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Neo-Colonial Injustice and the Mass Imprisonment of Indigenous Women

Edited by
Lily George · Adele N. Norris
Antje Deckert · Juan Tauri

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Tēnā koutou katoa; ngā mihi mahana kia koutou. This book emerges from Aotearoa New Zealand through four people passionate about issues relating to incarceration and Indigenous peoples; in this case, the mass imprisonment of Indigenous women. Our stories here in Aotearoa—while unique—are also similar to those of Indigenous people in the United States, Canada and Australia. It made sense, then, to explore further those similarities, while articulating their distinctive histories and contemporary circumstances.

Many thanks to all contributors for your hard work in getting the chapters written and to us in good time. It is often the way that Indigenous academics and activists are very busy, having to satisfy obligations not only to our professional organisations, but also to our people and communities. Thanks are also given to our people and communities, therefore, who nurture and feed us in a myriad of ways, who teach us and help us grow into our roles, including telling us to ‘back off’ when needed!

Thanks to those contributors who were courageously vulnerable in sharing some of their own experiences of incarceration and interaction with the criminal justice system. Using those understandings to support others in prison and as critical voices, honours the efforts of our ancestors to create a world in which we all belong.

Thanks also to the non-Indigenous contributors for honouring the places and spaces of your Indigenous collaborators. Indigenous peoples have fought valiantly for many generations to retain, reclaim and stand firm in the knowledges of our peoples, yet many understand now that working *with* other peoples who have the heart and the passion for the massive work ahead of us is a necessity—and that we are able to do so on our own terms.

We are indebted to the staff at Palgrave Macmillan for their patience and guidance which has seen us through to publication, Liam Inscoe-Jones in particular.

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New Zealand

Ngā mihi
Lily George
Adele N. Norris
Antje Deckert
Juan Tauri—Aotearoa

Praise for *Neo-Colonial Injustice and the Mass Imprisonment of Indigenous Women*

“For many years there has been a significant gap in the academic literature about the fastest growing segment of the prison population in Aotearoa New Zealand, Australia and North America - indigenous women. ‘Decolonising our Futures’ not just plugs the gap, it confronts it. Indigenous writers and their non-indigenous peers provide a searing analysis, as they describe and explain the mass imprisonment of indigenous women, and then explore the tools of resistance and change necessary to combat the reality of neo-colonial racism. It will be an uncomfortable read for many, but a necessary one, offering new knowledge and powerful insights to those grappling with this significant issue. Ignore it at your peril.”

—Sir Kim Workman, *New Zealand criminal justice advocate of the Ngāti Kahungunu ki Wairarapa iwi*

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Antje Deckert is Senior Lecturer (Criminology) at Auckland University of Technology. Her research examines academic and media crime discourses and their interactions with Indigenous peoples and epistemologies. She is co-editor of both the *Palgrave Handbook of Australian and New Zealand Criminology, Crime and Justice* (2017) and the peer-reviewed journal *Decolonization of Criminology and Justice*.

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Elaine Ngamu (Ngati Porou ki Harataunga) is one of 11 children, the mother of five with two stepsons, and has 26 grandchildren and two great grandsons. She is of Irish as well as Māori descent. She has a Postgraduate Diploma in Whānau Ora from Massey University, and is running Patua te Ngāngara, a whānau-centred methamphetamine programme at Hoani Waititi Marae, as well as supporting community reintegration and Youth Court proceedings there.

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Helena Rattray-Te Mana (Ngā Rauru tribe) is an emerging researcher employed by Te Atawhai o Te Ao. She also manages research projects and has co-authored works such as *Traumatic brain injury of tangata ora (Māori ex-prisoners)*, (2017), *Reclaiming our people following imprisonment* (2017) and *Māori women in prison* (2015).

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Te Atawhai Nayda Te Rangi (Ngāti Tūwharetoa and Ngāti Porou tribes). The Aroha Trust, formed in 1977, is the only gang-associated women's Trust in Aotearoa. She contributed to *Trust—A true story of women and gangs* (2009). Her thesis for a Masters degree in Applied Indigenous Knowledge was titled *He reo ko, he reo areare—The liberated voice of wahine within a gang collective*.

