

**Are We Really Colour-blind?**  
**The Normalisation of Mass Female Incarceration**

**Abstract**

The sharp rise in female incarceration rates in both the United States and New Zealand has received increased attention. Even more pressing are the racial disparities among imprisoned females. This exploratory case study examines 13 peer-reviewed articles published between 2005 and 2016 to understand the nature of colour-blind ideology in discussions of female imprisonment in New Zealand. Several themes emerged including the homogenisation of female prisoners. Apart from moderately linking vast racial disparities between incarcerated White women and Indigenous to ill-defined colonial practices, contemporary explanations for the substantial racial disparities receive little attention. This article concludes 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. Even in attempts to be unbiased, the way race/ethnicity, gender, age, and class are discussed in academic research exploring female incarceration seems to reflect the influential nature of controlling images rather than critique them.

**Keywords:** Indigenous women, Female incarceration; Colour-blind racism; controlling images; criminalisation

## Introduction

It has been well established that the disproportionate imprisonment of African Americans and Latinos led to the United States being the most punitive nation in the world (Alexander, 2012; Kilgore, 2015; Provine, 2007; Reynolds, 2008; Tonry, 2011). Research on mass incarceration in the United States has chronicled the racially-biased *war on drugs* as undergirding the grossly disproportionate rates of imprisonment among African-American men. Referred to as the prison boom, the inmate population for 30 years after 1972 climbed sharply. Between the years 1972 to 1984, the prison population doubled, doubling again between the years 1984-1994 (Pager, 2007). By 2012, the United States' prison population was at a rate 500 percent higher than 40 years prior (Harmon & Boppre, 2015).

However, no other group in the United States experience incarceration at rates higher than Indigenous people who are incarcerated at a rate 38 percent higher than the national average (US Commission on Civil Rights, 2016). Although African American and Indigenous people are both over-represented in the criminal justice system, Indigenous people rates of incarceration double that of blacks. These numbers reveal the unequal power relations between both historically subjugated groups with vastly different histories. As Stevenson (1998) argues, the unbalanced power relations between dominant ethnic majority in the United States, such as African Americans, and Native people “result in a marginalisation, silencing, and exploitation of issues unique to Indigenous peoples” (p. 33). Because the application of ethnic and racial groups homogenises marginalised groups experiences of criminalisation, this paper distinguishes women of colour from Indigenous women.

New Zealand ranks second as the most punitive nation (Jeffries & Newbold, 2015; Bradley, 2011). New Zealand's incarceration rates of people colour, especially women, surpass the United States. Between the years 1999 and 2009, rates of imprisonment in New

Zealand grew by 26 percent, from 151 per 100,000 to 190. This figure does not represent the number of individuals sentenced to home detention<sup>i</sup>, which brings the rate of imprisonment closer to 40 percent. In fact, in 2010, the Minister of Finance, Bill English, announced that within three years the Department of Corrections will be New Zealand's largest government department (Parry, 2011). Yet, Indigenous scholars (have heavily criticized academic criminology over the past decades (see Deckert, 2014;

Within the last decade, high rates of female imprisonment have received increasing attention in both the United States and New Zealand. The number of incarcerated women, overall, is lower compared to men. However, for the past two decades, females experienced incarceration at much higher rates than men (Harmon & Boppre, 2015; Jeffries & Newbold, 2016; Reynolds, 2008). In the United States, for example, rates of incarceration for women between the years of 1995 to 2005 nearly double the rate of men, with an increase of 6.2 percent compared to 3.7 percent for males (Davis, 2014; Kelly, 2015; Reynolds, 2008). In 1980, there were roughly 15,000 women in prison compared to 113,000 in 2010. If including the women in county and city jails, the number of women behind bars rises to 205,000 (Davis, 2014).

Women of colour and indigenous women (e.g., African American, Latino, Māori, Native People, and Pacific Islanders) are incarcerated at significantly higher rates than any other group of women in their countries. In the United States, African-American women represent 30 percent of the female prison population when they only make up 13 percent of the total female population. Black women experience incarceration three times the rate of White women, which is significantly less than Native Indian women, who are incarcerated six times the rate of White women (Flanagin, 2015). Like the United States, New Zealand has experienced a rapid increase in female incarceration. Māori, New Zealand's indigenous population, represents a little more than 15 percent of the country's 4.4 million population but

occupy over half of the female prison population. According to the New Zealand Department of Correction and Statistics (2012), in 2012, Māori women represented 58 percent of all female prisoners. This trend is also seen among non- Māori Pacific peoples. Comprising roughly 6.9 percent of New Zealand overall population, Pacific peoples account for 12 percent of the prison population.

Studies investigating increasing rates of female imprisonment in the United States have primarily focused on the nonviolent nature of crimes committed by women (e.g., larceny theft, fraud, drug abuse violations, and deportment offences as opposed to violence (Harmon & Boppre, 2015). A similar trend holds for the research examining New Zealand's and Australia's growing female prison population. Trends in violence among women and the changes in the types of crimes women commit (see Jeffries & Newbold, 2015; McIvor, 2010) are emphasised. For example, Jeffries and Newbold (2015) examination of women imprisonment in Australia and New Zealand found that current crime policies do not correspond with actual changes in criminal behaviour among women. The authors conclude that the implementation of stricter penalties linked to harsher crime policies explains the sharp increase of female imprisonment, overall, rather than actual criminal behaviour. However, explanations for why women of colour incarceration rates are rising considerably higher than their White counterparts have received little consideration.

