contact with me via email: emor775@aucklanduni.ac.nz. Thank you for taking the time to read through the information on this sheet.

The contact details for my supervisor are:

Dr Lara Greaves
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UAHPEC Chair Contact Details

For any queries regarding ethical concerns you may contact the Chair, The University of Auckland Human Participants Ethics Committee, Office of Research Strategy and Integrity, The University of Auckland, Private Bag 92019, Auckland 1142. Telephone 09 373-7599 ext. 83711. Email: humanethics@auckland.ac.nz

Approved by the University of Auckland Human Participants Ethics Committee on 28/07/2021 for three years, reference number UAHPEC23047

Appendix 2: Participant Consent Form



ARTS
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16 Symonds Street
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Private Bag 92019
Auckland 1142
New Zealand

CONSENT FORM

THIS CONSENT FORM WILL BE HELD FOR A PERIOD OF SIX YEARS

Project Title: Prisoner Voting Rights and Wāhine Māori: An Exploration of the Relationship Between wāhine Māori and the State

Name of Principal Investigator/Supervisor (PI): Dr Lara Greaves

Name of Student Researcher(s): Ella Morgan

- I have read the Participant Information Sheet, have understood the nature of the research and why I have been selected. I have had the opportunity to ask questions and have had them answered to my satisfaction.
- I agree to take part in this research.
- I understand that I am free to withdraw my participation at any point, and can request all of my contributions to be deleted up to one month following my interview.
- I am at least 18 years old.
- I agree that my interview will be audio recorded.
- I wish / do not wish to have a copy of my audio recordings emailed to me.
- I understand that my identity will remain confidential in publications, unless I choose to be identified following my interview. I would like to use the pseudonym: _____ . If this is unable to be used, I may be given another pseudonym.
- I wish / do not wish to have a summary of the research findings emailed to me at the following email address: _____

Name: _____

Date: _____

Signature: _____

**Approved by the University of Auckland Human Participants Ethics Committee on 28/07/2021 for
three years, reference number UAHPEC23047**

Appendix 3: Support Resource Sheet



ARTS
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New Zealand

Prisoner Voting Rights and Wāhine Māori: An Exploration of the Relationship Between wāhine Māori and the State Resource Sheet

The following organisations offer support services you may want to access following participation in this research project:

University Health and Counselling Services

University Health and Counselling Level 3, Kate Edger Information Commons, 2 Alfred Street, Auckland 1010
09-923 7681

1737 Helpline

Free 24-hour counselling helpline
Free call or text: 1737

Lifeline

Free 24-hour counselling helpline
Call: 0800 543 354 (0800 LIFELINE) Free text: 4357 (HELP)

Approved by the University of Auckland Human Participants Ethics Committee on 28/07/2021 for three years, reference number UAHPEC23047

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