Hilde Tubex is Associate Professor at the Law School of the University of Western Australia. Her areas of expertise are comparative criminology and penal policy, Indigenous peoples and the criminal legal system. She has been involved in several research projects with a focus on Indigenous overrepresentation in the criminal legal system.

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1

Introduction

Lily George, Adele N. Norris, Antje Deckert,
and Juan Tauri

Gordon (2011) states that “Policies of mass incarceration have been called a ‘waste management prison’ approach ... where the problem becomes one of containment and storage, not of rehabilitation and preparation for reintegration” (p. 5). Most people know that the United States’ incarceration rate is the highest in the world. Many are also aware that Indigenous people are disproportionately incarcerated in the United States as well as in Australia, Canada, and in Aotearoa New Zealand (Cunneen & Tauri, 2016) and that the incarceration of women, in general, is on the rise. Only

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few people know, however, that Indigenous women represent the fastest-growing segment of the prison population in all four countries, with the incarceration rate for Indigenous women in Australia and New Zealand being higher than that in the United States and Canada (see Table 1.1). Māori imprisonment has steadily increased from 3% to over 50% since the nineteenth century, and Māori women now make up over 60% of the female prison population (George et al., 2014).

It has been over 20 years since Luana Ross (1998) published *Inventing the savage: The social construction of Native American criminality* in which she advanced the concept of neo-colonial racism to articulate the specific, interwoven strategies of systematic denial of freedom and sovereignty that neo-colonial societies use for the social control of Indigenous peoples. Since Luana Ross’ seminal book was published, Indigenous women’s imprisonment has increased sharply. Voices of Indigenous women detailing specific ways settler colonialism exposes Indigenous women to a system of state-sanctioned violence has been around for several decades,

Table 1.1 Scope of Indigenous women imprisonment in Australia, Canada, New Zealand, and the United States

-
- 1 in 30 Australian women are Indigenous
 - 1 in 20 Canadian women are Indigenous
 - 1 in 6 New Zealand women are Indigenous
 - 1 in 118 United States women are Indigenous
 - 1 in 345 Australian Indigenous women are in prison
 - 1 in 56 Canadian Indigenous women are in prison
 - 1 in 334 New Zealand Indigenous women are in prison
 - 1 in 242 United States Indigenous women are in prison
 - 1 in 86 Australian Indigenous women are under correctional control
 - 1 in 37 Canadian Indigenous women are under correctional control
 - 1 in 61 New Zealand Indigenous women are under correctional control
 - Australian Indigenous women are ten times more likely to be in prison than non-Indigenous women
 - Canadian Indigenous women are nine times more likely to be in prison than non-Indigenous women
 - New Zealand Indigenous women are four times more likely to be in prison than non-Indigenous women
 - United States Indigenous women are three times more likely to be in prison than non-Indigenous women
-

Note that it is not always possible to separate out statistics for the United States as they are often compiled on a state-by-state basis, rather than a national tally

speaking across diverse domains. Such voices are pertinent to elevating the awareness of and advancing the discussion of high imprisonment rates, violence and safety experienced and articulated by Indigenous women, which remain largely invisible in national political discourses. As Indigenous women's voices and activism engage in strategies of resistance and emancipation, it is the purpose of this volume to capture these voices as they articulate the depth of systemic violence against Indigenous women and the remarkable agency Indigenous women wield in the struggle towards liberation.

Decolonising our futures: Neo-colonial criminal injustice and the mass imprisonment of Indigenous women seeks to contribute to the decolonising, intersectional and comparative literature by addressing issues around the mass incarceration of Indigenous women. As Deckert (2014) has pointed out, a dearth of publications on the subject contributes “to the ongoing marginalisation of Indigenous peoples” because “an inadequate quantity of criminological discourse inhibits public attention to the social problem of disproportionate incarceration rates” (p. 39). Furthermore, Norris (2017) has noted that “the absence of a critical lens toward contemporary forms and experiences of racism undergirding the mass criminalisation of Indigenous people perpetuates a colour blindness that in turn works to normalise mass female incarceration” (p. 2). Therefore, it is both important and timely to examine the contemporary mechanisms that drive the mass imprisonment of Indigenous women and to discuss strategies for grappling with the realities of racism. Luana Ross and other Indigenous scholars have recognised that a thorough examination of the mechanisms that generate and perpetuate neo-colonial racism is required to enable and sharpen resistance to racist practices and policies.

