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**What About the Violent Offenders?**  
**The Possibilities and Problems of Prison Abolition in New Zealand**

A thesis  
submitted in fulfilment  
of the requirements for the degree  
of  
**Master of Social Sciences in Sociology**  
at  
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by  
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## Abstract

This thesis engages with the issues of mass incarceration and violence in the developing field of research on post-prison societies. Rather than restating the abolitionist argument, this thesis seeks to address three key questions, all with a specific New Zealand focus. Questions one and two broadly explore the barriers to prison abolition and what strategies, policies, and interventions are necessary for New Zealand to become a post-prison society. The third question explores alternative approaches to violent offending in New Zealand, discounting the current system of imprisonment. The research involved nine semi-structured qualitative interviews (six were face-to-face, two through video call, and one through audio call) with academics, advocates, and persons with relevant experience with the criminal justice system through employment, advocacy, or in a research capacity.

Much like the previous literature, this thesis problematises the 'place' of prisons and the current approaches to general and violent offending. This thesis highlights public attitudes, structural or macro-level barriers, and the absence of an abolitionist plan as significant barriers to prison abolition in New Zealand. This thesis also found that early intervention and prevention, the establishment of a consistent and identifiable abolitionist framework, and greater use of in-community alternatives and treatments are considered integral strategies within the incremental steps required to move New Zealand towards a post-prison society. Moreover, this thesis highlights the importance of recognising that violence is deeply contextual and should thus be a vital factor in decision making for how to respond to these forms of harmful behaviour. Finally,

demonstrated by the spectrum of perspectives, this thesis argues that those at the centre illustrate the potential for a future reformist and abolitionist collaboration, and a significant possibility for movement towards a New Zealand without prisons.

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## Chapter 1

### INTRODUCTION

Mass incarceration is a global phenomenon referring to the increasing use of imprisonment over a considerable period (Buttle, 2017). This concept encapsulates the whole of the criminal justice system through the ideological intention of filling prisons, with disregard to the human or financial cost experienced by prisoners and their families (Buttle, 2017). Furthermore, the existence of problematic social, political, and media narratives of imprisonment and abolition generate a significant barrier to the imagining of a society without prisons. For example, political rhetoric driven by fear (or to instigate fear in others) portray an inaccurate connection between prisons and violence, encouraging the view of prison as a necessary safety measure against violence and those who cause harm (Sered, 2019). However, the attributing of violence to individual pathology or ‘dangerous individuals’ without the consideration of problems connected to the socio-cultural context and New Zealand’s history of colonial based structural violence, adds to the failure of prison as a violence intervention strategy in contemporary western societies (Sered, 2019). Not only does incarceration fail to interrupt the drivers of violence and other forms of social harm, but it has also become part of the problem due to the accumulative and punitive effects the prison system imposes on marginalised communities, intensifying negative social outcomes relating to education, housing, employment, and social unity (Sered, 2019).

However, prison need not be an inevitable element of crime and punishment. Some scholars and activists argue that the prison is a system that is beyond repair, that like slavery and the death

penalty before it, it is time to displace the discriminatory, oppressive, and violent prison regime (see Alexander, 2012; Davis A., 2003; Davis & Rodriguez, 2000; McIntosh and Workman 2017; Pratt, 2017). Davis A. (2003) argues that responses to the abolitionist movement that fail to address racism, male dominance, and other structures of domination fail to terminate deeply rooted state violence in its latest iteration. This thesis focuses on the issues of mass incarceration and violence, not by restating the argument in favour of prison abolition, but instead, from a position of conciliation and progress where barriers to meaningful action are identified, and alternatives to current policy and practice are sought. During an upsurge in prisons five years ago, Mathiesen (2015) considered the question ‘what will come after the abolition of prisons’ to be untimely and premature. However, as the modern world is experiencing a global shift in which people are seeking – and implementing – alternative approaches within the justice field (for example, restorative justice and therapeutic justice), it is perhaps an ideal time to revisit the question Mathiesen considered problematic. It is time to critique the embedded nature of the prison within social consciousness and seriously consider the possibility of a world without prisons (Davis A., 2003).

### 1.0 Research Goals

While a complex issue, the argument for abolitionism is coherently articulated within international literature through well-known works such as Angela Davis’ (2003) *Are Prisons Obsolete?* and present in the New Zealand context through works such as Moana Jackson (2019) *Why did Māori Never Have Prisons?* Thus, rather than restating the abolitionist argument, the goal of this thesis is to engage with the developing field of research on post-prison societies by

### **3 | Introduction**

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investigating the barriers of abolition in New Zealand and how to overcome them — with a specific focus on violent offenders. The following questions guide this thesis:

1. What are the current barriers to prison abolition in New Zealand?
2. What strategies, policies, and interventions are necessary to move New Zealand towards becoming a post-prison society?
3. How do we address violent offenders and their offending if or when we move towards a post-prison society?

In considering these questions, I analysed New Zealand literature on incarceration, prison abolition, and violence, relevant international literature, and conducted interviews with respondents with experience in the relevant fields of criminal justice-related academia, advocacy, and employment. This research provides a broader context for understanding the possibilities and problems of prison abolition in the New Zealand social, economic, political, cultural, and justice systems. The goal of this research is to problematise existing narratives — unpacking their complexity to highlight possible starting points for addressing issues in the New Zealand context from an abolitionist and/or prison-reformist lens— and provide a platform for future research to develop.

#### **2.0 Justification for Research**

Many international communities are beginning to express a desire to challenge the dominant social landscape, with global shifts towards breaking down inequalities and bettering the quality

of human life (The United Nations, 2020). Moreover, the recent socio-cultural climate and civil rights resurgence currently being experienced in 2020 has led to rapid growth in academic and mainstream interest and demand for alternative justice strategies, policies, interventions, models, and overall approaches to harm reparation (e.g., the MeToo and Black Lives Matter movements).

First, while the argument for prison abolition is strong and relevant universally (e.g., Alexander, 2012 and Davis, A, 2003), there is a limited but growing body of literature focusing specifically on the complexities of New Zealand's cultural and political history and its impact on the abolitionist desire for a post-prison society. With the country experiencing record-high rates of imprisonment and issues associated with mass incarceration (see *Chapter Two* of this thesis for further discussion), it is at a significant crossroad (Lambie & Gluckman, 2018). As the future leans towards a further entrenchment of prisons and the negative impacts of imprisonment, it is vital to present alternative pathways forward that turn away from incarceration and towards models and approaches which repair the harm for victim, perpetrator, and community alike (Little, 2018).

Furthermore, this thesis, in part, focuses specifically on offenders considered to be 'violent' or 'dangerous'. A common question asked of abolitionists is what is to be done about violent offending if prisons are abolished? While abolitionist research largely focuses on non-violent offenders, extant research on violent offenders in New Zealand typically focuses on rates of efficacy and recidivism primarily regarding prevention and intervention strategies located within carceral constraints. Thus, it is important to contribute criminological research to support a wider

understanding of the existence, applicability, and potential for non-carceral strategies, policies, and interventions when responding to violent behaviours.

While the likes of Moana Jackson (1988, 2017, 2019) and organisations such as People Against Prisons Aotearoa (PAPA) and JustSpeak encourage conversation on the negative impacts of imprisonment and prison abolition within the nation, many questions on the necessary steps for progress remain unanswered. Therefore, if there is movement towards policies and change which will eventually cease the use of prisons, it is important that there be criminological research to support the understanding of the large-scale shifts.

### **3.0 Thesis Structure Guide**

Beginning with the *Introduction* and ending with the *Conclusion*, the remainder of this thesis is organised into four significant chapters. *Chapter Two* and *Chapter Three* provide the contextual foundation for this thesis, while *Chapter Four* and *Chapter Five* address and discuss the key findings resulting from the research.

The current chapter, *Chapter One*, has outlined in brief the aims and the justification for this thesis. *Chapter Two* provides a contextual backdrop through relevant international and New Zealand literature on the history of prisons globally, the historical and contemporary ‘place’ of prisons in New Zealand, the problems of prisons, and the perceived issues for movement towards a post-prison society. The purpose of this chapter is to explore definitions, strategies, and critical analysis of the historical and contemporary prison models, the problems of prisons, and

reformatory or abolitionist pathways to addressing them. *Chapter Three* presents the methodology and methods used in this thesis. Using five subsections, this chapter demonstrates the undertaken research methodologies and approaches, introduces the studies participants, explains and justifies the chosen methods of data collection and analysis, and discusses the ethical considerations and limitations for this thesis.

The key findings from the data analysis of the participant interviews are presented in *Chapter Four*. Focusing on the three guiding questions of this thesis and drawing on participant narratives, this chapter is divided into five super-themes: prisons, (criminal) justice discourse, institutional and structural barriers, the possibilities and problems of prison abolition, and violence. It became evident during the interview process that the first two questions were often discussed in tandem, this is reflected in the chapter as the first four themes relate to these questions and the third on violent offenders is presented in the final theme –violence. Following the presentation of the key findings, *Chapter Five* discusses and contextualises the findings regarding the extant literature explored in *Chapter Two*.

The final chapter of this thesis, *Conclusion*, connects the preceding chapters by restating the main findings and their importance with relevance to the literature and how this thesis has added to abolitionist literature in the New Zealand context. This chapter concludes by proposing possible areas for future research.

## Chapter 2

### LITERATURE REVIEW

#### Introduction

As established in *Chapter One*, the purpose of this thesis is to research the issues and barriers that may inhibit New Zealand from becoming a post-prison society. Of particular interest is finding out how we might address violent offenders and their offending if or when we consider abolishing prisons, or at the very least significantly curtail our use of this form of punishment. This chapter reviews both international and local literature relevant to the study of prisons and prison abolition. The first section will begin by providing a brief and select history of prisons internationally. Following a discussion of the development of prisons globally – with a focus on the Anglo-American contexts – is a discussion on the historical and contemporary ‘place’ of prisons in New Zealand. Section two will first explore the ‘problem of prisons’ in New Zealand and then examine different models of imprisonment, including arguments for and against the use and abolition of the prison. The last section will critically explore issues and problems New Zealand may face in becoming a post-prison society such as social and political indifference, media discourse, and how to address violent offending without using prisons.

#### 1.0 Prisons as a Response to Offending

To understand contemporary prisons in New Zealand, we must look at the prisons of the past. A country’s history of imprisonment is a history of how its government has

maintained social order. In a post-colonial country like New Zealand, that history stretches back across oceans as well as time (JustSpeak, 2014, p. 45).

Before addressing the history and contemporary use of prisons in New Zealand, it is important to provide a select history of prisons internationally. Relevant for their influence over fields of criminal justice in New Zealand both historically and in the present, this section focuses on the Anglo-American contexts. Below, the British and American prison histories are divided into three overlapping periods: the eighteenth, nineteenth, and twentieth centuries. In the eighteenth century, Britain developed the use of prisons as a sanctioned punishment, and in the United States, the American Revolution led to the establishment of penal regimes independent of British colonials (Spierenburg, 1995; Newbold, 2007). Second, the nineteenth century saw Britain favour a *deterrence approach* while increasingly removing punishment from the public's gaze, and in the United States, the Civil War saw shifting penal ideologies focus on the exploitation of labour and class systems (Pratt, 1992; Newbold, 2007; Davis A., 2003). Last, at the turn of the twentieth century, Britain began to focus on rehabilitation, and through the work of social theorists and turbulent political climates, American penitentiaries increasingly focused on the exploitation of "systems of racialised social control" (Alexander, 2012, p.15; Newbold, 2007; Pratt, 1992).

### *1.1 An international history of prisons*

Throughout eighteenth-century Britain, with the diminishing use of sanctions such as transportation, corporal, and capital punishments, imprisonment became the primary response to criminal offences (Wilson D., 2014). More than a progression away from cruelty, the

diminishing use of these sanctions occurred as the result of numerous developing social, political, and cultural processes (Spierenburg, 1984). For example, the refining of justice systems emerged with the enlightenment as crime and punishment were no longer seen as a retributive response to sins against God and King, but as “a practical means of protecting social harmony” (Newbold, 2007, p. 17). Enlightenment thinkers such as Beccaria (1764/1909), whose advocacy for pragmatic over vindictive criminal justice responses gave grounds to the emerging penitentiary system of the late eighteenth century (Newbold, 2007). Initially existing as temporary holding for those awaiting their punishments, imprisonment was used as punishment in only 2.3 per cent of cases between 1770 and 1774<sup>1</sup> (Pratt, 1992). However, as prison became increasingly accepted as a form of punishment, its use grew exponentially, to 28 per cent of cases in the jurisdiction between 1775 and 1779, reaching its peak in 1836 at 68 per cent<sup>2</sup> (Pratt, 1992). Taking the lead from reformers like Jeremy Bentham and John Howard, British prisons in the nineteenth century were utilitarian, focusing on the core practice of deterrence and instilling discipline into inmates (Newbold, 2007). Prisons were primarily designed to deter convicts from committing future offences through deprivation of all known things (Pratt, 1992). Attempts at rehabilitation and reform came with the turn of the twentieth century<sup>3</sup>. Influenced by Italian social theorists such as Cesar Lombroso, Baron Garofalo, and Enrico Ferri, the prison became envisioned as a constructive sanction (Pratt, 1992).

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<sup>1</sup> More pervasive punishments at this time included the death sentence (17%), whipping and branding (14.2%), and transportation (66.5%).

<sup>2</sup> Numbers begin to fluctuate in the latter nineteenth century due to a rise in prominence of sanctions such as probation.

<sup>3</sup> Akin to the British penal system, twentieth-century America welcomed progressive era reformers.

The birth of the prison within the United States begins with British transportation and the African slave trade (Gibson, 2011). The British prison system entered the United States with the colonialists, thereafter transforming into an identifiably American system following the American Revolution (1765-1783) (Gibson, 2011). After gaining independence, the State and Federal government in the United States began converting the penal and slavery apparatus left by British colonialists, through the institution of new penal codes and the use of prisons as a punishment (Newbold, 2007). The nineteenth century saw the advent of new prison designs and regimes. No longer modelled after English reformer John Howard's humane prison<sup>4</sup>, these 'new' institutions were the origins of the silent and separate penitentiary systems that came to dominate the United States into the twentieth century (McGowen, 1995). Designed to separate and remove communication between inmates and enforce greater discipline in the name of reformation, these systems saw the introduction of sanctions within the prison such as solitary confinement and an overall separation from freed society through procedures such as head shaving and limited visitation and communication with the general population<sup>5</sup> (McGowen, 1995; McConville, 1995; Pratt, 1992). International visitors to the new American prisons shared varying sentiments noting that despite the country's extended liberty, their prisons were a spectacle of despotism and that the use of solitary confinement was "worse than any torture of the body" (de Tocqueville & de Beaumont, 2018; Dickens, 1842, p. 81).

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<sup>4</sup> An institution aiming to provide a tough, yet healthy prison environment centered on rehabilitation and reform over punishment, though enhanced organisation, rationality and religiosity (UK Parliament, n.d.; McGowen, 1995).

<sup>5</sup> Britain utilised these systems as disciplinary measures through most of the second half of the century (McGowen, 1995).

The modern American system developed following the Civil War (1861-1865) in which penal servitude was expanded to make up for the loss of labour caused by the abolition of slavery in the south (Davis A., 2003). Newly freed black Americans were increasingly being targeted by laws that exploited their labour and saw them being held in penitentiaries rather than on plantations (Davis A., 2003). As a result of significant changes in the political climate throughout the twentieth century, such as the introduction of Jim Crow laws, the use of imprisonment became widespread in America. Following the Civil War was the Reconstruction Era in which African Americans began their journey towards a more egalitarian racial order (Alexander, 2012). However, the backlash from white southern conservatives saw the institution of segregation laws known as Jim Crow (Alexander, 2012). Alexander (2012, p. 15) argues that Jim Crow laws, much like slavery and mass incarceration, are “systems of racialised social control” established by the government to maintain the racial order of white supremacy. During this period, the primary punishment philosophy of prisons in the United States saw a prioritising of retributive over rehabilitative approaches (Schmallegger & Atkin-Plunk, 2015). Furthermore, during the subsequent and growing prisoner rights movement in the middle of the century, the ‘war on drugs’ (1971) and later ‘get tough’ (1980s) movements, the United States continued to experience significant overrepresentation and exploitation of black and minority populations in the penal system, a situation that continues to exist in the twenty-first century (Alexander, 2012; Davis A., 2003; Fleury-Steiner & Longazel, 2013).

### 1.2 *The history of prisons in New Zealand*

New Zealand's penal history has a duality to it; on the one hand, there was the silencing of Indigenous institutions and practices of justice throughout the nineteenth and much of the twentieth centuries, and on the other, the importation and introduction of the British system of justice over the same period. As a precursor to discussing the introduction of the prison in New Zealand, it is essential to acknowledge that Māori practised complex legal systems prior to British colonisation (Vielle, 2012); practices that may provide guidance for current penal problems in the eventuality that New Zealand one day moves towards prison abolition (Jackson, 1988; Pratt, 1991).

Over the course of the nineteenth and early twentieth century, the dynamic values-based system practised by Māori were replaced with the colonial Westminster system of rule-based laws, a system alien to Māori for its basis in Christianity, capitalism, common law, imperialism, and individualism (Jackson, 1992; The Ministry of Justice, 2001; Ward, 1995). In contrast, the Māori philosophy of law, *te māramatanga o ngā Tikanga*, is underpinned by notions of tikanga or values which were silenced and largely continue to be silenced behind a distorted notion of what it means to be Māori and contemporary (silencing) tactics of biculturalism<sup>6</sup> and legal pluralism<sup>7</sup> (see Jackson, 1992, 1994, 2019). Passed down by generations through precedent and practice,

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<sup>6</sup> In the New Zealand context, biculturalism can be understood as the complex relationship between Māori and Pākehā, its main concern being the “coexistence of two cultures where equal respect is given to the values and traditions of two peoples and the implications of this to a nation’s institutional laws and practice” (Brown M., 2011, p. 69). Scholars and activists such as Brown (2011) and Jackson (1992, 2019) contend that biculturalism in New Zealand fails to support Māori culture and sovereignty through tokenism and a co-option of Māori culture which enables Pākehā culture to remain in a position of dominance.

<sup>7</sup> Legal pluralism is the coexistence of multiple legal systems, a concept that Jackson (1994, p. 116) is sceptical of, arguing that it is “inherently assimilative and racist”.

Māori law existed as a concept interwoven with kinship relations and their balance (Jackson, 1992). When *hara* (wrong) was committed, there were processes in which that wrong could be addressed (Jackson, 1992). With a focus on mending the relationships that had been damaged, it was about bringing people together and restoring the relationships the harm has fractured (Vieille, 2012). A fundamental difference between the two systems was that throughout their history, no traditional Māori response to wrongdoing involved the notion of dealing with harm by locking people up (Jackson, 2019). Therefore, Jackson (2019) considers it important to begin discussions on prison alternatives with the recognition that Indigenous traditions and languages had no notion or word for prison and that we can use these traditions to have a meaningful discussion on the possibilities for moving towards a better system. Ultimately, the prison was historically and remains in the present, antithetical to Māori (Pratt, 1992).

As the formal colonisation of New Zealand was occurring, shifts in British penology largely influenced how the Māori systems were received and subsequently silenced. The establishment and continuance of the Eurocentric colonial mentality illustrate a form of power which Scott (1995) describes as ‘colonial textuality’. As traditional lifestyles are systematically broken down to accommodate new forms of life, representations of the colonised (Māori) are distorted to prioritise the “colonial state’s autobiography, its cultural values, its presumption of an all-pervasive and totalising influence and its marginalisation of resistance” (Scott, 1995, pp. 191-192). Jackson (2019, 17:23) suggests that since 1840, New Zealand has constructed a myth around the colonisation of the country as honourable, that the “colonisation and dispossession of Māori people was somehow better than the dispossession of other Indigenous peoples”.

However, this is fundamentally a contradiction: as Jackson (2019) contends, you cannot honourably colonise or dispossess someone of their identity, lands, history, and language. As the nineteenth century saw a growing desire for certainty, order, and efficiency in the British penal system, Māori methods of justice presented problematic for attempts to recreate the British lifestyle in the South Pacific (Pratt, 1992). Following the formal colonisation of New Zealand, the ‘Europeanisation’ of the country took precedence over Treaty agreements at the expense of Māori culture, subsequently declaring Māori punishment practices as illegitimate and formally silencing the Māori way of life on a whole (Jackson, 1990). Māori customary practices were not protected or maintained as the Treaty was not translated into law (Ward, 1995). Therefore, as British citizens, Māori were subject to British law and were subsequently disillusioned as the Crown continued to breach the Treaty through land confiscations and the ‘sham’ equality afforded to them, “particularly by the negligible influence they had in the machinery of the state” (Ward, 1995, p. 306).

Considering Māori never had prisons, a more appropriate title for the birth of the prison in New Zealand might be the birth of the ‘English’ prison, and with it a ‘Europeanised system of punishment’. The introduction of the British penology into the country has three identifiable stages. Starting in 1840, as this is the year New Zealand was formally declared a colony of the British Crown, the fundamental aim of the colonial settlers was the Europeanisation of the country (Ward, 1995). Thus, the newly established silent and separate system prison regimes were replicated in New Zealand “irrespective of the different nature of the crime problems, material resources, and demographic structure” (Pratt, 1991, p. 118). Before centralisation,

justice processes and prisons were conducted in an *ad hoc* fashion, utilising both Māori and British processes as a response to local circumstances (Ward, 1995). Settler communities regulated themselves, and law enforcement was generally void of legal sanctions during this period (Newbold, 2007). In the second period, as Māori and Pākehā co-existence increasingly became interconnected, anxieties over ‘outsiders’ and increasing crime rates led to an increase in the prison (gaol) population: rising from 1059 prisoners in 1858 to 4924 in 1878, conditions in regional prisons were inadequate and too small to cope (Pratt, 1992). Upon the eventual suppression of Māori institutions and practices, the New Zealand justice system<sup>8</sup> became centralised and many new prisons were built, including the first maximum-security facility at Mt Eden in 1888 (JustSpeak, 2014). The third period of the British prison in New Zealand continues to resemble European trends of the time. At the turn of the twentieth century, along with the European reformist project, New Zealand’s political stance on prisons started to favour rehabilitation over deterrence (Newbold, 2007). The reformatory approach decreased in popularity as rising prison populations complicated the initiatives’ utility, demonstrating that as the prison continues to fail, it remains by reproducing criminals (Newbold, 2007).

### *1.3 Contemporary use of prisons in New Zealand*

Building on the history of the imported prison system, it is important to highlight the development of prisons and punishment during the early- to mid-twentieth century, the period in which the prison became embedded as a criminal justice response (Pratt, 2017). The early to mid-twentieth century was a turbulent time in the New Zealand penal sector as punishment

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<sup>8</sup> Modelled after the British Westminster system.

regimes were dependent on political parties, and ideologies of deterrence shifted towards reformation and rehabilitation (Newbold, 2007). Despite conducting their research within the United States, the following theories on the transformation of the American prison regimes by Garland (2001), Simon (2007), and Wacquant (2009a), as well as Foucault's (1977) thesis on the rise of the prison, are applicable as tools for understanding the developments in prisons and punishment regimes in New Zealand during the early- to mid-twentieth century.

First, Garland (2001) argues that cultural shifts are responsible for changing crime control strategies, thus, resulting in a distrust of government solutions and disillusionment in terms of risk and the efficacy of traditional values. Simon (2007) addresses similar themes, however, suggests in reverse that "politically driven punitive reforms in criminal justice have created a 'culture of fear' that in turn has transformed democratic institutions" (Sutton, 2013, p. 716). Similarly, Wacquant (2009a) argues that the success of the neoliberal political project in stratifying immigrants and non-white minorities through the removal of historically supportive labour markets and welfare retrenchment, "elicits and necessitates the grandeur of the penal state" (p. 19). Wacquant (2009a) contends that neoliberalism promotes the contemporary expansion of the prison system and that contemporary American exceptionalism serves as an example of the neoliberal future. As a philosophy of individualism, neoliberalism in the twentieth century shaped the thoughts of the general public, creating the law and order ideology that those who do not contribute pro-socially must be subject to stricter penalties (Sutton, 2013; Jewkes & Bennett, 2011).

Michel Foucault's seminal work, *Discipline and Punish*, released in 1977, offers further insight into not only the genealogical evolution of the modern prison, but also into the potent relationship between the institution, and the developing state in (neo)colonial contexts like New Zealand. The preeminent sociologist of deviance, Rothman (1990), acknowledged that Foucault, more than any other social theorist, helped shift the prison (and other 'closed institutions' like the asylum) from the margins of research to the centre, "as he perceived them as the emblem of modernity and the emergence of the Bourgeois state" (Ben-Moshe, 2000, p. 48).

What Foucault's theorising leads us to is a critical consideration of the relationship between the process of punishment – articulated through the 'forms' of its practice – and power, in the case of New Zealand and other settler-colonial contexts, the power of the neo-colonial state to subjugate and discipline problematic elements of the population (Alford, 2000). In *Discipline and Punish* Foucault introduces his theory of capillary power, "power that circulates everywhere including into the bodies and selves of individuals to make them who they are, as subjects" (Ben-Moshe, 2000, p. 347). Without doubt, the modern prison, as it evolved in the Western context, became a key site of this 'new form of power', one that replicated the 'top-down', centralised force of the sovereign. It was a form of power (to punish) rendered more compelling by a totalising regime of social control that impact the mind, body and soul of the populace through regimentation (Foucault, 1977).

However, as analysts of Foucault have effectively demonstrated, while power has become arguably more perverse (and pervasive) in the neo-liberal moment, so too has resistance to forms

of injustice, such as harsh and ineffective punishment regimes (West, 2010). In the series of lectures that took place in 1978, Foucault himself identified that the disciplinary strategies of the modern state, those policies and interventions designed to control our conduct (*conduite*), by their very enveloping and suffocating regime bring about *resistance*, which Foucault (2007, p. 217) describe as a movement geared toward a different form of conduct whereby some people “want to be conducted differently, by other leaders (conducteurs) and other shepherds, towards other objectives and forms of salvation [salut] and through other procedures and methods”. And inarguably one of the oldest forms of resistance to the modern states contemporary regime of social control, has been the prison abolition movement.

Drawing on evidence and research, the remainder of this section describes the current state of incarceration in New Zealand, specifically, the high rate of imprisonment. As New Zealand experiences an expansion in its penal industry, attempts to maintain social cohesion and reduce crime has led to the development of retributive criminal justice policies with a central reliance on the prison (Pratt, 2017). While the New Zealand justice system redirects many offenders into alternatives to incarceration, the country continues to build, maintain, and allocate large sums of money on a ‘last resort’ that often takes precedence (Fisher, 2018). With one of the highest prison populations in the OECD<sup>9</sup>, New Zealand is experiencing record high prison populations reaching an excess of 10,000 incarcerated persons in 2016 (Smith R., 2017). Despite the country’s high incarceration rate and the vast majority (71%) of public believe that crime is increasing, crime rates have been in a period of decline since 2009 (Lambie & Gluckman, 2018; Pratt, 2017).

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<sup>9</sup> 220 per 100,000 compared to the OECD average of 147 per 100,000.

As crime rates serve more of a symbolic function in the rising incarceration rate, other avenues of problematic policy are a significant cause of growth (Lambie & Gluckman, 2018). For instance, the average proportion of a sentence being served has risen from fifty to seventy-five per cent for long-term sentences (two years or more) between 2003 and 2017 (Lambie & Gluckman, 2018). Furthermore, recidivism rates illustrate the self-serving cycle of the prison as forty-nine per cent of prisoners experience re-imprisonment within five years of their release<sup>10</sup> (Smith R., 2017). This evidence is demonstrative of the failing direction of New Zealand's retributive penal policy, which relies on imprisonment as a response to crime.

A problem specific to New Zealand is the overrepresentation of Māori in all sections of the criminal justice system. When applying the governmentality thesis to a colonial context, focus is drawn to the formation and normalisation of knowledge (Tollefson, 2002). In New Zealand, this is displayed in the frequent occurrence of ordinary members of society not questioning the causes or consequences of Māori overrepresentation, instead accepting it as a known reality (McCreanor, 2014). Furthermore, Cunneen and Tauri (2016) contend that academic disciplines such as criminology routinely overlook the issue of Māori overrepresentation due to ideological and theoretical alignment with imperialism and colonialism, resulting in the underdevelopment of research on the struggle for justice in New Zealand. In their work on the governmentality of risk, Mythen and Walklate (2006) suggest the perceived status of Māori as an at-risk population explains why Māori are often the targets of over-policing and other surveillance regimes. Socially

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<sup>10</sup> Furthermore, the extent of this problem is evident as comparable data from multiple Australian jurisdictions such as the Northern Territory (56%), Queensland (40%), and Australia on a whole (45%), experience similarly high rates of reconviction and reimprisonment (within two years of release) (Boomen, 2018).

and institutionally constructed narratives of citizen desirability contribute to the criminalisation of Māori (James, 2000). This criminalisation serves to maintain social and state control of ‘undesirable’ populations through the prison industrial complex (PIC)<sup>11</sup> as risk is a provision for the regulation of time, space, and the future (Simon, 1997; Mythen & Walklate, 2006). Through a continuation of politically driven disconnection, dependency, and dispossession characteristic of New Zealand’s colonial past, scholars argue that New Zealand is in a period of neo-colonialism, illustrated by the apparently arbitrary use of the criminal justice system on Māori (Jackson, 1988; Tauri, 2014).

