

Ko tēhea te ara tika? A discourse analysis of Māori experience in the criminal justice system

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The criminal justice system in Aotearoa, New Zealand has a dispiriting history of interactions with Māori, a backdrop against which to understand contemporary Māori experiences of institutional racism. The research aims to provide an examination of Māori lived experiences of the criminal justice system. Participants were five Māori adults who were interviewed about their experiences with criminal justice institutions. As Kaupapa Māori research, undertaken alongside a discursive psychology framework, the study sought to acknowledge and explore Māori narratives and experiences of racism. From the analysis emerged four recurring discursive resources; blatant racism, Māori and Pākehā identities, Māori as trapped in the criminal justice system, and Māori identity and culture as strength. Participants' perspectives of the criminal justice system reveal that prevailing power relations facilitate the belittling of Māori identity, intrude on Māori rights, and diminish cultural integrity. Institutional racism is constructed as enduring and shaped by notions of Māori cultural inferiority. Arguments for an alternative Māori criminal justice system are discussed.

Traditionally, within tikanga Māori (Māori custom) there existed a Māori system of law, order, and justice that was fully integrated into everyday life (Pratt, 1992). Tikanga Māori was inseparable from spirituality, which facilitated a high level of social control and discipline within Māori society (Pere, 1997). Customary Māori conceptualisations of law and justice are briefly summarised; a spiritual transgression occurred (breach of tapu), which affected the prestige and authority (mana) of a person, hapū (sub-tribe), or iwi (tribe). Recompense was obtained through some form of reciprocal response (utu) in order to restore balance to the community (whakahoki mauri) (Paterson, 1992; Pere, 1997; Workman, 2014). Importantly, judicial practices prioritised victims' healing and offenders' reintegration (Quince, 2007).

Te Tiriti o Waitangi, signed on the 6 February 1840, came as a declaration that Aotearoa, New Zealand was a British colony. It is the founding document of New Zealand and a symbol of unity between Māori and Pākehā (Barlow, 1991). Despite the terms of Te Tiriti o Waitangi, colonisation has led to the suppression and exclusion of Māori legal practices (Pratt, 1992). State agencies

imposed Pākehā justice over Māori and a barrage of assimilation policies resulted in marginalisation and cultural destruction (Webb, 2009). Throughout the process of colonisation Māori have had minimal political power against an increasingly powerful colonial state (Bull, 2004). Successive governments have privileged their own interpretations of Te Tiriti o Waitangi and denied Māori rights to uphold traditional systems of law and justice (Tauri, 2005).

Following the Second World War, in the context of consecutive governments having implemented economic and land use policies to the detriment of Māori, urbanisation saw a huge proportion of the Māori population shift from rural to urban centres. In 1945, 75 per cent of Māori lived in rural areas, which reduced to 18 per cent by 1991 (Walker, 2004). Urbanisation entailed the disintegration of Māori social and cultural underpinnings that had a disruptive psychological ripple effect (Jackson, 1988). Long-standing issues of poor socioeconomic conditions, disconnection from culture, and diminishing self-respect all contribute to 'trapped lifestyles' of Māori offending and imprisonment (Durie, 2003).

There has been an increasing trend

in recorded offending by Māori since the beginning of the twentieth century, primarily due to growing government surveillance and the use of legislation to facilitate over-policing of Māori (Bull, 2004). Māori are dissatisfied with the criminal justice system in Aotearoa, New Zealand (Quince, 2007). This dissatisfaction is manifest in a recent submission to the Waitangi Tribunal, the Department of Corrections and Reoffending Prisoners Claim (Wai 2540). The claim alleges that the Crown has breached Te Tiriti o Waitangi in failing to establish lasting commitments to reduce the number of Māori serving sentences and to reduce reoffending by Māori. The claim also contends that the Crown has failed as it has not engaged with Māori at a strategic level and there are no specific strategies to address re-offending (Waitangi Tribunal, 2015).

Institutional racism is an insidious form of racism and those who perpetrate it tend to deny its existence (Blagg, 2008). The criminal justice system and the broader social context in which it is situated in Aotearoa, New Zealand, reproduces institutional racism throughout its structures. The foundations of the criminal justice system are monocultural, impacting on Māori in particular ways, and giving rise to a tradition of bitter experiences (Jackson, 1988). A recent United Nations Working Group on Arbitrary Detention reported systemic bias against Māori at all levels of the criminal justice system and recommend a review be undertaken (United Nations, 2014).

Māori feature in disproportionately high numbers throughout the criminal justice system, from policing, to conviction, to imprisonment and probation. Māori comprise 15 per cent of the general population, however make up; 42 per cent of all Police apprehensions, 43 per cent of all convictions, 51 per cent of all imprisonments, with Māori

women accounting for 60 per cent of the female prison population (Department of Corrections, 2007). With Māori continuing to comprise nearly 51 per cent of the prison population, it is important to also note the significant rise in the overall prison population in the past twenty years (Just Speak, 2014). The Department of Corrections indicates that high numbers of Māori in offending statistics are paralleled by high numbers of Māori as victims of crime. In addition, there is a higher level of recidivism for Māori prisoners than non-Māori and in a study involving 129 Māori male prisoners, 48 per cent of the men surveyed were serving their fourth or subsequent prison sentence (Gordon & MacGibbon, 2011).

Māori children are over twice as likely to have Police contact than Pākehā children with the same history of offending behaviours (Fergusson, Horwood, & Lynskey, 1993a). Young Māori adults are also at increased risk of conviction compared to their non-Māori counterparts with identical social backgrounds and self-reported history of offending (Fergusson, Horwood, & Swain-Campbell, 2003). Ethnicity alone is not a strong predictor of early offending (Fergusson, Horwood, & Lynskey, 1993b) and evidence indicates that even when controlling for social, economic, and related factors ethnic differences in offending rates reduce, but are not eliminated (Marie, Fergusson, & Boden, 2009).