For example, Black women, historically, have endured disproportionate rates of imprisonment and criminalisation. Yet, their experiences, with the war on drugs, have not received nearly the attention warranted (Harmon & Boppre, 2015). The overuse of police force toward African-American males has reached global attention. African-American women and adolescent girls experience similar encounters at nearly the same rates as African-American men, yet their experiences remain at the periphery of discussion on mass

incarceration (Crenshaw, 2012; Davis, 2014). Thus, understanding the rising imprisonment among women of colour and indigenous women is of critical importance.

Colour-blind rhetoric, in the United States, has long been identified as a major impetus used to mobilise harsh racially biased crime policies, which disproportionately disenfranchised masses of African Americans, Latinos, and Native People (Alexander, 2012; Collins, 2013; Davis, 2014; Norris & Billings, 2016; Ross, 2005). In 1903, W. E. B. DuBois stated that the problem of the Twentieth Century is the problem of the colour line, which refers to the centrality of race in history and society (DuBois, 1903; Crenshaw, 1998). Likewise, many scholars have argued that unlike the Twentieth Century the problem of the Twenty-first Century will be the problem of colour-blindness (DuBois, 1903; Crenshaw, 1998).

Colour-blind rhetoric has been examined extensively in legal discourse because the law is the instrument of official power designed to enforce a particular social order (Crenshaw, 2005). Thus, legal rhetoric, as the official discourse of power, has the authority to sanction specific conceptions of race and racism. Since, the invisibility of whiteness is inherent in colour-blindness rhetoric is (Bonilla-Silva, 2006; Crenshaw, 1998), a race consciousness is therefore prevented or stifled. The use of colour-blind rhetoric has relegated many people of colour and indigenous peoples to what Michelle Alexander (2012) calls an under caste. For this reason, many critical race scholars have argued that colour-blindness is far more damaging than explicit forms of racial discrimination (Alexander, 2012; Crenshaw, 1998; Bonilla-Silva, 2006; Collins, 2013; Robertson, 2015). Extant scholarship in the United States positions colour-blindness as a component of modern-day racism (Alexander, 2012; Bonilla-Silva, 2006; Collins, 2004; 2006). However, colour-blindness is not discussed to the same extent in New Zealand, which has comparable incarceration rates. In gaining deeper insight into contemporary forms of racially biased practices in an era that is promoted as

being post-racial and post-colonial, it is important to understand colour-blindness and the ways it is manifested in a New Zealand context, particularly its influence on experiences of criminalisation.

The purpose of this study is to examine the presence of colour-blindness in discussions of female imprisonment in New Zealand. Guided by an intersectionality approach, this study explores how the racial/ethnic disparities between different groups of incarcerated women are explained. To offer some understanding of colour-blind ideology and its relationship with controlling images, the subsequent section begins briefly delineating key features of contemporary racism. Special attention is devoted to the historical relationship between marginalised groups and criminalisation. The focus then shifts to an analysis of articles examining female imprisonment in New Zealand. This paper concludes with a discussion of the importance of recognising colour-blindness and its potential to mobilise racial biases in examinations of mass incarceration in New Zealand.

## **Literature Review**

### **Contemporary Racism**

To establish the importance of incorporating a critical perspective on colour-blind ideology in discussions of female incarceration rates, it is necessary to briefly outline the development and use of the concept ‘colour-blindness’ as a frame of reference for this study. Over the past few decades, critical race scholars have observed a distinct period when the United States entered an era of colour-blindness (see Alexander, 2012; Bonilla-Silva, 2006; 2014; Collins, 2013; Davis, 2012). Some scholars refer to colour-blindness as the ‘new racism’ (Bonilla-Silva, 2006; Collins, 2004). For example, Flynn (2016) explains that the dismal effects of race-neutral or colour-blind progressive policies over the past 40 years have substantially increased racial and economic disparities in the United States. Likewise, Michelle Alexander

(2012), in her interrogation of racial-coded language post 1960s Civil-Rights, argues that mass incarceration of Blacks and Latinos hinges on unchecked colour-blind crime policies. Since investigations of colour-blindness began with and is primarily discussed within the context of racial injustices among Blacks in the United States, this discussion begins with the first articulations of colour-blindness, which explains the experiences of criminalisation among Black women post 1960s Civil Rights.

### **Transition into an Era of Colour-blindness**

Some scholars date colour-blind racism back to 1896 with the legal ruling for racial segregation in the United States under the doctrine of ‘separate but equal’ between Blacks and Whites (see Collins, 2000; Crenshaw, 1990). Over the past few decades, Angela Davis (1997) and other contemporary critical race scholars maintain that modern-day colour-blindness emerged and strengthened with the shift into neo-liberalism in the early 1980s (see also Alexander, 2012; Bonillia-Silva, 2014; Collins, 2013; Flynn 2016). Beginning in the late 1970s and early 1980, Davis (1997) asserts that race-blindness was used by a conservative position that proclaimed that “race consciousness itself impedes the process of solving the problem of race” (p. 265).

Within the context of social movements, British scholar Ben Pitcher’s (2011) argument regarding the rise of the *New Left* echoes Angela Davis’ sentiments. Davis (1997) explains how once distinctive activist groups, which could be easily identified by their position on racially structured power relationships, have forfeited their distinction under a race-blindness agenda. Pitcher (2011) also explains that the discourses that may be thought of as the contemporary legacy of the historical *Left* are no longer radical in their stance. For example, Pitcher (2011) argues that anti-racism movements have been weakened by dominant social actors’ embrace of anti-racism and cultural pluralism ideas (see also Andersen, 2005; Collins, 2013; Davis, 1997; Mohanty, 2013; Pitcher 2011). The problem lies

in the fact that when racial justice is construed as being synonymous with diversity (Burke, 2014), understanding race, class, and gender then becomes solely about a plurality of views and experiences as opposed to systems of power (Andersen, 2005). Consequently, racial justice campaigns have been replaced with notions of cultural diversity, wherein the latter does not challenge power structures that engender racist practices (Burke, 2014; Mohanty, 2013; Pitcher 2011; Andersen, 2005; Davis, 1997). Because notions of multiculturalism do not give precedence to specific cultural groups but considers them equally—despite having extremely diverse historical experiences with inhumane and immense injustices— solutions framed around ‘multiculturalism’ will not excessively disturb or disrupt contemporary social structures and organization (Andersen, 2005; Wetherell & Potter, 1992). Furthermore, once differences are flattened because of colour-blindness, prejudice is denied on a societal level, which, in turn, engenders the denial of the very history of the structural presence of race and racism in the political landscape (Luft, 2009; Mohanty, 2013).

