

## Mega-prisons and Māori – What is Our Responsibility?

The traditional Māori revulsion and fear of prisons is well documented in our shared history. In 1843, a Wellington Chief who had been convicted of theft, and sentenced to two months imprisonment, complained that he had already been degraded by being handcuffed and kept in goal, and did not care for anything. He requested to be killed with a tomahawk, there and then, rather than go to prison.<sup>1</sup> When a pākehā was sentenced to life imprisonment for the manslaughter of a Māori, the deceased's whānau urged that he should be set free; having received such a sentence, he was already dead in their eyes.<sup>2</sup>

Imprisonment, like captivity, had a severe impact on a person's intrinsic tapu, and consequentially, on their personal mana. It was the one response which Māori dreaded, as it had a profound effect on their personal, emotional and spiritual state. Imprisonment was regarded as the same as being taken captive.

In the 1970's and 80's, as the Māori prison population grew, Māori community leaders overcame that revulsion. They became involved in engaging with Māori prisoners and prisons, mostly in a voluntary capacity, teaching tikanga Māori and te reo, and restoring the mana of those who had been taken captive. Ana Tia, John Rangihau, Pita Awatere and Mita Mohi, come to mind, but there were others.

The politics of devolution held hope of autonomist gains; the Tainui Report of 1983, a tribally initiated strategic document, inventoried tribal resources and set out ambitious plans to ultimately replace 'all government structures of organisation'.<sup>3</sup> While government started to fund Māori service providers, officials regarded such initiatives as vehicles for government policy implementation rather than as expressions of Māori autonomy. Devolving service delivery was about making use of iwi organisations, rather than empowering them - the "partnerships" that developed were more about pursuing market ideology, than removing economic differentials. Māori would never achieve rangatiratanga; the most we could hope for was to get involved in systems of benevolence which were for the most part paternalistic and condescending, in the vain belief that we would be able to "make a difference for Māori". Within the criminal justice system, and for the last thirty

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<sup>1</sup> New Zealand Gazette and Wellington Spectator 21 December 1843

<sup>2</sup> GBPP 1844, 556, Appen. P.351

<sup>3</sup> Egan, K., and R. T. Mahuta. 1983. The Tainui report. [Hamilton, N.Z.]: University of Waikato, Centre for Maori Studies and Research

years, Māori have been contracted by the Department of Corrections to provide services to prisoners; not as equal partners but as a means of meeting sector - perceived Treaty obligations.

The reality is that government will never allow the establishment of an independent Māori prison, based on Māori justice principles; a prison that would from the outset, work to restore one's mana, protect their tapu, achieve balance, and at the end of it all, restore the offender back to their community, as a fully functioning human being. But making a contribution may be better than nothing. As the late Sir Robert Mahuta once said about the Treaty claims process, "The game may be crooked, but it's the only game in town".

The dilemma for Māori occurs when the game becomes so crooked, as to render any effort that Māori might make as counter-productive. In that scenario, Māori entities fail not only to make any difference, but contribute to the ill-treatment and oppression of our people. They then have a choice to make; to reap the economic benefits that accrue from being part of the game or withdraw from the game and advocate for systems that benefit Māori and their whānau.

This is the dilemma Māori face with the latest big idea – the prospect of a mega-prison at Waikeria that could potentially house up to 3000 prisoners. A prison nearly three times the size of Rimutaka, (with 1067 prisoners), holding up to 25% of the total prison population. In all of Western Europe, there is only one prison larger. No one seems to have asked the question "do mega-prisons work?"

The research tells us that mega-prisons are a failure <sup>4</sup> They

- a) Increase risk of violent, self-harms and suicide incidents;
- b) Contribute to ineffective rehabilitative and reintegrative outcomes;
- c) Increase the risk to staff;
- d) Make it more difficult to house prisoners in accordance with their security rating;
- e) Breach provisions of the Corrections Act and the Mandela Rules, (UN Minimum Standards for the Treatment of Prisoners.

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<sup>4</sup> Kim Workman, A New Zealand Mega-Prison – Will it Work?(2018)  
<https://www.criminologycollective.nz/2018/03/05/a-nz-mega-prison-will-it-work/>

In the case of Waikeria, it will be extremely difficult for whānau to visit prisoners, because of the lack of public transport, and cost and difficulty of travel. The department anticipates using AVL links for prisoner-whānau communication; 'kanohi ki kanohi' visits will be restricted or replaced.

Housing minimum and medium security prisoners in a maximum-security prison not only breaches the Mandela rules, but will encourage prison staff to manage low risk prisoners as high-risk prisoners. In that situation, prisoners are more likely to be subject to disciplinary measures and solitary confinement. A recent review showed that Māori and Pacific prisoners made up 80 per cent of disciplinary segregation decisions compared to 15% of pākehā.<sup>5</sup> In that environment, departmental offers for Māori to work alongside Corrections to determine better outcomes for Māori,<sup>6</sup> become meaningless.

It will be an ongoing dilemma for iwi and Māori organisations. Do we continue to contribute to a system that has not seen any demonstrable large scale improvement for Māori in the last thirty years? A system in which the 2017 Māori re-imprisonment rate after 12 months, rose from 44.2% to 45.5%. Or do we instead opt out, and rather than reap economic benefits from Māori failure, invest in Māori success?

What does investment in Māori success look like? In the short term, it would require iwi and Māori to fully participate in the government's strategy to downsize the prison population by 30 percent over the next 15 years. Recent research shows that is a very realistic goal.<sup>7</sup> But it needs the support of Māori.

Long term, we should pursue a transformational Māori Justice, one which recognises and restores our intrinsic mana, tapu and mauri. We need to restore dignity and respect to Māori, rather than invest in a system which perpetuates Māori misery. That may in turn require a strategic review of the criminal justice system, and a realignment of the sector so that Māori values and principles are embedded in the nation's criminal justice system.

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<sup>5</sup>Sharon Shalev, Thinking Outside the Box A Review of Seclusion and Restraint practices in New Zealand, Human Rights Commission, 2017 p.26

<sup>6</sup> BIM December 2017, p.18

<sup>7</sup> Kim Workman, Downsizing Prisons – A Discussion Paper, 2018, Downsizing Prisons <https://www.criminologycollective.nz/2018/02/28/downsizing-prisons/>