The Indigenous peoples of Australia are described as being amongst the most imprisoned people in the world (Blagg, 2008). Australian Indigenous youths are over 15 times more likely to be in juvenile detention centres than non-Indigenous youths, despite their self-reported offending being only two times greater (Cunneen, 2006). Likewise, the Indigenous peoples of Canada have high rates of crime and victimisation (Wood & Griffiths, 2000) which are explained in terms of cultural conflict between Indigenous peoples and non-Indigenous society, and failure of the criminal justice system in its dealings with Indigenous peoples (LaPrairie, 1997). Indeed historical and structural conditions of colonisation, social and economic marginalisation, and institutional racism are key to conceptualising contemporary Indigenous experiences with criminal

justice systems (Cunneen, 2006).

Alternative approaches to the study of racism have grown in response to the changing appearance of racism; modern forms of racism are subtle and delicately deployed, enabling social acceptance (Augoustinos, Tuffin, & Rapley, 1999; Tuffin, 2008). Discursive research is concerned with the ways society gives voice to racism, the role of discourse in creating and reproducing social formations (Wetherell & Potter, 1992) and the shaping of language in certain contexts to legitimate the blaming of Indigenous or minority groups (Potter, 1996).

Seminal discursive research on the language of racism (Wetherell & Potter, 1992) focused on the discourse of Pākehā regarding ethnic relations with Māori. This work suggested the 'culture' discourse highlights naturally occurring differences and is a form of self-sufficient explanation that accounts for Māori 'fatal flaws' as within traditional practices, attitudes, and values. Through the advocacy of respect and tolerance for difference, the 'culture' discourse masks colonialism, power relations, and exploitation with a narrative of clashing cultures. The use of discourse in practical ways to account for ethnic tension appeals to common sense and in so doing maintains and normalises Pākehā position of power (Nairn & McCreanor, 1990). A 'standard story' emerges, as a common sense way of understanding and talking about ethnic relations, which enables certain positioning of Māori, such as 'good' and 'bad' (Nairn & McCreanor, 1991). By appealing to common sense and what is widely accepted among dominant groups, the standard story functions to mask the ethnic and cultural aspects of power structures, maintaining oppressive social relations. Similar discursive research has been conducted in Australia (Augoustinos et al., 1999) and race talk was occasioned, variable, flexibly deployed, and entrenched with a discourse of colonial superiority and domination. Furthermore, the creation of a cultural hierarchy was central to the covert and subtle nature of modern racism, and discourses enabling justification and legitimisation of oppression have been observed as internationally pervasive.

There is a substantial amount of discursive work documenting oppressive

talk that renders Māori rights illegitimate (Tuffin, 2008). Privileging and legitimating Māori understandings can develop an alternative story of Māori and Pākehā relations and reverse standard power relationships (Tuffin, Praat, & Frewin, 2004). Moreover, alternatives to the standard story enable empowering subject positions and argumentative resources, in terms of discrimination and ethnic rights, that can be taken up by Pākehā to endorse Māori rights (Kirkwood, Liu, & Wetherall, 2005).

While there is a body of critical literature exploring the language of racism there are few studies that consider Indigenous peoples' perspectives and the function of their talk in accounting for racism. Indeed, perspectives of targets of racism remain largely unexplored, producing a narrative of race talk that is detached from the lived experiences of the victims of racism (Pack, Tuffin, & Lyons, 2015). There are calls for research to analyse the subject positions and arguments taken up by Indigenous peoples when commenting on discrimination and legitimating Indigenous rights (Kirkwood et al., 2005). Pack et al. sought to redress the imbalance by examining the ways in which Māori account for racism. A point of contrast in the study is Māori reports of blatant and offensive racism. Likewise, daily life for the Koori Aboriginal people of Australia was constructed as tainted by racism, and much of the racism experienced, both verbal and behaviour, was categorically blatant (Mellor, 2003).

Through considering and respecting perspectives of Indigenous peoples, there is growing awareness of the experiences of racism and this underpins the aims of the current study. Specifically, this study aimed to examine Māori experiences of institutional racism within the criminal justice system in Aotearoa, New Zealand, with the analytic focus being on how participants accounted for such experiences.

Method

The study was guided by Kaupapa Māori and discursive psychology research methods. Kaupapa Māori is founded within an inherently Māori epistemology (Henry & Pene, 2001). Kaupapa Māori research occurs with and alongside Māori, to retrieve space for Māori

voices and stories to be heard (Tuhiwai Smith, 2012) and is characterised as; culturally safe, relevant and appropriate research, guided by kaumātua (elders), and undertaken by Māori (Irwin, 1992). Discursive psychology is located within a social constructionist epistemology and challenges traditional taken-for-granted approaches in psychology (Tuffin, 2005).

Taking place in a major city in Aotearoa, New Zealand, in accordance with Kaupapa Māori research principles, consultation occurred in the early stages of the research project with a Māori service provider who is a subsidiary of the local rūnaka (Māori tribal council) (Bishop, 1998; Tuhiwai Smith, 1999). Consultations also occurred with a kaumātua about the project foundations, aims, and methods (Walker, Eketone & Gibbs, 2006). Both the service provider and kaumātua have experience working alongside the criminal justice system. The study conformed to the requirements of the University Ethics committee and was conducted with the approval of that body.