For example, in the event practices are exposed as racist, anti-racist advocates are not met with opposition but rather with agreement (Pitcher, 2011). It is the illusion of harmony that serves to the advantage of dominant social actors in that they are now inoculated against critique for implementing racist practices that would have been checked by possible charges of racism before the shift into a *New Left* (Collins, 2013; Pitcher, 2011). For these reasons, it is argued that conditions for historically marginalised groups have worsen in an era when anti-racist, post- colonial, feminist, and environmental justice rhetoric are common place in the developed world (Coleman, 2009; Pitcher, 2011). The criminalisation and mass imprisonment of people of colour and indigenous peoples is one example.

Contemporary racist practices have now become increasingly covert via colour-blind strategies (Bonilla-Silva, 2014; Davis, 1997). As Bonilla-Silva (2014) points out, there is not a discussion of race without the acknowledgement that ‘racism’ creates and maintains race



because it is not a person's race or ethnic identity that hurts but rather racism. Also, under the guise of multiculturalism (Andersen, 2005; Burke, 2014; Pitcher 2011), contemporary racism is embedded within a broader concern of *social justices for all*. This is evidenced by the 'All Lives Matter' stance that emerged in opposition to the 'Black Lives Matter' movement that developed to shed light on the excessive rates of police brutality African Americans experienced in comparison to their White counterparts. All lives matter positions reject the reality that societal ills are not dispersed equally across all social groups. Thus, the mere idea of 'justice for all' inherently fosters and perpetuates racial injustices. This outcome is demonstrated by the society largely objecting to policies designed to rectify past injustices that specifically target certain minority populations (Waldron-Moore, 2007). Furthermore, analyses of mass incarceration without intentional consideration devoted toward historical influences of contemporary experiences of criminalisation undoubtedly mask structural forces engendering inherent racial biases.

### **Colour-blindness, Post-racial, Post-Colonial and the Criminalisation of the "Other"**

Angela Davis (1997) in her essay, *Race and Criminalisation: Black Americans and the Punishment Industry*, addresses how race is no longer acknowledged in the post-civil rights era as a pervasive structural phenomenon, specifically in the creation of the prison industrial complex. When discussing the decolonisation of methodologies from the standpoint of Indigenous people, Linda Smith (2012) raises a similar concern regarding the notion of a 'post-colonial' society. Smith (2012) states that the idea of having entered a 'post-colonial' society was claimed and promoted by the dominant culture whereby Indigenous people actively resist. Smith (2012) elucidates the intrinsic power dynamics in that the dominant culture could make the claim of post-racial society by arguing that the mere notion promotes the idea of having achieved some type of parity. Bonilla-Silva (2014), correspondingly,

argues that the mere notion of a so-called post-racial society is the basis for which colour-blind racism is sustained. Moreover, the saturation of colour-blind rhetoric obscures racial hierarchy and reinforces White privilege (Bonilla-Silva, 2006; Burke, 2013; Davis, 1997).

Because colour-blind ideology influences societal perceptions toward a tendency to downplay racism on many levels (Dickinson, 2012), racism is, therefore, viewed as the thoughts and actions of specific individuals, as opposed to the embedding of racial biases in structural and institutional practices (Bonilla-Silva, 2006). The emphasis on the individual as opposed to the structural is a key aspect of colour-blind ideology that thwarts a comprehensive analysis of marginalised women contemporary experiences of criminalisation. Present-day social problems, argues Davis (2014; 1997), require a continuation of strategies to correct and combat a legacy of racial injustices.

For example, Hemmons (1996), in her research on Black women and criminalisation in the 1980s and early 1990s, argues that the harsh realities of Black women being forced to live in much harsher and severe environments, with such harsh and severe consequences coming from such harsh, and severe people, it is remarkable how much Black women can maintain their humanity. And although illicit drug use is as prevalent in predominantly White, middle and upper class suburban communities, the penalties are not so harsh and severe nor are the police as harsh as it is for Black women. Hemmon (1996) suggests that advocacy for Black female offenders must begin not with making changes in them, but in making changes in the social system that makes their criminality predictable.

An example of this predictability can be observed in the world of reproductive rights, which goes well beyond the more well-known attacks on abortion. Black women are found at the higher end of statistics with regards to the convictions of pregnant women (Kelly, 2010; Kilgore, 2015). The criminalisation of pregnant women for allegedly irresponsible activity ranges from consuming cocaine to refusing to have a doctor-recommended Caesarean section

(Kilgore, 2015). Among these cases, racial and class biases are found in these prosecutions with 71% of women involved classified as low income and 52% being Black (Kilgore, 2015). The sentencing of Regina Macknight of South Carolina, an African-American woman, for murder after a stillbirth is one of the most extreme cases. After a 15-minute deliberation, a jury found Regina guilty because she consumed cocaine while pregnant. She served eight years in prison before a medical examiner concluded that the evidence which linked McKnight's drug consumption to the infant's death was 'outdated' (Kilgore, 2015).

