

The Impact of Race Relations on Criminal Justice

2018 Waitangi Rua Rautau Lecture,
Wahiao Marae, Rotorua,
4 February 2018,
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Waiho i te toipoto, kaua i te toiroa –
Let us keep close together, not wide apart

Mihi

Let me start by thanking Justice Tā Taihakurei Durie and Lady Donna, for inviting me to speak at the Waitangi Rua Rautau event this year.

As I prepared for today, I thought of those giants of the past and present who have contributed to our collective vision of what positive race relations should look like. But the name that kept coming back to me, the man who kept looking over my shoulder as I wrote, whose wairua visited me as I slept, was that of a humble kaumatua from Te Arawa and Ngāti Tuwharetoa; the late Mita Mohi. Mita's achievements were considerable; but above all, he was a man of peace and reconciliation.

Thank you Tā Wira, for your introduction, and to Tuhourangi/Ngāti Wahiao for welcoming us on to Wahiao Marae in such a grand fashion. My first visit to Wahiao Marae was less auspicious. It was 1986, and I had been in the role of the District Manager of Māori Affairs for just two weeks. I had agreed to chair a meeting on the development of Whakarewarewa village.

From the moment I entered this whare, I knew I was in trouble. Tensions were running high - some were in favour of development, others against. Within half an hour of the meeting starting, two very large men decided to punch it out.

I stepped in and announced a recess, to allow tempers to cool. At that, a kuia launched at me, broily in hand. "Why don't you go back to where you come from. I'm sick of you bloody pākehā telling us what to do", she screamed. With that, she swung her broily in my direction.

There was a pregnant silence, as the rōpu waited to see what I would do. My future reputation was at stake. I remembered that I had a pair of hearing aids in my top pocket, so I slowly took them out and fitted one to each ear. Turning to the kuia I asked, “E kui, would you mind repeating that? I didn’t hear what you said!”. Laughter erupted, and the kuia looked sternly at me, and with a ‘Hrmph’, returned to her chair. Someone started singing, and everyone joined in. The tension ebbed, and when we resumed, I suggested that we didn’t have enough information to make an informed decision, and proposed a further meeting at which the developers would be present.

After the meeting I made enquiries about the kuia, who had attended with her twin sister. She was Tukuahau Hohepa, the mother of the revered kaumatua, Te Hiko o te Rangi Hohepa. Tukuahau and her sister Teitei had a reputation for speaking their minds.

But it didn’t end there. The next morning, at around 6.30am, there was a knock on my back door. It was Tukuahau and Teitei. I checked for brollies, and then carefully opened the door. “Kia ora” I said. “Workman”, she replied, “You’re a hard case”. “Well”, I replied, “I’m just making a cup of tea; why don’t you join me?” She had checked me out, and apologised for referring to me as a pākehā. I in turn confessed to my lack of understanding of local issues. At the end of our korero, they offered ongoing support, information and advice, and became important allies over the years to come. It was a timely reminder that when one enters into someone else’s rohe, building right relationships is the key to forging peace.

Today, I want to consider a different kind of relationship – that of Pakeha-Māori relationships within the criminal justice system. I have two questions. First, what impact did Māori thinking about justice have on the criminal justice system? Second, what has been the impact of race relations in Aotearoa on the criminal justice system? It’s a difficult thing to attempt. Each of us have a personal race relations history, as well as a shared, national history. I have decided to share my own race relations history; based on my own whakapapa and my own whanau, because those subjective experiences have formed the way I think about the larger issues.

My kuaia Rewhaunga, of Ngāti Hinewaka, was born at Te Kopi o Uenuku (Palliser Bay) in 1820. The numerous hapu that inhabited the southern Wairarapa, had whakapapa lines to Ngāti Ira, Ngai Tara, Rangitaane, Ngai Tahu, and Ngāti Kahungunu. The management of those relationships, and decisions around fishing and occupational rights was a complex affair, requiring the rangatira of the day to maintain community wellbeing through negotiation, compromise, and at times chiefly intervention. Those various hapu and whānau were careful not to trample on the mana of other hapu or iwi – nurturing positive relationships was critical to the maintenance of peace.

In those times, anti-social behaviour was believed to result from an imbalance in the spiritual, emotional, physical or social well-being of an individual or whānau: the laws and processes to correct that behaviour grew from a process of correcting the imbalance caused by breaches of tapu and diminishment of mana.¹ The process was very different from western justice. It moved beyond individual offending, to involving the wider community in forging peace.