In this edited collection, Indigenous scholars—some jointly with non-Indigenous peers—illuminate how neo-colonial societies continue to deny many Indigenous peoples a life relatively free from state interference as most citizens enjoy it. The book covers three main subject matters. Firstly, it seeks to explain the recent surge in the incarceration of Indigenous women in neo-colonial states. Secondly, it investigates implications that the mass incarceration of Indigenous women has for their children, partners, and whānau/mob/communities. Perhaps most importantly, the book addresses activism, resistance and Indigenous strategies against the mass

incarceration of Indigenous women. Over the course of the following 11 chapters, the authors explore how White-settler supremacy is exercised and preserved through neo-colonial institutions, policies and laws, leading to failures in social and criminal justice reform; the impact of women's incarceration on their children, partners, families, and communities; and the tools of activism and resistance Indigenous peoples use to resist neo-colonial marginalisation tactics to decolonise their lives and communities. Indigenous academics and scholar-activists from Australia, Aotearoa New Zealand and North America have contributed to this book.

In Chap. 2, *Stigmatising Gang Narratives, Housing and Social Policing of Māori Women*, Cassandra Lewis, Adele Norris, Waimirangi Heta-Cooper and Juan Tauri investigate the negative stigmas that are used to dehumanise and to limit, restrict and deny assistance to poor and racially marginalised populations, especially single mothers. This chapter closes a crucial gap in the literature as scholars have examined racial social control with regard to gangs, but how the stigma of gang affiliation influences access to quality housing has been scantily examined in Aotearoa New Zealand. Employing a discourse analysis, the authors examine parliamentary speeches with regard to the *Organised Crime Bill and Residential Tenancy Amendment Bill* (2009–2018) to explore how gangs are framed in housing-related political discourse. The findings reveal that language used by policymakers constructs gangs as being associated largely with Indigenous Māori through three main tactics: referencing “ethnic” gangs as the only entity/focus of organised crime; omitting Pākehā/White gangs and white-collar crime; and identifying areas/towns with high Māori populations as in need of targeted social control. The authors argue that such framing strategies fashion a criminalising narrative around Māori as gang members and as inherently violent. This negative discourse permeates housing-related political rhetoric, framing Māori as “bad” or “undesirable” tenants enabling policymakers to stigmatise Māori as the “criminal other”. The authors conclude that this motif carries severe implications with regard to life chances of Māori women, especially as they relate to housing screening practices and the ability to secure social housing.

Chapter 3, sole-authored by Naomi Sayers, bears the title *The Relationship Between Restorative Justice and Prison Abolition*. The author analyses Canada's current restorative justice model and critiques the

application of restorative justice in the lives of Indigenous people, especially Indigenous women. The chapter provides a different way to think about restorative justice through the lens of prison abolition. The writing includes autobiographical accounts and is based on the premise that prison abolition is the only true restorative justice. The author writes both an academic and legal analysis coupled with personal narratives describing experiences in prisons. She comparatively discusses what restorative justice meant for her as a criminalised Indigenous woman, in contrast to what it means to her today as an Indigenous lawyer who is, to this day, still impacted by the systemic criminalisation of Indigenous communities.