It is essential to recognise that this complex and multifaceted issue is difficult to summarise into a single paragraph. Therefore, it is the approach of this thesis to focus on this issue in relation to imprisonment. While Māori make up fifteen per cent of New Zealand’s total population, they account for over fifty per cent of the prison population (Maxime, 2018). A further striking illustration of the severity of Māori over-representation in New Zealand’s prisons comes from Lambie and Gluckman (2018), who calculate that New Zealand’s prison population would be forty-four per cent smaller if the proportion of Māori and non-Māori inmates were representative of their respective national population totals. Lambie and Gluckman (2018, p. 19) further explain that “based on the current prisoner population, if Māori had an imprisonment rate of 100 per 100,000 Māori population, there would be only around 700 Māori in prison, not

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<sup>11</sup> The prison industrial complex (PIC) is “an array of relationships linking corporations, government, correctional communities, and media” (Davis A., 2003, p. 34). While written for the American context, the critical resistance abolitionists toolkit encourages its use in global contexts as the structures and ideologies of punishment have come to include “the overlapping interests of government and industry that use surveillance, policing, and imprisonment as solutions to economic, social, and political problems” (Agid et al., 2004, para. 1).

5,400 as there are at present". Evidence increasingly indicates that Māori overrepresentation relates strongly to both ethnicity and disproportionate exposure to risk factors such as socioeconomic deprivation (Lambie & Gluckman, 2018). Accusations of racial bias impacting ethnic disparities have led to numerous investigations into the processes and practices of New Zealand's criminal justice institutions (Morrison, 2009). For example, the two-part research project by Te Whaiti and Roguski (1998) and Maxwell and Smith (1988), which examined Police and Māori attitudes toward one another, demonstrates that many officers were aware and attempted to justify negative and, in some cases, racist attitudes towards Māori. While some such as former police commissioner Mike Bush minimise the impact of institutional racism and police practice through terminology such as 'unconscious bias'<sup>12</sup>, others argue the necessity of identifying and addressing the racism stemming from our colonial past (Jackson, 2017; Tauri, 2015; Fernando, 2018).

Newbold (2007) argues that New Zealand rarely develops individual penal policy, instead, favouring the imitation of countries such as the United Kingdom and the United States. After inheriting the punitive ethic of England, New Zealand continues its get-tough attitude through the adaptation of American crime control policies such as zero tolerance (broken windows) policing, the supermax prison, and, three-strikes laws (Newbold, 2007; Martin, 2018). As the

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<sup>12</sup> Tauri (2015) suggests an ambiguity in defining the term 'unconscious bias' when used by NZ Police Commissioner Mike Bush, later describing it as "attitudes long held that unknowingly seep into individual police officers' interactions with members of the public" (para. 7). For example, unconscious bias can be connected to more overt racism through police behaviours such as racial profiling and the over policing of Māori and Pasifika neighbourhoods (Buttle, 2017). Buttle (2017) argues that the term 'unconscious bias' enables Police to distance themselves from claims they are racist, instead inferring that any racism is accidental: having "thereby sanitised their wrongdoing with denials of culpability" (p. 118). According to Buttle (2017), attempts to dismiss critical research as un-scientific is a deliberate tactic employed by the police that demonstrates conscious racial bias.

prison is impacted by decisions made in earlier stages of the justice process, it is crucial to address these drivers of the prison population. First, zero-tolerance policing occupies more of a symbolic than an operational position in New Zealand's community-oriented model of policing (Martin, 2018). The language of the rhetoric lends itself to a get-tough approach; however, the duality of the binary view of tough or soft on crime terminology is simplistic and problematic for it is founded in response to public demand and political positioning (Lambie & Gluckman, 2018; Martin, 2018). Second, the American supermax prison exists in a hybrid form as New Zealand's Paremoremo prison demonstrates a combination of local and foreign elements. The supermax facility mirroring the American architecture, also adopted a severe disciplinary regime to assert control including, 22 to 23 hours a day cell isolation, with complaints of the cells being constantly lit and guards using strip searches to assert power (Martin, 2018). After ending its lockdown phase in 2004, Paremoremo prison continues to exist on a smaller scale than its American influences, continuing its punitive drift by maintaining the use of solitary confinement just with less frequency and shorter periods of confinement (Martin, 2018).

Lastly, Martin (2018) suggests that three-strikes laws in New Zealand are not a straight imitation; instead, both governmental and non-governmental actors borrow selectively from American criminal justice regimes, blending policy to create hybrids of international and national influence. The introduction of three-strikes laws into New Zealand was the result of pro-prison lobby group the Sensible Sentencing Trust (SST), following founder Garth McVicar's fact-finding mission to California in 2007, with the help of the ACT Party (Martin, 2018). Three strikes laws entail an escalating scale of harsher criminal punishments for recidivist offenders (Oleson, 2014). ACT

Party's David Garrett argued that by limiting qualifying offences<sup>13</sup>, maintaining shorter maximum sentences, and enabling judicial discretion on the non-parole element that the New Zealand law was modified to avoid the failings of its American counterpart (Martin, 2018). However, an increase of its application to petty cases<sup>14</sup> demonstrates that Garrett's claims were problematic. Penal populism<sup>15</sup> was arguably an active driver of the three strikes law in New Zealand, as actors outside the government exploited the policy's catchy language and punitive regime (Martin, 2018). Penal populism tends to "entail politicians and the media ignoring evidence in favour of pandering to the public's supposedly punitive beliefs" (Buttle, 2017, p. 110). This is demonstrative of the dangerous nature of New Zealand's criminal justice field as public opinion often trumps professional bureaucracy.

From the 'Nothing works' doctrine of the 1970s to the contemporary debate over what works in rehabilitating criminals, the prison has continuously proven itself to be an inadequate response to crime (Newbold, 2007). Beginning in the 1950s, scepticism of reformatory programmes and therapeutic solutions grew as studies continued to find little to no difference in reoffending rates between treated and untreated groups (Newbold, 2007). Reservations about these approaches came to a head in the 1970s with Robert Martinson's (1974, p. 25) evaluation of 231 experimental

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<sup>13</sup> Primarily focusing on violent offenders.

<sup>14</sup> Such as "a 69-year-old man with mild dementia and Parkinson's disease facing seven years without parole for indecent assault after grabbing the breasts of a fellow resident in a home for the disabled" (Martin, 2018, p. 565).

<sup>15</sup> 'Penal populism' or 'populist punitiveness' are concepts frequently used to critique the exponential growth of the prison system. Both Shammass (2016) and Turner (2014) explain the concept as a tug-of-war for authority in the politics of punishment between penal elitism (professionals) and democratic public political participation. However, an issue stemming from the societal model of penal populism and its 'Three-P Triangle,' is the generalisation of the term's 'professionals', 'public', and 'politicians'. This is because the simplicity of the model does not always account for the competing positions within each grouping (Shammass, 2016).

programmes concluding that “with few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism”. However, subsequent research heavily criticised Martinson’s blanket assertion that ‘nothing works’, arguing that his conclusion was an exaggeration and that rehabilitative programmes can have positive results (Greenberg, 1977; Palmer, 1975). In New Zealand, the penal policy continued to follow international trends as the Penal Policy Review Committee (1981, as cited in Newbold, 2007) determined that prisons were mistakenly places of rehabilitation, that instead, the purpose of imprisonment was a place for delivering punishment through incapacitation. However, in line with international criticism of the ‘nothing works’ doctrine, positive attitudes towards rehabilitation saw the introduction of initiatives such as the family group conferencing for juvenile offenders (Newbold, 2007). Therefore, as the debate over the effectiveness of rehabilitation and the purpose of imprisonment continues to arise, the following section will examine and critique the rationale, intent, and function of prison.

### *1.4 Why prisons?*

To begin, we must start with the most argued and well-rehearsed rationales for the use of prison as a response to crime, as discussed by Scott (2013). First is the argument that “prisons are a natural and inevitable response to ‘crime’” (Scott, 2013, p. 10). The relationship between rates of crime and imprisonment is complex, while ‘crime’ is not to be excluded from the question it is certainly not the most substantial reason for the persistence of prisons (Lambie & Gluckman, 2018). Arguably as a social and ideological construction, crime is a label disproportionately associated with socially disadvantaged groups (Cunneen & Tauri, 2016). For example, the inter-

relations of capitalism and colonialism in New Zealand arguably led to a disproportionate labelling of Māori and their culture as ‘criminal’, which in turn resulted in the biased application of discretion, and justification for over-surveillance (Cunneen & Tauri, 2016). Furthermore, an examination of crime and prison statistics in New Zealand shows that while crime rates are decreasing, the prison population continues to grow<sup>16</sup> (Lambie & Gluckman, 2018; also see Department of Corrections: Ara Poutama Aotearoa, 2019; New Zealand Police: Nga Pirihimana o Aotearoa, 2019; Statistics NZ: Taturanga Aotearoa, 2019). Taken together these examples provide a reality that contradicts with the ideological construction of the ‘natural’ connection between crime and the prison as a response to social harm. Second, “prison reflects our need to punish ‘crime’” (Scott, 2013, p. 14). The normalisation of prison as a punishment has produced multiple commentaries on the current state of incarceration practices. For example, Pratt and Clark (2005) address the impact of populist demands for harsher punishments on penal excess. Rather than a ‘natural connection’ the link between prison and crime is socially constructed. For example, Cohen (2011) argues that people in positions of power orchestrate a fear of ‘crime’ to shift attention from real social problems, while at the same time presenting the prison as the most effective response<sup>17</sup>. Moreover, Davis A. (2003) argues that the contemporary fixation on

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<sup>16</sup> Despite 71% of New Zealanders believing that crime is increasing, Lambie and Gluckman (2018) explain that New Zealand is experiencing historically low rates of crime, conviction, and sentencing rates, with the lowest recorded crime levels since the late 1970s. In their report, Lambie and Gluckman (2018) explain that despite a crime rate that has been decreasing steadily since 2009 with recent evidence suggesting a plateauing, prison populations continue to rise, reaching over ten thousand in 2016, and New Zealand is incarcerating at a rate of 220 per 100,000 in contrast to the OECD average of 147 per 100,000.

<sup>17</sup> Stanley Cohen’s moral panic thesis argues that media occupy an important role in the enforcing of moral panics through sensationalised representations of behaviours that challenge social norms (Cohen, 2011). Cohen (2011) defines five stages of moral panic including, the identification or warning of a possible threat, media representations of said threat, heightening public concern, authorities and lobby groups respond, and either the panic is diffused, or social changes are made in response.

imprisonment is born of the historical establishment and present continuance of economic and social inequalities that weaken social solidarities.

Building on the 'official' intent is four general rationales of punishment, incapacitation, retribution, deterrence, and rehabilitation. "Prisons protect the public from 'dangerous offenders'" (Scott, 2013, p. 13) is a popular position perpetuated by politicians and the media, claiming that by incapacitating lawbreakers, the prison acts in the interest of public safety. However, in the case of New Zealand, current prison population statistics provide a picture of offending and incarceration that conflict with political and social narratives on fear and safety. For example, as of March 2019, violent and sexual offenders made up 57.9% of the prison population (New Zealand Police: Nga Pirihimana o Aotearoa, 2019). However, security classifications of sentenced inmates demonstrate that a minority of 17.5% of prisoners are held in high and maximum security while the majority are categorised as minimum (33.4%), low (20.8%), and low medium (26.7%) (Department of Corrections: Ara Poutama Aotearoa, 2019). This means that Corrections New Zealand does not consider 80%+ of inmates to be particularly dangerous, and these men and women could therefore be better suited to alternative, non-custodial sanctions (Buttle, 2017). Considering incapacitation as a theory of punishment is only effective for the duration of the sentence, it has a high cost, financially, and on social and family bonds (Maxime, 2018).

Second, retribution is a theory characterised by tough on crime perspectives; it is not a forward-looking theory of punishment which attempts to prevent crime; rather, it uses the crime to

determine the punishment (Jewkes & Bennett, 2011; Robinson & Crow, 2009). However, this theory tends to ignore the diverse social circumstances behind the offending, lending itself to problematic legislature such as America's mandatory minimum sentencing (Scott, 2013). Therefore, it is crucial to look beyond the rhetoric of fear, which perpetuates the inaccurate necessity of locking away undesirable and violent people to examine the role of prison as a maintainer of inequalities through selective incapacitation (Wacquant, 2009b).

Next, deterrence is based on the idea that people consciously attempt to avoid pain and increase pleasure (Bentham, 1789/1879). Classicist doctrine proposed that to deter crime; punishments must be swift, certain, and sufficiently severe (Beccaria, 1764/1909). The logic of deterrence rests on a utilitarian cost-benefit analysis of punishment and pleasure (Paternoster, 2010). Therefore, advocates of deterrence favour correctional systems that maximise the pains of crime and minimise its benefits (Scott, 2013). Deterrence exists in two forms, general and specific: The former uses the punishment of an offender as an example to deter others while the latter punishment targets the individual to reduce their likelihood of reoffending (Maxime, 2018). Critics of deterrence argue that it is a weak form of punishment. Citing, for example, that differential experiences of the deterrent effect reduce its effectiveness and high recidivism rates following imprisonment indicates a failure in the deterrent effect of prisons (Newbold, 2007; Scott, 2013).

Additionally, Scott (2013) argues that aside from their failure to deter, prisons have a criminogenic effect, further escalating the perceived problem. Within this debate, labelling

theory claims that when compared with non-custodial sanctions, the criminogenic effect of the prison generates higher levels of recidivism (Cid, 2009). Cid (2009) uses two processes to explain differences in the risks of recidivism due to the criminogenic effect of the prison: first, the direct impact whereby prisoners “accept the self-image of a deviant given by the institution” (p. 461); and second, recidivism rates are indirectly affected by the prison as upon release ex-offenders may encounter greater “barriers to establishing social links<sup>18</sup>” (p. 472).

Last, Robinson and Crow (2009, p. 2) suggest that as a concept, rehabilitation can be understood as both a “general objective or goal” and a “process or set of practices”. As a punishment theory, rehabilitation seeks to engage with a behavioural change of the law-breaking individual through correctional interventions such as educational programmes and substance addiction treatments (Newbold, 2007). Furthermore, rehabilitative punishment has a symbolic dimension as ex-offenders return to a state of desirable citizenship (Robinson & Crow, 2009). However, the insinuation that well-run prisons can reduce offending is problematic as contemporary approaches to rehabilitation within the prison are focused mainly on individual pathologies (Scott, 2013). Decades of research demonstrates that some are more effective than others when it comes to rehabilitative programmes and processes (Miceli, 2009). One instance which saw rehabilitation fail was the 1997-2005 ‘cognitive skills’ course called ‘Straight Thinking’, which found participants “to be reconvicted and re-imprisoned at rates several percentage points higher than comparison offenders” (Johnston, 2017, p. 6). However, Johnston (2017, para. 8) argues that overall, the rehabilitative initiatives conducted by New Zealand Corrections “have

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<sup>18</sup> Such as, difficulties in obtaining and maintaining employment, social bonds, and personal relationships.

modest but positive impacts on re-offending... mostly in the 3-8 percentage-points range". He further explains that positive outcomes are dependent on programme design, delivery, facilitators, selection of participants, delivery environment, and retention rates of participants (Johnston, 2017). Critics of this approach argue that the prison is not a productive environment for reformation and that as a social construct, crime is ineffectively managed through individualisation as social and historical contexts are ignored (Maxime, 2018; Scott, 2013). This is especially clear in cases where New Zealand Corrections target Māori offenders, as Jackson (2017) argues that Māori should not be first introduced to their culture behind bars.

Finding the official functions of the prison as discussed above unconvincing, Scott (2013; influenced by Foucault) argues that the rapidly increasing use of imprisonment rather than being a rational response to 'crime' is instead a method of controlling certain identifiable groups within society. Similarly, Mathiesen (2013) offers an alternative collection of ideological functions of the prison. He proposes that the prison serves the following five *ideological* functions: an expurgatory function, a power-draining function, a diverting function, a symbolic function, and an overt action function (Mathiesen, 2013). While warning that upon comparison to the official functions, these alternatives may appear illegitimate, Mathiesen (2013) contends that Western countries generally fit the mould when it comes to these ideological functions. For example, most adhere to the first function as the expulsion of a large and increasing number of the 'unproductive' population from freed society is evident with the presence of the mentally ill, unemployed, and homeless being held in prisons globally (Gordon, 1999; Lambie & Gluckman, 2018; Mathiesen, 2013; Ryan, Ackerman, Bond, Ready, & Kinner, 2019;). Furthermore, prisons

function in a power-draining, diverting, and symbolic capacity, evident in the overrepresentation and disempowerment of minority populations (Mathiesen, 2013). Lastly, as a highly visible sanction, prison serves an overt action function as those administering justice can show that they are responding to the ‘problem’ of crime (Mathiesen, 2013).

### **Summary**

The first section of this literature review examined both the Anglo-American and New Zealand experiences of the prison through their connected and individual histories, the contemporary use of prisons in New Zealand, and has asked the question ‘why prisons’? It is evident from both historical and contemporary accounts of prison as a sanction that this form of punishment has become a problem in itself. The four theories of punishment are reflected in contemporary penal policy with the apparently arbitrary mixture of approaches resulting in an often ineffective and even counter-productive system of incarceration. The ineffectiveness of the prison is perhaps best articulated by Sered (2019, p. 7), who states that “If incarceration worked to stop violence, we [America] would have eradicated it by now—because no nation has used incarceration more”. So why do we continue to use prisons? The second section of this literature review examines the problem of prisons in more depth, expanding upon issues of imprisonment such as its financial, physical, and mental costs on the offender, their families, and society in general. Furthermore, the next section explores the question of what to do about prisons by examining different models of justice, such as pro-prison regimes, Nordic exceptionalism, and prison reform versus abolition.

## 2.0 The Problem of Prisons

Stories and myths around crime and punishment attempt to place offenders and victims into separate and distinct categories. However, the reality is more complicated. This is evident in New Zealand's prison population as Workman and McIntosh (2013, p. 121) explain how "most inmates have experienced severe poverty and have higher victimisation rates than the general population". Therefore, the following section will examine in detail the everyday issues of imprisonment. For example, the cost of imprisonment, the 'gendered' nature of penal policy and prison regimes, the significant overrepresentation of Māori, and the incompatibility of New Zealand's criminal justice system and sanctions with "Indigenous cultures and methods of conflict resolution" (Morrison, 2009, p. 147).

### *2.1 Issues of imprisonment*

#### *2.1.1 The costs of imprisonment*

An initial issue to address is the high financial costs of imprisonment and the cost-effectiveness of early interventions. The OECD's average cost of incarceration for one person is \$69,318.65, sitting above the average, in 2010, the average yearly cost of containing a prisoner in New Zealand was \$91,000 (Bushnell, 2017; Collins, 2010). While countries such as Sweden, Norway, Canada, and Australia also spend above the OECD average, both the United States and the United Kingdom spend less than the OECD average (Bushnell, 2017). The average cost of New Zealand's prisons has doubled since 2005, with the 2018/2019 Corrections budget being over a billion dollars and forecast to increase in response to growing prison populations (Department of Corrections: Ara Poutama Aotearoa, 2018; Lambie & Gluckman, 2018). The current Labour-NZ

First Coalition government has dedicated \$98 million to Māori Pathway, a programme aiming to reduce Māori reoffending and reimprisonment rates (Robertson, 2019). Lambie and Gluckman (2018) infer that rising prison costs are the result of legislative changes such as the Bail Act 2000 and the Sentencing Act 2002 which are increasing prison populations through lengthening sentences and especially the proportion of the sentence served; demonstrating, that efforts of cost-saving through the reduction of crime are cancelled out by policy settings. The Wellbeing Budget announced by the current Government in 2019 pledged sizeable financial investment into the mental health and addiction policy sectors (Robertson, 2019). Importantly, these initiatives are attempting to provide services for early intervention distinct from the justice sector, an approach that not only requires fewer resources but is proven to reduce incarceration rates more effectively than building more prisons<sup>19</sup> (Lambie & Gluckman, 2018; Welsh & Farrington, 2011). Furthermore, the economic benefits of early intervention programmes extend cost reductions to sectors such as healthcare, education, social services, and employment (Lambie & Gluckman, 2018).

Not limited to the prison's fiscal expenditure, the costs of imprisonment have physical, psychological, and social impacts for the individuals in prison, their families, and the community; these are to be addressed below. The costs of prison on the physical wellbeing of prisoners includes issues such as access to and quality of healthcare, individual safety and security, and the

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<sup>19</sup> For example, A longitudinal study of the early intervention approach of the Perry Preschool Programme found savings of seven dollars for every dollar spent by the age of twenty-seven (Schweinhart, 2003). Furthermore, upon a follow-up with participants aged forty, findings demonstrate further savings of around sixteen dollars for every dollar spent (Lambie & Gluckman, 2018).

additional health needs of the aging population (World Health Organisation, 2014). Regarding the physical wellbeing of New Zealand's incarcerated population, "Section 75 of the Corrections Act 2004 requires prisons to provide primary health care that is 'reasonably necessary' and 'reasonably equivalent to the standard of health care available to the public'" (Office of Inspectorate: Te Tari Tirohia, 2019(a, b, c, d)). However, multiple prison inspection reports indicate that the health needs of New Zealand's prisoners are not always met due to long waiting times, insufficient healthcare and custodial staff, and inadequate health facilities and resources (e.g., see Office of Inspectorate, 2018, 2019(a, b, c, d). These reports also recognise that many of New Zealand's prisons are failing to provide adequate safety and security for prisoners and others through insufficient camera surveillance, physical supervision, building design, and a high frequency of gang-related stand overs, an issue most prisons continually attempt to resolve. A further issue of physical wellbeing in prisons is the sharp increase in health needs associated with aging prisoners (JustSpeak, 2014). In response to the aging prison population, New Zealand has established a high dependency unit in Rimutaka Prison, which most frequently hosts elderly prisoners who have difficulty functioning independently due to health issues (State Services Commission: Te Kawa Mataaho, 2013).

High psychological costs of imprisonment exist as higher rates of psychiatric morbidity such as psychosis, depression, bipolar disorder, and substance misuse and dependence occur more commonly among the incarcerated population than the general population of New Zealand (Azuela, 2018). While strain on mental health systems both inside and outside the prison is an important issue, Martin (2019, para. 6) specifically addresses "the way that prisons themselves

intensify mental health problems”. Research shows that “91% of people in our prisons have had a mental health or addiction disorder... are twice as likely to have thought about suicide and four times as likely to have attempted it” (Sawicki-Mead, 2019, 5:50). Ross (1998) claims through her experience in the American justice system that prisons do not aim to address psychological issues, instead choosing to prescribe drugs to control their inhabitants. Historically, psychiatric institutions have served a similar purpose for women as prisons have for men, meaning while deviant men are constructed as criminal, deviant women are constructed as insane (Davis A., 2003). Current management practices of prisoners at risk of self-harm such as tighter restrictions and additional isolation “could contribute to a further deterioration of their mental state and behaviour in the long term” (JustSpeak, 2014, p. 65). The use of isolated confinement<sup>20</sup> for high-risk prisoners has since the beginning of its practice been shown to cause a substantial level of pain, suffering, and mental deterioration (Kupers, 2013).

Regarding the building of specialised mental health facilities to address the issue of poor mental health within prisons such as New Zealand’s Waikeria prison, scholars recognise the balancing act required to deliver these services to people and the problematic nature of building mental health facilities into a system which intensifies the underlying issues (Martin, 2019). Furthermore, Martin (2019) argues that as an institution, the primary conditions of the prison are not conducive to effective mental health interventions, and Haney (2001) explains that extended periods of confinement to cells and the constant threat of violence are conditions that

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<sup>20</sup> The most extreme form of incarceration, known in America as super maximum facilities or Supermax, and maximum-security units in New Zealand.

intensify mental health problems. Some of New Zealand's corrections officers are calling for the extension of prison sentences for those who assault staff. While sympathetic to their experience, Martin (2019, para. 14) argues that the intensifying of punishment to reduce violence is a "doubling down of the flawed logic that has got us into this mess in the first place". He further explains that as violent places, prisons "are not institutions that we can rely on to prevent violence" (Martin, 2019, para. 14). Sawicki-Mead (2019) contends that community-based programmes, when compared to rehabilitative programmes located within the prison, are significantly more effective at addressing the drivers of offending, such as mental health and addiction. This is because the prison environment of overcrowding and violence undermines any good done by rehabilitation programmes (Sawicki-Mead, 2019).

Dependants, especially children, are increasingly impacted by parental incarceration and the flow-on effects of the adult criminal justice system (Taylor, 2016). As a result of overcrowding in New Zealand prisons, inmates are frequently moved further away from their homes and support networks (Martin, 2019; Nippert, 2004). This is an issue more severely experienced by women as only three out of eighteen prisons in New Zealand house female offenders, Auckland in the north, Wellington in the middle, and Christchurch in the south of the country (Martin, 2019). Martin (2019) explains that the geographical positioning of prisons is vital to allow the maintenance of family and community relationships of those incarcerated as it is their most critical resource for reintegration upon release. Children with an incarcerated parent often experience numerous life stressors, such as changes in caregivers and involvement with the child welfare system (Secret, 2012). Secret (2012) connects these stressors to issues such as anxiety,

depression, learning problems, and aggression in children with an incarcerated parent, possibly contributing to an intergenerational criminogenic effect. Dependents, including partners of those incarcerated, also experience a level of social isolation and stigma attached to having a family member in prison (United Nations Office on Drugs and Crime, 2019). Furthermore, New Zealand's approach to justice extends punishment beyond the prison as Workman and McIntosh (2013) argue the communities where many offenders reside often experience reduced healthcare and welfare services and support, greater housing instability, and higher levels of unemployment.

### *2.1.2 Gendered experiences of imprisonment*

It is important to start with an explanation of the decision to use 'gendered' instead of 'female' in the title of this section. The title's wording is inspired by Davis A. (2003), who explains that the prison practices of both women and men are gendered and to assume that men's institutions are the norm and women's institutions are marginal contributes to a troubling 'normalisation' of prisons. Davis A. (2003, p. 65) further explains, in justification of a focus on female incarceration, that despite the gender gap in the imprisonment of men and women, "important aspects of the operation of state punishment are missed if it is assumed that women are marginal and thus undeserving of attention". While a lack of literary focus on the experiences of incarcerated women is often justified by their relatively small presence in the overall prison population, Davis A. (2003, p. 65) suggests that with the expansion of the prison both globally and locally, it is important to examine some of the "ideological aspects of state punishment imposed on women". The constraints of this thesis make it challenging to discuss in-depth the entirety of issues arising

from State efforts to punish, rehabilitate, and treat female offenders. Therefore, having touched on issues of female incarceration briefly in the costs of imprisonment section, this thesis limits the discussion of female incarceration to a brief exploration of the current state of female imprisonment in New Zealand and the narrative of the female criminal.

While women constitute a smaller proportion of global prison populations, their rate of imprisonment is increasing faster than their male counterparts (Davis A., 2003; Sawyer, 2018). For example, between 2001 and 2012, female incarceration rates in New Zealand increased by 70.3% compared to a 39.6% increase in male imprisonment<sup>21</sup> (Jeffries & Newbold, 2016). Internationally, scholars argue that the rising female incarceration rate is less likely to be the result of the “nature or seriousness of female offending” (Jeffries & Newbold, 2016, pp. 184-5). Instead, extensive discussion associates the increases in female incarceration with punitive decision-making and a harsher sentencing climate, which extends into the less severe crimes more typically associated with female offenders (e.g., see Bloom, Owen, & Covington, 2004; Jeffries & Newbold, 2016; McIvor, 2010). Feminist scholarship proposes that women share differential needs and experiences relating to incarceration, such as histories of victimisation and powerlessness (e.g., see Chesney-Lind & Pasko, 2013; Davis A., 2003). For example, 75% of New Zealand’s incarcerated women have experienced sexual or family violence (Sawicki-Mead, 2019, 6:08). New Zealand Corrections has implemented Wahine – E rere ana kit e pae hou: Women’s Strategy 2017-2021. In an attempt to address the gendered imbalance of prisoner treatment and

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<sup>21</sup> Additionally, Māori women are the most incarcerated Indigenous population globally e.g. see McIntosh, 2015; Loo, 2020.

management, this new initiative recognises that the current system is built around the needs of male offenders and that women have different needs and experiences that require a distinct approach (Department of Corrections: Ara Poutama Aotearoa, 2017). In a report outlining this new approach, former Chief Executive of the Department of Corrections Ray Smith explains that while implementing this approach means changing correctional operations, behaviour, recruitment, training, facilities, courses and treatment options, this work “will have an impact not just on the women themselves but on their children and generations of New Zealanders” (Department of Corrections: Ara Poutama Aotearoa, 2017).