When, in 1840, the Wairarapa was invaded by war parties from Taranaki and Tainui, there was a major exodus of Ngāti Kahungunu to Mahia Peninsula, reducing the local Māori population from about 2000 to around 400. When our people returned around 1840, pākehā settlers were already eyeing up the land. The settlers were made welcome by our rangatira, who also encouraged inter-marriage. It was a strategy intended to bolster pākehā support in the event of further raids, and a means of regulating economic and social encounters with newcomers. Rewhaunga met my great great grandfather, a Scottish whaler in 1840. They had nine children together, and the rest as they say, is history.

Positive social relationships were critical to the survival of Wairarapa Maori, and were equally important to the settlers. The latter part of the 19th Century was described by Miles Fairburn as an ‘atomised’ society, characterised by transient workers, high levels of interpersonal violence, and drunkenness.² Loneliness was a major social issue. The settlers developed strong and mutually beneficial

¹ Jackson, Moana. "The Māori and the Criminal Justice System, A New Perspective: He Whaipanga Hou." *Wellington, Department of Justice* (1988). p.39

² Fairburn, M. (1989), *The Ideal Society and its Enemies*. Auckland: Auckland University Press.

relationships within and beyond their immediate families, building a nation in which social solidarity, and community cohesion were highly valued

Did that nation include my kuia Rewhaunga? The early family diaries make no mention of any relationship with her whānau, and almost no mention of Rewhaunga herself. All we have is a smattering of information, anecdotes which when pieced together, provide a shadow of information about her. As a young woman, and one of a number of Māori women married to Pākehā whalers, she is said to have acted as their spokesperson, speaking out against those men who treated their wives poorly, and advocating for improved living conditions within the whaling settlement. When in 1856, they moved to Flaxbourne Station in the Wairau district, she lived in a predominantly Pākehā environment until her death in 1882. It must have taken its toll. At times, she would leave her home at Flaxbourne Station, for two or three days, and walk into the surrounding terrain. Her tangi could be heard echoing through the hills. She would then return, to resume her role as wife and mother. It is a picture of loneliness, isolation, and dislocation. Whether the relationship was built on love and mutual commitment, or duty, even servitude, it is hard to say.

Her younger cousin, Piripi Te Maari-o-te-rangi, born in 1837, had a different life.³ He quickly adapted to Pākehā business practices, farmed on a large scale and employed pākehā workers. He emerged as a rangatira, and strongly defended the rights of Wairarapa Māori to their lands and lakes from the mid 1850's until his death in 1885. What was so compelling about Piripi Te Maari, was his conduct in the face of persistent Crown and Pākehā provocation over more than forty years. Not once did he act outside the law; not once did he allow the actions of the crown and Pākehā farmers, to sour his relationships with either. He was constantly patient, civil, and used what resources were available to him within the law. He took every legal avenue available to him, including lodging an unsuccessful application to the Privy Council. For each minor triumph he faced yet another challenge. He died at the age of 58 years, losing the battle, betrayed both by the justice system, his pakeha neighbours, and I regret to say, those chiefs who succeeded him. Within five months of his death, Wairarapa Māori reached an agreement with the government for the sale of the Wairarapa lakes, something which Piripi te Maari had spent 35 years resisting.

³ <https://teara.govt.nz/en/biographies/1t47/te-maari-o-te-rangi-piripi>

Throughout Piripi's life, he had witnessed the consequences of Māori resistance against land encroachment by the Crown, and the imposition of Crown sovereignty. He had seen the unlawful imprisonment of Māori men, women and children and their deportation to the Chatham Islands. He knew about the suspension of the right of fair trial, threats of the death penalty, and confiscation of land.

Despite that, Piripi Te Maari conducted his cause with dignity and respect, in the belief that if he behaved in accordance with pākehā law, justice would triumph and peace would prevail.