Chapter 4, *Colonial Policies and Indigenous Women in Canada*, is written by Dawn Smith. She investigates the alarming Canadian prison statistics. The rate of incarcerated Indigenous women increased by 109% from 2001 to 2012, a trend that continues upwards. This chapter explores neo-colonial policies and legislation behind the mass incarceration of Indigenous women in Canada. The author demonstrates that the crimes associated with the incarceration of Indigenous women are largely poverty-related such as breaches of probation, failure to appear in court, and unpaid fines and theft. Moreover, racialisation renders incarcerated Indigenous women susceptible to unfair treatment (e.g., experiences of segregation, solitary confinement or denial of early release). Through stories and literature, the reader will gain a better understanding of the urgent issues facing incarcerated Indigenous women. For example, most of them are mothers to children under the age of 18 years who will likely be placed in long-term foster care. The author demonstrates how the vicious cycle of colonialism and oppression continues to dominate the lives of Indigenous women, making them more likely to reoffend.

Chapter 5, *The Mass Incarceration of Indigenous Women in Canada: A Colonial Tactic of Control and Assimilation*, also focuses on the Canadian context. It is co-authored by Olga Marques and Lisa Monchalin. The latter is also the author of the recently published, groundbreaking book *The colonial problem: An Indigenous perspective on crime and injustice in Canada* (2016), which chronicles eras of colonial oppression Indigenous people in Canada continue to struggle against that has manifested in the dominant group's attitudes towards crime and the "punishable". In this chapter, the authors argue that Indigenous women continue to be seen as a

threat by the colonisers due to their power and prominence held in their communities. Because of their central roles, Indigenous women have been a target of the colonial agenda to eliminate Indigenous presence. The authors outline how the criminal justice system in Canada became one of the major apparatuses set up to assimilate and control Indigenous presence. They argue that the mass incarceration of Indigenous women constitutes an ongoing genocide and cannot be understood outside of the context of the colonial and necro-political agenda. Prisons represent the epitome of the colonial apparatus which has continually tried to dismantle Indigenous peoples' communities and families. Yet, despite these genocidal colonial tactics, Indigenous women remain, which serves to show their strength and resilience.

Chapter 6, *Transcending Colonial Legacies: From Criminal Justice to Indigenous Women's Healing*, is co-authored by Australia-based Thalia Anthony, Gemma Sentance and Lorana Bartels. In their chapter, the authors explore how institutional inter-generational trauma is perpetuated by criminal justice interventions into the lives of Indigenous women. The authors illustrate how past and present colonial policies and practices have shaped Indigenous women's lives and resulted in disproportionate incarceration across welfare and penal domains. They also assess the ways in which the criminal justice system characterises trauma to problematise and pathologise Indigenous women. Illustrations of healing, well-being and self-determination models embedded in Indigenous women's organisations and services, lead the authors to call for a paradigm shift from prisons to healing centres for Indigenous women.

Chapter 7, *Aboriginal and Torres Strait Islander Women in Australian Prisons*, is also focused on the Australian context. Co-authored by Hilde Tubex and Dorinda Cox, this chapter focuses on the specific social and cultural obligations Aboriginal women have, which cannot be replaced by others, resulting in gaps in the social structures of affected communities, causing intergenerational trauma, which can lead to further and ongoing contact with the criminal legal system. The authors provide an overview of the fragmented official datasets available about Aboriginal women's imprisonment, which despite their fragmented nature, give an indication about the reasons why so many Aboriginal women find themselves in prison and are returning to prison. The chapter looks particularly at the seemingly

rising violent behaviour among Aboriginal women considering the ongoing effect of colonisation and its links to family violence and intergenerational trauma. The authors argue that a shift of focus is necessary from women as “offenders” to an understanding of the broader context in which this behaviour takes place, which will enable us to develop grass-roots support networks addressing this concerning trend.

Chapter 8, *Mana Wāhine Leadership After Prison*, co-authored by Helena Rattray-Te Mana and Te Atawhai Nayda Te Rangi, argues that despite serving time in prison, Māori women in Aotearoa New Zealand cannot be excluded from becoming mana (prestige) wāhine (women) leaders. This is a discussion that carves a passage through the additional layers of ostracisation and stigmatisation that one Māori woman (Te Rangi) encountered leading up to and into prison. It also highlights her journey of restoration and healing after prison and where she fits within mana wāhine theory and mana wāhine leadership. It is a story woven from a personal narrative of the former prisoner and gang-affiliated woman, Te Atawhai Nayda Te Rangi.