Almost parallel to the lack of focus in the academic literature on gender-specific experiences of incarceration, the male experience dominates media portrayals of incarceration (Cecil, 2017). However, as female prison populations continue to increase rapidly, so too does the portrayal of female incarceration in mass media (Davis A., 2003). In an increasingly technological world where new forms of media are appearing<sup>22</sup>, these platforms hold a growing potential for social education (Chouliaraki, 2008). This means that media discourses on female imprisonment<sup>23</sup> can both passively and actively affect the morality and empathy of audiences (Chouliaraki, 2008). This is problematic as many media narratives of female offenders and imprisonment perpetuate misrepresentative stereotypes such as the ‘mad, bad or sad’ female criminal and double deviancy (Weare, 2017). The ‘mad, bad or sad’ female criminal is a problematic ideology for it insinuates

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<sup>22</sup> For example, Netflix, a subscription-based network distinct from traditional forms of media such as movies and television through its capacity for binge-watching and flexibility as a platform which does not have to comply with the same constraints of traditional media (Cook C. I., 2014).

<sup>23</sup> And imprisonment in general.

that female offenders are to be pitied due to psychosis; are distinct through their supposed deviation from gendered expectations; or engage in criminal activity as a victim of violence, circumstance or coercion, while maintaining an ignorance around the complex nature of female offending (Weare, 2017). Second, double deviancy can be understood by recognising that the narrative of female incarceration is aligned with the socially dictated narrative of appropriate femininity as women are not only marginalised by race and class but also by gender (Bloom et al., 2004; Carlen and Worrall, 2004; Chesney-Lind & Eliason, 2006). Feminist theorists such as Heidensohn (1985, 1989) and Lloyd (1995) argue that women are subject to harsher treatment by society and the criminal justice system as they fail to conform to both law-abiding expectations and societal gender norms and stereotypes, producing a socially curated double deviancy.

### *2.1.3 Minority overrepresentation and cultural incompatibility*

Indigenous overrepresentation in all stages of the criminal justice system is not an issue isolated to New Zealand Māori but part of a global trend and a broader pattern of marginalised Indigenous populations in settler-colonial states (Waretini-Karena, 2017)<sup>24</sup>. While often overlooked, colonialism is a foundational issue in the overrepresentation and cultural incompatibility of New Zealand's prisons for Māori (Morrison, 2009). In discussing causal explanations of offending, the

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<sup>24</sup> In relation to population statistics, Māori make up approximately 15% of the total population of New Zealand, yet, account for over 50% of the country's prison population, nearly 60% in the case of women's imprisonment (Lambie & Gluckman, 2018; Maxime, 2018). A similar pattern exists across other Indigenous cultures as Australian Aboriginals above eighteen years of age constitute 2% of the total population and 28% of the prison population and Canadian Aboriginals constitute 4.1% of the adult population and 55% of admissions to provincial/territorial and federal correctional services (Australian Bureau of Statistics, 2018; Malakieh, 2018). Furthermore, the trend of Indigenous overrepresentation is not isolated to imprisonment, as Māori represent 42% of annual police apprehensions with similar statistics in prosecution, conviction, sentencing, and reconviction rates (Policy, Strategy, and Research Group Department of Corrections, 2007).

Policy, Strategy, and Research Group Department of Corrections (2007) argue that general causal explanations apply to Māori offending, suggesting it is the result of the same causal factors as other societal groups. Morrison (2009) contends that in this explanation, differential exposure to risk factors are prioritised at the expense of cultural explanations. Recognising the significance of the colonial context when discussing causal explanations is critical in understanding disparities in Māori offending as it negatively impacts notions of cultural identity and encourages structural disadvantage (Jackson, 1988). An Important contribution from Comack (2012) is her use of language, using terms such as institutional racism over unconscious bias. Comack (2012), Jackson (1988), and Lawrence (1987) recognise the racialised framework and discriminatory strategies and practices occurring within New Zealand's criminal justice system and argue that the term unconscious bias demonstrates discomfort with the concepts of race and racism. When using this language, Cunneen (2006) explains the necessity of distinguishing between terms explained by individual pathologies such as prejudice and discrimination, as institutional racism constitutes a broader social practice rather than individual decision making.

Moana Jackson's (1988) two-part report on the disproportionately high rate of Māori offending and involvement in the criminal justice system; and methodological issues in conducting meaningful research, is perhaps the most well-known critique demonstrating the incompatibility of the criminal justice system and Māori. Highly critical of the 'Western' notions of crime and punishment, Jackson (1988) argues that mentalities and philosophies of our current criminal justice system are colonial, thereby, functioning within racialised and discriminatory frameworks. It is important to recognise that despite sharing everyday experiences resulting from the

culturally inappropriate and ineffective justice responses to Māori offending and victimisation, Māori, like other Indigenous populations, are a heterogeneous group (Cunneen, 2018). A primary criticism of Initiatives such as tikanga prisons and other Māori focus units argues that as imprisonment is considered antithetical to Māori culture, Indigenous philosophies are incompatible with the institution (Durie, 2003). Furthermore, Tauri and Webb (2012) argue that attempts to create culturally appropriate mechanisms of justice through frameworks such as Restorative Justice fall short of their transformative claims due to a lack of Indigenous autonomy. The importation of Māori cultural practice remains within the control of the State and their underlying colonial foundations due to a reluctance to relinquish cultural hegemony (Tauri & Webb, 2012). Furthermore, as Tauri (2011, 2016) has demonstrated, the co-option of Indigenous ideologies with State-controlled frameworks at times works to inhibit Indigenous empowerment.

### *2.2 What to do about prisons – different models*

As has been shown, the prison is widely considered an integral element of criminal justice systems globally, serving the purposes of upholding the rule of law and providing what is conceived of as justice in the presence of wrongdoing (Justice & Prisons, n.d.). However, the following section will demonstrate a critical analysis of the differing models of justice, from pro-prison regimes to the abolition of prisons altogether.

#### *2.2.1 Pro-prison models*

Advocates of the prison, such as government officials and lobby groups like the SST, see prison as a necessary deterrent and site of rehabilitation for the offender and restitution for the victims

(Scott, 2013). Although pro-prison advocates may recognise the past failings of the prison system and support physical and rehabilitative reforms, a subgroup argues that harsher sentencing and punishments are the most effective option in issues of crime, punishment, and justice (Maxime, 2018). For example, founder of the SST Garth McVicar argues for harsher sentencing and punishments despite the ‘horrific costs’ of imprisonment, as the ‘horrific costs’ for victims justify “some severe sacrifices” (Nippert, 2004). However, Workman (as cited in Little, 2018) argues that a misdirected emphasis on punishment focuses on victims’ rights over victims’ needs. Workman (as cited in Little, 2018) disputes the conventional definition of victims, which isolates the concept to the immediate personal victim without considering how widespread the traumatising effect can be. Those who support stricter sentencing and punishments argue that prevention through incapacitation is the most robust model of justice (Jenkins, 2010). Sturm (2010, para. 1) perhaps best articulates the logic of those seeking harsher sentencing and punishments when she says, “Isn’t it time to say enough is enough and... punish criminals for their choices, make prison a hard graft, and initiate the thought process of making people accountable for their actions”. Primarily focusing on violent and recidivist offenders, those supporting harsher responses to criminal offending suggest initiatives such as chain gangs over home detention or community service to reiterate “that crime does not pay” (Sturm, 2010, para. 2).

A second pro-prison position contends that “smaller prisons work” (Davis K., 2018). Supporters of smaller prisons suggest that they are more effective at achieving the established functions of the prison than American style ‘mega prisons’ (Davis K., 2018). With the ability to be situated

locally, inmates can maintain familial and communal support networks, which are crucial rehabilitative tools (Martin, 2019; Pratt & Eriksson, 2013). Furthermore, smaller prisons foster a more personal relationship between staff and inmates, which can mitigate harm through the fostering of positive social environments (Davis K., 2018; Pratt & Eriksson, 2013). In addition to the benefits of smaller prisons for inmates, they have a greater potential to become valuable community resources as they pose less of a threat compared to the larger institutions (Pratt & Eriksson, 2013). Anti-prison advocates argue that building prisons, whatever their size, removes the pressure to develop alternatives through an ‘out of sight, out of mind’ rationale (Knopp et al., 1976). However, those who support the building of smaller prisons respond that efforts to stop prison building completely perpetuate “overcrowding, unsanitary conditions, and a violent environment” (Knopp et al., 1976), and further stating that until alternatives are developed, they will support the building of prisons to address the immediate needs of the current system (Knopp et al., 1976).

As well as incapacitation, New Zealand’s “prisons are expected to support prisoners to make positive changes in their lives” (Office of Inspectorate: Te Tari Tirohia, 2019 (a, b, c, d)). Prison reform entails working with, reforming, and challenging existing state structures (Jewkes & Bennett, 2011). Four key intervention points for prison reform are pre-trial detention, prison management, alternative measures and sanctions, and social reintegration (United Nations Office on Drugs and Crime, 2019). Prison reformers argue in favour of changes that improve the strategies, processes, and conditions within these intervention points, working towards reforms that create “a just, humane, and effective penal system” (Jewkes & Bennett, 2011, p. 215). The

human rights argument necessitates prison reform based on protecting inmates' human rights and increasing reintegration prospects (United Nations Office on Drugs and Crime, 2019). However, the Office of Inspectorate Reports (2018, 2019(a, b, c, d)) of several New Zealand prisons found that rehabilitative obligations are not always met as they come secondary to custodial obligations, security procedures, and underperform due to insufficient resources and staff. Thus, exemplifying that "prisons are, first and foremost, places of punishment" (Drake & Scott, 2017, para. 8). Therefore, in addition to correctional programmes, prisons themselves can be reformed by readjusting their punitive philosophies to resemble models such as the open prison. The open prison model, most common in Nordic and other European countries, prioritises social capital by reducing the social distance between inmates and society (Pratt, 2008). By replicating the conditions of free society, this model of imprisonment encourages pro-social behaviour by enabling inmates to live productive lives in society during and following their sentences instead of focusing on punitive punishment (Pratt, 2008).

Due to the overrepresentation of Māori in the justice system, several of New Zealand's justice reform strategies focus specifically on the experiences of Māori inmates. By incorporating Māori culture and tikanga, these approaches attempt to provide culturally responsive alternative pathways for Māori offenders, to reduce Māori disparities within New Zealand's justice system (Hughes, 2018). First, held on a marae and incorporating te reo and Māori protocols, the Rangatahi Court is a youth justice framework balancing the needs and the accountability of young offenders (Tauri & Webb, 2012; Quince, 2017). Following the completion of a Family Group

Conference (FGC)<sup>25</sup>, hearings monitor the youth's progress through the agreed-upon FGC plan (Tauri & Webb, 2012). Like youth FGC, restorative justice in New Zealand is an alternative justice framework with "goals of victim redress, offender accountability, reintegration, and community involvement" (Suzuki & Wood, 2017). Programmes with the inclusion of restorative justice principles such as harm reparation and collectivism are often considered a culturally sensitive approach to Indigenous offending, both locally and internationally (Fernando, 2018). Last, Māori focus units are prison units run according to a Māori 'bicultural therapy' model (Newbold, 2007). Occupants of the specialised units experience an immersion into Māori language, culture, and values (Newbold, 2007), "with a rationale of changing offender's behaviour through cultural instruction that focusses upon cultural identity" (Webb, 2017, p. 691). While New Zealand Corrections provides numerous reform initiatives that attempt to address Māori offending in a culturally appropriate manner, they are heavily criticised, primarily for being established and run through non-Indigenous frameworks (e.g., see Fernando, 2018; Jackson, 1988; Tauri, 1998, 2015, 2016; Tauri & Webb, 2012; Quince, 2007). The lack of authenticity in the State established and run reform initiatives are to be discussed as a barrier in section three.

### *2.2.2 Anti-prison models*

In contrast, Pratt (1992) considers the imposition and development of the British penal system in New Zealand a monumental failure. Reaching his conclusion through an analysis of the

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<sup>25</sup> A process which sees the offending youth takes responsibility for their actions and their whanau, victims, and professionals agree on a plan for making amends and preventing future reoffending (Oranga Tamariki: Ministry for Children, 2019).

country's penal affairs, Pratt (1992) uses the 1989 Commission of Inquiry into the Prison System<sup>26</sup> as an example of the long lineage of inquiries, commissions, and other literature detailing the repetitive and failing punishment systems in New Zealand. Contradictory narratives from international and national research and prisoner experiences of the system demonstrate the inaccuracy of reformist claims (e.g., see Davis A., 2003; Jackson 1988; Lenn, 2012; Tauri, 2011). While Corrections engage with initiatives such as cultural identity programmes and Māori focus units, anti-prison advocates argue that 'Māorifying' prisons is not the solution to the issue of over-representation (Whaipooti, 2018). Māori never had prisons; prisons are not Māori, so these initiatives are arguably not transformative change (Jackson, 2019; Pratt, 1992). Anti-prison advocacy takes many forms from Nordic exceptionalism in which the conventional idea of the prison has been rejected in favour of imitating free society (e.g., see Pratt, 2008; Pratt & Eriksson, 2013), to the abolition of prisons completely (e.g., see Agid, Berndt, Herzing, & Wohlfeiler, 2004; Buttle, 2017; Davis A., 2003). These alternative approaches to imprisonment aim to bring justice to the prison system and restore the humanity of its populations, stripped from them by the oppressive institution.

Advocates who oppose the use of prisons often point towards Nordic models of imprisonment as a starting point as they prioritise reform and reintegration over punitive punishment (e.g., see Jewkes, 2018; Pratt, 2017; Pratt & Eriksson, 2013). In recognising the act of imprisonment as the punishment and rejecting the idea of prison as a place for further punishments, Nordic countries such as Finland, Norway, and Sweden promote normalcy for their imitates by replicating as

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<sup>26</sup> Detailing the ineffectiveness of New Zealand's prisons.

closely as possible, the reality of free society (Pratt & Eriksson, 2013). Perhaps the most diverse model of imprisonment exemplifying the importance of social capital<sup>27</sup> in Nordic justice systems is the use of open prisons<sup>28</sup> (Pratt, 2008). With minimal to no security fencing, walls, and other obstacles, open prisons reduce the social distance between prisons and the remainder of society, enabling inmates to maintain steady employment and connections within local communities (Pratt, 2008). While global media describe these Nordic models of imprisonment as the ‘world’s nicest’ and ‘summer-camp-like’ (Sutter, 2012), they are not entirely free from rules and deprivations. For example, children are under no circumstances allowed in Norwegian prisons, and the country has faced criticism over their practice of often confining remand prisoners in total isolation (Pratt, 2008). In addition to their physical comforts, Nordic prison models are “humane, sensuous, architecturally innovative facilities that go well beyond simply avoiding an institutional feel<sup>29</sup>” (Jewkes, 2018, p. 329).

As a result of the low imprisonment rates and the humane prison conditions of countries such as Finland, Norway, and Sweden, the concept of Scandinavian or Nordic exceptionalism has emerged (Pratt, 2008). Aside from visual and physical differences, a key element of Nordic models of imprisonment is how prisoners are not ‘degraded non-citizens’, instead, they retain citizen rights including and not limited to voting, healthcare services, and education<sup>30</sup> (Pratt &

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<sup>27</sup> “The collective value of all social networks and the way in which these networks are connected together” (Pratt, 2017, p. 358).

<sup>28</sup> Similar to Anglophone halfway houses (Pratt, 2008).

<sup>29</sup> For example, Norway’s Halden Prison includes features such as an encroaching forest, bar-less windows, and “open-plan living/cooking/dining areas that... resemble something from the pages of an IKEA catalogue” (Jewkes, 2018, p. 329).

<sup>30</sup> Furthermore, these services are “provided through the respective government agencies, rather than Corrections or Justice” (Pratt & Eriksson, 2013, p. 23).

Eriksson, 2013). Various explanations exist for Nordic exceptionalism. First, unlike the restrictive Anglophone welfare models which foster individual responsibility, the social-democratic welfare model which emphasises equality and social solidarity is likely to perceive criminal offenders as victims of adverse social circumstances and respond with the according humanity (Pratt & Eriksson, 2013). Furthermore, the political and media cultures of the Nordic countries demonstrate a commitment to maintaining this regime as policy is influenced by 'expert' knowledge and evidence, not populist demands, and the media tends to occupy an informative or educational role (Lambie & Gluckman, 2018). 'Fear of crime' surveys in both New Zealand and Finland demonstrate that prisons do not enhance sentiments of public safety as the Finnish remain less fearful and more trusting of their government institutions as they act proactively rather than reactively (Lambie & Gluckman, 2018). More humane and less punitive penal logic and conditions demonstrate the importance of social over penal capital in these Nordic societies (Pratt, 2017). Comparatively, New Zealand governments have "relied much more on building up penal capital to provide cohesion and order, and with much greater exclusionary consequences" (Pratt, 2017, p. 358).

Last, prison abolition is a movement with a history reaching as far back as the establishment of imprisonment as the primary form of punishment (Davis A., 2003). In short, prison abolition is a movement which aims to radically reduce or eliminate the use of imprisonment based on the idea that the prison as an institution is not only ineffective but is, in fact, oppressive and harmful (Buttle, 2017; Critical Resistance, 2012; Davis A., 2003; People Against Prisons Aotearoa, n.d.). Prison abolitionists believe that incarceration and the industrial complex built around it

overwhelmingly exacerbates societal harms instead of fixing them<sup>31</sup> (Davis A., 2003). Abolitionists are concerned with the physical, psychological, familial, communal, and societal costs of imprisonment on “those imprisoned, victims, families, prison staff, and society at large” (Drake & Scott, 2017, para. 1). The failings of imprisonment are not new to prison abolitionists nor those with a connection to the criminal justice system. Therefore, along with the negative element of tearing down prisons, the abolition movement extends beyond the prison walls with a positive attempt to reshape society by addressing the root causes of structural issues such as poverty, addiction, homelessness, and mental health issues (McIntosh, 2018; Sawicki-Mead, 2019). Prison abolition is “about undoing the society we live in because the PIC both feeds on and maintains oppression and inequalities through punishment, violence, and controls millions of people” (Agid et al., 2004, para. 4).

While prison abolitionists agree on the end goal of eradicating prisons from society, diverse perspectives exist within the movement on the means to achieve this end. For instance, Davis A. (2003) and Alexander (2012) argue for abolition based on a racial justice perspective. In comparing the prison to other racist practices such as slavery, segregation, and lynching, Davis A. (2003) argues for the necessity of abolishing prison. Alexander (2012) continues Davis’ work by arguing that racial discrimination against African American citizens remains legal through a

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<sup>31</sup> It is important to note that abolitionists recognise that as prison is the final section of the justice system, precursors to the institution such as the police, who contribute to the ‘in-justice system’ must also be abolished as part of a wider transformation (Snelgar, 2019). Gilmore and Kilgore (2019) explain that abolitionists disagree with law enforcement absorbing social welfare work such as mental and physical health, education, and family unification. However, while recognising the prison abolition movement’s goals for a wider dismantling of the practices, processes, institutions, and systems of the prison industrial complex, this thesis focuses primarily on the abolition of prisons.

combination of the PIC and the war on drugs. In a New Zealand context, the racial justice perspective can be understood through critiques of the arbitrary use of the criminal justice system on Māori through politically driven processes of disconnection, dependency, and dispossession, and the intergenerational trauma of colonisation experienced by Māori (Buttle, 2017; Jackson, 1998; No Pride in Prisons, 2016; Tauri, 2014). Furthermore, Parenti (2000) and Brown and Schept (2017) present a socio-economic perspective, arguing that political and financial shifts during the early twentieth century have led to an increased dependency on the prison as a form of social control for those perceived to be contributing less to the legal market economy. Additionally, positions differ on the usefulness of prison reform efforts. While some argue the necessity of bettering the current system for those within it until abolition is realised (Chandler, 2018), others suggest the need for a critical eye to ensure reforms do not strengthen or prolong the use of the institution (Agid et al., 2004; Buttle, 2017; Critical Resistance, 2012).

A primary criticism of the prison abolition movement is that abolitionist aims are idealistic and utopian<sup>32</sup> (Davis A., 2003). However, through the processes of a moratorium, decarceration, and excarceration, prison abolitionists argue as a long-term plan, abolition is achievable (Knopp et al., 1976). First, a moratorium on prison construction is a starting point for systemic prison change as limiting space forces legislatures to reconsider who is being imprisoned and enables a reallocation of resources towards the development of alternatives (Knopp et al., 1976). Second,

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<sup>32</sup> Davis A. (2003) explains that the normalcy of the prison is so engrained in society, that alternatives such as prison abolition become unthinkable and are dismissed as unrealistic and impractical. Those who oppose the abolitionist movement argue that abolitionists are “preoccupied with large-scale fundamental ideologies that can never deliver tangible or practical solutions to crime in society” (Jewkes & Bennett, 2011, p. 2).

strategies of decarceration aim to rapidly shrink the prison population by releasing those on remand and who do not require supervision or support services back into society (Knopp et al., 1976). Those who require supervision or support services are referred to several alternatives such as community and peer groups, and parole officers (Knopp et al., 1976). McIntosh (2018, para. 7) explains that “you can’t just tear down the prison walls without addressing critical structural issues”. Therefore, if New Zealand is to attempt decarceration, a crucial element specific to the country is going to be the decolonisation of the criminal justice system (No Pride in Prisons, 2016). For example, Cunneen (2018, p. 19) identifies the importance of “understanding colonialism and the coloniality of power; the role of Indigenous knowledges, epistemologies, and methodologies; and the political questions that Indigenous peoples pose for neo/postcolonial states and their criminal justice systems”. Building on the previous steps, excarceration strategies entail a movement away from incarceration using methods such as the decriminalisation of drug use and mental health episodes and the provision of adequate housing, mental health, and substance dependence rehabilitation services to divert those in need away from the criminal justice system (Knopp et al., 1976).

### **Summary**

The cost of imprisonment reaches beyond the prison economy, having physical, psychological, and social effects not only on those incarcerated, but also, their families, communities, and society overall. Thus, considering the high costs of imprisonment in New Zealand, it is vital to question whether prisons are “helping victims recover, keeping our communities safe, reducing offending and reoffending, and getting people off the ‘prison pipeline’” (Lambie & Gluckman,

2018, p. 12). Smith (2013, p. 229) argues that New Zealand exists in a time of refusals, “in which public and political discourse around inequality, poverty, and race is shaped by a refusal to see, to acknowledge, to act”. Through these refusals, New Zealand continues to use the prison to punish under the guise of public safety. However, prisons do not create safety, “prisons create prisoners” (Smith, 2013, p. 232). Despite varying positions on the means to achieve prison abolition, abolitionists agree on a paradigm that disrupts the carceral logic of using prisons as a tool for solving social problems (Coyle & Schept, 2018). The third and final section of this literature review examines barriers New Zealand will face if the country attempts to move towards a post-prison society. Barriers to be addressed include social and political indifference, the media, racial inequality, and violent offenders.

### **3.0 The Problems of a Post-Prison Society**

Penal abolitionism falls within the realm of the radical perspective because it promotes radical revisions to the social order, both in relation to the distribution of power and in relation to attitudinal social functioning. In addition, penal abolitionism problematises the structures that promote crime while not recognising harm. Most abolitionists advocate a mental as well as a social revolution that should not only result in the destroying of penal structures as the only form of justice but also promote the rebuilding of a society that is able to function without resorting to revenge-oriented reactions to harm (Saleh-Hanna, 2008, pp. 417-418).

The final section of this literature review chapter will address the barriers facing New Zealand in attempts to move towards a post-prison society. Addressing both individual and structural issues such as social and political indifference, the media, and racial inequality, this section also focuses on issues of responding to violent offending without the use of prisons.

### *3.1 Public, media, and political discourse*

Perhaps one of the most significant barriers for New Zealand in moving towards a post-prison society and the alternatives of imprisonment to get us there is how entrenched the idea of imprisonment has become in people's conceptions of justice (Davis A., 2003; Jackson, 2017; McIntosh, 2018). Jackson (2017) explains that prisons as a form of punishment are a relatively new phenomenon. Therefore, a significant question for those involved with the prison abolition movement is "why the public has been complicit in the growing presence of the prison industrial complex" (Lenn, 2012, p. 3). As dominant thought patterns are accepted in the social consciousness without critical analysis, society fails to realise the widespread harm of mass incarceration and the necessity of more just alternatives (Lenn, 2012). McIntosh (2018, para. 20) argues for the necessity of adopting a long-term view that addresses the intergenerational reach of the prison to disassociate "from the idea that locking people up is acceptable". Furthermore, Workman (2018) suggests that New Zealand needs to rethink its concept of justice, that prioritising offender accountability to their victims and their communities as opposed to the state, enables offenders to understand better and visualise the harm they have caused, to whom, and to what extent.

As a key feature of the prison, McIntosh (2018) explains how the invisibility of prison life enables freed society to forget about the fate of those imprisoned in them. However, this is arguably not the case as representations of incarceration saturate both entertainment and news media. Theorists such as Cavender (2004), and Marsh and Melville (2019) argue that the media is a significant communicative tool for contemporary societies, helping define what is thought about, including what is seen as problematic and what solutions to consider. From Garfield cartoons joking that maximum-security prison is a worthy penalty for being woken up early (Davis J., 2009) to critical social commentaries such as *Orange Is the New Black*, entertainment media can both passively and actively impact viewer morality and empathy and educate audiences through their discourse (Chouliaraki, 2008). Therefore, a critical step in the abolition movement towards a post-prison society is harnessing the communicative tool of the media and redirecting it towards a more critical and egalitarian discourse. While critical perspectives on incarceration are becoming increasingly popular in entertainment media, news media continues to perpetuate narratives of the common and reductive argument in favour of prisons on the grounds of public safety. Driven by populist media generated-fear, questions such as ‘what about the rapists and paedophiles?’ demonstrates a shifting of focus away from “the vast majority of crimes committed by the prison population, to a small minority of prisoners” (Jewkes & Bennett, 2011, p. 2)

Media discourse which misrepresents the reality of crime is concerning as it can disproportionately influence audiences. This is evident as a 2016 survey found that respondents relied primarily on online and hardcopy newspaper reports (81%) for information on crime whereas personal experiences of crime were much lower at 12% (Lambie & Gluckman, 2018).

Framed in a discourse of risk, fear, and dangerousness, news media coverage often “portrays crime as caused by individuals who need harsh punishment, rather than as a complex issue with multiple driving factors related to individual, social, and systemic contexts” (Lambie & Gluckman, 2018, p. 14). The over-representation of sensationalised crime events such as violent and sexual offences leads to an increased fear of a minority group of offenders and offences despite the reality of decreasing crime rates (Jewkes & Bennett, 2011). Through sensationalised representations of crime, the media hold a primary position in the functioning of moral panics (Cohen, 2011). De Froideville (2018) contends that New Zealand is vulnerable to society-wide moral panics due to a combination of the country’s punitive and conservative mindset and governmental organisation that allows the passing of legislation through a single house. For prison abolition to occur in New Zealand, it is vital to dismantle the misrepresentations of the media discourse on crime. This is because, narratives and panics around the notoriety of individual prisoners are used to make generalisations about the wider prison population, creating a detrimental portrayal of prisoners as highly dangerous and threatening to society, with subsequent narrative constructions concluding that prisons and their increasing use are “the only viable solution to crime control” (Jewkes & Bennett, 2011, p. 223).

A third key obstacle for movement towards a post-prison society is the disconnect between political discourse and New Zealand’s criminal justice circumstances (Buttle, 2017). Political indifference towards the realities of the justice system encourages political opportunism and harmful rhetoric such as ‘tough on crime’ and the politics of fear. Scaremongering with disregard for the factual reality is a key driver of contemporary debates on crime and punishment as

Workman (2018) suggests both National and Labour are aware of voter support for ‘tough-on-crime’ approaches that promote the use of prisons. An example of a populist policy in New Zealand is the current revisiting of the ban on prisoner voting<sup>33</sup>. Geddis (2019, para. 18) argues that the legislation banning prisoners from voting has “popularity but no purpose”. Meaning, that other than meeting populist intentions of separating ‘bad people’ from ‘proper Kiwis’, the legislation fails to deliver any social benefits (Geddis, 2019). Furthermore, the political exploitation of crime and criminals creates a victim of the Department of Corrections as they attempt to assist in the rehabilitation of prisoners, keep up with increasing political demands, and function within an environment of social and political indifference. Therefore, Geddis (2019, para. 25) argues for the importance of continuity across successive governments, advocating for the upholding of common principles “irrespective of whether it was your party or your opponents who made the law in question”. However, New Zealand’s struggles to provide the long-term changes necessary for transformative justice policy as political oppositions seemingly forget or dismantle progress forged by the preceding cycle of government policy (Smith, 2013).