Criteria for participation were identification as Māori and having had experience with the criminal justice system. Involvement with the criminal justice system was defined as having been arrested and, or charged with a criminal offence by the Police, being tried and, or convicted and sentenced in the Courts, or having been imprisoned and, or subject to a community-based sentence. Recruitment took place via the Māori service provider and another community counselling service. There were five participants, four male and one female, and they chose the names they wished to be identified by. Individual interviews took place in the office of the service provider, participants' homes, or places of work outside of working hours and audio was digitally recorded. The Kaupapa Māori research principles of tikanga, whakapapa (genealogy/connection), whānau (family), and Te Reo Māori were threaded throughout the interview process. As Tuhiwai Smith (1999) asserts, tikanga is concerned with being able to navigate and clearly interpret contexts regulated by Māori values. During interviews whakapapa was intertwined with the principle of whānau in the form of whakawhanaungatanga (establishing relationships), whereby

introducing oneself in the context of whakapapa is both culturally meaningful and integral to the process of forming relationships. The principle of Te Reo Māori relates to the appropriate use of the Māori language throughout interviews (Bishop, 1999; Tuhiwai Smith, 1999). Interviews were loosely structured around topics, including; participants' initial and overall experiences, their interpretations of their treatment as Māori, and their understandings and experiences of institutional racism. Interviews were transcribed verbatim using the conventions of standard orthography.

Analysis involved loose readings of the text, identification of relevant extracts and preliminary coding, followed by discrete coding, whereby data was carefully organised into categories. A cyclical process of coding (Potter & Weatherell, 1995) was used entailing numerous readings and categorisations, followed by re-reading and occasioned re-categorisations. The action orientation of discursive psychology proposes that racism is pervasively embedded in language and the categories, groupings, identities, and evaluations involved in racism occur in and through language (Tuffin, 2005). Therefore, the analysis noted clusters of terms, descriptions, and figures of speech commonly organised around metaphors or imagery, referred to as interpretive repertoires, linguistic resources or discursive resources (Potter & Weatherell, 1995). In this way the analysis sought to robustly detail the constructed and constructive patterns of race talk.

Analysis

From the analysis emerged four recurring discursive resources, which framed Māori experiences of institutional racism within the criminal justice system. These were, blatant racism, Māori and Pākehā identities, Māori as trapped in the criminal justice system, and Māori identity and culture as strength.

Blatant racism

Blatant racism, also termed old-fashioned racism, draws on notions of racial superiority (Augoustinos et al., 1999). Constructions centred on accounts of being subjected to, or witnessing

verbal and physical abuse from staff in criminal justice institutions. The following extract identifies a case of blatant racism.

Dain: *[A North Island prison is] definitely, um, if you're black, get back [...] they punched me up in the toilets, smacked me up, handcuffed me up.*

I: *Officers?*

Dain: *Punched me over, yea [...] I've had a, um, he still works in the prison service now, a screw [in a South Island city], give me a couple of punches in the head and stuff, when I was like 17.*

Dain frames physical abuse from Corrections' officers as traceable to racism and that being "black" is cause to be a target. The phrase "if you're black, get back" is a warning that suggests he and other Māori in prison were to expect difficulties. By naming specific locations, he strengthens his construction of blatant racism as widespread. Also, in detailing a specific officer (screw) who assaulted him 20 years ago and continues to work at the prison, he builds an account of racism as long-standing and unresolved. By implication the abusive officer has had a sustained career, which alludes to how this kind of blatant racism is able to survive.

In the following account Adam unambiguously constructs racism as accepted within criminal justice institutions. At the same time he illustrates denial by Pākehā of the existence of explicit racism in criminal justice institutions.

Adam: *And when I talk to people that I know and Pākehās that I know, they, they can't understand the stories that I tell them, they, they just don't believe some of them, you don't get pulled over for no reason, this doesn't happen, you must have been doing something, you weren't there mate, you don't know. But, you see these things first hand and it exists. And it's also strange too, it's not just Pākehā officers having problems against Māori, it's Māori officers having problems against Māori as well, and I've seen them acting just as hard, if not harder against them, because maybe from a*

Police officer's perspective they've become ingrained, that this is the norm, and if you wanna [sic] fit in to the Police office then you better get on board with this [...] it just perpetuates the whole thing that Māori bad, Pākehā not bad, and it's been a perspective that has lived with me for a long time.

Adam's talk deals with the Police, rather than with Corrections, and the discursive work here lays out denial strategies used by Pākehā, as accusations are made of Adam, "you must have been doing something", to downplay the racism experienced. Adam's talk demonstrates that accounts of blatant racism are not believed by Pākehā, "they can't understand" and "don't believe" there is racism against Māori, and therefore they are unwilling to accept its existence. Indeed, the denial and discounting of racism by dominant groups is a prevailing feature of modern racism, particularly at institutional levels (Augoustinos et al., 1999). However, Adam definitively constructs racism as existing within criminal justice institutions. His account shapes a situation wherein it is criminal justice institutions versus Māori, which is "ingrained" and "the norm." Moreover, Māori officers are seen as involved in discriminatory treatment in order to fit in to the culture of the institution. Blatant racism within the criminal justice system is constructed as denied by the Pākehā public, accepted and normal within the institutions, as perpetuating ideas of "Māori bad, Pākehā not bad", and as having an enduring impact on Adam, "it's been a perspective that has lived with me for a long time."

Māori and Pākehā identities

A second discursive resource that emerged from participants' talk centred on identities, which manifested in two forms; Māori identity as lesser and Pākehā identity as better, or as Adam put it "Māori bad, Pākehā not bad." This discursive resource aligns with notions of cultural hierarchy (Augoustinos et al., 1999), a covert facet of modern racism, and the asymmetry positions Māori and Pākehā in opposition to each other.

Participants commonly constructed a dichotomy between Māori and Pākehā and that activities in prison associated

with Māori identity were vetoed. In an account by Mickey, activities embracing a Māori identity are not only prohibited, but punished.