Like the previous chapter, Chap. 9, *What Was My Crime? Being an American Indian Woman*, sole-authored by Stormy Ogden, is also based on personal experiences with the criminal justice system. The chapter begins with a poem along with personal stories that outline the ongoing violence targeted towards American Indian women in prisons. For the author, the violence and racism started at a young age with being called “dirty half-breed” by her White mother. Stormy Ogden argues that this—along with other violence in her life—contributed to her becoming a prisoner. American Indian people have been incarcerated in different forms of penitentiaries since the beginning of colonisation. The author argues that, as the Bible and bottle were used to gain control over Indian lands and deny Native sovereignty, prisons—in one form or another—have been used to control Indian bodies. Prisons are instruments of racism and social control, constructed by a system whose purpose is to isolate and dehumanise. It was under these conditions that the author learned how to survive, how to fight against policies which deny Indigenous people the right to pray and the right to identify as American Indian. The chapter draws attention to new voices of resistance including The Green Corn Collective: Indigenous women who created the feminist

hashtag campaign JailBed that addresses the high rate of Native peoples who continue to be incarcerated in the United States.

Chapter 10 is contributed by Toni Bissen. Her chapter, *Trauma, Healing and Justice: Native Hawaiian Women in Hawaii's Criminal Justice System*, discusses community efforts to support women in, as well as those exiting, prison that continued after the Trauma Informed Care Initiative at the Women's Community Correctional Center ended in 2012. Direct and social incarceration costs and savings along with evaluative data analysis of three specific initiatives are also included.

Chapter 11, *Prison as Destiny? Descent or Dissent?* is written by Professor Tracey McIntosh, the leading authority of female imprisonment in Aotearoa New Zealand, in which she explores parallels in the struggles of Indigenous peoples across settler states who have been systematically brutalised and marginalised by state policies and practices. In seeking to understand patterns of confinement, incarceration and silencing, this chapter implores readers to recognise incarcerated and formally incarcerated women as experts of their own condition, which should ultimately drive the platform to inform decarceration strategies that are not limited to exploring new creative possibilities for sustained transformative change.

Chapter 12—*Te Piringa Poho: Healing, Potential and Transformation for Māori Women*—is written by Lily George and Elaine Ngamu of Aotearoa New Zealand and concludes this volume. In this chapter Lily and Elaine explore the importance of research on Māori women's experiences of incarceration that privileges life narratives through a postdoctoral project. The chapter discusses the changes in the ways Māori women were perceived, resulting in diminished and devalued roles in New Zealand society. Historical trauma has resulted in a multitude of negative responses, some of which have led Māori women on a pathway to prison. Two frameworks for rehabilitation and reintegration programmes are discussed—*Te Piringa Poho* (George and Ngamu) and *Hokai Rangī* (Department of Corrections).

Table 1.2 and Fig. 1.1 depict more statistical information on Indigenous women.¹

¹Tables 1.1 and 1.2 and Fig. 1.1 compiled by Brent Commerer, University of Waikato, Hamilton, New Zealand, 2020.

Table 1.2 Comparing Indigenous women with all women

	Population of Indigenous women	Population of all women	Indigenous women as share of all women	Indigenous women in prison	All women in prison	Indigenous women as share of all women in prison	Indigenous women under correctional control	All women under correctional control	Indigenous women as share of all women under correctional control
Australia	399,952	12,187,868	3.30%	1158	3494	33.10%	4634	19,944	23.20%
Canada	860,265	17,488,485	4.90%	15,188	36,001	42.20%	23,028	67,704	34.00%
New Zealand	393,501	2,380,197	16.50%	1176	1821	64.60%	6399	11,652	54.90%
United States	1,402,254	166,049,288	0.80%	5775	231,000	2.50%	na	1,215,000	na

Notes:

All figures are for the most recent year available

“Indigenous” defined by census agencies as Aboriginal or Torres Strait Islander in Australia, Aboriginal in Canada, Māori in New Zealand, and American Indian or Alaskan Native in United States