### *Colour-blind Ideology and U.S. Indigenous Peoples*

It is important to recognise that colour-blindness operates differently among Indigenous populations. Although colour-blindness has gained acceptance in the United States to explain the covert forms of racism that supplanted the overt forms of racism pre-civil rights era, this explanation does not hold for Native Americans (Robertson, 2015). Robertson (2015), in her examinations of legitimised racism against Indigenous Peoples, explains that while colour-blindness enables Whites to justify gaps between them and everyone else in educational attainment, wages, chronic health disorders and wealth, Native Indians continue to experience both the covert mechanisms that limit life opportunities and overt forms of racism, which are not confined to hate groups only. Such forms are visible in everyday discourse from the National Football team of the Nation's capital, the Washington Redskins, to children playing Cowboys and Indians. Sitting Indian-style or playing the counting Indian game or being called an 'Indian giver' are also socially accepted, even among other minority groups, without recognising the inherent racism in doing so (Robertson, 2015).

### **Controlling Images: A Legacy of Labels linked to Cultural Inferiority and Deviance**

Controlling images share an inextricable relationship with colour-blind ideology (Collins, 2004; Norris & Billings, 2016). Black feminist scholars and intellectuals have spoken extensively about the nature of controlling images in the lives of Black women (Collins, 2000; Davis, 1997; hooks, 1981; Ladner, 1971; Morrison, 1992). Patricia Hill Collins (2000) describes controlling images as both stereotypical and degrading in which they operate to exploit and justify 'defective' characteristics of a group such as cultural inferiority. Examinations of negative controlling imagery associated with the exploitation of Black bodies extend back to U.S. slavery and beyond. Collins (2004) asserts that the use of the controlling images was central in the justification of African slave labour. "Controlling images of the mule, jezebel, breeder woman and the buck justified Black economic exploitation" (Collins, 2004p. 57).

The use of controlling images as a tool to exploit marginalised populations in the United States has an extensive history, specifically in research related to Black women's over-representation in forced sterilisation and other medical exploitative experiments, domestic work, and mass incarceration (Alexander, 2012; Collins, 2004; Davis, 1997; hooks, 1981; Washington, 2006). More recently in discussions of U.S. mass incarceration, the research reveal that politicians and the mass media have relied heavily upon controlling images to depict criminals as the 'racial other' without specific references to a racial group (Alexander, 2012; Norris & Billings, 2016; Welch, 2007). Thus, alarming incarceration rates of people of colour (esp. African American and Latino) and indigenous peoples warrant a critical analysis of controlling images especially during a time that racist practices are explained away as individual character flaws (Norris & Billings, 2016). Like colour-blind ideology, negative controlling images have reached a level of hegemony whereby images are deeply rooted in the consciousness of society, especially dominant groups (Collins, 2000; Welch, 2007).

## *A Neglected Truth*

In 1833, Maria Stewart, a Black woman, was the first U.S. woman to speak on women's rights in a public sphere (Collins, 2000). In this speech, she states, "Many think, because your skins are tinged with a sable hue, that you are an inferior race of beings" (1833/1995, p. 26). Although Stewart spoke these words decades before the abolishment of U.S. chattel slavery, the contemporary relevance of her sentiments is a necessary starting point for any discussions of criminalisation among historically subjugated people. With the significant gains of Blacks supposedly won as the result of the 1960s Civil Rights Movement, the idea that African Americans are considered inferior undoubtedly receives some contestation. However, Cornel West (2002), in tracing the genealogy of modern racism, elaborates on Stewart's point by addressing what he calls a neglected truth, which is the notion that Black people as human beings is a relatively new discovery in the modern West. . Everyday life of Black people, as West (2002) states, is shaped not simply by the exploitative capitalist system of production but also by cultural attitudes wherein Blacks are perceived as culturally, morally, and intellectually inferior to Whites.

Correspondingly, indigenous people and minority racial/ethnic groups in New Zealand are acquainted with second and third-class experiences of citizenship. Māori, like many other indigenous people worldwide, were not recognised as fully human (Smith, 2012). With citizenship being defined by Western standards and offered by the West, even after the Second World War and into the post-colonial period, Smith (2012) states that many indigenous people were not recognised as fully human (Kingfisher, 1999; Simmonds, 2011; Smith, 2012;). Consequently, the idea of citizenship was even more distant and often denied using tactics that functioned in many ways like Jim Crow laws in the United States.

Understanding the historical racial/cultural dimensions that have influenced experiences of citizenship and everyday life for racially subjugated groups undoubtedly offer

important insights into contemporary perceptions of these groups and the implications of such perceptions. It is from this foundation that negative images associated with historically marginalised groups have been constructed, and have thus become an enduring feature globally (Davis, 2014; Hallet, 2006). Hence, it is imperative to understand how modern-day controlling images are maintained and legitimised during a time were people are cautioned against comparing contemporary social issues to historical forms of oppression and colonisation.

### *Deviant Label, US Educational System, and Adolescents*

Traditionally, the school system in the United States has systematically and deliberately denied its non-white clientele the right to identify with their cultures (Woodson, 1933/1990; Ladner, 1971; Collins, 2000). This fact, compounded by the deviant label assigned to Blacks that permeates academic studies, places Black children in unique position were their successes as a group are not studied to even offset the deviant designator assigned to them. The preoccupation with deviancy, as opposed to normalcy, encourages researchers to limit one's scope and ignore some of the most vital elements of the lives of the people studied (Ladner, 1971). This training permeates policymaking bodies and the criminal justice systems (Alexander, 2012), which are comprised of individuals who all are products of an educational system that inherently marks the 'racial other' as deviant.