Mickey: Oh, you're treated like shit in jail, by Corrections. Like you can't sit, if you sit around a table and speak Te Reo Māori at a table, then straight away you're instigating something, or planning something, or plotting something. Um, it's real frowned upon to like, can't sing waiatas or; they won't let you do it, but yet you can sit in the wing and play the guitar and, or turn your stereo up and listen to heavy metal, or whatever, but you can't sit around with a guitar and sing waiatas, not even allowed to hakas in the wing, not even allowed to do hakas in your cell, um, so it's shit. They take, they try and strip any um, any rights of you, um, being Māori full stop, when you go in to, it's their way, or no way. It's their way or you go to a pound, sit down in the pound for being disruptive or, so, it's not good.

Mickey's account constructs Māori identity as inherently connected with illicit activities; to speak Te Reo Māori arouses suspicion and equates to "instigating", "planning" or "plotting." Key aspects of Māori culture, namely Te Reo Māori, waiata (song) and haka are prohibited, and this is contrasted with non-Māori activities that are permissible, such as listening to music and playing the guitar. In this way the expression of Māori identity is regarded with intense suspicion and forbidden. To be Māori in prison means to be belittled and disrespected, "treated like shit", and prohibited from expressing a Māori identity. The image of a cultural hierarchy is reinvoked, though taken one step further as Māori culture is not only situated as lesser than Pākehā culture, it is something to be denied, as they "try and strip" "rights" of being Māori, "it's their way", that is the Pākehā way, or otherwise punishment. Importantly, Mickey constructs expression of Māori culture and identity as "rights", which does substantial discursive work in terms of framing the actions of Corrections' staff as breaching his social and cultural freedoms as a Māori.

Participants overwhelmingly agreed that being Māori equated to being treated differently by the criminal justice system. Following, Dain considers his experiences as a Māori dealing with the criminal justice system and connects this to general negative life experiences.

Dain: Um, it's quite hard to, I suppose, I don't really know, yea. I suppose, if I, yea, if I knew I'd be straight out with it, but um, I reckon there'd be some incidences where I've been to Court and, like I said, you know I had a rap sheet, that's x amount long and, and they'd just chuck the book at me, and um, I reckon I probably would've had a better life if I was white [laughs] you know, [clears throat] but, you know, who knows, can't really say, I don't think, just off, um, oh yea, na, I reckon I probably have had a hard deal aye, given to me yea, over the last, over, over a period of time, yea just by certain Judges, seen me as being a Māori, won't change, you know, yea, so probably, yea, yea I do.

This excerpt exemplifies the difficulty in pinpointing institutional racism and experiences of it within the criminal justice system for Māori. Dain repeatedly shifts back and forth from finding institutional racism "hard to" identify, to not knowing, to assuring that if he did know he would be "straight out with it", to identifying some experiences during Court proceedings where he has been treated with a heavy hand, but then discounts institutional racism in these instances based on his criminal history (rap sheet). He concludes, "I probably would've had a better life if I was white", and in doing so constructs that not only are experiences within the criminal justice system worse for Māori and better for Pākehā, but that life in general is worse for Māori and better for Pākehā. He builds an account of having a "hard deal" done and having the Judiciary sentence him harshly, "chuck the book", and this is connected with broader constructions of Māori not being offered options of rehabilitation, as Māori "won't change".

In the next extract from Adam the idea of Māori being diverted away from rehabilitation is reiterated. He also emphasises differences in experiences of Māori and Pākehā with criminal justice institutions, explicitly constructing treatment for Pākehā as far better than that which Māori experience.

Adam: *There's a difference. If you're Pākehā and middle-class, you will be treated well and within all aspects of the law, and Police will endeavour not to charge you. If you're Māori Police will go out of their way to charge you, and they will charge you at a young age [...] they want to accumulate the charges against young Māori to make it easier to put them in to jail when they get to an older age, because they assume that once a young Māori starts offending, rather than trying a rehabilitation process, they go, stuff tryna [sic] fix them, let's just keep slamming charges on them until they hit 18, 19, and they've got four or five criminal appearances against them, boom, now this guy can be thrown in to jail. And that really seems to be my perspective on how they treat young Māori, in particular.*

Police treatment of Pākehā is constructed as fair, though partial for the benefit of Pākehā, in that there is an avoidance of charging them. In contrast, treatment of Māori is framed as discriminatory. Accusations of institutional racism are launched against Police who “go out of their way” to charge young Māori in order to provide the necessary conditions for imprisonment when they reach adulthood. Adam proceeds with claims that the criminal justice system is set on incarcerating Māori and dismissive of a rehabilitative approach.

Māori as trapped in the criminal justice system

A third recurring discursive resource used by participants was Māori as trapped in the criminal justice system. The term ‘trapped’ draws on the ideas of Durie (2003) that trapped lifestyles of risk, marginalisation, and poor social outcomes are forerunners to Māori offending and imprisonment; for many there is no escape from trapped lifestyles. Māori as trapped in the criminal justice system links with constructions of Māori as subject to discriminatory targeting whereby Maori are arrested, charged, and imprisoned at young ages. Indeed, a similarity shared by participants was that they all had contact with Police as

children, one as young as four years old, for ‘criminal’ behaviour.

Early encounters for participants with criminal justice institutions were not limited to Police; they were faced with the breadth of the criminal justice system at young ages. Grace shapes her experiences with Courts, probation, and prison as “frustrating” in the next extract.