Morris (2018) suggests that for the last twenty years, New Zealand has participated in the ‘tough on crime’ rhetoric at the expense of families, communities, and minority groups. In reality, New Zealand’s crime rates have been decreasing since the seventies while reoffending rates remain very high, demonstrating that prison as a dominant response in crime and punishment politics is

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<sup>33</sup> Geddis (2019, para. 21) explains that even without legal academic’s perspectives, the legislation banning prisoners in New Zealand from voting is considered to be “constitutionally outrageous by a High Court Judge, formally declared to be inconsistent with the New Zealand Bill of Rights Act by the Supreme Court, and now held to be in breach of Treaty principles by the Waitangi Tribunal”.

not only ineffective but harmful for those involved (Morris, 2018). The politics of crime and fear is an ideology that makes it difficult for many to imagine a society without prisons. Jewkes and Bennett (2011, p. 232) explain that “in a liberal democracy, the state must be seen to reflect public opinion in its criminal justice policy”. However, scholars such as Jewkes and Bennett (2011) and Gilmore and Kilgore (2019) argue that in reality, ‘public opinion’ is heavily influenced by the media and authors of reform. Gilmore and Kilgore (2019) argue that these sources claim expertise on the supposedly ‘homogeneous public’, drawing on the ‘made’ public to lobby for policies which realise their plans and goals when in reality, public thought is heterogeneous and frequently changing as new information emerges. In contrast, a common feature among European countries with low prison populations is “their adherence to ‘expert’ knowledge and robust evidence to influence policy, and consequent rejection of populist-driven and emotive criminal-justice politics” (Lambie & Gluckman, 2018, p. 14). In their report, Lambie and Gluckman (2018) identify the likes of early prevention, education, mental health support, rehabilitation, and reintegration as effective approaches to criminal offending. However, these are arguably a tougher sell for politicians, also requiring a shift in public attitudes from retributive punishment to restorative care (Morris, 2018).

### *3.2 Māori disparities in the justice system*

Having spent several years teaching inside prisons, McIntosh (2018) identifies a homogenous element to the demographics of those imprisoned; poor, Māori, disadvantaged. Therefore, a barrier specific to the prison abolition movement in New Zealand is the disparities for Māori in the justice system. As a polycentric issue, an initial element of Māori disparities in the justice

system is the way Māori criminal justice is framed (Fernando, 2018). Fernando (2018, p. 62) argues that the debate is “skewed towards a narrow, Pākehā-centric vision, one that disenfranchises Māori from the promises of the Treaty and one that often dilutes policy responses in fear of a political backlash from Pākehā”. Furthermore, the Waitangi Tribunal (2017) suggests that the justice system functions within racialised and discriminatory frameworks. Building on this, Jackson (1988) argues that the New Zealand justice system and research methodologies, founded in a colonial mentality, are to be decolonised<sup>34</sup>. No Pride in Prisons<sup>35</sup> (2016, p. 91) argues that the decolonisation of New Zealand entails a dismantling of the colonially founded and neo-colonially maintained violence and racism in favour of “a communal, relational society based in tikanga Māori”. Additionally, Brown and Schept (2017, p. 455) offer the abolitionist perspective as a mode of analysis to disrupt criminology’s exclusionary foundations and consider both “what could have been instead [and] what was always there and unacknowledged”. For example, Jackson (1988) promotes the establishment of a Māori perspective through a Māori conceptual or cultural framework or methodology for researching Māori crime and punishment. Therefore, the decolonisation of knowledge and power may mean enabling “self-determination for Māori in the justice sector” (Fernando, 2018, p. 88).

A second key issue of the polycentricity of Māori disparity in New Zealand’s justice system is the prioritising of superficial solutions that fail to “work in unison with the principles of the Treaty of

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<sup>34</sup> In New Zealand, a decolonisation of the criminal justice system entails an undoing of “the institutions and frameworks that have put in place that removal of Māori from who they are” (Maniapoto, 2019). Moana Jackson argues for an honouring over settling of the treaty, that to decolonise New Zealand’s justice system, governance and control over decision making and running of responses to offenders and victims needs to be returned to Māori (Maniapoto, 2019; Snelgar, 2019).

<sup>35</sup> Now known as People Against Prisons Aotearoa (PAPA).

Waitangi<sup>36</sup> (Fernando, 2018, p. 84). Brown and Schept (2017) identify the crucial role of historical and contextual work in the global project and abolition epistemologies, thereby establishing a need for New Zealand specific research to include the country's colonial history and neo-colonial present. While the New Zealand justice system includes numerous 'Indigenous' approaches to Māori offending and overrepresentation, they are often criticised for being established and run in non-Indigenous frameworks (e.g., see Fernando, 2018; Jackson, 1988; Tauri, 1998, 2015, 2016; Tauri & Webb, 2012; Quince, 2007). Claims of Indigenous origins and an empowering effect for Māori is perhaps one of the most significant issues of New Zealand's restorative justice initiatives (Moyle & Tauri, 2016). While New Zealand's restorative justice approach is potentially beneficial at the individual level of offender and victim, the indigenisation and co-option of Māori justice practices and philosophies demonstrate a mystification of restorative justice and an illusion of it as a panacea of Māori justice issues (Moyle & Tauri, 2016). Tauri and Webb (2012) argue that the state has failed to relinquish cultural hegemony as restorative justice initiatives demonstrate a lack of Indigenous jurisdictional autonomy. Initiatives such as FGC within the Rangatahi Court fail to recognise the full potential of their original Indigenous equivalent as the processes prioritise an individualistic paradigm over collectivism and collective responsibility (Fernando, 2018). Furthermore, Tauri and Morris (1997) claim that FGC's are primarily held in the Department of Social Welfare facilities instead of the

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<sup>36</sup> Without a single set of Treaty principles, the Waitangi Tribunal consider those appropriate in each claim, for example, in the case of the historical claims of the Te Tau Ihu district, the principles the Tribunal considered appropriate for this inquiry included partnership, reciprocity, autonomy, active protection, options, mutual benefit, equity, equal treatment, and redress (Waitangi Tribunal, 2016).

marae with a further commodification of the Indigenous approach through the alienation of cultural expertise.

In building on the commodification of the Indigenous approach, a third issue in the polycentricity of Māori disparity in the justice system is the institution of tikanga Māori in New Zealand prisons through rehabilitation programmes and Māori focus units. In aiming to rehabilitate incarcerated Māori people, the programmes and units foster “cultural knowledge they [Māori inmates] may not have had access to otherwise” (No Pride in Prisons, 2016, p. 91). However, No Pride in Prisons (2016) argue that these initiatives fail to act as a meaningful intervention for incarcerated Māori; first, because limited programme capacity means only a small percentage of inmates can participate; and second, having been removed from their whānau, hapū, and iwi, the establishment of tikanga within the prison means Māori receive cultural knowledge at the discretion of the New Zealand government, which is also dependent on an adherence to settler state discipline<sup>37</sup>. A fundamental criticism of tikanga Māori in prison rehabilitation programmes and units follows the logic that as imprisonment is antithetical to Māori culture, Indigenous tikanga are incompatible with the institution (Durie, 2003; Jackson, 2019). Mikaere (2013) builds on this logic by arguing that the importance of utu<sup>38</sup> in Māori tikanga in response to social harm is destroyed by mass incarceration. By removing offenders from their communities and effectively ending the relationships between perpetrators, victims, and their communities (which

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<sup>37</sup> Inmates participation in rehabilitation programmes is contingent on their adherence to discipline as inmates can be removed for not adhering to prison rules (No Pride in Prisons, 2016).

<sup>38</sup> Reciprocity or balance.

utu aims to restore), mass incarceration and state-led Indigenous rehabilitation initiatives further commodify Indigenous institutions and practices of justice (Mikaere, 2013).

### *3.3 Violent Crime*

Not only does incarceration fail to interrupt the drivers of violence, but it has also become part of the problem as it intensifies issues relating to education, housing, employment, and social unity (Sered, 2019). Misinformation is rife within public, media, and political narratives of imprisonment and abolition (e.g., see Buttle, 2017; Jewkes & Bennett, 2011; Workman, 2018). For example, rhetoric's of fear establish a connection between prisons and violence, encouraging the view of prison as a necessary safety measure against violence and those who cause harm (Sered, 2019). However, Watkins (2020, para. 1) argues that "our communities cannot be safe within a system that fights harm with greater harm". As one of the guiding questions of this thesis, the question of how to address violent offenders and offending without the use of imprisonment is a vital element of this work and will be addressed in more depth in the research findings. Therefore, the last section of this chapter is dedicated to breaking down the definitions of both 'violent offender' and 'victim' and discussing the strengthening of rehabilitation through justice reinvestment, and the issue of gendered violence for its relevance to the circumstances of New Zealand.

Workman (2018) argues that over the last three decades, successive governments have employed the 'victims' vs. 'offenders' game as a political tactic. Due to the widespread over

generalisation of these terms, it is critical to breakdown the definitions of ‘victim’ and ‘offender’ and differentiate on a case by case basis to provide a more accurate portrayal of victims and perpetrators of ‘violent crime’. A ‘violent offender’ is described as someone who “has been convicted of a violent offence... and has been sentenced to a term of imprisonment of more than two years in respect of that offence” (Victims’ Orders Against Violent Offenders Act 2014, s 5.1). Furthermore, as the definition of ‘violent offender’ is closely connected to one’s offence, it is important to give clarity to the term ‘violent offence’. The New Zealand police categorise violent crimes into three groups: violent offences<sup>39</sup>, violent sexual offences<sup>40</sup>, and other sexual offences against persons<sup>41</sup> (Poels, 2005). Additionally, the New Zealand government differentiates crimes by the seriousness of the offence, dividing them into four categories on a sliding scale of seriousness, with category one being minor and category four being the most serious<sup>42</sup> (The Ministry of Justice, 2019). For this thesis, ‘violent crime’ is categorised according to Polaschek and Collie (2004) who differentiate violent crimes into the categories of serious violent offending, sexual violence, and family-oriented or interpersonal violence<sup>43</sup>. Boomen (2018), a policy advisor for Corrections New Zealand argues, that in comparison to an international sample New Zealand’s prison population is “unusually skewed in terms of sexual and violent offenders” (p.

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<sup>39</sup> E.g. “murder, manslaughter, attempted murder, kidnapping, abduction, aggravated robbery and burglary, robbery, minor, serious, and grievous assault, male assaults female, cruelty to and assault on a child, threaten to kill/do grievous bodily harm, and other violence” (Poels, 2005, p. 8).

<sup>40</sup> E.g. “rape, unlawful sexual connection, attempted sexual violation, indecent assault” (Poels, 2005, p. 8).

<sup>41</sup> E.g. “incest, do indecent act, unlawful sexual intercourse, attempted unlawful sexual intercourse, anal intercourse” (Poels, 2005, p. 8).

<sup>42</sup> Category one offences are crimes considered to be minor such as careless driving, category two offences include common assault, category three offences encapsulate more serious offences such as aggravated assault or threatening to kill, and category four offences are the most serious comprised of offences such as murder and manslaughter.

<sup>43</sup> These are not distinct categories and overlaps in offence type occur. For example, assault can be placed in both serious violent offences and family or interpersonal violence.

87). However, in response to this statement, Boomen (2018) explains that the length of the sentence may impact these findings as most (63%) convicted sexual offenders were serving more than five years.

To reduce the stigma associated with 'violent crime' a breaking down of offence profiles demonstrates that not all those who commit violent crimes are dangerous and in need of incapacitation over alternatives. For example, *The Homicide Report* analyses 1069 homicides in New Zealand from January 2004 and March 2019 (Ensor & Fyers, 2019). Of the 1069 homicides, 373 of victims were female, and the remaining 695 males (Ensor & Fyers, 2019). The report demonstrates "the extent to which family violence [and] alcohol... contribute to homicidal death in New Zealand" (Ensor & Fyers, 2019, para. 7). This is evident as partner, ex-partner, boyfriend, or husband is the largest relationship category in female homicides, accounting for half of those aged above eighteen<sup>44</sup> (Ensor & Fyers, 2019). The report was able to determine that alcohol was a factor in 31% or 336 homicides during the fifteen-year period, but, suspect the actual figure to be higher<sup>45</sup> (Ensor & Fyers, 2019). Furthermore, the Report illustrates the relationship between "a neighbourhood's homicide rate and the level of social and economic deprivation" (Ensor & Fyers, 2019, para. 6). While homicides tend to be committed more often in neighbourhoods with

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<sup>44</sup> The next biggest relationship is 'stranger' (15%). However, car crashes are responsible for 29% of these cases, leaving approximately twenty-nine cases over the fifteen-year period where females were killed by a stranger, making it a rare occurrence despite this type of crime receiving a lot of public attention. A point of interest in the report is that for males, one quarter are killed by a stranger for which the leading cause of death is gunshot. However, this number is skewed due to the forty-four men killed in the Christchurch terror attack. Analysis of the cases prior to the Christchurch attack finds blunt force trauma as the leading cause of death for adult males, in which almost three quarters occurred between Friday and Sunday. With the weekend being the most common days for male blunt force trauma homicides, the statistics align with the reoccurring stories of a punch then a fall leading to death with the common factors of "young men... poor upbringing, limited education, alcohol issues and... a testosterone fuelled belief they were bulletproof" (Ensor & Fyers, 2019, para. 33).

<sup>45</sup> When the victim-killer relationship is 'friend' alcohol is a factor in 65% of the cases.

higher levels of deprivation, not all victims or killers are themselves deprived<sup>46</sup>. What this information does tell us though, is that there is a correlation between “where violence occurs and where social deprivation is apparent in New Zealand” (Ensor & Fyers, 2019, para. 78).

In the retributive turn of the 2000s, ideological shifts from the needs of victims to the rights of victims saw a reorientation of public attention, turning the focus onto the victims of serious violent crime (Workman, 2018). During this ideological shift, the political tactic of pinning ‘victims’ against ‘offenders’ as part of the ‘tough on crime’ rhetoric enabled a co-opting of individual victim statements from serious or violent crime to become representative of the views of all crime victims (Workman, 2018). However, Workman (2018) explains that victim’s views on sentencing and punishment vary extensively with emotions and reactions being anything from “physical retaliation to withdrawal, to efforts to prevent future harm, to forgiveness of the offender” (Workman, 2018, p. 3). Similarly, Paine (2009) expresses the ease of dividing victims and offenders into demographically and morally separate groups. However, contrary to the common victim, offender divide:

50% of all victimisations are experienced by only 6% of New Zealanders and that the social and demographic indicators that identify those who are most likely to be victimised are identical to the markers for those likely to be offenders (Paine, 2009, p. 157).

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<sup>46</sup> The most blatant example of this point is that “almost one in four homicides occur in the 10 per cent of most deprived neighbourhoods and just two per cent occur in the 10 per cent least deprived neighbourhoods (Ensor & Fyers, 2019, para. 77).

Paine (2009) explains that the separation of victim and offender is artificial and an oversimplification of the complex life stories and cultural context that connect the two<sup>47</sup>. Furthermore, it is important to recognise that violent offending is not only conducted by individuals but also occurs at an institutional level (Workman, 2018). This is evident as Māori become victims of the system through “the accumulative effect of ongoing micro-trauma” (Workman, 2018, p. 8). For example, the New Zealand police enact violence against vulnerable groups within society such as Māori who are more likely to have dogs set on them, be tasered, have force used against them<sup>48</sup>, and be killed by police<sup>49</sup> (No Pride in Prisons, 2016).

An additional barrier to addressing violent offending and offenders without the use of prisons is the politicised nature of crime, punishment, and justice. Watkins (2020, para. 23) argues that the public has been deceived into “believing that we heal from harm only by enacting equal or greater harm to those who have hurt us”. For example, the recurrent use of tactics such as bootcamps, specialised task forces, and other tough on crime approaches, despite their constant failure to provide an impact, such as increased feelings of safety across and within communities (Buttle, 2019). However, as is argued above, out of prison in community sentencing, and therapeutic support are better approaches than incapacitation. Furthermore, those who point to the Nordic models as exceptional examples are a little deceiving because countries like Finland have support from political and social realms, whereas, in New Zealand, there is a lack of political and public willingness. The key components that distinguish the two countries with similar crime

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<sup>47</sup> “Often within the same person” (Paine, 2009, p. 157).

<sup>48</sup> To a rate seven times that of Pākehā.

<sup>49</sup> Māori constitute 56% of those killed by police.

rates are the Nordic adherence to 'expert' knowledge, evidence-based policy, and overall greater trust in government institutions (Lambie & Gluckman, 2018). Despite endorsing punitive sentences in response to typical questioning from populist 'research', Lambie and Gluckman (2018, p. 14) explain that more nuanced research finds a greater diversity in endorsements, including, "community and preventive measures... [and] support for the capability of judges to make decisions independent of public opinion".

Those who support the retention of prisons under the proviso of reform argue that a substantial amount of empirical research supports the notion that rehabilitative interventions, programmes and treatments can reduce risk (Anstiss, 2016; Polaschek D., 2011). However, many question the applicability of such research to violent offending, arguing that perpetrators of violent, sexual, and family violence have unique or specialist treatment needs (e.g. see Polaschek, 2011; Polaschek, Wilson, Townsend & Daly, 2005). Several rehabilitative correctional interventions relevant to the violent and sexual offending categories are currently available in the penal sector. Correctional interventions include the High-Risk Personality Programme- Revised, for high or maximum-security male prisoners with histories of institutional misconduct (Wilson & Kilgour, 2015), The Short Violence Prevention Programme for "short-serving incarcerated men with a history of serious or repeated violence (Perkins, 2019, p. 28), The Rimutaka Violence Prevention Unit which delivers a high-intensity cognitive-behavioural and modular programme for high-risk violent male offenders nearing release (Polaschek & Collie, 2004), and the Kia Marama and Te Piriti Sex Offender Treatment Programmes for convicted child sex offenders (Anstiss, 2016). Treatment for violent and adult sex offenders is available at four of the special treatment units

(Fourie, 2017). Last, while treatment options for violent women are sparse<sup>50</sup>, the Department of Corrections introduced Wahine- E rere ana kit e Pae Hou, Women's strategy 2017-2021. This programme provides specialist interventions and services for women whose "risk, complex personality features, and behaviours would prevent them from attending other established women's programmes<sup>51</sup>" (Appleyard, 2018, p. 31). Treatment programmes for violent and sexual offenders typically include offence-focused strategies including, one on one psychological or group based cognitive-behavioural interventions, the intensity of the intervention varies in conjunction with the risk of reoffending (Department of Corrections, n.d.).

When attempting to reimagine the current justice system, it is a logical response to question what is to replace it. However, "Just as we cannot incarcerate our way out of violence, we cannot reform our way out of mass incarceration without taking on the question of violence" (Sered, 2019, p.5). Barabas, Dinakar, and Doyle (2019, para. 2) argue that problematic risk assessment tools and techniques have the potential to "perpetuate the misconceptions and fears that drive mass incarceration". Therefore, suggesting that violence prevention should use more holistic approaches such as reinvesting in the community and broader social policies (Barabas, Dinakar, & Doyle, 2019). Justice reinvestment is an approach to reform that involves "a redirection of money from prisons to fund and rebuild human resources and physical infrastructure in areas most affected by high levels of incarceration" (Barabas, Dinakar, and Doyle, para. 1). For example, a response to violent offending that provides a diversion from incarceration can be

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<sup>50</sup> Possibly due to the low number of offenders in this offender category.

<sup>51</sup> Exclusionary criteria include women who have past sexual offending and offending against children.

found in the case of Danielle Sered's *Common Justice* in the United States<sup>52</sup>. By prioritising the resolution of harm over punitive incapacitation, Common Justice provides an alternative for survivor healing and justice, offender accountability, and racial equity (Serred, 2019). Common Justice is breaking cycles of violence, as only six per cent of programme participants are terminated for new crimes (Serred, 2019, p. 45). However, a challenge for justice reinvestment is the need for both a whole of government approach and whole community support" (Australian Government, 2018). Nevertheless, long term approaches which can garner such support include actions taken towards early intervention and prevention of violent offending such as parenting and parent education (Kiro, 2009).

An instance of violent crime most relevant in the case of New Zealand is the high levels of family or interpersonal violence, particularly male against female violence<sup>53</sup> (Crichton-Hill, Coker, & Taylor, 2010). Previously called 'domestic violence', family violence includes "child maltreatment<sup>54</sup>... intimate-partner violence<sup>55</sup>... and intrafamilial violence<sup>56</sup>" (Lambie, 2018, p. 5).

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<sup>52</sup> The Common Justice programme is based on restorative justice principle. Similar to New Zealand's restorative justice practices, victim, offender, and relevant third parties gather in restorative justice circles and make collective agreements for offender accountability which "may include restitution, extensive community service, and commitments to attend school and work" (Common Justice, n.d., para. 4). Additionally, Common Justice supervise "their completion of the 12- to 15-month intensive violence intervention program" (Common Justice, n.d., para. 4). It is important to note that while New Zealand also engages with restorative justice practices, the Common Justice approach differs for its disconnection from promises of Indigenous authenticity and appropriateness. New Zealand's restorative justice practices are often criticised for failing to fulfill their established purpose as an Indigenous alternative (Tauri & Webb, 2012).

<sup>53</sup> While women are also sole perpetrators of family or interpersonal violence, in the majority of cases "women committed violence within mutually-violent relationships" (Bevan, Lynch, & Morrison, 2016, p. 33). Furthermore, knowledge of the severity, extent, and nature of male violent offenders "cannot be assumed to be directly translatable to understanding women's violent offending" (Bevan, Lynch, & Morrison, 2016, p. 33).

<sup>54</sup> Inclusive of physical, sexual and emotional abuse and neglect.

<sup>55</sup> Inclusive of "physical, sexual and emotional violence from a partner or ex-partner" (Lambie, 2018, p. 5).

<sup>56</sup> Inclusive of siblings, adult children, and other relatives.

Family violence can be considered a distinct category as its complicated construct includes a “wide range of offending behaviours...such as property damage, cruelty to animals, assault and/or sexual assault” (Australian Bureau of Statistics, 2011). ‘Every 4 Minutes’ is a phrase commonly used to represent the scale of family violence in New Zealand, a type of violence that is non-discriminatory (Lambie, 2018). With 75% of incarcerated women reporting experiences of sexual and family violence and as the most common cause of female homicide, family violence, especially male against female violence, has a substantial impact (Lambie, 2018). Brooks et al. (2014) suggest that there are three different approaches when addressing family violence; primary prevention, public education work, and practices aimed at reducing reoffending. However, the impact extends into parenting and young children as exposure to family violence can cause an “intergenerational transmission of violence, neglect, and maltreatment” (Lambie, 2018, p. 5). While not all children who have witnessed or experienced family violence perpetuate the violence as adults, a large portion of those who do engage with the violence as adults have childhood experiences with violence (Morrison & Bevan, 2018).

“We do not like to think about the journey a child might have taken from being very, very frightened to being very, very frightening (in terms of criminal offending)” (Lambie, 2018, p. 9). Despite the existence of a plethora of research on family violence, only a small amount focuses specifically on the perpetrators of family violence (Morrison & Bevan, 2018). However, Lambie (2018, p. 4) argues that the problem of family violence is preventable, explaining that it is a “symptom of underlying social and psychological issues”. Sharing similar stressors that drive issues such as the criminal justice system overload and social and racial inequality, Lambie (2018)

explains that common sense is one element in the solving of family violence, identifying four key points; 1) enabling access to help when it is needed<sup>57</sup> and means of staying healthy and involved<sup>58</sup>, 2) recognising that family violence can and does affect all social demographics so acting with kindness and compassion to all regardless of one's resources, 3) inter-service communication and efforts to create stronger connections with troubled children and pathways for struggling adults, and 4) "it's about having local, accessible, face-to-face support that is promptly available, culturally responsive and evidence-based" (Lambie, 2018, p. 9).

### Summary

Ranging from social and political indifference and both fictional and news media to racial inequality, and questions of how to respond to violent offenders without the use of incarceration, New Zealand faces many complex barriers if it is to attempt prison abolition and become a post-prison society. Countries with low prison populations demonstrate adherence to 'expert' knowledge, evidence-based policy, and a rejection of populist criminal justice politics. That level of collective consciousness and political willingness will continue to be a barrier for New Zealand as long as public attitudes continue to prioritise retributive punishment over restorative care, the media as a communicative tool continues to reinforce the idea that locking people up is acceptable, and political opportunism and harmful draconian rhetoric encourage political indifference to the realities of the criminal justice system. The oft-cited imbalance between the figures for the Māori general and prison populations is demonstrative of the racial inequality in

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<sup>57</sup> Such as "healthcare, trauma recovery, addiction recovery, early intervention to prevent lifelong harm" (Lambie, 2018, p. 9).

<sup>58</sup> Such as housing, food, jobs, education, and "communities and cultures to belong to" (Lambie, 2018, p. 9).

New Zealand's (in)justice system and the necessity of decolonising knowledge and power to enable an equivalence of authority for Māori in the justice sector. The commodification of Indigenous institutions and practices of justice through Pākehā-centric strategies and frameworks further exemplifies the necessity of decolonising New Zealand's justice system as it is considered antithetical and incompatible with Māori culture and Indigenous tikanga. As explained by Sered (2019) and exemplified by *The Homicide Report* findings, incarceration is perceivably a limited tool, failing as a violence intervention strategy, in part, because it treats violence as a problem of 'dangerous' individuals and not as a problem of social context and history.

### **Conclusion**

This chapter began by exploring the history of the prison both internationally and locally, and its development into the present. Regarding works by Davis A., Pratt, and Erikson, and organisations such as Critical Resistance, People Against Prisons Aotearoa, JustSpeak, and the Sensible Sentencing Trust, the problems of prisons in New Zealand and different models of imprisonment including abolition were discussed. Following this was a critical analysis of the barriers facing New Zealand if it were to become a post-prison society, focusing on public, media, and political discourse, racial inequality, and the question of how to address violent offending without imprisonment.

Though examining the literature on prisons and prison abolition, it becomes apparent that there are gaps which this thesis attempts to address. Although the argument for prison abolition is

strongly articulated in literature from multiple jurisdictions, there is limited literature focusing specifically on the complexities of New Zealand's own cultural and political history and its impact on abolitionist's desire for a post-prison society. Furthermore, while literature exists around the development of alternative responses to violent crime globally, research tends to focus on non-violent crime, leaving unanswered questions around the addressing of violent crime in New Zealand. Situated in the developing field of work which focuses on post-prison society and the necessary steps for getting to that point, this thesis attempts to provide a New Zealand specific analysis of the barriers facing the movement's desire for prison abolition.

The following chapter outlines the methodological framework used for this thesis. Within this chapter is a discussion of the underpinning philosophies, methods of sampling, data collection, and data analysis, and the ethical considerations undertaken in the process of this research.

## Chapter 3

### METHODOLOGY

#### Background

This thesis seeks to address three key questions, all with a specific New Zealand focus. The first two broadly explore the barriers to prison abolition and what strategies, policies, and interventions are necessary for New Zealand to become a post-prison society. The third explores alternative approaches to violent offending in New Zealand, discounting the current system of imprisonment. From these questions, it is apparent that qualitative research is suitable for this paper as it is a methodological framework that emphasises the value of language, experiences, and words as opposed to numbers and figures (Bryman, 2016). Furthermore, as this thesis is concerned with providing insight into the possibilities for dismantling, creating, and sustaining a new justice system without the extensive use of imprisonment – utilising those involved with the relevant fields of academia and advocacy – the use of qualitative and descriptive methods is not only suitable, but necessary.

#### Introduction

The previous chapters examined research on prisons and prison abolition both internationally and specific to New Zealand, predominately focusing on the problems of prisons and reformative pathways to addressing these. This chapter presents the methodology and methods of this thesis. Explored through five sections, this chapter begins with a presentation of the philosophies, and methodological approach underpinning this research, followed by a discussion

of the sampling methods and participant context. Next is an explanation and justification for the methods of data collection and data analysis used in this research. Last, is an examination of the critical ethical consideration necessary for undertaking this research and the limitations of this study.

## **1.0 Underpinning Philosophies and Approach**

### *1.1 Researcher reflexivity*

Reflexivity is an awareness of the researcher's role in the practice of research and the way this is influenced by the object of the research, enabling the researcher to acknowledge the way in which he or she affects both the research processes and outcomes (Haynes, 2012, p. 72).

Therefore, as reflexivity is an important element of social research used to demonstrate researcher positionality and provide legitimacy to research 'truths' or findings, this section briefly explores the researcher's motivations for initiating this thesis and situates the researcher's position within this study.

While completing an undergraduate and honours degree in Criminology at the University of Auckland, I developed an interest in the functioning of prisons that quickly evolved into a critical perspective on prisons and the current state of incarceration in New Zealand. Once introduced to the work of Angela Davis, and more specifically, *Are Prisons Obsolete?* I was inspired to move

beyond her well-articulated argument for prison abolition and use this thesis opportunity to envisage a New Zealand without prisons. Underlying this was the researcher's passion for discovering ways to reduce New Zealand's current over-reliance on imprisonment.

Rather than eliminate researcher bias towards the research, it is documented in these reflexivity statements how my social position frames this study. As a young female with little personal experience of the criminal justice system, I recognise that I have an academic viewpoint of the criminal justice system. Furthermore, while I acknowledge that this research is demonstrative of my experience with the knowledge gained throughout this research project, I would like to emphasise that I enabled the participant's voices to shine through where possible. While challenging at times, it was important to remain non-judgmental and open to differing and new perspectives throughout the entirety of the research project. By remaining unbiased, the participant's narratives were able to take precedence over any of my preconceived thoughts. However, it is difficult in social research to avoid bias all together (Neuman, 2011). Having completed the literature review before conducting interviews, I gained a greater understanding of the current state of incarceration and barriers to prison abolition in New Zealand. Despite increasing the likelihood of developing preconceived thoughts before the interviews, this process enhanced my ability to establish well-informed interview questions that subsequently yielded more beneficial data.