Joyce A. Ladner, in her 1971 research on Black-female adolescents, describes this process. Ladner elaborates on the challenges she faced at the initial stages of her dissertation research that investigated a group of Black adolescent girls living in St. Louis. Although she had been socialized for twenty years by her family and grew up in a Black community in rural Mississippi, she was cognizant of her tendency to view the girls from the deviant perspective in accordance with her academic training (Ladner, 1971). Ladner (1971) argued

that because Blacks have not had the necessary power to resist the deviant label assigned to them by the White dominant society, such perceptions persist. Drawing from Howard S. Becker (1963) research, Ladner provides insight into this labelling process (as cited in Ladner, 1971, p. 2):

Social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labelling them as outsiders. From this point of view, deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an “offender.” The deviant is one to whom that label has successfully been applied; deviant behaviour is behaviour that people so label.

Contemporary research reveals how negative stereotypes designated to Black children continues to pervade the U.S. school systems, which also contribute to their criminalisation (Collins, 2013; Smith, 2013). Labels such as ‘troublemaker’ and ‘disruptive’ are rooted in a deviant perspective and follow Black children into the classroom and beyond (Ladner, 1971; Orphanides, 2015; Smith, 2013). This fact is evidenced by research from New York City and Boston public schools, which found that Black girls were subjected to harsher and more frequent discipline than that of their White peers (Orphanides, 2015). Also, they are six times more likely to be suspended than their White counterparts (Orphanides, 2015). Even in higher education, Buffy Smith’s (2013) research found that even when you hold for social class, poor White students better circumvent or fall less of a victim to the *deficient* label that often accompanies Black students in higher education regardless of social class.

This tendency is also prevalent in New Zealand. Negative labels assigned to Māori, argues Smith (2012), functioned in similar fashions (Barnes, Taiapa, Borell & McCreanor, 2013; Bishop, 2003; Kernot; 1990: Kingfisher, 1999; Wetherell & Potter, 1992; Whaanga, 1990). Research exploring colonial education systems documents the prominent role a

Westernised educational system played for imposing superiority over knowledge, language and culture as opposed to indigenous languages, knowledge and culture (Barnes, et al., 2013; Bishop, 2003; Smith, 2012). Thus, the assimilation process of colonised people occurred in part through the denial of indigenous ways of knowing and the subjugation of indigenous knowledge and culture. As detrimental as this system was, Smith (2012) states that not all indigenous peoples were permitted to attend schools as they were already deemed as 'uneducable' or 'troublesome' and 'delinquent', in which Smith describes as a policy designed to deny opportunity for the Indigenous population to participate as citizens.

Even in fields outside of education, New Zealand scholars have mapped the harmful influence of negative labels. For example, Simmonds (2011), in her investigation of discourses of blame and inadequacy of Māori mothers and whenua, found that during the early 1960s, Māori women were labelled as apathetic and ignorant, thus blamed for providing unsatisfactory feeding to their babies. Thirty years later Simmonds (2011) identified similar sentiments expressed by White health professionals working in maternity services provision, which continued to label Māori women as passive and complacent. Simmonds' (2011) findings revealed the mainstream construction of Indigenous women, particularly poor women, is consistent with a history of Indigenous peoples being associated with labels such as *wild*, *uncivilised*, *backward* and *savage* (Kingfisher, 1999). Just as poor Black women have experienced overrepresentation of media images associated with welfare (Kelly, 2010), Indigenous and other women of colour have been linked into a complex conceptual web of internal 'others' (Kingfisher, 1999). Within the context of welfare reform, the impact of controlling images on society's perceptions of the deserving poor versus the undeserving is well established (Collins, 2000; Collins, Davis, 2014; Kelly; 2010; Kingfisher, 1999; Secombe, James, & Walters, 1998). If this common practice is found to be deeply rooted in



welfare reform discourse, how likely is it that controlling imagery influences disparate rates of imprisonment among women of colour?

### *Deviance and White Protectionism*

Research shows that poor White women are included in the deviant label. Even though White women are the largest recipients of welfare in the United States, they are not depicted in the media or in political rhetoric at equal rates of poor women of colour (Kelly, 2010; Kingfisher, 1999; Collins, 2000). Likewise, research reveals a different set of experiences among U.S. White women who experience incarceration compared to their Black counterparts. Dirks, Heldman and Zack (2015) found that the deviant label for White women did not uphold despite the crimes committed. The authors' examination of penal spectatorship revealed that convicted White women are viewed as victims of circumstance deserving of empathy and redemption rather than criminals. The authors advanced the concept of 'White protectionism' as a means by which White people extend privilege and protection to other Whites who transverse the boundaries of whiteness through criminality. Thus, 'White protectionism' guards them against 'deviant' or 'criminal' designators. Even the media are found to depict White women offenders as less blameworthy and more capable of reform as compared to women of colour (Dirks, Heldman & Zack, 2015). What this shows is that the experiences and perceptions of women who have been convicted of a crime changes at the intersection of race, gender and social class.

### **Method**

In an effort to explore the presences of colour-blindness in academic examinations of female imprisonment in New Zealand, this exploratory case study examines 12 articles published between 2005 and 2016. A qualitative content analysis was deemed the most suitable method because this study seeks to gain insight into the phenomenon of colour-blindness. Peer-

reviewed articles were selected as the basis of analysis because of the direct influence applied research has on decision-makers and policy development (Borders, 2011). Peer-reviewed journals are regarded higher than other forms of publications, thus considered the foundation of professional knowledge. For this reason, this study used a relevance sampling technique.