Relationships were important to him. When Rewhaunga's son and my great-grandfather Wiremu returned to the Wairarapa in 1886, after 40 years away, he made himself known to Piripi, seeking to rekindle his ahi-ka, or right of occupation.⁴ Piripi transferred his deceased son's land interests to him, making it known that we were whānau. My great-grandfather, Wiremu Wakamana as he was known, became a regular attender and supporter of the Kotahitanga movement meetings held at Papawai Marae.⁵

But the world was changing. While New Zealand society was developing a reputation for friendliness and egalitarianism, it was also a society that prized social cohesion, homogeneity, security and conformity. It was increasingly intolerant of anyone who threatened its perception of what constituted a perfect society. Just as the government had reacted savagely to Māori resistance against the violation of their basic human rights, it expanded that agenda to include anyone who challenged or threatened social cohesion. Ferocious anti-vagrancy and prostitution legislation were passed in the 1870's, and in later years, our treatment of conscientious objectors was much more punitive and harsh than other commonwealth countries. Diversity and difference did not belong, and mixed descent progeny joined the list of 'outsiders'. The nature of relationships in New Zealand was changing, but not for the better.

⁴ Ahikāroa or Ahikā refers to burning fires of occupation, long undisturbed occupation, continuous occupation - title to land through occupation by a group, generally over a long period of time. The group is able, through the use of whakapapa, to trace back to primary ancestors who lived on the land. They held influence over the land through their military strength and defended successfully against challenges, thereby keeping their fires burning.

⁵ <http://www.teara.govt.nz/en/wairarapa-places/page-7>

My father recalled an early idyllic early childhood in which on the weekends, he would accompany his father in a walk from Greytown, across the fields to Papawai Marae. They would always walk through Mr Tait's orchard, where his father would 'borrow' a bag of apples from Mr Tait's apple trees, and then present them to the marae as a koha. There would be much political discussion and debate, and the sharing of kai, before they departed homeward. Around 1915 things changed. There was a major family dispute over how the children should be raised, and his pākehā mother considered it not in the family's 'best interests' to connect closely with their Māori relatives. Visits to the marae stopped, and while our Māori connections were acknowledged, they were not actively embraced again until the 1950's.

My own recollection of the 1950's and 60's was one of cultural confusion. Although largely stripped of Māori cultural understanding by the 1950's, our whānau nevertheless responded to family and social relationships in a way more aligned with tikanga Māori than to the ways of our pākehā neighbours. It was almost as though the whānau over generations, developed a set of values and mores which were neither Māori nor Pākehā, but a subset of both. Four generations of mixed descent marriages, contributed to an open acceptance of people of difference and diversity, and a keen sense of what did or did not constitute justice. The partners and spouses of my own children include Māori, Irish Catholic, Greek Orthodox, and Lebanese Muslim.

In the 1950's and 60's, Marae Committee's in the Wairarapa would take pride in having a pākehā farmer on their committee – they were always good for providing a couple of sheep for a tangi. But there were too many other signs to suggest that these relationships were more about white patronage than mutual equality and respect. Pākehā routinely jumped the queue at shops, while Māori patiently waited to be served. Māori were excluded from membership at the local Workingmen's Club until the 1960's. Māori children who were abused or neglected were whisked away from their whānau by Child Welfare Officers, often never to be seen again.

As Māori society began to disintegrate, the justice system mopped up those who were deemed a public nuisance. In the 1930's Māori "lads" were sent off to borstal "in their own interests" because they were judged to have come from bad

surroundings – a practice since taken over by youth justice institutions.⁶ In 1902, Māori constituted 2.8 percent of all prisoners received - by 1934 that number had risen to 8.9 percent.⁷ Prison sucked up all types of offenders from the lower strata of society: the small time repeat offenders, drunks, vagrants, the mentally ill, and so on.

By the 1930's, while New Zealand had very little crime, it had an average prison population three times greater in proportion to the general population, than that of England and Wales.⁸

Prison provided social benefits: it hid our failures from view; it allowed politicians and the courts to maintain public credibility; it satisfied a public demand for retribution.⁹ New Zealand had become a punitive and mean-spirited society.¹⁰

The impact of the Māori urban migration of the 1950's was predictable.¹¹ Between 1954 and 1958, reported Māori youth offending rose by 50%.¹² One of the factors that caused this increase related not to how Māori behaved in this strange and new urban world but how they were treated by non-Māori. Māori urban migrants were perceived and treated as a potentially dangerous underclass. We were outsiders.