Grace: *Um, frustrating, very muchly. Um, with probation, I didn't feel like I had a very good probation officer like, they didn't, I, I never got other options, um, when I went to Court as an adult, like District Court, I didn't get a community sentence, and I'd never been on a community sentence, like they didn't give me the opportunity to do PD or anything like that, and being 17 as well, it was just prison straight away, so I didn't, um, I went in while I was on remand, and, um, just the whole, also with the probation officer I had at that time, made a lot of comments about, um, what people say were stereotypes of Māori, like, oh well it's probably best thing you get locked up, cause that's what you guys do, and, oh, it's hard to say what exactly was said at that time, but to me, I know there were comments mentioned and I saw it as stereotype racism sort of thing.*

Grace organises her account to situate responsibility with probation, particularly with the probation officer, for aiding her imprisonment. While she initially constructs her treatment as an “adult”, this is disputed by later details of her youth, being a 17 year old at the time. Grace builds an account of injustice, repeating four times the lack of sentencing options made available to her, “I never got other options”, “I didn't get a community sentence”, “I'd never been on a community sentence” and “they didn't give me the opportunity to do PD or anything like that.” Noting her age and constructing prison as imminent then reinforced this sense of injustice. Graces' detailing of explicitly racist remarks made by the probation officer is consistent with blatant racism and builds on accusations that it was always the intention to have her imprisoned, because that was the “best thing” for her and for Māori in general. Interestingly, community-

based sentences are constructed as an “opportunity” and are viewed as a positive alternative to counteract being trapped in prison. The idea of the criminal justice system being intent on imprisoning Māori again emerges and being trapped in the criminal justice system is constructed as ever-present for Māori. Next Adam constructs Māori as not only being trapped by criminal justice institutions, but also by themselves.

Adam: *I met some of Liam's friends that came out as well, and you can just tell, they were a one way ticket back in to jail [...] So, once they get locked in to the system, it's really hard to drag themselves out, and it's, it's not just the Police, or the, or the, the um, Corrections establishment in their bias, but it's their own internal bias that they build up amongst themselves. They just think, oh this is the way it is for me, and they just end up in the treadmill. I had a friend who went in to jail when he was 16, didn't get out until his late thirties, and just, he was just on this treadmill where he just couldn't get out of that system, so, yea.*

By referring to others as, “a one way ticket back in to jail”, Adam constructs their re-imprisonment as pending and unavoidable. Also, by using the extreme case formulation “really”, he emphasises the difficulties entailed in unshackling from being “locked in to” the criminal justice system, that “it's really hard to drag themselves out.” Adam locates accountability with both the criminal justice institutions and Māori for remaining trapped; by his account it is both institutional and personal at a psychological level for Māori, as he positions Māori as passive, “they just end up on the treadmill.” The metaphor of journeying is stagnant on “this treadmill”, and through this discursive work he creates a potent image of movement, without progress.

Māori identity and culture as strength

While Māori identity is constructed as institutionally targeted by criminal justice institutions, it also emerged that there existed strength within Māori identity and connection to Māori culture.

Identity and culture were shaped as sites from which participants drew resilience. In the following extract, Wayne illustrates the importance of connection to culture, using a Māori proverb.

Wayne: *But, I, I, I made that resolution not to, to go back, it's, it's what is it, he kapiti hono, he tātai hono. And there's another one but I can't remember it, but it's like, I have to stay connected, you know, to something.*

“He kapiti hono, he tātai hono” translates to, ‘that which is joined together becomes an unbroken line’ and is used to affirm a spiritual joining between the present and ancestral links (Mead & Grove, 2001). Wayne’s use of Te Reo Māori and referencing of a traditional saying does significant discursive work in highlighting the importance of social connections. His connection to this is constructed as strengthening his resolve and determination to counteract going “back” to prison.

In the next extract Mickey builds an account of connection to a Māori service provider as a strength.

Mickey: *I don't view, working with [the Māori service provider], I don't view it as being on parole, or being a chore, you know I don't view it as something I have to do, I, you know I enjoy coming, and working with [them] because you get that whole Māori vibe, you know like, it's good, it's relaxed, it's not, oh yep you have to be here at this time, you gotta [sic] leave at this time cause I've got another appointment, um, and that's probably the only reason why I'm not back in jail now, cause of the support from, and the interventions that [the Māori service provider] do, to ensure that you know, you're doing what you need to do and you've got the support to do what you need to do. Feel comfortable like, cause normally I wouldn't even ask people for, if I'm struggling I'd just keep struggling by myself, but through [the Māori service provider], you don't, it's good, you don't have to worry about things like that, cause you just feel part of the whānau here, so, it's good.*

Mickey constructs working with

this Māori agency as positive, but in the broader picture shapes working within a Māori framework as not only enjoyable, but also facilitative to him staying out of prison. Indeed, he identifies it as “probably the only reason” he hasn’t been reimprisoned. The Māori approach, or “whole Māori vibe”, is shaped as strikingly different to working with criminal justice institutions, which is “a chore.” He builds an account of reciprocal relationships; the Māori service provider is “relaxed” and supportive toward him, so he in turn responds positively and feels “comfortable” with them. Whereas probation is constructed as time-constrained and rigid, “you have to be here at this time, you gotta [sic] leave at this time cause I’ve got another appointment.” His account marshals explanations for his relative success as being the result of connecting to Māori culture and feeling “part of the whānau.” Mickey’s talk here is symbolic of the Māori notion whanaugatanga, a relationship that is reinforcing and provides individuals with a sense of belonging (Moorfield, 2016).

Discussion & Conclusion

Though much of the discursive research on racism considers that modern forms of racist talk are subtle (Augoustinos et al., 1999; Tuffin, 2008) participants used the discursive resource of blatant racism to shape racist speech and acts as long-standing, normalised, and prevailing in verbal and physical abuse. Considered alongside previous research focussing on the perspectives of targets of racism (Mellor, 2003; Pack et al., 2015) there is sufficient argument to contradict the suggestion of modern race talk as characteristically subtle and delicate. Modern racism may indeed present as such within Pākehā or non-Indigenous talk, however within Indigenous peoples’ talk, constructions of old-fashioned, blatant racism are ever-present.