The selection of articles published between 2005 and 2016 coincides with the increase of incarceration rates in New Zealand that followed the 1999 Citizen Initiated Referendum on law and order, which is described as a defining event in New Zealand's penal policy (Parry, 2011). Furthermore, research indicates a sharp rise among female prisoners occurring roughly between 2001 and 2012 (Jeffries & Newbold, 2016). Given the time-lag of academic research to reflect social issues (Neilson, 1997), the year 2005 was chosen. Articles for this study's sample were obtained via the databases, Pro quest and Ebsco host, using the search terms 'female', 'women', 'incarceration', 'mothers', 'imprisonment', 'New Zealand' and 'Australia'. The search yielded roughly 12 peer reviewed journal articles that met the criteria for analysis. To maintain some consistency, research discussing incarceration in general terms were omitted from the sample due to the limited attention devoted to female experiences of imprisonment. Also, because some articles exploring high rates of imprisonment among women examined this phenomenon in both New Zealand and Australia, articles examining female incarceration in Australia were also included in the sample.

Due to the vast racial/ethnic disparities among incarcerating women, this analysis is guided by an intersectionality approach. The idea of intersectionality originates back to the 1800s with the works of Black women in the United States who found themselves at the margins of both Race Movements and the Women's Movements (see Cooper 1892/1988, Harper, 1893/1995; Truth, 1850/1997). Around the latter part of the Twentieth Century, Black feminist scholars used concepts such as double jeopardy (Beale, 1979), multiple jeopardy (King, 1988), matrix of domination (Collins, 1990/2000) and intersectionality

(Crenshaw, 1989; Collins, 1990) to theorise the intersectional complexity associated with Black women's experiences in the United States. Intersectionality has since emerged as a critical theory, concept, and methodology used to capture the structural and dynamic consequences of the interaction between multiple forms of discrimination and systems of oppression and subordination (Crenshaw, 1991; Collins, 2000; Luft, 2009; McCall, 2005; Norris, 2012; Verloo, 2006). In the broadest sense, intersectionality seeks to explain and address how racism, patriarchy, economic disadvantages and other forms of discriminatory practices and systems contribute to the formation of layers of inequality that structures the relative positions of women and men, races and other groups (Andersen, 2005; Collins, 2000; Crenshaw, 1991; Ferree, 2008; Luft, 2009; McCall, 2005; Norris, 2012; Verloo, 2006). Thus, intersectionality is ideal for understanding different groups of women's experiences with incarceration and criminalisation.

While intersectionality methods vary, this study uses an intra-categorical methodological approach advanced by Leslie McCall (2005) because it begins with the observation that there are relationships of inequality among already constituted social groups, for example women (McCall, 2005; Norris, et al., 2013; Norris & Billings, 2016). It is important to acknowledge, however, that several variations exist within the social categories of race, gender and social class. As McCall (2005) points out, the complexity of social life overflows with multiple and fluid social identities, and managing social categories is, without a doubt, a challenging task. Hence, it is not the intentions of this study to minimize the myriad of experiences that accompany various intersecting social identities. For the period under investigation, however, the research and data indicate very specific groups have received stricter and vastly unequal penalties for similar criminal activity. Therefore, assessing explanations that considers how race/ethnicity and age intersects with gender

(women) is an initial step to understanding the dynamics of colour-blindness in the experiences of women under the control of the criminal justice system.

### *Coding Procedure*

The analysis was divided into three phases. First, developing the initial codes for this study required assessing relevant research. In this case, U.S. scholarship that examines manifestations of colour-blindness within the context of mass incarceration was explored. This initial review of the literature revealed six overarching themes: (1) negative stereotypes primarily associated with minority women and mothers (i.e., Blacks, Hispanics, Native Indians); (2) racial profiling and over policing of minority communities (3) racial/ethnic disparities among arrest rates and sentencing, especially for drug related crimes; (4) neoliberal influence on the dismantling of social services (e.g., unequal access for different racial/ethnic groups of women to quality assistance for mental health, housing, and food); (5) housing discrimination and contemporary forms of racial segregation; (6) caste of disenfranchised population of former felons with limited to no access to voting rights, housing, education, employment, and child care. Second, the codes were then applied to this study's sample to identify emergent themes. For the final phase, themes were reduced to subthemes according to their association with colour-blindness.

### *Trustworthiness and Limitations*

To enhance the validity of this study, the following strategies were performed: (1) an initial consultation of scholarship discussing colour-blind ideology within the context of mass incarceration, which facilitated the development of preliminary codes; (2) a graduate student was invited to serve as a second coder; and (3) the author and graduate student met regularly

to discuss emergent themes. If discrepancies occurred in the identification of themes and subthemes, the conflict was examined until coders arrived at a consensus.

Because incarceration rates in New Zealand, especially the over-incarceration of Indigenous peoples, are discussed in various sources outside of academic research, the sole use of peer-reviewed scholarship perhaps present a narrow understanding of female incarceration. Another limitation is the omission of peer-reviewed articles that focused on New Zealand incarceration in general. Such works possibly offered insights into the phenomenon of mass incarceration unexamined in works specific to female incarceration. Lastly, the small sample size is a possible limitation.

## **Findings**

Four major themes emerged from the analysis of the data: (1) the homogenisation of women prisoners; (2) the unequal application of past colonial practices; (3) the limited treatment of the concepts ‘inequality’ and ‘discrimination’; and (4) the exclusion of other women of colour. Given the complex nature of colour-blindness, the themes are interrelated as opposed to being mutually exclusive. Table 1 lists these themes and subthemes.