The Police, like much of the public service in the 1950's was unapologetically monocultural. In 1951, the Police boasted one Māori police officer, Bill Carran, who had joined the police in 1920, and retired in 1958, as an Assistant Commissioner. Carran, of mixed descent, was referred to disparagingly as 'the

⁶ John Pratt, *Punishment in a Perfect Society – The New Zealand Penal System 1840-1939* (Wellington: Victoria University Press, 1992), 245

⁷ Statistics of New Zealand 1872, 1902, 1912. See also: F. Lingard, *Prison Labour in New Zealand* (Wellington: Government Printer 1936), 55.

⁸ R. M. Laing, F. de la Mare, and B. Baughan, "The Penal System of New Zealand," *Howard Journal of Penology and Crime Prevention* 3, no. 4 (1933), 48-54.

⁹ Michael Foucault, *Discipline and Punish* (London: Allen Lane, 1977).

¹⁰ Pratt, John. "The dark side of paradise: Explaining New Zealand's history of high imprisonment." *British Journal of Criminology* 46.4 (2005): 541-560.p.551

¹¹The Māori population changed from being 80% rural in 1940, to some 80% urban by 1986. Ian Pool, *Te iwi Māori* (Auckland: Auckland University Press, 1991), 123, 154, 182, 197

¹² J.K.Hunn J K *Report on Department of Māori Affairs: With statistical supplement* (Wellington: Government Printer, 1961) 64.

Black Tracker' by his colleagues, and survived by downplaying his Māori heritage, and emphasising his pākehā side.¹³

When Commissioner JB Young canvassed his staff in 1950 about recruiting Māori, he found them 'almost unanimously opposed'. The Senior Sergeant at Taihape commented:

*The average European would strongly resent being corrected or reprimanded by a Maori, particularly in some districts where the colour line is still observed. On the other hand, the average Māori appointee would be inclined to suffer from an inferiority complex when dealing with Europeans, or be imbued with authority and fail to use discretion when dealing with Maoris."*¹⁴

Other officers appealed to common stereotypes that Māori were too lazy or too subject to tribal pressures to enforce the law impartially.¹⁵ It was not until 1955 that Sam Barnett, then Controller General of the Police, reserved 25 of the first 100 places at the newly established Police Training School, for Maori, and sought recruiting assistance from the Department of Māori Affairs,. By the time I joined the police in 1958, there were 23 Māori in the police, but we made little impact. A 'war on crime' was being waged, and Māori youth were the enemy. Election promises to increase police numbers became a standard political strategy, and continues to this day.

The 1961 Hunn Report confirmed that Māori were more likely than non- Māori to be imprisoned, sent to Borstal or placed on probation, less likely to have court cases dismissed than non-Maori, and more likely to be committed to the Supreme Court for trial.¹⁶ Māori came to Court with no idea how to plead or defend themselves, and about 80 percent of Māori were not represented by counsel, compared to 60 per cent of Europeans. In addition, about 80 to 85% of Māori pleaded guilty compared to 60 percent of Europeans.¹⁷ Sir Jack Hunn raised the issue with the police, justice and welfare authorities, and the Secretary of Justice convened a meeting to discuss

¹³ Young, Sherwood, 'Carran, William 1898 – 1960', Dictionary of New Zealand Biography, Vol 5, Wellington. Auckland University Press/Department of Internal Affairs, 2000, p.95

¹⁴ Butterworth, Graham and Susan, '*Policing and the Tangata Whenua, 1935 – 85*', Number 16, Treaty of Waitangi Research Unit, Rangatiratanga Series. P.16

¹⁵ Ibid

¹⁶ J. K. Hunn, *Report on the Department of Māori Affairs* (Wellington: Government Printer, 1961), 34.

¹⁷ Ibid, 32-33.

the matter. The meeting reached an impasse, when the magistrates and probation officers strongly asserted that there was no problem.¹⁸

Those concerns persisted over the years, and despite the abundance of evidence pointing to an unfair and unjust criminal justice system, attempts to engage the state in addressing underlying issues of racism since then have been diligently avoided.

The restructuring of the public sector in the 1980's, and the introduction of neoliberal policies promoted political and public support for aggressive control of a marginalised underclass perceived to be disorderly, drug-prone, violent and dangerous.¹⁹ Offenders were no longer people in need of support, but risks to be carefully managed. Prisoners became objects rather than subjects. What evolved was not a system of justice, but a system of punishment.