The discursive resource of Māori and Pākehā identities was one way that racism operated implicitly and the metaphor of a cultural hierarchy was pervasive (Augoustinos et al., 1999). This was evident in the subjugation of Māori culture and the rejection of the expression of Māori identity in Te Reo Māori, waiata, and haka. The discursive

resource of superiority (Pack et al., 2015) situates racism as emanating from Pākehā assumptions of Māori inferiority and this was mirrored in the representations of Māori identity as linked to criminality and illicit behaviour, further reinforcing the disadvantaged position of Māori. The effect of racism on Māori identity creates a sense of inferiority, of being ‘other’ (Te Hiwi, 2007). The experience of ‘othering’ was sinuous, displayed in blatant and implicit forms of racism, and served as demeaning of Māori identity. Māori as ‘other’ was clear in the dichotomy constructed between Māori and Pākehā identities; “Māori bad, Pākehā not bad”, exemplifies positioning which contributes to the standard story (Nairn & McCreanor, 1991). The standard story of Māori as bad and beyond help is self-sufficient, in light of prevailing constructions of Māori as over-represented in the criminal justice system. Furthermore, treatment of Māori within the criminal justice system resonates with the culture discourse (Wetherell & Potter, 1992), which frames Māori involved with the criminal justice system as both deficient relative to Pākehā and deficient as Māori.

Trapped lifestyles, including offending and imprisonment, present little hope or opportunity for escape (Durie, 2003). Similar to the Koori Aboriginal people of Australia (Mellor, 2003) Māori were framed as having no place in culturally superior society, that the place for Māori was away from general society and in prisons. The potent image of a treadmill was created and denoted movement, yet with little gains and progress for Māori. In effect, Māori as trapped functioned to voice Māori sense of passivity and hopelessness within oppressive power structures.

While Māori identity was regarded as a site of struggle, it was also constructed as a site of strength and hope. Connection to Māori culture and identity was viewed as preventative to further criminality. In this way it functioned as a form of resistance to the cultural hierarchy that devalued being Māori and challenged the standard story that equated Māori identity with badness. Kirkwood et al. (2005) assert that a fundamental argument against the standard story of Māori and Pākehā relations is acknowledgement of the ongoing nature of colonisation.

Colonising practices were evident throughout the criminal justice system; the discriminatory targeting of Māori by Police, the inequitable treatment of Māori by the Judiciary and Corrections, the disrespect of Māori identity within prisons, and the general positioning of Māori culture and identity as inferior. In claiming Māori culture and identity as strengths, Māori are positioned as resisting the perpetuation of such colonising practices.

Māori as targeted and subject to discriminatory treatment by criminal justice institutions is a common finding throughout the literature (Fergusson et al., 1993a, 1993b; Jackson, 1988). It is suggested that there is a cycle of bias; greater Police contact with Māori influences public perception of Māori as ‘criminals’, which in turn maintains higher rates of Police contact with Māori. This cycle is evident in participants’ experiences of early initiations into criminal justice institutions and constructions of Māori identity as constantly in conflict with the criminal justice system. The experiences of participants also align with evidence indicating strong signs of intergenerational recidivism amongst Māori (Gordon & MacGibbon, 2011).

Despite bias and social background, Māori have been found to be at higher risk of offending (Fergusson et al., 1993a; Fergusson et al., 2003). The dominant discourse persists in fabricating explanations of Māori predisposition to antisocial behaviour and crime, such as the ‘warrior gene’ hypothesis (Hook, 2009), however Māori rates in offending better reflect the vast and profound impact of a history of colonialism (Quince, 2007). The positioning of Māori as culturally inferior and the denigration of Māori identity aligns with the ideas of Quince, that the contemporary social, economic, cultural, and political positions of Māori are related to the processes of colonisation, such that offending by Māori is connected to Māori identity. Perpetual colonialist discourses are central to problematizing Māori, and international literature emphasises similar experiences for Indigenous peoples of Australia and Canada (Blagg, 2008; Fleras & Elliott, 1992). Fleras and Elliott advocate for a shift away from situating the ‘problem’ with Indigenous peoples

and argue that the issues sit instead in the interactions between Indigenous peoples, culture, and colonialism. Undeniably the tradition has been to interpret Māori offending as solely representative of Māori criminality. However, as well as being manifestations of colonialism, Māori offending is indicative of the relationships shared with criminal justice institutions (O’Malley, 1973).

Tauri (2005) contends that the imposed criminal justice systems for Māori and Indigenous peoples of Australia and Canada alike are inappropriate for dealing with offending by Indigenous peoples and have influenced high levels of offending, victimisation, and imprisonment. Justice for Māori is argued as unrealistic in a criminal justice system that is established on non-Māori philosophies, culture, and values and a move toward a Māori criminal justice system, embedded within a Māori worldview, is a means to address Māori dissatisfaction with the current system (Jackson, 1988; Tauri, 2005). On a small scale, the dire effects of the criminal justice system for Māori may be mitigated by ensuring policy respects tikanga Māori in implementation and design (Just Speak, 2012). However, Workman (2014) also advocates for a meaningful shift away from the prevailing paradigm to an approach based on traditional tikanga Māori, with a fundamental role for whānau. The focus therein would be on the concept of whakahoki mauri, which would necessitate that the efforts of the criminal justice system be directed toward restoring peace and balance within the whānau and wider community to improve social integration for Māori who have offended. Whakahoki mauri embodied in this way would reinstate the traditional meaning of rehabilitation, to help to reform an individual’s ability and capacity to participate fully in society (Workman, 2014). Alternative specialist courts have been established and there are 14 marae-based Rangatahi Courts throughout the country that are designed to target Māori youth by incorporating elements of tikanga Māori (Youth Court of New Zealand, 2017). Rangatahi Courts are a first step toward what essentially need to be wide ranging, multi-sector, government, and community strategies to deal with the issue of Māori involvement with the criminal justice system (Just

Speak, 2014). Within the education system Kaupapa Māori approaches and institutions are well established (Smith, 2002), therefore a Māori criminal justice system is feasible.