### *1.2 Qualitative and descriptive research*

An initial step in all research projects is the selection of a methodological framework, the choosing of which essentially provides “a world view, a whole framework of beliefs, values, and methods within which research will take place” (Berg, 2008, p. 827). A qualitative and descriptive approach was the chosen methodological paradigm of this research project, a common choice in the field of prison studies as demonstrated by its use in similar research such as Jackson (1988) and Moselen (2014). Characteristic of qualitative research is an emphasis on “words rather than quantification in the collection and analysis of data” (Bryman, 2016, p. 374). Often criticised for not subscribing to the same measures of rigour as quantitative methods, McAleese and Kilty (2019, p. 822) problematise the evaluation of “qualitative research according to quantitative measures” for its dismissal and limitation of “the perceived usefulness of qualitative findings, especially in terms of policy reform”; instead, suggesting the importance of recognising the “richness and value of documenting experiential stories and the process of storying in social science research” (McAleese & Kilty, 2019, p. 822). In taking a qualitative and descriptive approach, it was hoped that this research would demonstrate the importance of experiential narratives and the ability of layered narratives to “contribute to the production of meaningful interventions to the ongoing criminalisation and punishment of vulnerable people” (McAleese & Kilty, 2019, p. 822).

### *1.3 Interpretivism*

Posed as an alternative to positivism, interpretivism is a fundamental approach undertaken by many qualitative researchers. This philosophical approach denotes the relationship between

theory and research, “whereby, the former is generated out of the latter” (Bryman, 2016, p. 374). Moreover, Duberley, Johnson, and Cassell (2012, pp. 20-21) suggest that the interpretive paradigm emerges from an intellectual position that undertakes “human interpretation as the starting point for developing knowledge about the social world”. The interpretive approach demonstrates a commitment to Weber’s *Verstehen* (understanding) as the tradition emphasises “the understanding of the social world through an examination of the interpretation of that world by its participants” (Bryman, 2016, p. 375). Thus, individual narratives must be taken into consideration. This thesis attempts to understand the possibilities and problems of prison abolition in New Zealand through the interpretations of those with experience in the relevant fields of criminal justice-related academia, advocacy, and employment. In taking an interpretive approach, it was necessary that I, as the researcher “grasp the subjective meaning of social action” (Bryman, 2016, p. 692). The process of interpretivism involved three stages as participants shared their interpretations of the social world, the researcher interpreted participants responses, and those findings were placed into a social scientific frame (Bryman, 2016). Thus, it was important during the analysis of my data to protect the context of each participant’s narrative. Therefore, as secondary accounts drawn from participant’s interviews, the findings in subsequent chapters are told as closely as possible to the contextual meanings given by each individual.

#### *1.4 Narrative inquiry*

The adapted narrative inquiry framework enabled a highlighting of the “shifting, changing, personal and social nature” (Clandinin & Huber, 2010, p. 438) of mass incarceration and violent

offending in the context of a post-prison New Zealand. Differing from other forms of qualitative research which use participant stories to discover or develop common or existing themes, narrative inquiry develops knowledge that “leads less to generalisations and certainties and more toward wondering about and imagining alternative possibilities” (Clandinin & Huber, 2010, pp. 439-440). As both a means of understanding experience and a research methodology, the process of narrative inquiry began with a reflexive account of the researcher’s own experiences. It was further “composed of engaging with participants in the field, creating field texts, and writing both interim and final research texts (Clandinin & Caine, 2008). Following the precursory reflective inquiry of personal narrative understandings, Cladinin and Caine (2008) explain that a natural starting point for narrative inquiry is listening to participant’s telling their stories. This was done by conducting face-to-face in-depth interviews. These methods were then used to generate field texts (data), interim, and final research texts through a collaborative process of consultation with participants, a consideration of potential public audiences, and a recognition of the embedded nature of these stories “within social, cultural, and institutional narratives” (Clandinin & Caine, 2008, p. 544).

## **2.0 Sampling Method**

Neuman (2011, p. 241) explains that unlike quantitative research that aims to create a representative sample generalisable of a wider population, qualitative sampling focuses on “aspects/features of the social world” to provide insight into “key dimensions or processes in a complex social life”. Due to the chosen methodological approach and the limitations of project size, time, and resources, the aim of sampling for this research was not to achieve

representativeness of the population. Instead, the aim was to obtain as many participants as possible while still setting attainable data gathering and analysis goals. The point of saturation marks a natural conclusion for sampling in qualitative research, occurring when interview participants cease to provide new information (Firmin, 2008). It was difficult to determine from the beginning how many participants were necessary to reach saturation. Thus, the time constraints of this project influenced the sample size.

### *2.1 Non-probability sampling*

This research attempted to explore alternatives to incarceration more broadly for the criminal justice system and more specifically, in the case of violent offending within a limited timeframe. Therefore, it was important for this thesis that the participants were both knowledgeable and relevant to develop an understanding of the barriers and possibilities for prison abolition in New Zealand. To ensure this was possible, this thesis utilised two non-probability sampling methods. Non-probability samples are a commonly used approach to data collection in qualitative research, pairing well with data analysis strategies such as narrative inquiry which “relies on the careful interpretation of a small number of very rich data sources” (Morgan, 2008, p. 800).

First, purposive sampling was suitable for this project as it enabled a strategic choosing of interview participants based on their “relevance to the research questions” (Bryman, 2016, p. 408). The initial sample was a small and purposeful selection of interview participants based on their experience with the issues of incarceration, violent offenders and offending in New Zealand, and abolitionism. This thesis aimed to interview a selection of people, including those currently

or previously employed within the justice sector and in government roles, those involved with advocacy groups, and academics with relevant expertise. The initial participants were identified and contacted via their online presence, primarily through publicly available email addresses, and once through an organisation's Facebook page.

Second, snowball sampling was used to garner information from less obvious sources relevant to the research aims. Following each interview, participants were asked if they could identify or recommend potential participants. Thus, subsequent participants were identified and contacted via snowball sampling, a multistage technique described through the analogy of a snowball accumulating snow as it continues to roll (Neuman, 2011). Like the accumulation of snow, the initially small sample grows as the researcher recruits new participants referred to them by current participants (Given & Saumure, 2008). As a method of chain referral, snowball sampling allowed for an exploration of potential participants through known links in both the pro-abolition and pro-prison networks.

## *2.2 Participants*

A total of nine participants were interviewed for this thesis. The sample profile was split into two categories – 'pro-prison' and 'pro-abolition' advocates (four and five in the respective categories). The category of 'pro-prison' advocates included participants with relevant experience with the criminal justice system through employment or advocacy work. The 'pro-abolition' category included academics and advocates who primarily identified as abolitionists and were familiar with the issues relevant to this thesis through employment, advocacy, or in a

research capacity. Regardless of the relatively small sample profile, there was significant diversity among participants. The sample reflected gender diversity as participants included four men and five women. Moreover, it was representative of a diverse spectrum of professional experiences, both short and long-term and in fields of academia, advocacy, and from within justice and government agencies. Rather than responses reflecting all the perspectives and experiences of abolition and prison advocates, to coincide with the chosen sampling and data analysis methods, this research sought to provide subjective narratives and perspectives on the problems and possibilities of prison abolition in New Zealand. The countrywide shutdown due to Covid-19 negatively impacted my ability to conduct further in-person interviews. Accordingly, I ceased the data collection process after nine interviews due to the time and environmental constraints of the research project.

### **3.0 Data Collection**

The chosen method of data collection for this research project was face-to-face, in-depth interviews. The in-person interview is a common data collection method in qualitative research, providing an effective means of engaging with participants about their perceptions and experiences of the research topic (Clark, 2008). The project's methodological framework and the qualitative and descriptive nature of this research paired well with interviews as the data collection strategy as they enabled participants to provide in-depth accounts of their experiences and perspectives and expand on certain areas of interest. Most interviews lasted between forty-five minutes to an hour, with one lasting an additional half-hour.

### *3.1 Face-to-face interviews*

Face-to-face semi-structured interviews were carried out across several locations that were most convenient to the interview participants. This included participant's offices, offices on multiple university campuses', and on one occasion, my supervisor's place of residence. Throughout the data collection process, face-to-face interviews were the preferred method of data collection, with several occurring across Hamilton and Auckland between October 2019 and March 2020. The qualitative face-to-face interviews were preferable as they offered a range of advantages to both the researcher and participants, such as aiding in the observation of 'non-verbal communication' and body language or facial cues and enabling the researcher to build rapport with participants (Clark, 2008). Through these advantages, the use of face-to-face semi-structured interviews enabled both the asking of complex questions and the provision of in-depth answers (Clark, 2008). A slight disadvantage of insisting on face-to-face interviews where possible was the financial cost of transport to and from the locations suitable for participants. Additionally, there were costs to both the researcher's and participant's time, and the potential for 'interviewer bias' during these interviews as participant's responses can be influenced by how the interviewer asks certain questions or responds to participant engagement, potentially discouraging the disclosure of certain information by participants (Neuman, 2011).

### *3.2 Semi-structured interviews*

As this research project aimed to draw on the expertise of the purposeful sample, semi-structured interviews enabled flexibility in gathering information through both a focus on and suitable straying from a pre-constructed interview guide. Additionally, the semi-structured

interview format enables unexpected ideas and information to arise through researcher and participant elaboration and engagement with certain questions and areas of discussion (Cook K. E., 2008). Before the interview process began, a guide was created and tested through mock interviews, trial and error, and analysis. Separate but largely overlapping interview guides were created for both the 'pro-prison' and 'pro-abolition' participants. For each interview, the guide included a set of broad, open-ended questions and themes to discuss (see Appendix 3). The loose interview schedules revolved around participants philosophies and views of punishment and prisons such as the abolition or retention of prisons, allowing for the interview participants to share their perspectives with little leading influence from the interviewer. However, interviews were not restricted by the guides, enabling the researcher to engage with the participants through active listening, follow up questions, and prompts for further discussion and elaboration (Cook K. E., 2008).

As the interviews were conducted separately, the downtime between subsequent interviews allowed me to reflect and evaluate the process and make improvements before the following interview. Although the interviews were guided by one of two overlapping guides, each interview produced different narratives. It was important that during the interviews, my role as a researcher was of an active listener, facilitating the participants in leading their narratives where they saw fit (Neuman, 2011). This interview-style enabled me to demonstrate a balance of preparedness and competency without dominating the conversation. As the chosen method of data collection, the style of semi-structured interviews enables a collaborative effort by both researcher and participant to develop "rich, relevant data" (Ayres, 2008, p. 812).

### *3.3 Video and voice call interviews*

Unfortunately, it was not suitable to conduct some interviews through face-to-face interaction. For the participants located in cities other than Hamilton and Auckland, interviews were conducted via video and voice call, instruments that enabled a widening of the sampling pool. An additional participant was interviewed via video call despite initial plans for an in-person interview after the government lockdown concerning Covid-19 removed my ability to travel. For two of these interviews, Skype was used, an internet application which offers a free voice and video calling service via the internet. The use of Skype was beneficial for several reasons; the interviewer remained able to observe visual cues throughout the interview, the application enabled the interview to occur at a time most convenient for both the interviewer and the interviewee, and no travel costs were accrued. Problematically, the Skype interview required a reliable internet connection and without such the video and sound became out of sync at some points, producing some difficulties with the voice recording and later in the transcription process as some sections were borderline inaudible. The third interview was conducted via voice call at the instruction of the participant. While beneficial as costs to time and monetary resources were minimal, the use of voice call was limited as the researcher was unable to observe non-verbal cues or create rapport to the same level as in the face-to-face interviews.

### *3.4 Interview recording*

With permission from the participants, each interview was audio-recorded. The use of audio-recording during the interviews allowed me to remain attentive throughout the entire process,

actively listening and engaging with the participants. Together with the recordings, I took brief notes during the interviews, mainly noting points where prompts for clarification or elaboration were appropriate and key topics and themes to return to during the data analysis stage. The presence of audio-recording equipment had the potential to affect participant engagement. However, the minor intrusion of recording equipment was favourable for the high level of detail pertained as a result (Morgan & Guevara, 2008). Additionally, the high level of detail was costly timewise, as the audio-recordings each required multiple hours of transcription.

#### **4.0 Data Analysis**

The chosen method of data analysis for this thesis was a narrative analysis, a component of the broader narrative inquiry. As the methods of (thematic) narrative analysis and inquiry are less frequently used than other qualitative methods such as grounded theory or critical discourse analysis (Riessman, 2008), the following section features an explanation of the approach in detail. First is an explanation of the broader undertaking and framework of narrative inquiry, followed by an explanation of the method of narrative analysis as it has been used in this research, primarily based on and adapted from the work of Riessman (2004, 2008).

##### *4.1 Thematic narrative analysis*

To begin, each of the interview recordings was transcribed, a process accurately described by Bryman (2016, p. 472) as “difficult and time-consuming”. Following the transcription process, the data was prepared for analysis. The chosen method of data analysis for this thesis has been developed from the process of narrative inquiry, primarily influenced by Riessman (2004, 2008).

Riessman (2004) groups the various forms of narrative analysis into four categories: thematic, structural, dialogic-performative, and visual narrative analysis. Thematic narrative analysis is the chosen approach for this research. It is a method of analysis which focuses “on ‘what’ is said rather than ‘how,’ ‘to whom,’ or ‘for what purposes’” (Riessman, 2008, pp. 53-4). As a data analysis method, narrative analysis does not fragment data through coding; rather, it encourages lengthy conversations which take the form of a narrative (Riessman, 2004). The definition of ‘narrative’ varies between discipline and researcher. For this research, ‘narrative’ can be understood as bounded segments of interview text about the problems for and possibilities of prison abolition. Often mistaken for grounded theory, narrative analysis differs by keeping a story intact and theorising on a case-by-case basis rather than from “component themes... across cases” (Riessman, 2008, p. 53). By exclusively focusing on the content of the interviews, thematic narrative analysis was suitable for this research as it enabled exploration into the field expert’s experiences through in-depth narratives and used the generated data to imagine future possibilities.

As qualitative research often generates large amounts of information, data reduction is a key step in the analysis process (Bryman, 2016). However, thematic narrative analysis and the broader narrative inquiry process places value in the conversational context of narrative creation. In doing so, the following steps, primarily based on and adapted from the instructions of Esin (2011) and Riessman (2004, 2008), were used to analyse the interview data. First, I familiarised myself with the data by reading and re-reading the interview transcripts. From this process, I broke down participant narratives into units of analysis, grouping their responses under three

main headings based on the three guiding questions of this research. Numerous themes emerged, and several super-themes were established. Furthermore, it became evident that participants often discussed both the barriers to abolition and their potential solutions in tandem and so the first two headings/questions were merged. A comprehensive display of the data was achieved by arranging it in this manner, making for ease of analysis. The super-themes are as follows:

**Table 1: List of headings and themes**

HEADINGS	SUPER-THEMES
1. Barriers:  2. Solutions and alternatives:	<ul style="list-style-type: none"> <li>• Prisons</li> <li>• (Criminal) justice discourse</li> <li>• Institutional and structural barriers</li> <li>• The possibilities and problems of prison abolition</li> </ul>
3. Violent harm:	<ul style="list-style-type: none"> <li>• Violence</li> </ul>

## 5.0 Ethics and Limitations

The final section of this chapter demonstrates the ethical principles enacted in this research. Following the ethical considerations, this chapter ends with a discussion of the limitations of this thesis.

### *5.1 Ethical considerations*

As this research was conducted in the fulfilment of a Master's degree through the University of Waikato, it is important to follow the research protocols required by the University of Waikato Human Research Ethics Regulations and Student Research Regulations. This research project was approved by the Human Research Ethics Committee of the Division of Arts, Law, Psychology, and Social Sciences (ALPSS) in August 2019. Bryman (2016) describes four main areas for ethical consideration: potential harm to participants, informed consent, confidentiality and privacy, and whether deception is involved. Regarding these factors, this section details the ethical principles considered in this research.

Following ethical approval, potential participants were identified and invited to participate via email. Voluntary participation and informed consent in the study were gained via email correspondence inclusive of the participant information sheet (PIS; see Appendix 1) and the consent form (CF: see Appendix 2). The PIS introduced participants to the research and detailed their expected role and rights as a participant. Those who agreed to participate were sent the CF in an email attachment which the participants either signed and returned at the interview or returned via email. Participants were also informed of their ability to refrain from answering questions and that they could withdraw from the research up to four weeks after receiving a draft interview transcript. Additionally, prior to conducting the interviews both face-to-face and via video and audio call, participants were consulted as to the possibility of making an audio recording during the interview. All participants agreed to be recorded.

A primary ethical concern was maintaining participant confidentiality. The limited community and often distinguishable advocacy positionalities on imprisonment and abolition presented as a challenge for my ability to have participants remain confidential. Having been informed of this risk in the PIS, CF, and via verbal communication prior to the interview, participants all consented to their participation. Moreover, all efforts were made to maintain confidentiality, including the provision code names to ensure anonymity throughout participant transcripts and my thesis.

A further concern was to minimise potential harm to participants. First, participants of this research were not considered a vulnerable population group, so no competency training was required of the researcher. Second, to uphold the University of Waikato Ethical standards, all the digital data will be stored on a USB in a locked storage box in the Principal Investigator's home. Also, any data produced on paper, such as informed consent forms and hand-written interview notes will be stored in a locked filing cabinet located in the Principal Investigator's home. Only the Principal Investigator has or will have access to this data.

#### *5.1.1 Cultural sensitivity*

It was anticipated that participants would benefit from participation by imparting knowledge with a specific New Zealand context which contributes to an under-researched and growing movement and could potentially lead to the development of crime control policies and interventions. While Māori were not the focus of the project, given the topic, and the extent of Māori engagement with the criminal justice system, there was a likelihood that one or more of the participants would be Māori. Consultation on the potential impact on Māori, especially Māori

who might participate in the research, was carried out with the Principal Investigator's supervisor, Dr Juan Tauri (Ngati Porou). Dr Tauri has ten years' experience working in the criminal justice policy sector, and sixteen years' experience researching with Indigenous peoples on criminal justice-related issues.

### *5.2 Limitations*

Though this research provides a broad overview of imprisonment, abolition, and violence in the New Zealand context, it is limited in its ability to provide a comprehensive analysis of each subject area. While it is important to generate a foundation from the New Zealand context, a significant gap is present; particularly in understanding Māori experiences of these systems. Importantly, the scope for further research into this gap is most appropriately filled by Indigenous scholars, many of whom are actively contributing to the literature. In recognising their positionality, the researcher has attempted to prioritise Indigenous voices when exploring relevant themes in this research.

Though I believe my interviewing skills improved significantly during the process, being a novice interviewer had obvious limitations. Having conducted a pilot interview, I received positive feedback on my ability to refrain from guiding the participant through my questioning. This is something I remained attentive to throughout the interview process. The pilot interview also enabled me to adjust my interview guide to more effectively encourage dialogue from participants. However, during subsequent face-to-face interviews, I sometimes concentrated too closely on the interview guide, at the expense of meaningful engagement with participants.

Explained in Bryman (2016), it is common for first-time interviewers to have difficulty when probing for further answers, prompting with follow-up questions, and clarifying questions while retaining focus on the research topic. Furthermore, in transitioning from face-to-face interviews to video and audio-based interviews, maintaining focus and reading cues was difficult at times due to the distance in proximity with participants.

Another notable limitation is the study's small sample size. Due to the chosen methodological approach and the limitations of project size, time, and resources, the aim of sampling for this research was not to achieve representativeness of the population. Therefore, the study is informed by a small data set from a handful of positionalities across the subject matter. While the data is indicative of a spectrum of advocacy positions, there are many other worthwhile and relevant sources of data such as, previously or currently incarcerated persons, and other judicial professionals. The chosen methodological approach and the limitations of project size, time, and resources dictated the focus on relevant experiences in advocacy demonstrated in this research.

### **Summary**

The methodology used to approach the research aims is qualitative and descriptive in nature. This chapter identified the sampling methods used, introduced the participants, explained and justified the data collection method for this research, discussed the use of (thematic) narrative analysis as the method of data analysis, and examined the ethical considerations and limitations of undertaking this research project.

The following chapter presents the key findings from the nine interviews with ‘pro-prison’ and ‘pro-abolition’ advocates. The subsequent chapter, — *Chapter Five* — discusses and contextualises the findings regarding the extant literature explored in *Chapter Two*. Collectively, these two chapters aim to unpack the complex narratives of incarceration, abolition, and violence, in the context of New Zealand, highlighting potential starting points for abolition or reform, and providing a platform for future research.

## Chapter 4

### FINDINGS

This thesis seeks to address three key questions, all with a specific New Zealand focus. The first two broadly explore the barriers to prison abolition and what strategies, policies, and interventions are necessary for New Zealand to become a post-prison society. The third explores alternative approaches to violent offending in New Zealand, discounting the current system of imprisonment. While previous chapters have established a foundation from which later discussion will draw from, this chapter will present the qualitative data gathered from nine semi-structured interviews with pro-abolition and pro-reform academics and advocates each with differing connections to, and experiences of New Zealand's justice system. To maintain confidentiality, participants' names were removed during the data analysis stage. Participants have instead been assigned a code name and number in relation to their advocacy position as either abolitionists (A1-5) or reformists (R1-4).

#### **Background**

It became evident during the interview process that the categories of 'pro-prison' and 'pro-abolition' did not adequately encompass the positions and perspectives being expressed by participants. Rather than belonging to separate and distinct categories or positions on the future of prisons, as previously allocated in this research, a spectrum of perspectives emerged on the contemporary use of prisons and the possibilities and problems of prison abolition in New Zealand. This is evident in the assigned codenames as 'pro-prison' became 'reformists'. The

spectrum ranged from A1 who identified themselves as a total or complete abolitionist<sup>59</sup> to R2 who advocated for perceivably punitive reforms.

While I had initially anticipated analysing the results as contrasting perspectives, the complexity and overlap between participant's expressed positions made this a difficult task. Thus, I have adapted the findings framework to include five super-themes present across the spectrum of participant narratives. The five super-themes are prisons, (criminal) justice discourse, institutional and structural barriers, the possibilities and problems of prison abolition, and violence. This chapter will present the findings based on the three guiding questions of this thesis. The first four themes relate to questions one and two that seek to explore the barriers to prison abolition and the strategies, policies, and interventions necessary for New Zealand to become a post-prison society. Findings for these questions are presented together as participants often discussed both the barriers and the approaches to overcoming them in tandem; separating them would cause a disconnect in participant's narratives. The last theme, violence, relates to the final question of addressing and responding to violent offenders and their offending without the use of imprisonment.

The interview participants demonstrated an extensive amount of knowledge on the five super-themes; thus, during the thematic narrative analysis, I arranged their responses into multiple sub-themes (identified below in italics). The following chapter will be a presentation of the

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<sup>59</sup> After identifying as a complete abolitionist, Participant A1 explained their position to entail the belief that doing things by halves leaves room for compromise and is a pathway back to imprisonment as we have it currently. Thus, the complete or total abolition of prisons is necessary.

findings as follows. In Part 1, the concept and reality of prisons is discussed through participants definitions, understandings, and critiques of its *purpose, role, and impact*. Part 2 provides an exploration of (criminal) justice discourse in relation to the methods of *narrative production and consumption* demonstrated by *public, media, and political entities*. In Part 3, institutional and structural barriers and future pathways (identified by participants) are discussed, including *structural bureaucracy, systemic orientation, and systemic violence*. Following that is an exploration of *the possibilities and problems of prison abolition and prison reform*. The final theme – violence – is discussed with reference to participant’s *definitions and understandings, key issues in New Zealand, and current approaches and future suggestions*.

## **1.0 Prisons**

As a central element of the prison abolitionist movement, the prison and its purpose, role, and impact serve as an important beginning for discussions on the barriers of and necessary actions for New Zealand to move towards a post-prison society. During the interviews, participants were prompted to share their perspectives on the current state of incarceration in New Zealand. Their responses yielded valuable commentaries, critiques, and strengths, as presented below.

### *1.1 Purpose*

The purpose of prisons can be understood as the ‘why’ of their functioning. Both the abolitionists and reformists identified five key purposes of the prison; public safety, incapacitation, retribution, deterrence, and rehabilitation. However, the narratives around these purposes largely differed between the two groups. The four reformists emphasised the importance of

public or community safety above all others, establishing a connection between the prison as an institution and feelings of physical safety and safety from fear. The reformists largely associated incapacitation (despite its temporary effects<sup>60</sup>) as the prison's most effective means of achieving public safety, what they claimed to be its primary purpose. Additionally, Participant R4 extended the safety afforded by the prison to offenders at risk of vigilantism, and Participant R2 argued that the prison is currently the strongest resource available to provide public safety as demonstrated in the following statements:

So sometimes I think it's safer for some of the people and some of the things they've done to actually be put in prison um, and safer for themselves. Because we still have people out there that would consider, if they didn't think that was possible then they would take it into their own hands through action and then we would have that, we would end up with no law (Participant R4).

If the violent crime has been committed and we don't have the prison, then the victim's life will be turned upside down even more. They won't feel safe. They'll have nowhere to turn to because we know that, you know, electronic monitoring is not robust. Um, we do not have the resources to manage it in New Zealand (Participant R2).

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<sup>60</sup> Incapacitation is seen as one of the key rationale of prisons yet research on the impact of incapacitation on prisoners' offending behaviour suggests the opposite, that incapacitation does not equal reductions in overall offending, making such claims to effectiveness problematic. Refer to Burnett and Maruna, (2004) and Wood, Williams, and James, (2010).

Despite centring public safety as the primary purpose of the prison, some of the reformist participants also touched on rehabilitation. Their responses included how rehabilitation is not currently being done as effectively as it should, that it should be more widely available across institutions and for categories of inmate such as those serving short sentences (Participant R4) and the necessity of rehabilitation to ensure successful reintegration (Participant R2).

Alternatively, the abolitionists identified each of the above-mentioned purposes through the context of their ineffectiveness in both theory and practice. For example:

There's no, no, there's been very few if any studies, outcome-based or empirical-based studies that show that the use of prisons makes us any safer, reduces offending behaviour by individuals, or in society more generally (Participant A5).

The other thing I think is a problem is that prison doesn't work, it doesn't rehabilitate, it doesn't um, doesn't rehabilitate, doesn't protect us because it makes prisoners worse, it doesn't deter us or deter the rest of people in society from crime because crime rates throughout the world rise up and down pretty much regardless of anything that we do. Yeah. So, what does it do then? ...Well, it's the wastepaper basket for all of our social problems (Participant A2).

The abolitionists all shared the argument that the prison environment is not conducive to positive change, asserting that overall “prisons don’t work” (Participants A2 and A4) and that as an institution they are fundamentally ineffective and designed to fail.

### *1.2 Role*

While there is some overlap where participants have used both purpose and role interchangeably in describing the prison as a response to criminal offending, a natural distinction between the purpose of imprisonment and its roles was uncovered during the interview process. All the participants were critical of the prison’s roles, making further distinctions between those it currently serves and those they believe it *should* serve.

#### *1.2.1 Current role*

Across the spectrum, participants identified punishment as the primary role of prisons in New Zealand. Most demonstrated discontent with this prison model except for Participant R2 who stated, “a lot of people do call prisons punishment, to us it's being held to account for your crime that you've committed” (Participant R2). A further contribution on the topic of punishment came from Participant R4 who explained that the punishment of prisons also serves to satisfy punitive public attitudes, a subject which is discussed in more depth in the *(criminal) justice discourse* section. Discontent with the current role of prisons in New Zealand extended into the practice of punishment to include staffing and infrastructure. Participant R4 questioned what kind of people are attracted to prisons explaining that we do “attract some very good people to run prisons, but we also attract another type of person to run prisons as well... [that] it's a special

person that can turn the key on another human being” (Participant R4). Most participant’s identified issues with the current infrastructure of New Zealand’s prisons, a few reformist participants despite acknowledging that prisons are sometimes inhumane or not nice contended that their existence remained necessary.

### *1.2.2 Ideal or desired roles*

When discussing the role of the prison in New Zealand, participants also drew attention to their ideal or desired roles for the prison to serve. Across the spectrum, participants illustrated environmental, structural, and constitutional changes such as different types of prisons and alternative formats for dealing with harm. First, both abolitionists and reformists alike discussed the pros and cons of Scandinavian prison models. For example:

And prisons that work on paper like the Swedish ones or the Norwegian ones where you have a 20% re-incarceration rate –where it’s not a revolving door— when you look at those 'prisons' they're actually not prisons in the sense that we have here. They are very much focused –in terms of staffing, the way they're structured— on supporting people who want to get better (Participant A1).

If we look around the world, you know, I think we should be modelling ourselves after Norway or something like that (Participant R1).