“in prison” means served some time in prison during the most recent reporting year (Australia, Canada, New Zealand)

“under correctional control” includes prison, probation, parole, community service, and so on, in most recent reporting year

na = not available, because a reliable source not found for this data

Data sources:

Australia: Australian Bureau of Statistics, <https://www.abs.gov.au/>

Canada: Statistics Canada, <https://www.statcan.gc.ca>

New Zealand: Stats NZ Tauranga Aotearoa, <https://www.stats.govt.nz/>

United States: US Department of Commerce, US Census Bureau, <https://www.census.gov/>; US Department of Justice, Bureau of Justice Statistics, <https://www.bjs.gov/>; and Prison Policy Initiative, <https://www.prisonpolicy.org>

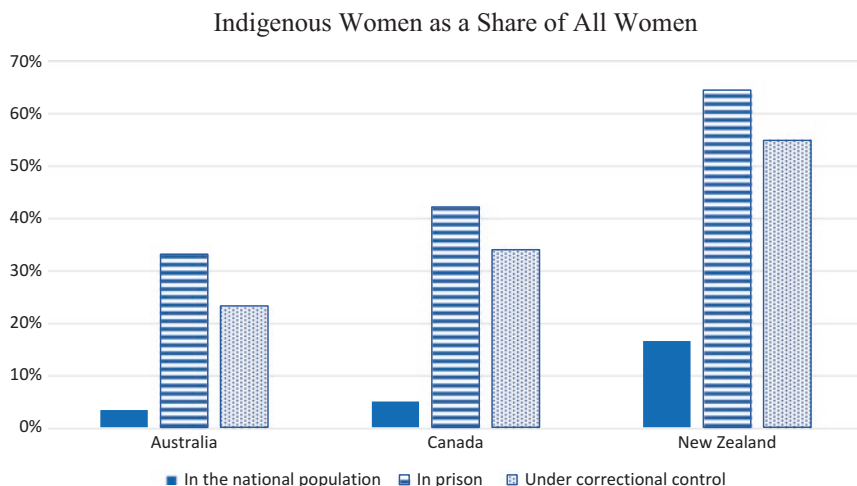


Fig. 1.1 Indigenous women as a share of all women imprisoned in Australia, Canada, and New Zealand

With most contributors embedded in their Indigenous communities, the authors write from a community and experiential perspective as well as through an academic lens—a feature that makes this book a comprehensive resource for scholars and students of criminology, sociology, Indigenous studies, women and gender studies and related academic disciplines. It may also offer valuable insights to policymakers, policy analysts, criminal justice and law enforcement personnel, other criminal justice practitioners and industry specialists, educational scholars, community activists and workers, historians as well as non-academic audiences, offering new knowledge and insider insights both nationally and internationally. The voices in this volume draw from a diversity of experiences and come with their own expertise as racialised people in settler states. As Michelle Alexander (2012) asserts in her book, *The New Jim Crow*, “mass incarceration tends to be categorised as a criminal justice issue as opposed to a racial justice or civil rights issue” (p. 9), the voices in the volume effectively articulate the claim that incarceration for Indigenous women is most likely a matter of the latter rather than the former.

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2

Stigmatising Gang Narratives, Housing, and the Social Policing of Māori Women

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Introduction

Internationally, including in New Zealand, homelessness, evictions, and foreclosures are commonplace and even the hallmark of many cities and small towns struggling to survive (Eaqub & Eaqub, 2015; Madden & Marcuse, 2016; McNeill, 2016). The United Nations estimates that the homeless population, depending on how homelessness is defined, could be anywhere between 100 million to one billion people across the world (Madden & Marcuse, 2016). Increasingly, discussions of rising housing prices and cost of living dominate mainstream media and political discourses (Eaqub & Eaqub, 2015; Madden & Marcuse, 2016; McNeill, 2016; Munro, 2018). After the 2008 global economic meltdown, the term 'housing crises' emerged, drawing attention from reformers, activists, and academics. The global housing crises have gained considerable

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