The findings of this research contribute to the body of discursive psychology literature mapping the language of racism. Specifically, this study responds to calls for research that investigate the perspectives of Māori as targets of racism (Pack et al., 2015). However, perhaps more importantly, the study aligns with ideas that research and approaches regarding institutional racism and Māori representation in the criminal justice system need to be varied and comprehensive (Just Speak, 2012, 2014). Furthermore, as Kaupapa Māori research there has been a deliberate focus on Māori strengths and resources, legitimating tikanga Māori and traditional ideas regarding law and justice. A limitation of the study may be its small scale, however this is regarded as appropriate for an exploratory local study and the partiality this entails is acknowledged.

Māori perspectives of the criminal justice system and institutional racism draw attention to pervasive power relations, which enable the denigration of Māori identity, intrude on Māori rights, and diminish cultural integrity. At a broader social level the findings lend weight to arguments that colonialism has enduring effects for colonised peoples. The significance of Māori experiences with the criminal justice system in Aotearoa, New Zealand cannot be denied. This study has implications for future research to robustly explore institutional racism within the criminal justice system, to develop a fuller picture of the tension Māori experience, and to consider further approaches to addressing such issues. In light of increasing Māori dissatisfaction with the status quo, the arguments for restoring traditional Māori practices are mounting.

Glossary

haka	cultural / ceremonial dance
hapū	sub-tribe
iwi	tribe
kaumātua	elder
mana	prestige / authority
rūnaka	tribal council
tapu	restricted / sacred / prohibited
tikanga Māori	Māori custom
tinu rangatiratanga	self-determination
utu	reciprocal response
waiata	song / to sing
whakahoki mauri	to restore balance to the community
whakapapa	genealogy / connection
whakawhanaungatanga	establishing relationships
whānau	family
whanaungatanga	relationship / family connection

References

Augoustinos, M., Tuffin, K., & Rapley, M. (1999). Genocide or failure to gel? Racism, history and nationalism in Australian talk. *Discourse and Society*, 10(3), 351-378.

Barlow, C. (1991). *Tikanga whakaaro: Key concepts in Māori culture*. Melbourne: Oxford University Press.

Bishop, R. (1998). Freeing ourselves from neo-colonial domination in research: A Māori approach to creating knowledge. *International Journal of Qualitative Studies in Education*, 11(2), 119-219.

Blagg, H. (2008). *Crime, Aboriginality and the decolonisation of justice*. Sydney: Hawkins Press.

Bull, S. (2004). The land of murder, cannibalism, and all kinds of atrocious crimes? *British Journal of Criminology*, 44(4), 496-519.

Cunneen, C. (2006). Racism, discrimination and over-representation of Indigenous people in the criminal justice system. *Current Issues in Criminal Justice*, 17(3), 329-346.

Department of Corrections. (2007). *Over-representation of Māori in the criminal justice system. An exploratory report*. Wellington: Department of Corrections.

Durie, M. (2003). *Ngā kāhui pou: Launching Māori futures*. Wellington: Huia Publishers.

Fergusson, D. M., Horwood, L. J., & Lynskey, M. T. (1993a). Ethnicity and bias in police statistics. *The Australian and New Zealand Journal of Criminology*, 26, 193-206.

Fergusson, D. M., Horwood, L. J., & Lynskey, M. T. (1993b). Ethnicity, social background and young offending: A 14-year longitudinal study. *The Australian and New Zealand Journal of Criminology*, 26, 155-170.

Fergusson, D. M., Horwood, L. J., & Swain-Campbell, N. (2003). Ethnicity and criminal convictions: Results of a 21-year longitudinal study. *The Australian and New Zealand Journal of Criminology*, 36(3), 354-367.

Fleras, A., & Elliott, J. L. (1992). *The nations within: Aboriginal-State relations in Canada, the United States, and New Zealand*. Toronto: Oxford University Press.

Gordon, L., & MacGibbon, L. (2011). *A study of the children of prisoners: Findings from Māori data June 2011*. Wellington: Te Puni Kōkiri.

Henry, E., & Pene, H. (2001). Kaupapa Māori: Locating Indigenous ontology, epistemology and methodology in the academy. *Organization*, 8(2), 234-242.

Hook, G. R. (2009). "Warrior genes" and the disease of being Māori. *MAI Review*, 2, 1-11.

Irwin, K. (1992). *Māori research methods and processes: An exploration and discussion*. Paper presented at the Joint Australian Association for Research in Education/ New Zealand Association for Research in Education Conference, Geelong.

Jackson, M. (1988). *He whaipanga hou: Māori and the criminal justice system - A new perspective*. Wellington: Ministry of Justice.

Just Speak. (2012). *Māori and the criminal justice system: A youth perspective*. Retrieved from http://www.justspeak.org.nz/maori_and_the_criminal_justice_system_a_youth_perspective

Just Speak. (2014). *Unlocking prisons: How we can improve New Zealand's prison system*. Wellington: Just Speak.

Kirkwood, S., Liu, J. H., & Wetherall, A. (2005). Challenging the standard story of Indigenous rights in Aotearoa / New Zealand. *Journal of Community and Applied Social Psychology*, 15, 493-505.