The Invisibilisation of Racism

Between 1998 and 2009, fifteen separate reports showed that racial bias existed within the criminal justice system. Since 2005, repeated requests to the government by the UN Committee on the Elimination of Racism and other UN Committees to tackle institutional racism, have been ignored. From 2009, the government stopped talking publicly about the issue of racism in the criminal justice system, and stopped funding research into the issue. Racism in the criminal justice system has been invisibilised.²⁰

This sort of behaviour lends weight to the developing theory that racism is embedded in the fabric and structures of society, and that white privilege works to marginalise people of colour. In that scenario, the justice system is neither neutral or

¹⁸ Graham Butterworth and Susan Butterworth, *Policing and the Tangata Whenua, 1935-85* (Wellington: Victoria University Press, 2008), pp 30-31.

¹⁹ Kim Workman, "The Future of Restorative Justice," a paper presented to the Annual Conference of Restorative Justice Aotearoa, at Hamilton, September 2008.

²⁰ Kim Workman, Māori Over-representation in the Criminal Justice System – Does Structural Discrimination Have Anything to Do with It?, A Discussion Paper. 2011
<http://docplayer.net/18934706-Maori-over-representation-in-the-criminal-justice-system-does-structural-discrimination-have-anything-to-do-with-it.html>

colour blind, and when it intersects with neo-liberal policy, systemic inequalities are ignored, creating further exclusion for people of race.²¹

Where Are We Now?

In December of last year, the newly appointed Minister of Justice Andrew Little, in a speech to the Law Foundation, summarised our current situation.²² The prison population has increased by 20 percent in the last three years. Our incarceration rate is now 220 prisoners for every 100,000 people, when the OECD average is 147.

Nearly two thirds of prisoners have literacy and numeracy levels below NCEA Level More than 90 percent of youth offenders have significant learning difficulties. More than three quarters of prisoners have themselves been victims of violence. More than 60 percent of prisoners have had a mental health problem in the previous 12 months, and nearly half have an addiction problem. A significant number have recorded traumatic brain injury. Prison hasn't acted as a deterrent. In other words, prisons are serving the same purpose today as they served a hundred years ago, and with the same result. And all this has happened in the face of a steadily declining crime rate over the last twenty-five years.

The minister did not mention Māori imprisonment, but we know that 52% of the prison population are Maori, and Māori women make up 63% of the female prison population,²³ up 5% from five years ago.²⁴

A Relational Justice

How could this have happened? Over the last thirty years, the focus on crime control and punishment has affected the way we think about justice. It has become a detached exercise involving breaches of the law, judgement and punishment. We have ended up with a justice system that stopped engaging positively, and increasingly focussed on excessive monitoring, control and punishment of

²¹ Delgado, R., & Stefancic, J. (2012). *Critical race theory: An introduction*. New York, NY: New York University Press.

²² <https://www.beehive.govt.nz/speech/speech-law-foundation-awards-dinner>

²³ http://www.corrections.govt.nz/news/media-releases/2017_media_releases/waitangi_tribunal_report_on_maori_reoffending/fact_sheet_-_statistics_for_mori_offenders.html

²⁴ http://archive.stats.govt.nz/browse_for_stats/snapshots-of-nz/yearbook/society/crime/corrections.aspx

'outsiders'.²⁵ From an earlier politics that emphasized our common humanity, we've moved to a politics that envisages a common enemy.

In the process, we have forgotten what justice should look like. Justice, when it is done well, embraces the whole fabric of social relationships and inter-relationships – individuals, families, communities, nations – economics, politics, religion, gender, race, environment. Justice is about us and how we live with one another in nourishing and supporting the individual and social well-being of all people.²⁶

It has also changed the way we think about prisons. Nelson Mandela, once said,

"no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones."

The way prisons are run, tell us a great deal about the values and priorities that exist in wider society. The values that underlie their management, communicate meaning about the nation's attitude to power, authority, legitimacy, and social relations.^{27 28} They reflect in miniature the state of the world in which you and I live.^{29 30}

A Moral Justice

Is it extreme to say that we also have a justice system that has lost its moral bearings? I don't think so. Between 2011 and 2017, government introduced at least fourteen pieces of legislation which were in breach of the Bill of Rights Act. Eleven of those fourteen legislative measures were within the criminal justice sector, and adversely affected offenders and their whānau.

Martin Luther King described racism and injustice as forces tearing us apart, and appealed to universal principles and our common humanity as ways to heal

²⁵Bruckner, Pascal. *The temptation of innocence: Living in the age of entitlement*. Algora Publishing, 2000.