Anyway, so we have the Scandinavian model... They have much more of a social safety net. They put far more resource into education, you know, meaningful education. Gender equality, the first Western jurisdiction to give women the vote, we're a joke compared to Scandinavian countries in terms of gender equity and what have you... how do we become a post-prison society? We need to change our entire socio-cultural context (Participant A5).

It's better than what we've got, but it's not good. It doesn't mean that prisons are working. And they've got much nicer places than us, but they're still prisons... And the problem that I have with that is that even those prisons are not good prisons, they're just better than ours (Participant A2).

These examples demonstrate a pre-existing alternative with the re-conception of prisons according to the Scandinavian models. However, as Participants A5 and A2 recognise, the change required of New Zealand's socio-cultural context represents a significant barrier to becoming a post-prison society, not only due to the monumental efforts required for such change to occur but because it merely replaces one prison model with another instead of abolishing it altogether.

A second point of focus when discussing their ideal or desired roles of the prison was alternative formats for dealing with harm such as treatment or healthcare models, approaches that complement Te Ao Māori, and victim-centric approaches. It is important to note the differing approaches to the same model as the reformist participants spoke of the treatment model in

terms of redirecting non-violent offenders away from the prison; whereas the abolitionists used the treatment model as a replacement of imprisonment for all levels of offenders. Furthermore, two versions of a 'victim-centric' model emerged from both extremes of the spectrum of perspectives. First, A1 established what they called a "victimisation prevention mindset rather than a punishment mindset" (Participant A1) followed by Participant R2 who advocated for a rebalancing of the justice system, so victims occupy a bigger position and voice in justice proceedings. The following statements on these alternative approaches were offered by participants:

So, tikanga Māori based responses to harm, right. That this was a previous way in which harm was dealt with in Aotearoa and that in particular for Māori, there is absolutely the case to be made, and I think, well, it is being made by people like Moana Jackson, that um, that Māori if granted rangatiratanga should be able to use tikanga Māori practices to deal with harm. And as people like Moana Jackson um, as well as uh, Emilie Rākete have noted, there is a fundamental incompatibility between te ao Māori, between tikanga Māori, and imprisonment as a social practice (Participant A4).

I don't want this to be misunderstood as institutionalising people but, it would be good to see facilities set up in the community that would enable people to um, still communicate openly with their family and be involved in um, you know, their own social networks and things that would enable people to um, continue to be relatively independent and build them up and help to provide sufficient services for, you know,

addressing any trauma that they've experienced in their life, addressing any healthcare issues and things like that (Participant A3).

...being addicted shouldn't be a crime and arguably committing petty offences because you are addicted um, shouldn't be a crime either. And actually, I think what he was also indicating was that the sort of small-time dealers who are addicted and have to deal in order to support that addiction they also should be sent down a different track. Sort of treatment track (Participant R1).

### *1.3 Impact*

During the interview, participants were prompted on their position on prison abolition. Abolitionists generally did not hesitate to identify the negative impacts of prisons. They used multiple formats of knowledge such as research and personal narratives both in response to this question and throughout the interviews to demonstrate the harmful, damaging, and brutalising impacts of imprisonment. For example, Participant A1 argued that prisons are de-socialising people who are already considered anti-social and that in a counterproductive manner, the structure of the prison removes the agency of its inhabitants to the point that it can cause a breakdown in necessary and even basic social practices such as remembering to shower because no one has instructed you to do so. Furthermore, Participants A2 and A5 expressed concern for the impact of one's life opportunities and health outcomes, both mental and physical, with regards to incarceration. Explaining that the harm and punishment of prisons does not end upon one's release but rather it has a "scarlet letter impact" (Participant A5), meaning that the stigma

associated with imprisonment significantly impairs previously incarcerated persons through reduced life chances in areas of health, employment, housing and more. Multiple participants referred to prisons as the “university of crime” (participant A1, A2), signifying that prison escalates offending opportunities. Unlike abolitionist participants, the reformist participants generally did not provide the same quantity or depth of responses on the issue of the impact of prisons on offenders. Most reform participants recognised the necessity of environmental reforms for New Zealand prisons and highlighted the importance of prioritising rehabilitation. The following statements are some of their responses on the issue:

What is a prison as an environment? Right? So, in other words, we're putting people into an environment that's supposed to help them, but it's actually quite destructive. So, it's changing the environment of a prison and also being more honest about what a prison is there for... New Zealand pretends that it's there for rehab, and there is rehab done in it, but it's certainly not the focus uh, because they've got to a size now where they can't” (Participant R4).

You need staffing, you need programmes, you need whanau support. You need to make sure these guys have got incomes, you need to make sure they've got jobs um, accommodation, housing, we've got guys that go back to prison because they get three square meals a day um, they don't have to worry about anything, and they're cared for. True fact. They've been institutionalised. We need to be able to combat that (Participant R3).

### 1.4 Overuse

A dominant theme that emerged across the spectrum of perspectives exemplifying a barrier of progress towards prison abolition was the overuse or over-reliance on imprisonment in New Zealand. All but one of the participants (Participant R2) acknowledged and opposed the current rate of imprisonment, especially for population groups such as youth, those with mental health conditions, and most drug-related offences, instead, sharing their preference for different approaches and responses to the offending of these groups. Despite demonstrating a difference of perspective on New Zealand's reliance on imprisonment as a response to criminal offending, Participant R2 supported the use of alternative pathways for youth, suggesting a system similar to the demerit point's system for motorists where youth offenders lose a number of points depending on the severity of their crime, coupled with a scale of consequences ranging from warnings to army or navy style youth bootcamps. This contrasts strongly with most participants who opted for approaches which prioritised in-community and treatment-based interventions and were opposed to further punitive measures. Often following discussions on the overuse of prisons in New Zealand, participants identified a smaller group of people who required the restraint of their physical freedom "in order to protect their safety and to protect the safety of the public" (Participant R1). This group is discussed in more depth in the *violence* section below. The following statements on these issues were offered by participants:

I don't think we should put youth in prison. I think they need to be dealt with in community. Um, I don't think a lot of the lower-level stuff that ends up in prison should end up there, I think it needs to be saved for our highest risk offenders (Participant R3).

We think far too many people are in prison and that prison as a way of addressing the, both the causes of offending and um, dealing with the consequences is largely the wrong mechanism (Participant R1).

A lot of these offences, you look at it and its really messy, you read the protocol, and it's something like: a party, people get into an argument, there is a knife on the kitchen table, and someone is just blacking out you know, and doing something like that. Very little is really premeditated stuff. Its people snapping and if they don't have that underlying reason to snap whether its alcohol or drugs um, so I think at least half the cases you would have alcohol/drug dependency underlying, and then you've got maybe mental illness as well (Participant A1).

## **2.0 (Criminal) Justice Discourse**

One of the key purposes of undertaking this research was to move beyond simply repeating the argument for prison abolition. Doing so by using the narratives of those engaged with the relevant fields to ascertain what barriers exist and what the necessary actions for overcoming them are, to move New Zealand towards becoming a post-prison society. A key finding that engages with these two aims is the impact of *discourse on (criminal) justice*. Participants across

the spectrum identified justice discourse emanating from the media, political, and social spaces as a significant barrier to prison abolition specifically, but also to progressive social change more broadly. It is important to note the level of difficulty involved with disentangling the interrelated discourse produced and consumed in the media, political, and social spaces. Thus, the following section is divided into further sub-themes present in the data. Firstly, narrative production and consumption is explored through the existing narratives as identified by participants and, public attitudes within current discourse. Following that, I turn the spotlight (identified by participants) on (criminal) justice discourse in New Zealand's politics and media.

## *2.1 Narrative production and consumption*

### *2.1.1 Existing narratives*

When prompted on the barriers to prison abolition in New Zealand, most participants identified issues in the production and consumption of (criminal) justice narratives. Two specific narratives were singled out as barriers; the idea that prisons are widely considered inevitable, and that punishment works. It is worth noting that only the abolitionist participants identified these narratives. The following participant's responses exemplify this:

So, there is an ideological presupposition that prison is inevitable, although it may be terrible, and people may think that prisons are bad, this presupposition sees it as a necessary evil (Participant A4).

But one of the big problems I think, that you're going to get with this is because a lot of the people that are talking about this now, for instance, Kelvin Davis, he even when he was really staunchly campaigning about change uh, before he got in parliament, [he] still was of the opinion that punishment worked. So, 'I still think that some people should be locked up, du-du-du', you know, he was still of that opinion, so he's not into abolishing anything (Participant A2).

Furthermore, it became clear through participant's responses that a lack of imagination perpetuates these problematic narratives. Participants identified various actors who in different contexts, exhibit a lack of imagination, including the public, politicians, and abolitionists. Again, of note here, is that all of the comments below are from abolitionist participants:

You know, we tell, you know, little tiny children that prisons where the baddies go and you're a goodie so don't worry, but that's where the baddies are and that it seems like this necessary part of the fabric of society when actually it's peoples lack of ability to imagine an alternative that I think is holding us back to a significant extent, that there is actually another way to deal with harm in the community than locking people up and throwing away the key or putting already mentally unwell or otherwise compromised people in a concrete box for years and then expecting them to um, you know, discontinue harm when they come out (Participant A3).

I think that it is hard to imagine a New Zealand without prisons quite specifically because we don't have any kind of um, prescription of what that could look like... I think that comes from a kind of um, a weakness in already existing abolitionist literature, that there is an unwillingness to propose alternatives. Um, and I would argue that alternatives already exist which we could be using um, but they are not (Participant A4).

### *2.1.2 Public attitudes*

Another barrier that has emerged from the data is the publics' engagement with (criminal) justice discourse. As a collective, the participants shared their concerns regarding misunderstandings or misconceptions endemic to (criminal) justice discourse in New Zealand. Participants across the spectrum highlighted issues such as ignorance regarding the inequality and disadvantage within our country, and misconceptions around levels of risk and dangerousness of those currently incarcerated:

A lot of the people we see in prison because they are the disadvantaged. Uh, a good percentage of them are the disadvantaged... and a lot of middle-class New Zealand and upper-class New Zealand uh, work on that very stupid basis of 'I got through, and my life was tough I don't see why they can't get through'. They, some of them have no idea what tough is (Participant R4).

How safe do you and I have to be from some Māori woman who's inside because she's uh, accrued thousands of dollars' worth of fines and everything and so is a fine defaulter

and so gets sent to prison. Do we feel safer because that persons in prison? Well, no really because we're not in any danger of that person in particular. Right? So, we have a lot of offenders who are in prison who are quite a significant group of offenders who go to prison for offences that are not going to impact on our feeling of safety or being safer (Participant A5).

My take on it is, that if you remove the people from prison who really don't need to be there or who aren't a threat to society, you are left with a very, very small amount of people. We don't know how small, but you've got to remember that even people that commit homicide um, when they come out, don't commit homicide again. It's an extreme crime. You know what I mean... and it usually comes out of extreme circumstances (Participant A2).

These knowledge inconsistencies have been identified by multiple participants as contributing to the punitive or pro-punishment attitudes of the New Zealand public. In describing these attitudes as the *punitive reflex*, Participant A4 identifies the question of punishment as perhaps the hardest barrier to overcome, explaining that:

The question of punishment is kind of more emotional and visceral and can't necessarily be addressed through reason or through science or through demonstrating through criminological, sociological evidence, that prisons are a failure and they don't achieve what we want them to achieve. It is much harder um, um, and I don't necessarily have

an answer for that by any means um, but it is something with which prison abolitionism needs to grapple, yeah (Participant A4).

## *2.2 Politics and the media*

Another key barrier that emerged from the data was the entwined and exploitative interests of New Zealand's politicians and the media. Participants appear to observe these entities as functioning in a complex and symbiotic relationship, acting as the "perfect storm" (Participant A3), feeding into both one another and contributing significantly to policy decisions and public opinions. As previously mentioned, participants responses included both an identification of the barriers and their suggested solutions to move New Zealand towards a post-prison society, this is evident in their responses below.

Before discussing the commonalities apparent in the data, it is worth noting the positionality of Participant R2 regarding the theme of (criminal) justice discourse in politics and the media. Participant R2 continues to present as an outlier by sharing narratives contrary to the other participants. Their differential responses are perhaps amplified within this theme due to their belonging to a political advocacy group known to be outspoken in (criminal) justice discourse. Unlike other participants who identified and discussed barriers within the country's politics and media, Participant R2 directed attention to narratives regarding legal proceedings. Participant R2 expressed frustration over the imbalance in the functioning of the criminal justice system. In representing the interests of the victims of violent crime, they asserted the necessity for more

rights, entitlements, and long-term support. Participant R2's distinct positionality is discussed further in the *violence* section.

### *2.2.1 Politicisation and bureaucracy*

Several participants identified the politicisation of "law and order" (Participant A3), "crime and punishment" (Participant A5), and "criminal justice" (Participant R1) as a significant barrier to prison abolition in New Zealand. This is demonstrated in their following comments on:

#### *i) The political exploitation of justice issues:*

So, we have a problem in New Zealand where we call it 'tough on crime', right? And people you know, and the politicians go into it, 'tough on crime' all the time. I say we need to be tough on the causes of crime... And if we were tough on the causes of crime then we wouldn't need the amount of prison, uh, and we wouldn't have the size of the prison population that we've got. So, this message 'tough on crime' in my view is completely misread and wrong... and the other thing that I actually think that causes the whole problem in New Zealand, in fact, I was thinking about writing something about it the other day, is um, it should be apolitical. Currently, the problem is that prisons or no prisons, tough sentences and all of those sorts of things become a political football. And that's why, until this country gets rid of that approach um, and gets rid of politics even being involved in it um, they'll never get it, right? (Participant R4).

Um, it's kind of hard to say where to start with politics because of how deeply entrenched the problematic kind of modes of operation are with our mainstream political parties in particular... My particular research has focused on the way that um, law and order has been politicised, especially since 1987. And, it's really interesting for me that... before 1987 in particular, law and order were not really a political issue, and it wasn't tossed around as this political football. It was up to experts to make the best choices for New Zealanders around um, law and order policy, and that is so foreign to us now because of the way that law and order is used. I mean even just in the last couple of weeks with strike force raptor and all these other ridiculous things that are starting to be thrown around in the lead up to yet another law and order election. I think that the willingness of mainstream political parties to generate political capital on the back of the marginalised people that are most affected by our criminal justice system is disgusting (Participant A3).

We like to punish in this country. We are retributive people, we have the second-highest rate of imprisonment in the western world, only behind America... Going outside the prison, I'll give you another example of why it is that we like to punish people. Is, you know, when some sportsman gets drunk, and I don't know, touches some women in a bar or you know, like Tana Umaga did one time, got filmed falling over. And then went parading out in front of the media, so they cry [sarcastically apologises] 'eh I'm really sorry'. You know what I mean, it's like yeah, yeah, yeah you need to be punished for you know. We have this uh, I don't know, almost innate um, desire for our pound of flesh and

that type of attitude towards social harm and offending is massively exploited by the political class... the only way you are going to see any significant change at all, and we're not even talking about abolition, even getting a tenth of the way to abolition. Getting rid of Three Strikes legislation, for example, yeah, uh, reducing the number of people uh, with uh, mental health and drug and alcohol issues going to prison and putting more of that resource into treating them in halfway houses right (Participant A5).

*ii) The bureaucracy of imprisonment:*

And this country has that, it has a tribal um, group of politics... Uh, very tribal um, so basically, it doesn't ever, it doesn't look at skillsets when it looks at putting people in positions, it purely looks at what they think might be their politics and the decisions that they've made. And that's why we get so much wrong. It just, it should be about experts or people that understand um, and it shouldn't have this whole hierarchical view that it has (Participant R4).

The other thing would be that we have as I was saying before, we have invested so heavily in a carceral model I think is the right word. So, in terms of the buildings, the facilities, the staff that have been recruited, how those staff are trained, how, you know, what the performance indicators are for those staff, the um, you know, the policies, the, I guess the way in which they set up an adversarial environment um, we would need to throw all

of that out or at least morph that into something new, and that's quite a hard thing to do.  
Um, to some degree, it's a sort of generational shift (Participant R1).

### *2.2.2 Media bias*

Participants identified (criminal) justice discourse in the media in a largely negative capacity, identifying it as a barrier to achieving prison abolition in New Zealand. Participants demonstrated concern that reliable sources or not, media representations of (criminal) justice topics and issues have biases which can lead to uncritical or problematic narratives. Additionally, participants highlighted the issue of these problematic narratives being broadcast, which deceived public audiences on the realities of (criminal) justice topics and issues:

On any level of understanding, now, I understand why normal people who don't have the knowledge available that you get when you're an academic and you spend years looking at this stuff, I can understand how they would see it differently, being fed by newspapers and being fed by other things, it's quite logical. Do you know what I mean? (Participant A2).

[On the ideological presupposition of prisons as inevitable]. Um, and that kind of, not even necessarily explicit, that implicit assumption that regardless of the horrors of the prison system or its ineffectiveness or even, not even the horrors, but the mundane ineffectiveness of it to address social problems, there is never in media um, or very rarely

in media or in uncritical academia, room for questioning whether or not, whether the system itself should exist (Participant A4).

So, one of the worst things that happened to New Zealand was Sensible Sentencing. Um, because they put out such false views of all of the things that actually occur, with no depth of understanding, and Garth McVicar got so far ahead of everybody else with that stuff before anyone (Participant R4).

In New Zealand since the 1989 Broadcasting Act, the way that the media has kind of been um, corporatised, privatised, and tabloidised has resulted in um, a perfect storm between the media and politics where they feed into one another and um, they significantly contribute in my mind to the policies that we end up with and that is how we end up with things like the 1999 Law and Order Referendum, the 2002 Sentencing Act (Participant A3).

An interesting point to note is Participant A3's call for a media accord as a way of mitigating harmful narratives in the media's discourse on (criminal) justice.

And so, I would like to see a media accord, or you know, an understanding in the media in the same vein as what they have in Northern Europe. I know I used that as an example before, but they don't publish the way that we do. There are some really good examples, like the case of Silje Redergard versus the case of Bailey Kurariki and that you know, when children are involved in crimes or when there's like horrific crimes that occur, they don't

monopolise on them in the same way that New Zealand media does. In the Grace Millane trials, an excellent example of the media really jumping on and um, creating harmful discourse around um, particularly horrific crime. And of course, that was a tragedy, and of course, people want to know about um, that case and the circumstances around it. But, the level of um, I mean there was a whole lot going on in that case, but I think that the media around that, for the most part, was quite grotesque, and we just don't need that. And all that does is scare people, and it doesn't help Grace, it doesn't help her family, it doesn't help the New Zealand public, it doesn't help the offender, you know, there's nobody that's benefiting from that at all um, and so the harms that are produced from the way that the media currently operates I think are not worth any benefits that they might claim to have. So, I think a media accord would be a good place to start so that, you know, the media aren't doing the 'if it bleeds it leads' and um, kind of, um, perpetuating those harmful narratives (Participant A3).

### *2.2.3 Abolitionist media strategy*

Following the identification of harmful bias' and framing of (criminal) justice issues in the media, participants were prompted as to how they as abolitionist got their message out there. As a strategy for moving New Zealand towards becoming a post-prison society, participants identified the importance of utilising all forms of media to simultaneously combat pro-prison narratives and promote abolitionist messaging:

Well, there is always going to be certain media outlets that um, cater to a certain audience, right? I mean we've got rid of that idea of the hypodermic syringe model a long time ago to say that, you know, what we put in front of people will be just absorbed, right? Because we are looking now, media studies are now looking at what do consumers and the audience, what do they do with the media. So, why am I looking at my news on Aljazeera rather than Breakfast TV, you know? And, the Spinoff, for example, is now a very popular, critical source, critical journalism, and I think it is very attractive to academics as well, to publish in it (Participant A1).

So those things I mentioned before then comes up to this strategy about the media that you have publicising more effectively the um, the abolitionist uh, position. Um, targeting you know, local newspapers, seminars within you know different regions and what have you. And there's getting out there and engaging directly with the horde. The vast majority of whom are quite happy for us to put people in prisons. And that just does not happen. The pro-prison punishment people do it all the time, and that's because they're the political class, the Sensible Sentencing Trust, for all their issues, they have been quite effective in the past in getting their message out there through you know through their webpage, through public speech, through press releases, you know (Participant A5).

### **3.0 Institutional and Structural Barriers**

Across the spectrum of participants, an inconsistency emerged in the identification of institutional and structural barriers. The abolitionist participants provided more in-depth

narratives, perceiving the following macro-level barriers to be of much greater significance than the reformist participants. Participant responses are divided into three sub-sections: structural bureaucracy, systemic orientation, and systemic violence.

### *3.1 Structural bureaucracy*

Apart from Participant R1's desire to "remodel the entire criminal justice workforce" (Participant R1) due to insufficient pay, training, and career structures, discussion on the structural bureaucracy of the prison industrial complex was largely directed by the abolitionist participants. For example, Participant A5 critiqued the criminal justice workforce by arguing for the necessity of removing the current chief executives and their senior staff from the major criminal justice agencies due to their neo-conservative biases:

The people who are in charge of these places are part of the pro-prison punishment establishment, not all of them but most of them. So, until we get clear of those buggers out, you know, you are going to have a major barrier to any significant changes... You got to make the neo-cons [neo-conservatives] scared of being um, of continuing with the kind of stance that they have, right (Participant A5).

Other abolitionist participants identified the following issues regarding the structural bureaucracy of New Zealand's justice sector and strategies for progressing towards a post-prison society:

So, I think that there are multiple varied reasons for why prison abolition is difficult in New Zealand right now. I think the most important is a structural reason. Which is that there are entrenched interests at a, not an instrumental or an interpersonal level, but a structural level. Which means that um, the structures of government, the economic structures of society are such that those who currently experience um, who reap the benefits of our current economic and social system also um, benefit from the maintenance of the prison system. So, in a kind of concrete sense, there are economic interests in the prison industrial complex, and that's meant in a very broad sense (Participant A4).

Well, I mean another one is the way Oranga Tamariki it's called now — CYFs — is operating, right? How kids are removed from their families. Again, I think, there's the amount of abuse that's happening in foster care, it's just insane. I mean there's no safety for these kids anywhere, and if you look at some of these biographies, it's like no wonder. This is actually no surprise that you go from one institution to the next. So, I think when we talk about prison abolition, it's actually a de-institutionalisation at a wider social level (Participant A1).

### *3.2 Systemic orientation*

A second issue addressed by participants when prompted on the barriers of and strategies for moving towards prison abolition in New Zealand was the orientation of the current system and their desired alternative approaches. The New Zealand socio-cultural climate with the public's

overzealous desire for punishment was a common thread among participants. This thread has been previously described as the “punitive reflex” (Participant A4) and explained as a systemic desire for or tolerating of violence, not only in the private sphere through social harms such as domestic violence but also in the public arena through violent sports. Further criticisms of and proposed alternatives for the systemic orientation of New Zealand’s justice sector are presented in the following comments:

And I think that one of the other really significant issues is um, a lack of understanding of the structures that do currently exist. I come across this a lot.... But for the average person, unless they are a victim, an offender, or involved in their work in the criminal justice system, they're not thinking about this stuff every day and so only when it comes to their attention when there's like a horrible case in the media or um, it somehow touches the bubble of their life. So, for those people, which is most of my family and many of my friends, they don't ever think about the structures or how the structures are built to the advantage of a certain group of people in New Zealand society and much to the like profound disadvantage of certain other actors in our society. So, lack of consideration of that and of the way that uh, these systems target minorities is a really big problem, I think. Because um, it isn't as simple as rational choice theory, and that person should not have chosen to do that, and therefore they are in prison and things like that. It's not as simple as one plus one equals two; there are massive structural issues going on here that go beyond what most people are able to comprehend (Participant A3).

I think part of that is um, we have brought into a philosophy that you see a lot in the anglophone countries, Canada, the United States, the UK. Um, based on some Canadian research which is all about risk and risk ratings, and something called 'ROC\*ROI'... I think it's quite disruptive and um, I think we need to get our heads out of that space. There was research that Ben Crew at Cambridge University did and may well still be in the middle of, where he was comparing the UK system with the Scandinavian systems specifically on the point of that, using the language of risk or concepts of risk. And what he found was that in say Norwegian prisons, um, the concept of risk is still there, no one's not paying attention to it, but it's not the dominant thing, and um, they have um, a concept called dynamic security in their prison system. Which as far as I can tell simply means you get to know people and you find out what's going on for them, and if they're you know, their partner has just broken up with them and they're worried they won't see their kids for a while, then that probably means they need a bit of special attention and assistance rather than you know (Participant R1).

### *3.3 Systemic violence*

Racism and the intergenerational impact of state violence were highlighted as significant barriers to becoming a post-prison society, as reflected in the following comments:

I still feel that racism's one of the biggest problems. Actually, put down this one as well sorry, I haven't quite finished. No, I think the racism thing because I suspect that um, the more vocal Māori are, the more push back you'll get from Pākehā. Um, and on social

media that definitely seems to be the case, there's a lot more people being openly racist than there ever used to be. And the problem is with that is they just might vote in the other government and leave us all standing there going well that was a waste of four years, you know, that's one of the problems I have. I think that underlying is that racist thing because prisons always that place where you put the race that you don't want (Participant A2).

Right, so I think the most important thing to remember about violent offenders is that most violent offenders are never ever going to be inside a prison. Um, that the people who cause the most death, destruction, and miseration, are the people who run exploitative workplaces, who put pollutants in the air, exploitative landlords. So, at a very basic level we can see that, for example, based on ACC [Accident Compensation Corporation] statistics, more people are killed per annum at work or because of workplace incidences than murdered (Participant A4).

#### **4.0 The Possibilities and Problems of Prison Abolition**

As this research seeks to explore the possibilities and problems of prison abolition in New Zealand, abolition is, therefore, one of the most significant themes throughout the interviews. Like the previous themes, barriers to and alternatives for prison abolition were often discussed in tandem by participants, thus, are presented together. The following section focuses on the core findings regarding the first two research questions. Participants across the spectrum identified several key barriers to prison abolition and alternatives for moving away from

incarceration towards a post-prison society. This section will present the following findings: first, the tensions that emerged between abolitionist and reformist positionalities, followed by comments on New Zealand's abolitionist movement. Next, this section presents the construction of an abolitionist plan or framework with attention to discourse, decarceration strategies, social investment, and in-community alternatives. Last, is discussion on additional reformist alternatives which were not covered in the building of an abolitionist plan.

#### *4.1 Abolitionist and reformist tensions*

As previously stated, as a result of their commentary during the data collection process, the 'pro-prison' participants became (re)categorised on the spectrum of perspectives, as 'reformists'. As a result, tension between concepts of prison 'abolition' and 'reform' emerged. Both the abolitionist and reformist participants commented on the alternate group of advocates. Abolitionist participants identified what they perceived as an underlying issue within the reformist mindset; that reformists despite attempting to make prisons better, fundamentally believed that the institution was necessary and/or effective. Additionally, the abolitionist participants recognised a contradiction in the abolitionist movement in which prison abolition requires a level of environmental and institutional reform. Reform that attempts to diminish the negative impact of imprisonment for those currently imprisoned but does not strengthen or prolong the use of the institution. For example:

And the problem is, is that for the abolitionist programme to work, there needs to be a certain level of rehabilitation, you know what I mean, there needs to be prison reform,

and the problem with prison reform is the same as the problem with rehabilitation. How long have we been reforming prisons? Yeah. So, anyone who sits there and goes 'we're going to reform prisons' actually is saying 'we believe in prisons, we're going to make them better'... At the base, of the, you know, they accept that some of the conditions aren't okay and need to be regulated. But they accept that the idea of prison is okay. Well, that's not my human rights. Do you know what I mean? And that's the problem, conceptually that's the problem (Participant A2).

Additionally, Participant A4 made a distinction between prison and penal abolition, stating:

Sure, so, I'm a prison abolitionist and um, I would not consider myself necessarily a penal abolitionist. Um, and I think that the distinction is very important to me because um, while on a kind of moral standing, I would prefer penal abolition and the abolition of punishment per se. But I think that prison abolition is something which is entirely achievable um, and from a policy perspective is um, also entirely realistic. Um, whereas the kind of more, kind of ideal situation of penal abolition is something that in theory I would absolutely love but in practice, I'm not sure how we can design that in an industrialised world (Participant A4).

On the other hand, reformist participants criticised abolitionism as unattainable for a multitude of reasons, including:

That I think we're not in a place in our country where we can abolish prisons, we're not there. We're not safe enough, we do not have the resources, we do not have the strategies in place um, and we do not have personal accountability (Participant R2).

I don't think it's ever achievable and uh, I also don't think it would work... the abolition of prisons to me is a pipe dream that we're never going to reach until we actually fix all these other parts of the system (Participant R4).

#### *4.2 New Zealand's abolitionist movement*

As this research aims to explore the possibilities and problems of prison abolition in New Zealand, the context of the country's abolitionist movement, or apparent lack of, is important to note. While few participants directly addressed an abolitionist movement in New Zealand, when it was identified, it was in the context of *absence*. For example:

So, I think that there needs to be a much more aggressive strategy, someone or some entity need to take the lead on growing a really effective coalition of activists, advocates, researchers and scholars. Yeah. At the moment it's kind of at the you know, *the abolition movement in my view doesn't really exist in New Zealand like it does in Great Britain, like it does in the United States*. It's poorly coordinated uh, sad to say, mainly people your age (Participant A5: emphasis added).