### ***Homogenisation of women***

With the exception for two articles that specifically stated ‘Indigenous’ in the titles, women were treated primarily as a single group. This was especially apparent in discussions of challenges specific to women/female prisoners or formally incarcerated women. Issues were primarily framed in terms that incarceration affects women, in general, equally. Two studies noted specific disparities in sentencing between Indigenous and White women. Apart from this, the few times distinctions occurred were to highlight challenges linked to Indigeneity (e.g., Indigenous women extended family care-giving responsibilities). Thus, “culture”

emerged to not only describe an aspect only indigenous women possess, but also as a major contributing factor that influences higher rates of incarceration among this group of women.

### *Uneven application of past colonial practices*

The unequal application of colonial history across different groups of incarcerated women emerged as a key theme. Almost exclusively applied to Indigenous women, past colonial practices were treated in very general and unspecific ways. Each article presented the incarceration rates between Indigenous and White women and acknowledged the vast disparities. However, only two articles specifically acknowledged contemporary negative perceptions/stereotypes/labels designated to Indigenous women as an outcome of colonisation that undergirds the vastly unequal rates of incarceration. These two examinations also recognised disproportionate experiences of racial profiling, harsher sentencing, and negative labels in educational environments as contributing factors of Indigenous population's overrepresentation in the criminal justice system. However, the influence of colonisation was not extended to White women. This tendency led, even if unintended, to the marked<sup>ii</sup> (Indigenous) and unmarked (White) status of race/ethnicity in discussions of female incarceration.

### *European/White/Non-Indigenous*

White/Pakeha/European, unlike Indigenous, Māori and Aboriginal, was unmarked. While the specific identification of White/European was used, it was applied differently from Indigenous. White/European emerged most often to compare White women's crimes, for example, to the *more violent* crimes committed by Indigenous women. The juxtaposing of White/European criminality with that of Indigenous crimes seemed to work to exonerate White women from labels of being violent/deviant. Important to emphasis is that this comparison was also used to explain the unequal rates of incarceration between both groups.

Moreover, the broad application of a colonial history was exclusively used to explain Indigenous women's experiences of high rates of imprisonment. The idea that privileges possibly extended to White women through past colonial practices is largely unexamined. This lack of interrogation toward White identity contributed to the unmarked status of White/European in discussion of female imprisonment.

#### *Indigenous Women: Māori and Aboriginal*

Apart from three articles, Indigenous women were acknowledged within the context of statistical or demographic information. Beyond the statistical references, explanations accounting for the sharp rise in female prisoners of colour was lacking. Thus, possible instances of racism or racial profiling and stereotypes were largely dismissed. Indigenous populations' criminality was explained almost exclusively using the terms and phrases such as 'overrepresented', 'negative life experiences', 'lower socio-economic factors', 'lower education', 'more violent than non-indigenous', 'higher rates of mental illness', 'drug abuse', 'experiences of domestic and family abuse' and 'the impact of past colonial practices'. The exclusive use of such phrases in regard to Indigenous women also imply that White women do not suffer from such issues and thus avoid incarceration/criminalisation at similar rates as their Indigenous counterparts. Hence, such explanations not only mark Indigenous identity, but also reflect contemporary applications of the *deviant* label that possibly shape the controlling images of Indigenous women.

#### ***Limited treatment of the concepts inequality and discrimination***

Concepts such as social inequalities and discrimination emerged as a major theme due to their application to gender inequality between men and women. As stated earlier, historical colonial practices emerged in every article as an explanation for the disproportionate rates of imprisonment between White and Indigenous women. Yet, a specific policy or practice connected to the colonial history is never identified. Conversely, contemporary experiences

of inequalities between women and men were discussed and identified to a greater degree (e.g., employment opportunities, gender wage gaps). Furthermore, gender differences were not explained away as the legacy of *past colonial practices*. This finding elucidates a major difference in the treatment of racial/ethnic disparities among women and gender disparities between women and men. The limited interrogation toward racial/ethnic inequalities among incarcerated women implies that the overrepresentation of an Indigenous population is mostly associated with their overrepresentation in a lower socio-economic class and absolves the compounding effect of racism and sexism as significant factor influencing experiences of high imprisonment.

### ***Excluded groups***

Other marginalised groups were neglected in discussions of female incarceration. Pacific Island populations were introduced in statistics only, and they were referenced as a single group. Asians and other groups were mentioned even less if at all. Even though Vietnamese women, living in Victoria, Australia, comprise 7.5% of the women's prison population, they only represent 2 percent of the Victorian population. Such gross disparities were explained away using phrases such as 'existing disadvantages', but specific disadvantages were never identified. While the brief references to past colonial practices was put forward as an explanation for the disparate rates of imprisonment among Māori and Aboriginal women, this explanation offered no insight into the high rates of imprisonment among Pacific Island groups and Asian populations.

Youth and younger women appeared marginally. Youth was often used to explain rates of imprisonment among Indigenous women. For example, three studies noted that younger women represented the largest sect of incarcerated Indigenous women. Despite the reference of a colonial history to Indigenous women in general, colonial practices did not emerge in discussions of young indigenous women.



## Discussion

This study found that sharp rises in female imprisonment were explained more through the gender dimension of this group. This tendency was primarily observed via the limited consideration devoted to race and ethnicity, which is particularly interesting given that Indigenous women occupy over 50 percent of the female prison population in New Zealand. Given this, the analysis revealed that women's experiences of incarceration and criminalisation were homogenised. Limited attention toward racial/ethnic inequalities possibly reflects a presence of colour-blindness in discussions of female imprisonment.