²⁶ Ronald W. Nikkel, *Conversatio Morum*, "Justice Between Us" 7 November 2011

²⁷ D. Garland *Punishment and Modern Society*, (Oxford: Clarendon Press, 1990) 252.

²⁸ Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750 – 1850*, (London: Macmillan, 1978).

²⁹ Goffman, E. (1987) 'Asylums: Essays on the Social Situations of Mental Patients and Inmates, London: Peregrine; 1st pub 1961.

³⁰ Sparks, R. (1994) 'Can Prisons be Legitimate?' in R. King and M. McGuire (eds.), *The Oxford Handbook of Criminology*, 2nd edn., Oxford: Clarendon Press.

prejudice and unite the nation. We need to recalibrate our moral compass. It will require strong leadership from our political masters and senior public servants. The more authoritative, stable and legitimate the political-moral order, the less need for pointless punishment.³¹

A Compassionate Justice

Perhaps the greatest challenge of all, is to promote a compassionate justice. It is difficult to feel compassion for those that breach the law. It is difficult to extend compassion toward people who are either unlike us, or whom we don't like. Conversely, it is easier to be cruel toward people who are unlike us, or whom we don't like. But some of the recent legislation is getting dangerously close to affecting people like us, and who we do like.

Can we Change?

Prime Minister Jacinda Adern, has promised a kinder and more compassionate government, and wants to address Māori over-representation in the criminal justice system. The Minister of Justice intends to reduce the prison population by 25% over the next 30 years.

The will to forge change within the criminal justice system, is often constrained by two factors; the public demand for offenders to be punished, and the temptation to generate public fear in order to get votes.

The Public Demand for Punishment

In his speech, Minister Little restated what most people believe to be true – that there is an insatiable public demand for imprisonment and harsh punishment. But the research tells us otherwise.

A 2013 Colmar Brunton Survey commissioned by the Ministry of Justice into Public Perceptions of Crime³² showed that only five per cent of respondents agreed that prisons deterred people from committing crime, with the same percentage advocating for harsher treatment, mostly in the form of longer sentences. Only six

³¹ Garland, D. (1990). *Punishment and Modern Society: A Study in Social Theory*. Oxford: Oxford University Press.

³² Ministry of Justice. (2013). Public perception of crime – survey report. Retrieved from <http://www.justice.govt.nz/publications/global-publications/p/public-perceptions-of-crime-survey-report>

per cent considered that increasing rehabilitation in prisons would increase their confidence in the justice system, while twice that number (11 per cent) favoured community-based rehabilitation.

We have to stop believing that talkback radio represents public opinion. We have to stop dressing up an extreme position and parading it as evidence. The public is not a uniform entity with one single, static viewpoint. It is made up of many differing and changing opinions. Whilst a majority of people may think that the courts are too soft, they also recognise that prison is expensive and damaging.³³ People support alternative, non-punitive responses, once they have the opportunity to consider a case in detail. The idea that everyone supports harsh punishment is a vote-gathering delusion.

Generating Fear

Politicians and the media know about fear – and how to generate it. Almost daily offenders are imprisoned, denied parole because they are considered “a risk to public safety”. Comments are made about communities being ‘high crime areas’, but comprehensive research in West Auckland shows that when negative perceptions are promoted about a community, the local population believes that crime is on the rise, when the opposite may be true.³⁴

The same research showed that under stress, most pākehā people in the community became more concerned for their personal safety, and demand more police patrols, and a ‘tough on crime’ approach. On the other hand, Māori and in Pacific peoples, wanted to see more effort put in to community engagement and collective problem solving. For them, public safety is measured by a collective sense of well-being, rather than a focus on individual safety.³⁵ When the state’s behaviour generates

³³ Lappi-Seppala, T. (ND). Enhancing the Community Alternatives – Getting the Measures Accepted and Implemented, pp. 94, 95. Retrieved from http://www.unafei.or.jp/english/pdf/RS_No61/No61_11VE_Seppala3.pdf

³⁴ Geoff Bridgman, Perceptions of Community Safety in West Auckland and White Fragility, Presentation to the Conference of the Aoteroa Community Development Association and the International Community Development Association, Unitec Institute of Technology, Waitakere Campus, Auckland, New Zealand. February 15th to 17th, 2017

³⁵ Smith, S. (1999). What future for ‘public safety’ and ‘restorative justice’ in community corrections? Sentencing and Corrections: Issues for the 21st Century, no. 11. Washington, DC: U.S. Department of Justice, National Institute of Justice, September.

community fear, it invites a racially based response. In that scenario, long-term public safety is jeopardised.³⁶

This research tells us that we can change the criminal justice system, in the knowledge that the public do not necessarily want to lock more people up. It also means we can develop crime reduction strategies, knowing that calls for more police and tougher sentencing, are not representative of the whole community, and are often formed by false perceptions about crime, based on racial stereotypes.