Some participants argued that New Zealand does not “have a language for the possibility of prison abolition, or a common language” (Participant A4). However, participants all demonstrated to varying degrees, opposition to many of the current justice practices, with abolitionist participants bolstering their argument for a post-prison society by criticising the justice sectors repetitive use of models that continue to fail. For example:

We need to deal with it in a different way and all of them different way. I think the abolitionist way is the only really way to go, and I’ll tell you the reason why it’s the only way to go, it’s the only way that’s never been tried. Never really been tried (Participant A2).

Yeah, but um, so, it’s just through that knowledge that I know it [prison] doesn’t work. And the definition of insanity is to repeat the same thing over and over again and expect a different result, and this is what we are doing at the moment. So, if we don’t want to waste our money any further, our tax money any further, then we need to find a different strategy. And if prisons do not work, then they need to be abolished, it’s the only logical conclusion, you know (Participant A1).

Emerging from the data as a significant barrier to prison abolition in New Zealand, participants across the spectrum identified a lack of or necessity for an abolitionist plan or framework:

When you think that there's over ten thousand prisoners, where are those, how are we going to manage those ten thousand prisoners out in the community when we have so many escaping electronic monitoring or escaping their bail conditions already? So, how are we gonna deal with all of that, all the problems that we've actually got that are putting people into prison, if we just say nope we're shutting them all down and there's just, there's no actual plan in place for how it would work (Participant R2).

I think the unwillingness of kind of abolitionist scholars to kind of layout a plan is quite precisely because of the fear of imperfection or of doing something wrong or somehow proposing something which will lead to further oppression um, and so I think that that has actually stifled our imaginary potential um, and that ultimately we need to be able to propose something concrete um, even if it's imperfect, even if it can't achieve everything that we want it to achieve (Participant A4).

The lack of specific instruction and framework surrounding abolitionist alternatives appears to create both uncertainty and an ensuing lack of confidence in the possibility of movement towards prison abolition in New Zealand. Therefore, section 4.3 presents from the data the strategies, policies, interventions, and commentary from abolitionists on what the framework for prison abolition would entail.

### 4.3 Abolitionism

Despite the tensions mentioned previously and the necessity of a strengthened abolitionist movement in New Zealand, the data demonstrates support from both abolitionists and reformists for strategies, policies, and interventions aimed at moving the country towards a post-prison society. Participants presented a collection of alternatives to incarceration encompassing a wide scope of justice and non-justice approaches that previously existed, currently exist or are desired. It is important to note that the strategies presented as part of the abolitionist framework for achieving a post-prison society co-exist and overlap in a multi-pronged approach to ending prison expansion and ensuring the transitioned use of in-community alternatives throughout the justice sector. Additionally, while the following presentation of an abolitionist framework is predominantly from abolitionist participants, this section also includes commentary and critiques from the reformist participants.

#### 4.3.1 Discourse

An initial element of the abolitionist framework for moving New Zealand towards becoming a post-prison society is abolitionist languaging and messaging. Participants across the spectrum recognised the importance and relevance of framing the abolitionist narrative in a more effective manner. The following are the primary issues and solutions identified by participants.

First, participants across the spectrum took issue with the use of certain terminologies such as *violent offender* and *prison abolition*, arguing that the language being used was potentially harmful, problematic, or triggering and overall, not conducive to positive change:

One of the things that I think would be helpful is, I mean there are various changes of language that could be really helpful. Not labelling people as violent offenders would help. Um, maybe 'people who have offended violently' (Participant R1).

Uh, so second thing is the specific question of violent offenders. Um, or not even necessarily violent offenders but um, particularly, politically unpopular offenders (Participant A4).

Sometimes maybe it's just a good idea to say 'can you imagine a world without prisons'. Because you're not saying you're going to abolish something, but you're imagining something, a world without prisons (Participant A2).

Moreover, participants identified the importance of abolitionist messaging with some inconsistency in which approach was most conducive to enacting positive change. While some advocated for an aggressive approach, others suggested a more subtle approach:

I think that the abolitionist movement in New Zealand is too wussy. I think that they need to get far more aggressive in taking on um, the uh, you know, pro-prison, pro-punishment lobby like the Sensible Sentencing Trust. I've almost seen no academics here for example or um, any you know People Against Prisons movement undertaking a sustained attack, and it does need to be aggressive, on the kind of bullshit that the Sensible Sentencing

Trust and others and Simon Bridges even the political class are throwing out there, right. Um, they need to grow and utilise much more effective uh spokespeople (Participant A5).

But I think the thing about abolition as well is maybe it's sensible not to shout it too loud. I'm kind of sure as I look out over, I mean for a long time I was quite quiet about my views on it, you know, and I think a lot of people have been. And they're quite quiet on their views about it um, because you don't want to scare the public now, do you? You don't want to seem like you're crazy, 'oh my god you can't do that, oh my god won't vote for these people, won't do this, won't do that, that's ridiculous'. You don't want to get them in that situation (Participant A2).

Additionally, Participant A3 identified the current and widespread use of deficit models for abolitionist messaging as problematic, suggesting instead, a values focus messaging approach:

I think that one way of communicating that, really been focusing on in the NGO sector around law and order, in particular, is through values focus messaging. So, places like the Workshop, Action Station, JustSpeak, have really been focusing on the kind of common cause um, values set messaging where you engage with people's positive values as opposed to engaging them on trigger issues like power, money um, security, thing like that. Instead, you engage with them on a human level where you engage with their values of universalism, and generosity, and loving thy neighbour, and things like that, that evidence shows that that works better because ninety per cent of people or whatever it

might, do actually believe that people are good and they should look after their communities and things (Participant A3).

Last, in discussions on abolitionist discourse, abolitionist communication with the public was highlighted by many of the participants as both an issue and an avenue for real and effective change. Participants offered the following statements in relation to this issue:

And so working around this idea of how can we frame it in a way that the public can understand and start to bite into so that they can actually get the information because sometimes when you have a label that's so divisive as prison abolition, people won't even hear a word of it. And so, you know, getting that first bit of buy-in and how we get that will be a really important thing (Participant A3).

So, the only way we're going to get major policy change is to change the public, the public's perception. You know, if we get, how do we get a significant change in the public support for use of imprisonment? That's actually a good question. Forget about Simon Bridges and all these guys... they're not going to change... we need to target the rest. How do we get them to speak out and support um, you know, how do we get them to understand that prison's not effective, that we're sending far too many of the people in prison that shouldn't be in prison because it's making them worse (Participant A5).

#### 4.3.2 Decarceration strategies

Decarceration strategies can be understood as strategies attempting to reduce the number of people both going to and returning to prison. As a process decarceration is antithetical to imprisonment as its primary purpose is removing people from institutions such as prisons. The framework that emerged from the data for what decarceration looks like and how to get there (discussed both here and in the subsequent sub-sections of *social investment* and *in-community alternatives*) included the following alternatives, non-justice (social investment and policy), justice (existing strategies and models with carceral elements removed), constitutional transformation (Māori sovereignty), and other justice technologies (alternative responses to harm such as transformative and restorative justice).

Three overarching methods of decarceration that emerged from the data were *excarceration*, *moratorium*, and *constitutional transformation*:

So, on the process to decarceration you know, we need to look first, and I think this is how you convince society as well if you start with social groups where it's actually absolutely acceptable and who will unlikely pose any sort of harm to society (Participant A1).

Central to any prison abolition project is decarceration. You have to get people out of prison, and that means having laws that make it harder for people to go to prison in the first place, you got to restrict that, actually got a human rights aspect to them in the fact that they protect people like that. Um, but also, you need a mechanism for going, 'you're

in for under two years, why are you in for under two years? Really, that's what you did? You need to go home'. You know you did something quite bad over there but [pensive sigh] are you likely to do it again? Are you a danger, really, are you a danger? And then, let those people out. And of course, you can't just do that because people need support (Participant A2).

And so, I think that a structural transformation of Aotearoa um, constitutional transformation, in which Māori are able to reassert tino rangatiratanga and deal with harm in a manner based on tikanga Māori is a really important aspect to prison abolitionist strategy in New Zealand... But in terms of like mitigation of expansion, so stopping the prison system from expanding and reducing the size of the prison... two strategies on top of that then are excarceration and decarceration, as ways for preventing people who would currently go to prison based on the current social conditions and criminal law and um, prison estate size as well as having a plan for the gradual transition of people who are currently in prison, out of prison. In terms of ensuring that expansion stops, a moratorium on all future prison construction is absolutely necessary, and it's something that's actually been called for by government reports um, by kind of mainstream organisations (Participant A4).

When prompted for their opinions, reformist participants overwhelmingly supported decarceration strategies such as decreasing prison populations and ceasing new prison builds. However, as the following comments demonstrate, their support was at times conditional:

I think a lot of that is law reforms and I think stop putting the low risk in there. Stop with the, yeah, if we had the resources to manage effectively in-community then I think potentially you can stop locking up your low and moderate risk and just keep your highs in there until we. I mean, I think if we can start one tier at a time um, like I mean if we basically opened the doors and said 'right, everyone who's low and medium risk get out', we'd flood community, and we wouldn't survive (Participant R3).

Absolutely. Because to us, a reduction in the prison population would mean less victims. That would be the only way we would support it, is that it meant that our crime rate was down. I wouldn't support it if our crime rate was where it is now or if it was on a rise. Because then that means that we're letting dangerous offenders onto the street. But if it was a um, if we were seeing a huge reduction in crime and a reduction in victims and everything like and that was out because the muster was going down then something's working and that's awesome (Participant R2).

Um, I'd prefer no more prisons, yes, right? Uh, but I would actually also want behind that uh, no double-bunking. Uh, I can't believe that we double bunk in this country. All the research will tell you that double-bunking is absolutely the worst thing you can possibly do. Um, creates more crime, causes more damage. Um, so if we did prison builds so that they were more liveable, right, and done in self-care units and things, and upgraded from some of the ones that we've got then I would be pro that, but I would be pro them rebuilding them as replacements, not as additions (Participant R4).

In line with the abolitionist framework consisting of a constellation of alternatives, participants suggested numerous strategies to aid with decarceration in New Zealand. Additional alternatives included a desire to see more extensive use of therapeutic jurisprudence courts, and the necessity for a proactive rather than a reactive model for preventing and addressing social harms. A primary method of achieving this included the use of early intervention, through education as well as other social support services which are available before the harm has been committed opposed to the current 'ambulance at the bottom of the hill' approach:

We need to I think make much better use and more effective use of therapeutic jurisprudence. Right. Therapeutic jurisprudence, you know, these kinds of courts that have been trialled here and overseas, you know, family violence courts, drug courts, mental health courts. I think that we need to actually put much more resource into those and to growing the number of therapeutic jurisprudence courts and utilising them and including provisions within the governing legislation and framework for those jurisprudence courts that prison would be the last resort, yeah? (Participant A5).

I'm still stunted by lack of imagination of how things could be different and inability to convey how broad-based the investment needs to be in early life for people to avoid these problems in the first place. Because almost all the solutions that come to my mind very quickly based on the education that I've received are going to fix things for in sixty years'

time, and that's not good enough for people who need to be sold on this today (Participant A3).

In addition to alternatives which focus on prevention, participants identified alternative responses to harm such as transformative and restorative justice. Suggesting that these approaches which already exist elsewhere around the world serve as effective alternatives to incarceration for both minor and serious offending. Due to their ability to be used in cases of serious harm, restorative and transformative justice alternatives will be discussed further in the following *violence* section. However, below is a brief comment on the benefit of involving restorative justice practices in New Zealand's education sector:

Conflict resolution strategies need to be taught at an early age. Um, so that's why I like the restorative schools, you know, where kids actually sit with a mediator and they hash it out themselves rather than an authority figure deciding which also means that you get better at resolving conflict. I think we do too little of that at school, we teach all these academics things, but we don't actually teach social skills (Participant A1).

It is worth noting that reformist participants did not speak on these alternatives except for participant R2 who conceived of these approaches as 'soft on crime' and expressed interest in the use of restorative justice for the benefit and at the discretion of the victims of crime. Furthermore, when discussing such alternative responses to harm, Participant R2 pivoted, making the following point:

Do you know, we've actually been long advocating for rehabilitation to be compulsory because in New Zealand it's not. Uh, they don't have to do it and absolutely, because like I've said, you know, we know that a lot of the offenders, not every single offender, but a lot of offenders do come from abused homes from when they were children, and they didn't know anything else because their parents might have been the same way... I mean, generational abuse in New Zealand is horrendous so to have something in place to help and assist them with you know, realising that there is another way and realising that what happened to them as a child was not okay, but there is help and everything like that, then that would be amazing. Because that I believe will help to get our crime rate down (Participant R2).

#### *4.3.3 Social investment*

All participants provided clear discussion concerning the necessity for strengthening New Zealand's social support network. Participants described multiple models or approaches to social investment including, the necessity of investing in alternatives that address the drivers of crime such as substance abuse and misuse, childhood trauma, adulthood trauma, and mental health were expressed, as demonstrated in the following comments:

I think there's also a lot of people who commit serious offences who probably should not be in prison because of the drivers or causes of that offending, including violent offending. Right, there are people with mental health issues, and we know now, uh you know,

research has uh, confirmed in New Zealand what we know in the Australian context. About 70 or 80% of our inmates have diagnosable mental health injuries, a lot of them to do with brain injuries and that from being bashed when they were kids and these kinds of things right. Um, they're mentally unwell, they have drug and alcohol addictions, these are explanations for their offending yeah, that probably would be better served being treated in the community (Participant A5).

It's gotta start when they're kids. It's gotta start, I mean we've got generational abuse, we've got generations of offenders that you know, we have had, you know, mum, dad, we've had the grandparents, we've had the great grandparents, and it's generational. And I think until we address the poverty, and I think until we address the issues that we have with our young people um... I mean, I've got guys now that I'm working with that I worked with their parents, and now I've got them coming through. Um, I've got kids that I had in foster care that are now offenders. Um, you know, whether I had them as care and protection or youth justice and it's breaking that generational cycle but it's also making sure that we address poverty, and we address the abuse because I think until we effectively address the abuse that's happening to these guys um, you know (Participant R3).

A second approach to social investment identified by participants was through law reforms and repeals in areas of bail, drugs, and three-strikes legislation:

And the mainstay of any abolition movement and I'm not on about the abolitionists like myself, but I'm on about now the politicians doing something about it, is being able to make laws in a way that makes it less likely for people to go to prison than the ones we currently have. And a lot of that will mean repealing the ones we have. And almost taking them back to a situation where they were before. Yeah. Um, the obvious one being the bail... that's a big one, and that one could just be changed back to the way it was. You know what I mean. And that would undoubtedly help things in so many different ways. You also have obviously your three-strikes laws and various other laws that we've had changed to get more and more draconian as the years have gone by. More laws than I care to mention here (Participant A2).

If we move to a post-prison, to get to the point now of changing policy and legislation and the types of changes we need. Well, we need huge changes in legislation, we need to um, well let's put it this way, we need to do something about our bloody well bail laws. We're bailing people to prison you know for quite frankly minor offences, but they've got long offending histories. They're of no real danger to us but will sit in prison for eighteen bloody months before they get a trial, and this is a huge problem, you know. So, that's one of the reasons (Participant A5).

And social policy changes to social housing, welfare, the living wage and a general investment of resources beyond financing in broadening New Zealand's social support network:

But what I would say is that the alternatives to prisons have to be that kind of constellation of alternatives that Angela Davis talks about in *Are Prisons Obsolete?* And so that means non-justice alternatives as well. So, at a kind of social level it includes things like housing for all, free education for all, adequate, like actually good healthcare for all, so, including mental health care, um, and liveable incomes. So, those are an important part of those kind of alternatives (Participant A4).

Well it's kind of not really a response to offending, but our deep conviction is that we deal with behaviours that have roots way, way back in childhood and to some degree intergenerational and so you know, we're dealing with symptoms rather than causes and so the most effective interventions would be more of a sort of educational and maybe social support side aimed at um, well kids mainly, kids and young people before they get into the criminal justice system per se (Participant R1).

However, a point of tension between abolitionist and reformist participants emerged as reformist participants perceived social investment as an important means of responding to harm but largely failed to recognise these efforts in connection to abolitionism. For example:

I'm very much in favour of the social investment... I mean I do like the ability to actually take people that are, especially our younger ones, and do whatever we can to stop them even getting down that track. So, that's where, that's where I think the investment should be. So, if that works and it worked a hundred per cent then I guess you could go for

abolition in prisons, but I don't, I'm not, I don't think with the current size of the problem that it's gonna happen (Participant R4).

Acting as a barrier to prison abolition, the reformist criticisms demonstrated a common misconception and fragmented understanding of the abolitionist movement. While the reformists' recognition of the scope and scale of these interconnected issues as a significant barrier to prison abolition is not inconsistent with abolitionist responses, participants largely failed to acknowledge the connection of abolitionism to social transformation. Participant A2 explains that "abolitionism isn't about reforming prisons, it's about reforming society" (Participant A2). Thus, the reformist criticisms demonstrate a fragmented understanding of abolitionism as they largely failed to recognise a substantial element of the prison abolition movement which attempts not only to abolish the physical institutions of prisons but to disrupt and abolish the social conditions and carceral logic which uses prisons as a tool for solving social problems.

#### *4.3.4 In-community alternatives*

As an extension to strengthening social investment, participants across the spectrum demonstrated an overwhelming level of support and preference for in-community alternatives to prisons:

Prison doesn't work to me, on a logical, in a logical understanding yeah fair enough, on a moral understanding, it doesn't work. And you know, I'll tell you what, if you really want

to be a conservative about it which obviously I'm not yeah, then I'm quite happy for people to go 'oh look we can't afford it' because we can't afford it. We actually can't afford it. That money we could put into education... So, I think it all needs to be moved into the community, for the very little stuff and most of the people in prison are there for relatively little stuff, you know, or certainly aren't dangerous, hapless maybe. You know what I mean. I find that if you've ever been in a prison at any time, it's full of people who are hapless, it's not full of people who are evil (Participant A2).

But once they're in the criminal justice system um, yeah, we think that most issues could be dealt with in the community without an incarceration system and that um, yeah, by large we just don't, we haven't directed the resources and the infrastructure and that into that area (Participant R1).

Okay, we'll start with what I would like it [prisons] to be, something that contains only the highest-level um, violent and sexual predators that can't be contained within community. I think at the moment there is too many people in there that shouldn't be in there that could be managed in the community should we have the right resources (Participant R3).

Many suggested that alternatives which have the potential to make a positive impact already exist but lack proper investment (financial and other):

And this is the problem; this is not something that you just do with like quick fixes. There are some quick fixes; I've just told you them, stop it with those laws man, come one. You know, because since the Labour government got in, they've only given us more laws to lock people up, they haven't given us less. You do that but the long-term fix, the real long-term fix has to be that we've got better services outside of that that can take on people, that can help them. You know. And actually, it can't just be you know NGOs, to my mind the government has to step in and do a few things as well, you know what I mean (Participant A2).

If we are going to remove mentally unwell and drug-addicted and alcohol-addicted people from prison and treat them in the community then we don't need any specific programmes for Māori developed, we already have them, we need to better resource the in-community based Māori providers to assist these people. Just like the mainstream, we would need to significantly increase resourcing and policy support to the mainstream, you know, for everyone. So, we already have a whole lot of the programmes that are necessary there, but they're massively underfunded uh, and supported by central government (Participant A5).

Furthermore, participants identified a number of desired alternatives such as habilitation centres and therapeutic communities, for example:

Oddly enough, there was an interesting thing put forward quite a few years ago here, having habilitation centres, in the 1980s... which is basically therapeutic communities. Um, you can't, we know that rehabilitation doesn't work in prison. The reason why it doesn't work in prison is because the place is a heinous place. You need a nurturing, caring environment (Participant A2).

I'd like us to see, make much more use of habilitation centres. Which by the way was a suggestion that Moana Jackson made way back in 1988 in his report He Whaipaanga Hou which the government described as you know, coddling criminals (Participant A5).

In contrast, Participant R2 criticised alternatives to incarceration, perceiving them as both 'soft on crime' and a means of receiving a 'discounted sentence', for example:

So, restorative justice is good for that type of thing, that the victim can feel okay about them being released and ready... So, yeah, that is, that's up to the victim in my opinion, and if somebody asked for it, we one hundred per cent support it and we get the ball rolling for them and do it. But it cannot be used um, as a form, for discount. Which it is at the moment. If an offender turns around and says 'ah, I'm willing to do restorative justice', they get a discount on their sentence and then the victim never hears anything more... If they want to do restorative justice, it should be done after sentencing (Participant R2).

#### *4.4 Additional reformist alternatives*

This final section outlines the additional reforms and alternatives highlighted by the reformist participants. Many of these strategies, policies, and interventions align with the previously discussed abolitionist plan but were dedicated significant emphasis by the reformist participants in addition to and irrespective of pre-existing abolitionist alternatives.

Rehabilitation was perceived by reformist participants as a crucial element of future efforts for prison reform. Despite the widespread support for in-community alternatives, it was considered vital that future efforts include the strengthening of in-prison rehabilitation services, especially for those on remand and serving short sentences:

So, for a start, I don't know whether you know, but I was a member of the parole board for ten years. So, basically from that perspective, most people that first go to prison um, that get short sentences don't get any form of rehabilitation. They're normally the younger ones that are on the start of their potential career, and I think actually that's completely wrong. So, you're probably aware that under a two-year sentence you're generally not eligible for any rehabilitation and so, I think that's completely wrong. Because actually, that's when you've got the best opportunity of helping them and dealing with some of the issues that actually tends them towards the um, the pathway that they are going on (Participant R4).

Being able to access interventions on remand. So, instead of having to wait till you're a sentenced prisoner to get programmes, you need to be able to get those on remand, and you need to be able to get decent programmes not just small bite ones. Um, a lot more in rehabilitation and reintegration than anything else (Participant R3).

Furthermore, reformist participants identified rehabilitation as an under-resourced and at times as an ill-conceived approach to addressing criminal offending, arguing that contextualised programming and increased availability would make in-prison and community rehabilitation more effective:

So, the question for me is, what is the way to get the people the treatment that they need without being as punitive and getting them to a stage where they want to take the treatment, and an earlier intervention (Participant R4).

The rehabilitation, it's not good enough in New Zealand. Uh, it's not compulsory, it's not, there's, our rehabilitation is just, it's horrendous in New Zealand. I know Corrections do try 'cause we've spoken with a lot of them, and they really do try, but their hands are tied, the resources aren't there (Participant R2).

We kind of have the wrong facilities, we have the wrong training, we have um, fixed views of managing prison life and conversely, we've hugely under-invested in all the things that

really do make a difference which have to do with kind of, resettlement, and reintegration and rehabilitation so, um, so we invested in all the wrong things (Participant R1).

While most discussed the necessity for rehabilitative approaches to address the severe victimisation commonly experienced by perpetrators of harm as both children and adults, Participant R2 represented a point of difference once again. Throughout their interview, Participant R2 proposed the necessity of fostering personal accountability<sup>61</sup> as a precursor to addressing the drivers of their offending:

Stop making excuses. Um, yes, we know that a lot of offenders in prison have come from horrific violent past, but once they go to commit that serious violent crime, they've become an offender... So, if people cannot recognise that they were at fault and that they were in the wrong, then they're not going to be able to deal with things from their past. So, they're not gonna be able to deal with the harm that was actually done to them in the past and realise that that is what has made them go on to commit these crimes (Participant R2).

Rehabilitation, if somebody isn't ready to take their personal accountability or to admit that they were at fault, rehabilitation won't work for that person um, until they are ready to realise that. So, there needs to be something in place that helps them figure that out (Participant R2).

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<sup>61</sup> A taking responsibility for one's actions and the harm they have caused.

## 5.0 Violence

A common thread throughout participant's responses to the first two research aims was the identification of a smaller group of offenders distinguishable from the majority who required specialised responses either by way of containment or numerous alternatives. Participants across the spectrum demonstrated a depth of understanding and knowledge on the minority of offenders whose actions are perceived by various persons and groups as particularly 'violent' or 'dangerous'. Thus, the last theme –violence—addresses the third and final research question, how do we address violent offenders and their offending if or when we move towards a post-prison society?

### *5.1 Definitions and understandings*

As has been demonstrated at multiple points in this chapter, despite many commonalities existing between participants across the spectrum, their varying positionalities have led to differences in definitions and understandings of certain subject matter. This is again the case regarding 'violent offenders'. The following section explores the differing definitions and understandings of violent offending in New Zealand.

#### *5.1.1 Definitions and languaging*

One key response from participants, when presented with the question of addressing violent offenders and offending without the use of prisons, was an enquiring, disagreement with, and challenging of the categorisation of violent offenders. Many also sought to clarify and redefine

their conception of what constitutes violence. Many participants, while initially not considering sexual offending part of the category of violent offending, concluded that its inclusion in the category was appropriate. Moreover, participants argued the necessity of contextualising the category of violent crime or harms. For example:

Yeah, I think that the most important thing that we need to do when we talk about violent offending is to differentiate. First of all, say what do you mean by violent offenders? Who they are? Do you include sexual violence? Are you including physical assault? Homicides? And then actually break down and show people the numbers... I think everyone can relate to that and be more empathetic with people like that when they actually see the statistic, how much of that crime is violent, and how few people, and then actually look at the individual and not call them 'violent offenders' but look at individual cases (Participant A1).

I'm kind of reluctant to call people a 'violent offender' in the sense that while their offence may have been very violent, essentialism, they're not necessarily going, unless they have a reason too, they're not going to repeat that act (Participant R1).

I include sexual offenders, whether they be paedophiles or rapists or whatever. I mean, under the broad category of violent offenders, they're our major issue and our big issue (Participant A5).

Additionally, before linking back to the question as it was posed, Participant A4 directed attention to the crimes of the powerful, claiming that a large portion of violence is perpetrated by the State and powerful persons. However, Participant A4 also identified the importance of addressing extreme interpersonal violence, arguing that prisons are not providing safety, nor are they addressing the issue of corporate or interpersonal violence:

With those particular offenders, I think that their power should be taken away, quite specifically, so that their, if they're, their capital should be stripped of them, their ability to run businesses, that sort of thing, that should be taken away. Or, and in more generally, that our society or economy should be democratised. And that's kind of in a very broad, kind of, wishful thinking sense. The thought you actually meant which was um... this is less of a sociological or criminological question and much more of a political one which is; what about the people who we currently consider to be the most violent?... So, while I think it's important to do what I did around question what violent means... what I would just say is don't get distracted by actually existing more important violence because there is also the political question actually of extreme interpersonal violence which is an important one to answer and can't just be ignored because most violence is produced by people who are not oppressed (Participant A4).

Furthermore, participants across the spectrum shared the understanding that within the category of 'violent offender' existed a subcategory of extreme violence (please note, this subcategory of offending is discussed further in the section on *Current Approaches and Future*

*Suggestions*). In doing so, participants highlighted the importance of recognising that violence is contextual and that both groups required further contextualising for these types of harms to be properly understood. This is demonstrated in the following comments:

For sex offending, I think it varies a lot depending on what kind of sex offenders you're talking about. Generally, I have engaged with child sex offenders in my research which is generally thought of by the average person as kind of the worst of the worst, and that's the case in the prison itself as well. If you talk to people in the prison that's the people who are like bottom of the heap in terms of types of offending and things... I think that one of the big issues is like the lack of understanding of the public of what sex offending actually looks like, and who is committing it, and why. I think there's a lot of um, misunderstanding around where the risk sits because as you and I know, the risk sits in the home which is, you know, the vast majority of people are victimised by those who are known to them. And it is very rare to have the case where a stranger commits sexual violence on a child or an adult, and so that's one important thing (Participant A3).

So, when I'm talking about the real high-risk ones, I'm talking about the repeat offenders that just don't, don't stop. So, I'm talking about your recidivist paedophiles in the true sense of the word, not as in we've had, you know, one run-in with a child, I'm talking about every time these guys are let out, they re-offend, and they re-offend very, very quickly (Participant R3).

So many of the violent offenders have these horrendous victimisation patterns through their own lives. Being beaten, sexually abused, you know. I mean the men inside who are in there for rape and sexual and paedophilia who were raped as children is something like sixty, seventy per cent. So, um, they're not well. They're not genetically disposed to this offending; it's a social condition (Participant A5).