LaPrairie, C. (1997). Reconstructing theory: Explaining Aboriginal over-representation in the criminal justice system in Canada. *Australian and New Zealand Journal of Criminology*, 30, 39-54.

Marie, D., Fergusson, D. M., & Boden, J. M. (2009). Ethnic identity and criminal offending in a New Zealand birth cohort. *Australian and New Zealand Journal of Criminology*, 42(3), 354-368.

Mead, H. M., & Grove, N. (2001). *Ngā pepeha*

- a ngā tipuna. Wellington: Wellington University Press.
- Mellor, D. (2003). Contemporary racism in Australia: The experiences of Aborigines. *Personality and Social Psychology Bulletin*, 29(4), 474-486.
- Moorfield, J. C. (2016). *Te aka online Māori dictionary*. Retrieved from <http://maoridictionary.co.nz/>
- Nairn, R. G., & McCreanor, T. N. (1990). Insensitivity and hypersensitivity: An imbalance in Pākehā accounts of racial conflict. *Journal of Language and Social Psychology*, 9(4), 293-308.
- Nairn, R. G., & McCreanor, T. N. (1991). Race talk and common sense: Patterns in Pākehā discourse on Māori/Pākehā relations in New Zealand. *Journal of Language and Social Psychology*, 10(4), 245-262.
- O'Malley, P. (1973). The amplification of Māori crime: Cultural and economic barriers to equal justice in New Zealand. *Race Class*, 15, 47-57.
- Paterson, J. (1992). *Exploring Māori values*. Palmerston North: The Dunmore Press Limited
- Pack, S., Tuffin, K., & Lyons, A. (2015). Accounting for racism against Māori in Aotearoa/New Zealand: A discourse analytic study of the views of Māori adults. *Journal of Community and Applied Social Psychology*, 26(95-109).
- Pere, R. T. (1997). *Te wheke: A celebration of infinite wisdom (2nd ed.)*. Wairoa: Ako Ako Global Learning New Zealand Ltd.
- Potter, J. (1996). *Discourse analysis and constructionist approaches: Theoretical background*. In J. T. E. Richardson (Ed.), *Handbook of qualitative methods in psychology and the social sciences* (pp. 125-140). Leicester: BPSBooks.
- Potter, J., & Wetherell, M. (1995). Discourse analysis. In J. A. Smith, R. Harré, & L. V. Langenhove (Eds.), *Rethinking methods in psychology* (pp. 80-92). London: Sage.
- Pratt, J. (1992). *Punishment in a perfect society: The New Zealand penal system 1840-1939*. Wellington: Victoria University Press.
- Quince, K. (2007). Māori and the criminal justice system in New Zealand. In J. Tolmie & W. Brookbanks (Eds.), *The New Zealand criminal justice system* (pp. 333-358). Auckland: LexisNexis.
- Smith, G. H. (2002). Mai i te maramatanga, ki te putanga mai o te tahuritanga: From conscientization to transformation. Paper presented at the American Educational Research Association, School of Education, University of Auckland.
- Tauri, J. (2005). Indigenous perspectives and experiences: Māori and the criminal justice system. In R. Walters & T. Bradley (Eds.), *Introduction to criminological thought* (pp. 129-145). Auckland: Prentice Hall New Zealand.
- Te Hiwi, E. (2007). *Disrupted spaces: Racism and the lived experience of Māori identity formation*. Paper presented at the Claiming Spaces: 2007 National Māori and Pacific Psychologies Symposium, Hamilton.
- Tuffin, K. (2005). *Understanding critical social psychology*: Sage.
- Tuffin, K. (2008). Racist discourse in New Zealand and Australia: Reviewing the last 20 years. *Social and Personality Psychology Compass*, 2(2), 561-607.
- Tuffin, K., Praat, A., & Frewin, K. (2004). Analysing a silent discourse: Sovereignty and tino rangatiratanga. *New Zealand Journal of Psychology*, 33(2), 100-108.
- Tuhiwai Smith, L. (1999). *Kaupapa Māori methodology: Our power to define ourselves*. School of Education, University of British Columbia.
- Tuhiwai Smith, L. (2012). *Decolonizing methodologies: Research and Indigenous peoples*: Zed Books.
- United Nations. (2014). Statement at the conclusion of its visit to New Zealand (24 March–7 April 2014) by the United Nations Working Group on Arbitrary Detention. Retrieved from <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14563&LangID=E>
- Waitangi Tribunal. (2015). Retrieved from <https://waitangitribunal.govt.nz/inquiries/urgent-inquiries/department-of-corrections-and-reoffending-prisoners-claim/>
- Walker, R. (2004). *Ka hawhai tonu mātou: Struggle without end*. Auckland: Penguin Books (NZ).
- Walker, S., Eketone, A., & Gibbs, A. (2006). An exploration of Kaupapa Māori research, its principles, processes and applications. *International Journal of Social Research Methodology*, 9, 331-344.
- Webb, R. (2009). Māori, Pacific peoples and the social construction of crime statistics. *MAI Review*, 3, 1-4.
- Wetherell, M., & Potter, J. (1992). *Mapping the language of racism: Discourse and the legitimation of exploitation*. New York: Columbia University Press.
- Wood, D. S., & Griffiths, C. T. (2000). Patterns of Aboriginal crime. In R. A. Silverman, J. J. Teevan, & V. F. Sacco (Eds.), *Crime in Canadian society* (6th ed., pp. 250-262). Toronto: Harcourt Brace.
- Workman, K. (2014). The social integration of Māori prisoners. *Aotearoa New Zealand Social Work*, 26(1), 39-46.
- Youth Court of New Zealand. (2017). Retrieved from <https://youthcourt.govt.nz/about-youth-court/rangatahi-courts-and-pasifika-courts/>

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