Scholars using an intersectionality framework in examinations of sex trafficking in the UK (Patel, 2001), immigration in the EU (Verloo, 2006), and domestic violence in the US (Crenshaw, 1991), used the intersectional concept of *over-inclusion* to explain situations where the racial/ethnic dimension of women's experiences are subsumed within a gender perspective. For example, Kimberlé Crenshaw (1991) first advanced the concept *over-inclusion* to explain how the racialised aspect of Black women's experiences of criminalisation in situations of domestic violence was ignored. She explained that racism interacted with patriarchy and economic oppression to create different experiences for Black women, even in the reporting of domestic violence. She found that experiences between Black and White women in reporting domestic violence differed in that Black women were more often to be criminalised and subjected to incarceration or questioning compared to the their White counterparts. She also argued that immigrant women were more often than Black or White women to undergo investigation regarding their immigration status when reporting domestic violence (Crenshaw, 1989; Patel, 2001).

Crenshaw (1989) pointed out that Black women were deterred from reporting instances of violence and abuse because it carried the possible burden of the entire community being subjected to 'over policing', a component of institutional racism

(Crenshaw, 1989; Patel, 2001). Thus, Black women were subjected to oppressive policing practices, such as ‘over policing’ in their communities, wherein they experience similar forms of racism as Black men, and the ‘under policing’ of experiences of domestic violence (Crenshaw, 1991; Patel, 2001). Thus, in reporting domestic violence, White, Black, Latina and other immigrant women had vastly different experiences that varied at the intersection of race/ethnicity, gender, and class.

Likewise, this study found the presence of over-inclusion in discussions of high rates of women imprisonment in New Zealand and Australia, which is evidence that colour-blind ideology is not just limited to the United States. The limited attention devoted to thorough explanations regarding the overrepresentation of Indigenous women and the exclusion of other women of colour who are also incarcerated at significantly higher rates than White women could have serious implications for policy and programme development. Even if unintentional, the lack of attention devoted to an intentional interrogation at the intersection of race/ethnicity, gender, class and age in examinations of female incarceration (Norris, 2012; Norris et al., 2013; Zajicek et al. 2009), provides a basis for colour-blindness to minimise the significance of racial/ethnic biases/discrimination in the grossly disproportionate rates of incarceration among women of colour. Therefore, colour-blindness has the potential to normalise mass female incarceration.

### **Conclusions**

This article expands upon discussions of female incarceration in New Zealand. Using a content analysis guided by an intersectionality framework, this study examined the presence of colour-blindness in discussions of female imprisonment in New Zealand and Australia. The analysis revealed that race/ethnicity was largely subsumed in the broader category of *women*. The lack of attention devoted to explanation accounting for large racial disparities is problematic and is reflective of colour-blindness. Just as the United States and New Zealand

have different histories; it is imperative that researchers understand the different manifestations of colour-blindness across different social contexts. This understanding is of extreme importance in understanding unequal experiences of criminalisation and imprisonment.

In this respect, as research on women's imprisonment expands, it is essential that gender is understood within the context of intersecting domains of inequality such as race/ethnicity, class, sexuality and age. Undoubtedly, colonisation has produced different set of experiences for different groups of people living in New Zealand. Thus, emphasis on identifying past colonial practices is only an initial start, which must expand to include experiences of other marginalised groups of women. Also, as discussed earlier, age is a critical factor in discussion of female imprisonment, especially among women of colour. To enhance our understanding of criminalisation, it is essential that adolescent girls are included. Lastly, this study argues that if colour-blindness goes unchecked, interventions designed to mitigate the problem could potentially reproduce similar racial/ethnic hierarchies as past colonial practices.

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## Notes

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<sup>i</sup> The 2007 Sentencing Amendment Act fully implemented home detention, which refers to the electronic monitoring of individuals from their homes. It is often ordered in the place of short-term sentencing (Parry, 2011).

<sup>ii</sup> The concept of markedness was first introduced in the 1930s in linguistics by Nikolaj Trubetzkoy and Roman Jakobson to note that one item of a pair is always actively highlighted with a mark while the other remains passively defined by its absence of the mark. The unmarked often remains unnamed and unaccented in social research (Brekhus, 1998).

<b>Table 1. Key Themes and Sub-themes</b>	
<b>1</b>	<b>Homogenisation of women prisoners</b> <ul style="list-style-type: none"> <li>• Challenges associated with incarceration were generalised across women</li> <li>• Generalisation of experiences of women prisoners</li> </ul>
<b>2</b>	<b>Uneven application of past colonial practices</b> <ul style="list-style-type: none"> <li>• <b>White/European/ Pākehā women</b> <ul style="list-style-type: none"> <li>- Unmarked</li> <li>- Excluded from the impact of past colonial practices</li> <li>- Often emerged only in comparisons to Indigenous women</li> <li>- Non-violent</li> </ul> </li> <li>• <b>Indigenous women</b> <ul style="list-style-type: none"> <li>- Marked</li> <li>- Overrepresentation explained by past colonial practices</li> <li>- Contemporary barrier/challenges underexplored (e.g., racial profiling, stereotypes, discrimination)</li> <li>- Violent</li> </ul> </li> </ul>
<b>3</b>	<b>Limited treatment of the concepts inequality and discrimination</b> <ul style="list-style-type: none"> <li>• Concepts of inequality emerged more often to exist between men and women</li> <li>• Limited use of inequality/discrimination to explain different groups of women experiences of imprisonment</li> </ul>
<b>4</b>	<b>Excluded groups</b> <ul style="list-style-type: none"> <li>• Pacific Island Groups <ul style="list-style-type: none"> <li>- Referenced as a single group</li> </ul> </li> <li>• Asian, Latino, African population excluded</li> <li>• Youth-marginally discussed <ul style="list-style-type: none"> <li>- Often associated with the overrepresentation of ‘young’ Indigenous women</li> </ul> </li> </ul>