Māori have repeatedly called for a different kind of justice. In 1998, the New Zealand Māori Council in its public submission on restorative justice, argued for a restoration to Māori of the right to manage their own affairs; to regulate the relationships between their members in accord with the values and protocols of the community, and to respond to individuals at risk in the community, in a way which would reintegrate the offender, protect the victim and redress the wrong.³⁷

We are starting to see that plea come to fruition, through Rangatahi Courts, Iwi Community Panels and the like. But while those initiatives demonstrate an active responsiveness to Māori issues, they don't address the underlying issue of race relations and institutional bias.

Changes to the penal system will not fundamentally alter the way we think about justice. Fortunately, there is a new generation emerging that thinks differently.

The New Generation

In 2011, when I sent out an invitation to young people interested in forming a group to speak out on criminal and social justice, I expected 5 or 6 young people to respond. Forty-six turned up, and within two months, Justspeak was formed. Over the last six years, over two hundred young people have been actively involved doing research, writing reports, making submissions, holding public seminars, and prior to the last election, attracting audiences of 4-500 people to public meetings.

This new generation has rejected the neo-liberal extremes of the 80's, - a time when individual success was the common goal, and life was a competition. Not for them

³⁶ Clear, T. D., Waring, R. E., & Scully, K. (2003). Co-ercive mobility and crime: A preliminary examination of concentrated incarceration and social disorganisation. *Justice Quarterly*, 20, 33-64.

³⁷ Ministry of Justice.. *Restorative Justice: The Public Submissions*. Ministry of Justice, Wellington, 1998,p.16

a justice that divides the nation between the good and the bad. They are seeking a relational justice, one which expands restorative practice across the criminal justice system.

They are seeking a moral justice in which the rights of tangata whenua are accorded equal value. They seek further investment in Māori-led kaupapa Māori initiatives within communities, consistent with the Crown's constitutional and Treaty obligations. They seek a compassionate justice; one which doesn't criminalise New Zealanders who are poor, mentally ill or of a particular ethnicity.

This younger generation is calling not just for changes to the penal system, but a deeper discussion about the philosophies and values will guide us into the future. They want a theory of justice that acknowledges indigenous beliefs about the nature and exercise of justice – one that actively eliminates institutional racism and actively resists the violation of basic human rights.

We have never addressed the foundational issue of what our criminal justice system should look like, what are the fundamental values that drive it, and how it should behave. There has never been a comprehensive review of the criminal justice system. We need to have that deeper discussion, and the establishment of a Royal Commission of Inquiry into the Criminal Justice System, is the most appropriate forum for that to take place.

A Closing Reflection

I started this talk by referring to my first visit to Wahiao Marae, and the forging of a relationship with two formidable kuia. The three years I spent in Rotorua are rich with memories that will feature in my memoir, due to be published later this year. However, when Carolyn and I left Rotorua it was a time of sadness. We had learned that we could not have children. By that time, Mita Mohi had become a close friend, and I shared my news with him. Three weeks later, I was contacted by a whānau who had decided that I should whāngai their new-born male child. Mita Mohi, who had negotiated the arrangement, was the child's great uncle. Mita's older brother, Tumamao, was his grandfather. Matiu Mohi Workman is now 29 years old and two weeks ago, was appointed to the position of Māori Communications Adviser at Otago University.

On my reckoning, Te Arawa, you are part of our whānau, and our whānau is part of you. You will just have to put up with us. But I am telling you this, because it occurs to me that if all of us here could capture the aroha, the manaakitanga, the wairua of Mita Mohi, if we could all in our own small way, be Ambassadors of Peace and Reconciliation, then race relations would not be the issue that it is.

Tēnā koutou, Tēnā koutou, Tēnā koutou katoa.