As previously mentioned, while commonalities with other participants have been highlighted, Participant R2's contrasting positionality has generated some distinctive and outlying findings in this research. Participant R2's positionality has been significantly evident in their engagement with the discourse on 'violent offenders'. While other participants' understandings of crime exhibited thinking associated with theories such as positivism, strain theory, Marxist, and critical criminology, Participant R2 emphasised their understanding of crime through concepts of classical theory and conservatism. Their positionality is demonstrated in the following responses when prompted for their perspective on how to effectively address violent offenders and their offending:

That is an interesting one. That's one that we've been questioning for many, many, many years. We, like I said, personal accountability. Um, that's always been our top, and I'd, yeah, you'll hear that come from me a lot because we believe that is huge. We also believe uh, family values need to come back into place. Um, we saw a huge rise in crime when we saw a rise in divorce. Um, and a rise in the family, you know, the breakdown of the family. Um, and it is very sad, and you know, not all solo parents are raising a bad

child, there are so many out there that are doing an amazing, amazing job and, but, yeah, there is a huge break down in values and respect and just decent, hard-working morals, that I grew up with and you know, our past generations had. And yeah, that I think once we can address those issues that will address a lot of our issues of violent offenders (Participant R2).

I also believe that during the sentencing, handing out the discounts that we're handing out at the moment um, that's not addressing the issue. Uh, you know, they're getting time off their sentence, so they're basically being rewarded for their past (Participant R2).

I don't know, do you call it punishment, or is it preventing them from being a violent offender? That's the question... and having the option to either chose to be a better person, choose to be a person who doesn't go on to commit violent crime and live a life of crime. Um, I think whether it's a punishment or not, that is up to the offender themself. So, that falls into the personal accountability again. Anyone whose gonna look at it as punishment on themselves, they clearly don't think what they've done is wrong. Yeah (Participant R2).

### *5.2 Key issues in New Zealand*

One of the most obvious connections between the two participant groups and across the spectrum of perspectives, in general, was the identification of several key aspects of violence in New Zealand: domestic violence, child abuse, sexual abuse, and the pattern of personal

victimisation experienced by the perpetrators of violence. Participants spoke on the prolific nature of these categories of violence as the most in need of addressing in New Zealand. In conjunction with participant's definitions and understandings of violence as addressed previously, the identification of these issues can function as a starting point when addressing the question of how to address violent offenders and their offending, if or when New Zealand moves towards becoming a post-prison society.

#### *5.2.1 Domestic and interpersonal violence, and child abuse*

Domestic, interpersonal, and family violence and child abuse were all identified by participants as significant issues in New Zealand society and a barrier to prison abolition. Participants across the spectrum emphasised the extent to which this form of violence was prolific, often ignored, under-reported and of a high lethality:

And I think in order to lower the uh, prison population in New Zealand we have to do something about domestic violence. Because many of our offenders are the victims of domestic violence or are perpetrators of domestic violence, and I don't think New Zealand has ever got its head around how big domestic violence is in this country. And I think if we wanted to do something about the um, about the prison population and that, that would be an absolute target as far as I'm concerned (Participant R4).

How do we reduce our addiction to violence, violent sport, the use of violence to deal with social interactions, disagreements in our relationships, to control each other? Um,

until we deal with that, you know in other words, if we want to reduce the use of prisons and a barrier to reducing the use of prisons is the violent offenders, we need to stop manufacturing violent people (Participant A5).

Domestic violence is such a massive issue, and it's got such lethality behind it that that's a way bigger issue to address than your common assaults (Participant R3).

I think in the context of, you know, domestic violence and family violence and things like that, the reason that people don't report it is because that's a beloved member of their family that they don't want to lose to the prison. And it's very difficult for people on the outside to understand the way that inter-generational sexual abuse works and that, you know, people who experience incest or sexual abuse from their parents or their uncles or family members still might love those people and might never want to say anything to get them in trouble and things like that (Participant A3).

### *5.2.2 Perpetrators experiences of victimisation*

A further point to note from participant responses was the shared knowledge that New Zealand's incarcerated population and many of those who pass through the justice system often have histories of victimisation and trauma themselves. Participants most commonly spoke of these histories of victimisation as a way of contextualising violence and suggesting the necessity of preventative measures to aid in the reduction of future victimisation and offending:

And you know, you look for example at people like Joseph Thompson, Malcolm Rewa, some of our more prolific serial rapists, and you look at their backgrounds and the horrendous abuse that they've experienced themselves and that has to be used as, the way I would explain it to people is that that's a lens of understanding of what has happened in their lives since then. It's a lens of understanding of how we can come to grips with what they have done and the actions and the harms that they've caused, but that there was still a choice made there of course (Participant A3).

So, we have obviously a huge issue in New Zealand with child abuse and family violence. That as we know, the research and the studies have shown that a lot of our offenders have come from homes like that. So, until we can address our child abuse and the family violence, then all I can see is creating more offenders (Participant R2).

My description of people in prison is that they are the victims of offenders who haven't been, that quite often haven't been caught. So, in other words, most of them have been um, damaged in some way during their upbringing, at their birth time or something similar (Participant R4).

### *5.3 Current approaches and future suggestions*

How do we address violent offenders and their offending if or when we move towards a post-prison society? This final section presents the findings which directly engage with this question.

### 5.3.1 Current approaches

As part of their discussion on alternatives, participants identified key areas of New Zealand's current approach to violent offenders or perpetrators of harm, which they considered largely inadequate at addressing, resolving, and preventing future harms:

Like a doctor doesn't go into his waiting room and go, 'Who is here for a cough?' and ten people raise their hand. What if he just went and said, 'All ten of you get cough medicine'? Well, they all might have a cough for a different reason. They might have the same symptom, violent offending, but the underlying reason for it, the underlying 'disease' might be ten different things, so you would need ten different medications. Whereas what he's doing with the cough medicine is just suppressing the symptom, right (Participant A1).

Please understand though, that I do know that there are certain people that are very, very dangerous. And that they probably need, and that people probably need to be protected by them. But you don't do that by putting them in a prison (Participant A2).

I think we have you know, anti-violence type programmes in the prisons and if you spoke to like [psychologists] they've done research saying, 'oh how wonderful and effective they are'. But they're not, because we know that recidivism rates for violent offenders when they get out, is that in general, they're back in within two to two and a half years. You know, them and the sexual offenders (Participant A5).

### 5.3.2 Alternatives to incarceration

Participants across the spectrum indicated a preference for in-community responses to violence over the use of imprisonment and other models that are currently failing to effectively address violent offending. The following are general remarks from participants on their preference for alternatives to incarceration when addressing violent offending. These responses demonstrate the multiplicity of alternatives desired and perused by the abolitionist movement and supported by reformist participants:

As a criminologist, I think that we should be treating far more sex offenders and other violent offenders in community programmes for the same reasons as other categories because the prison is not a therapeutic environment. No matter what psychologists say. It's not an effective place for treating mental illness or you know, both our men and women (Participant A5).

And that has to be considered as well, that, you know, not everybody who's in prison today could be released tomorrow because some of them will just not be able to function by themselves. Um, but that that doesn't mean that we have to keep them locked up, that that means that we could create an alternative within the community, which is safe and supportive (Participant A3).

You got to address the root cause. So, what creates the violence. If you can address what creates the violence, then you should be able to address the violence. But that's not a

one size fits all approach, so it's gonna be through programming, it's gonna be through um, again, that generational stuff, it's gonna be through adequate resourcing, education in schools, poverty. Find the root cause (Participant R3).

The concept of generational transformation emerged in the data as participants demonstrated an understanding of the timeline required of the prison abolition framework. Participants across the spectrum identified necessary and desired actions regarding both short- and long-term goals. The short-term actions towards a post-prison society include some of the previously addressed strategies, policies, and interventions. Alternatives to incarceration were recognised as long-term or intergenerational approaches to achieving prison abolition in New Zealand. For example:

It's the same broad-based solution to crime that is the case for kind of anything where if we invested sufficiently in things like education, healthcare, and had equity on the ground from the word go then it would have been fine. But, you know, the causes of the levels of domestic violence in New Zealand and a lot of our other like serious what they call 'wicked policy problems' are this like overlapping storm of unfortunate events in addition to people's um, intergenerational trauma and the consequences of colonisation and things. And so, there's so much going on there that it's going to take a really long time for us to eliminate that in society (Participant A3).

It could just be that to some degree there's a generational shift that we need to enact somehow (Participant R1).

So, you know, some of them think its standard discipline and so, you know, if you're disciplined like that when you're a child then you're going to do that when you're an adult. So, it's just reflection, so it's more about um, it is more about again, more about upbringing and going through that violence, so they understand that that isn't the way to deal with things. So, I think it's generational, often generational (Participant A1).

Furthermore, participants pointed to the importance of prevention and early intervention strategies as a means of beginning the large-scale and intergenerational transformations required for prison abolition:

I mean it's a huge area to address, and it needs to be addressed in treatment, it needs to be addressed in teaching our little ones the right way, teaching them it's okay to speak up, knowing that they're gonna be safe if they do speak up, and having the means to address the actual issues. So, it's like, why, its, domestic violence is not a one size fits all, you can't just send them to a DV [domestic violence] programme. I don't believe that they work a hundred per cent. I think for some people they work but if you've grown up and that's always been your norm, how do you then make that cultural shift? (Participant R3).

Crimes of violence are contextual, so if you can change the context, then you can significantly reduce the risk that it will be repeated (Participant R1).

And I think it's, you know, to have people when they're adults and to think that we can decarcerate from there, I think that's misguided. That's a long-term strategy. Decarceration starts from an early age. And you have to make a long-term commitment, to that and that's why I think political structures need to change and social and justice policy, if that's actually what we want to do and in order to achieve that (Participant A1).

One of the most significant groups of alternatives to incarceration that emerged from the data was the alternative responses to harm. Participants identified multiple models for responding to harms that reprioritised the reparation of said harm over punitive and carceral solutions. The alternative models identified as having the potential to effectively address not only general offending, but violent offending included habilitation centres, therapeutic communities, and restorative and transformative justice. Participants provided contextual rationale for removing the carceral and punitive elements from New Zealand's justice approach. For example:

Some of those people that are really dangerous have massive physiological problems that will be better off dealt with in a relatively secure psychological environment where you get care and help. There would be other people who have been traumatised throughout their life who wouldn't fall into having psychological problems as such but wouldn't really know how to deal with things without the use of violence for instance. You're not going to save those people in any way whatsoever in the current criminal justice system because it's uncaring. The only chance you would have with those people is if you had less people

in prison, and you could actually have small units that focus pretty much on them (Participant A2).

Decades ago, most western countries had a scattering of sort of like retreat centres, often run by religious organisations but like if you ever got into a, just a really bad state of mind and body and whatever, you might go and live in one of these places for a while, and you know it would be a simple kind of life but it would help you get your shit back together. Those tend to have all gone for some reason but we still do have some people who kind of need to reassess where their lives are heading and they need yeah, probably more of um, it's almost like a concept of asylum you know, a safe place that certainly came up. I was working on the mental health inquiry two years ago and that came up as a need for you know, sometimes you just need some time out and you may have some personal issues to work through and you may have some health issues and so on. So, and they are not going to get resolved in your normal everyday life with all the pressures that infringe upon you, so go and spend a month somewhere in an environment where you can get some perspective on life. Maybe we just need more of those (Participant R1).

Additionally, Participant A5 spoke on the existence of Indigenous models of restorative justice in other parts of the world. The primary example used was Hollow Water, an in-community, restorative justice programme established and run by First Nations people in Canada to deal with sexual and domestic violence within their community (e.g. see Aboriginal Peoples Collection, 1997; Living Justice Press, 1996 for an overview of the Hollow Water programme). Hollow Water

was established following the recognition that initial efforts to break the cycles of abuse that promoted the use of incarceration for cases deemed too serious was generating further victimisation and harm. Participant A5 connects this type of Indigenous justice model to Aroha Terry's marae justice in New Zealand, also established to address sexual violence (e.g. see McDonald, 1994 for an overview of Aroha Terry's marae justice). By identifying the existence of these alternative models of justice, Participant A5 demonstrates that these programs and alternatives exist in both an international and local context, both of which serve as examples of the possibilities for in-community programmes for dealing with violent and sexual offending. Participant A5 further explains what these examples represent in the following comment:

And it's become um, a really, not a gold standard but very, very important program about how you can actually turn away from using incarceration and deal with quite serious, I mean by serious offending, they deal with sex offending, domestic violence, child abuse, yeah (Participant A5).

### *5.3.3 The 'extremely' violent*

As mentioned at multiple points in this chapter, participants across the spectrum identified a subgroup within the category of violent offenders who were conceived of as being both a rarity and an important group to consider. A difference is noticeable between abolitionist and reformists participants when discussing alternative responses to harm for the subcategory of 'extremely' violent perpetrators. While the majority of participants both suggested and supported in-community alternatives for general and violent offenders, when considering

responses for those identified as the most violent, reformist participants reverted back to current institutions and practices for those considered too unsafe for alternatives. The following demonstrates these responses:

There is a small number of people who society currently feels are an imminent threat regardless of whether or not they are um, and some of whom genuinely are as well... Say in like fifteen to twenty years' time, the last prison closes, and we need to decide what to do with someone who's considered to be a psychopathic serial killer right. Very, very rare, this tiny sliver of the prison population, I think that those people should be intensely supervised, able to live in the community and have access to rehabilitative programs if that is something that is appropriate for them. And that this is where there's some grey areas because I think that indefinite detention or indefinite kind of supervision is certainly not something that we should be pursuing lightly, but that that might also be something that's necessary. But it's kind of something that needs further investigation (Participant A4).

There's a smaller number who would actually need like ongoing monitoring and healthcare and trauma support and things like that, and that smaller number could pretty much be um, spread out and have wrap-around services around them literally in the community (Participant A3).

A tiny vestigial prison system which holds I guess a combination of people with very severe personality disorders and mental health disorders such that actually, you wonder whether it was a prison that was needed rather than a secure mental health facility (Participant R1).

So, it's like if they go through extensive programs and that psychological input, that psychiatric input and that's residential programs and they still believe that that's just how you show your affection towards a little person um, how long do you keep doing that for, how many times do you put them through a program, where do you stop? Where do you then deem that they are too much of a risk to society if the second these guys are out and I'm talking within a week or two of being released into community they're already grooming (Participant R3).

## **Conclusion**

This chapter has focused on the three aims of this research: identifying the barriers to prison abolition, what strategies, policies, and interventions are necessary to move New Zealand towards a post-prison society, and how to address violent offending without the use of incarceration. To do so, it has explored the research findings from nine interviews with pro-abolition and pro-reform academics and advocates regarding the five super-themes of prisons, (criminal) justice discourse, institutional and structural barriers, the possibilities and problems of prison abolition, and violence.

The first four themes of this chapter related to the first two research aims, often presented by participants in an interconnected fashion. Beginning with prisons, this chapter explored the current and desired purpose, role, and impact of prisons in New Zealand concluding that punishment is the primary focus of these institutions with a largely detrimental impact as a result. The second super-theme –(criminal) justice discourse—highlighted what participants conceived of as the ‘perfect storm’ between New Zealand media and politics as contributing towards the perpetuation of punitive attitudes between each institution and public opinion. Third, systemic and institutional barriers identified by participants illustrated that the abolitionist participants perceived the macro-level barriers to be of much greater significance than the reformist participants. The fourth section on the possibilities and problems of prison abolition explored the proposed framework for an abolitionist plan for achieving a post-prison society.

The last theme, violence, relates to the final question of addressing and responding to violent offenders and their offending without the use of imprisonment. After presenting the key understandings and issues of violence in New Zealand, this final section concluded with discussion on the identified subcategory of more extreme violence and the differences in possible responses to such an offender.

The following chapter provides a detailed discussion on the core findings from the nine interviews with pro-abolition and pro-reform academics and advocates. Beginning with a linking of the core findings of this research to the wider literature, this chapter will explore the distinctive perspectives that emerged during the research process.

## Chapter 5

### DISCUSSION

This thesis is focused on the many facets of the possibilities and problems of prison abolition within a New Zealand context. It sought to address three key research questions:

1. What are the barriers to prison abolition?
2. What strategies, policies, and interventions are necessary to move New Zealand towards a post-prison society?
3. How do we address violent offenders and their offending if or when we move towards a post-prison society?

The purpose of this chapter is to discuss the key findings from this research within the context of existing literature on prison abolition reviewed in *Chapter Two*. The chapter will begin by restating the key findings relevant to the three questions above, with an analysis of why these findings are significant. Next, I will present findings distinctive to this research, while situating the research and the findings in a New Zealand context.

#### **1.0 Core Findings and the Extant Literature**

Although many narratives were provided through the nine interviews with pro-abolition and pro-reform academics and advocates as presented in the previous chapter, this section aims to highlight seven narratives related to the three research questions highlighted above. The

questions established in the introduction are broad in nature; thus, this research does not seek to provide conclusive answers but rather, it intends to problematise existing narratives, unpacking their complexity to highlight possible starting points to address the issues from an abolitionist and/or reformist lens, and provide a platform for future research. The seven narratives related to the research questions are: *Barriers to Prison Abolition in New Zealand*, i) 'public attitudes' and ii) 'the structural or macro-level', and iii) 'the absence of an abolitionist plan'; *Strategies, Policies, and Interventions for Moving Towards a Post-Prison Society*: iv) 'early intervention and prevention', v) 'the development of an abolitionist plan', and vi) 'a preference for in-community supervision over incarceration'; and *What About the Violent Offenders?*: vii) 'violence is contextual'.

### *1.1 Barriers to prison abolition in New Zealand*

Participants across the spectrum spoke of many specific barriers to prison abolition that can be grouped under three key narratives: i) public attitudes, ii) structural or macro-level barriers, and iii) the absence of an abolitionist plan.

#### *i) Public attitudes*

Public attitudes have been discussed at multiple points throughout the findings chapter. Multiple narratives present in this research recognise punishment as one of the biggest barriers for progress towards a post-prison society. Found throughout participant narratives and comparable to what other research has identified, a key narrative on public attitudes is the normalisation and fostering of punitive desires and attitudes by multiple entities. For example, the prison as an

institution represents a significant barrier to a post-prison society in part due to the normalisation of punitive or pro-punishment desires and attitudes. Participant responses highlighted in *Chapter Five* correspond with literature that explores how the entrenchment of the idea of prisons in people's conceptions of justice is substantially problematic (Davis A., 2003; Jackson, 2017; McIntosh, 2018). Serving to satisfy punitive public attitudes, participants and literature alike, assert that the primary role of prisons is punishment. However, a point of difference emerged in this research as Participant R2 conceived of prisons as a means of accountability rather than punishment (p. 98). Furthermore, Gilmore and Kilgore (2019) argue that public opinion is not as homogenous as we are led to believe, and that vested interests use a generalised construction of 'public sentiment' to progress personal or organisational agendas. If progress is to be made towards New Zealand becoming a post-prison society, it is vital to engage with the public and influential sources such as the media and politicians on the recognition that public thought is heterogeneous and frequently changing as new information emerges.

Issues in the production and consumption of narratives on (criminal) justice discourse are identified as contributing to the general public's punitive or pro-punishment attitudes. This claim is supported by literature such as Buttle, 2017, 2019; de Froideville, 2018; Lambie and Gluckman (2018), who discuss the exploitative interests of New Zealand's politicians and media portrayals of crime and criminalised persons. Political and media coverage of justice topics demonstrate a tendency to frame the discourse through narratives of risk, fear, and dangerousness in ways that often oversimplify complex individual, social, and systemic contexts. Framing (criminal) justice discourse through such a lens impacts people's ability to empathise with those outside their own

sphere of influence. Even those with knowledge through their own experiences often fail to relate that to the broader context of New Zealand society. Acting as the “perfect storm” (Participant A3, p. 110), politics and the media’s use of crime and fear as an ‘ideological weapon’ in narratives about class and ethnicity, and its impact on public attitudes, represents a significant barrier to the imagining of and movement towards a society without prisons.

*ii) Structural or macro-level barriers*

Within the theme of structural barriers and aligning with extant literature, three broad macro-level barriers were identified by participants as significant to the New Zealand context: structural bureaucracy, systemic orientation, and systemic violence. As previously noted, discussion on structural barriers in the New Zealand context was primarily present in abolitionist narratives.

With regards to structural bureaucracy, participants identified issues with staffing and resourcing within the justice sector, arguing that overall, investment was insufficient and misplaced. These barriers are similar to the findings of multiple reports from the Office of the Inspectorate which identify issues within New Zealand’s prisons such as rehabilitation and reintegration obligations underperforming due to being deprioritised (e.g. see Office of Inspectorate, 2018, 2019 (a, b, c, d)). However, issues of structural bureaucracy extend beyond the prison as participants argued underinvestment in alternative pathways exists due to entrenched interests at a structural level. Supported by literature such as Davis, A (2003), participants across the spectrum recognised that those who benefit from the current political, economic, and social systems also benefit from the maintenance of the prison system.

Second, the orientation of both the justice system and more specifically prisons resembles an overzealous desire for- or toleration of- violence in both private and public spaces and represents a *colonial framework in design and practice*. As previously discussed, public attitudes are commonly portrayed or expressed as being punitive. However, it is important to recognise that the current dominant systems for justice in New Zealand (and other settler-colonial jurisdictions) are, in effect, ‘colonial structures’. Participants and abolitionist literature express a shared conception of the prison as a form of control and oppression packaged by those who benefit from its existence as something that is good for society (e.g. see Alexander, 2012; Davis A, 2003; McIntosh, 2020; McIntosh & Workman, 2017). Furthermore, while a number of participants supported notions of Rational Choice Theory (such as free will, human rationality, and hedonism (Bradley & Walters, 2011), abolitionist participants and abolitionist literature perceive the individual decision-making emphasised by the theory as overly simplistic at the expense of more complex political, economic, and socio-cultural contexts. The following section (*Section 1.2*) on the *Strategies, Policies, and Interventions for Moving Towards a Post-Prison Society* discusses alternative models for a reorientation of justice in New Zealand.

Last, racism and the intergenerational impacts of state violence are not isolated issues for Māori, nor are they new phenomena. As revealed in *Chapter Two*, institutional and systemic violence rather than individual pathologies, constitutes a broader social practice impacting on individuals and communities engaged with the institutions of crime control. This is evident in the New Zealand context through the overrepresentation of Māori at all stages of the criminal justice

sector and globally with the broader pattern of marginalised Indigenous populations in settler-colonial states (Cunneen, 2006; Tauri J., 2014; Waretini-Karena, 2017). It is disingenuous to analyse justice issues in New Zealand without engaging with Māori experiences of the system. Made evident by the languaging and messaging used in this research prior to data collection, it is easy to rattle off the well-known statistics, such as that Māori make up 15% of the general population yet over 50% of the prison (and nearly 60% in the case of Māori women) (Lambie & Gluckman, 2018; Maxime, 2018). However, to genuinely engage with the issue of Māori overrepresentation, the findings have demonstrated the importance of engaging through values-based messaging rather than the default deficit model prevalent in much of media and political discourse. In the New Zealand context, the concept of reframing crime and justice to an often-polarised public is explored in the report by Berentson-Shaw and Elliott (2019). Furthermore, what is not clearly established in this research but has presented as a vital element not only for Māori but for Indigenous and minority populations globally is the importance of tino rangatiratanga or absolute sovereignty (e.g., see Cunneen, 2018; Jackson, 1988, 1990; Tauri, 2016). Māori must not only be recognised as Treaty partners but be empowered to lead responses through self-governance, that are culturally appropriate and not imposed (Jackson, 1988; Tauri, 2016).

### *iii) The absence of an abolitionist plan*

Critics of prison abolition often question the movement's plans and frameworks, condemning the conception of a post-prison society as unrealistic and utopian. However, one of the key concerns highlighted by participants across the spectrum and represented in the data was the apparent

lack of an abolitionist plan or framework for achieving the eradication of prisons from the New Zealand context. Demonstrating specific concern over the perceived lack of an abolitionist plan, both abolitionist and reformist participants identified barriers regarding a clear framework for eliminating prisons and what to do instead.

Abolitionist participants demonstrated a level of uncertainty regarding how to combat the prevailing (punitive) justice context in New Zealand. It is perhaps this uncertainty that gives cause to the issue of a perceived lack of an abolitionist plan. However, abolitionist participants went on to point out that globally, no country has a complete example, model or approach to achieving prison abolition. Having identified the existence of and possibilities for a constellation of alternatives –discussed in the following section titled the *development of an abolitionist plan*—it was suggested by an abolitionist participant that rather than an uncertainty, an unwillingness or hesitance exists within New Zealand’s abolitionist movement through fear of imperfection or the escalation of oppression.

Reformist participants questioned the attainability of a society without prisons, criticising the lack of abolitionist planning regarding an effective framework for achieving a post-prison society in New Zealand. Reformist participants identified the lack of or necessity for an abolitionist plan or framework as a significant barrier to prison abolition in New Zealand, demonstrating common criticisms including what to do with the volume of incarcerated we currently have and especially violent offenders. However, the data demonstrates that many abolitionist alternatives to imprisonment already exist in numerous jurisdictions, such as early intervention, decarceration

strategies, social policies and investment, in-community practices, constitutional change, and alternative responses to justice (see *Sections 4.3.2 to 4.3.4 Chapter Four*). Furthermore, most reformist participants supported many of the decarceration strategies and alternatives to incarceration suggested in the data but failed to recognise them as part of the abolitionist plan. Therefore, rather than the lack of an abolitionist plan or framework, the barrier appears to be a lack of clarity or communication from abolitionists on their plan for becoming a post-prison society. A lack of clarity from the New Zealand abolitionist movement (which has been identified as a weak or non-unified collective), regarding specific instruction or frameworks, appears to generate uncertainty and a lacking confidence in the attainability of a post-prison society. Perhaps to achieve greater success in the future of abolition, there needs to be a more consistent or collective and identifiable abolitionist framework for New Zealand.

### *1.2 Strategies, policies, and interventions for moving towards a post-prison society*

During the interview process, participants were asked what strategies, policies, and interventions they considered necessary for moving New Zealand towards a post-prison society. The primary responses can be understood through three key narratives: iv) early intervention and prevention, v) the development of an abolitionist plan, and vi) a preference for in-community supervision over incarceration.

#### *iv) Early intervention and prevention*

Those in positions of authority, such as ministers in the New Zealand government, are not immune to the problem of where and how to approach transformative change. This is clear in

the country's general approach to penal issues focusing on people once they are in the system instead of early interventions and preventative measures (Little, 2018). The strategies and interventions proposed by participants regarding the necessity for early intervention and prevention are reflective of most literature on the topic. Rudimentary arguments were made for the necessity of a proactive rather than a reactive model for preventing and addressing social harms. Participants suggested methods such as early intervention services distinct from the justice sector, education, and practices aimed at reducing reoffending as strategies suitable for the large-scale and intergenerational transformations required of working towards a society without prison.

Early intervention and prevention strategies are arguably one of the hardest selling points of abolitionism, as it is a long-term and multi-generational strategy, while many people seek more immediate solutions. However, participants across the spectrum identified various services and strategies, painting a picture of the necessity for a broad-based investment in support services and treatment options available before harm and victimisation have occurred rather than the current 'ambulance at the bottom of the hill approach'. Participants spoke of the cost-effectiveness of early intervention and prevention strategies. International and regional literature support this point, demonstrating, that the cost-effectiveness of these strategies which require fewer resources not only generates financial benefits in the justice, healthcare, education, social services, and employment sectors but are proven to more effectively reduce incarceration rates (Lambie & Gluckman, 2018; Welsh & Farrington, 2011). Therefore, similarities between the research participants and New Zealand literature demonstrate that early intervention and

prevention strategies are an important aspect of abolition, contributing to the incremental steps necessary to move New Zealand towards a post-prison society.

Moreover, participants identified the importance of engaging with widespread education strategies when attempting to move towards a post-prison society. Programmes are to be targeted for children as young as pre-schoolers and throughout their school lives. Engaging with children and youth serves to intervene not only before the perpetration of harm but before the drivers of harmful or violent behaviours develop. New Zealand literature on the impact of the country's severe issue with family or domestic violence demonstrates that exposure to this form of violence can cause an intergenerational transmission of abuse, trauma and victimisation (Lambie, 2018). Morrison and Bevan (2018) explain that while not all children who experience domestic and other forms of violence perpetuate that violence as adults, a large portion of those who do, have histories of childhood trauma. Approaches to prevention through education include "de-institutionalisation at a wider social level" (Participant A1, p. 119). Within abolitionism, this approach resonates of restorative justice initiatives in schools that teach conflict resolution skills from a young age. It is an approach to education that not only teaches academic subjects but healthy social skills (e.g. see Restorative Schools, 2009 for a summary of restorative schools). In addition to the points already made, removing punishment from New Zealand's responses to social harm enables practices aimed at reducing reoffending to engage with a victim-centric model that recognises and acknowledges the common and shared histories of violence and trauma experienced by a majority of those currently incarcerated. The

complexity of offending profiles is a point that is discussed in-depth by many sources of New Zealand literature such as Paine (2009), and McIntosh (2018, 2020).

*v) The development of an abolitionist plan*

Using participant's responses, *Section 4.3* of the findings chapter constructs a framework of abolitionist alternatives with attention to discourse, decarceration strategies, social investment, and in-community alternatives. The data presented in the findings chapter demonstrates both the recognition of and support for a collection of alternatives to incarceration from participants across the spectrum. Aligning with extant literature, participant responses encompassed a wide scope of justice and non-justice approaches for moving towards a post-prison society. This framework is discussed below.

An initial element of the abolitionist plan to consider is the non-justice actions possible within the short-term. Participants addressed the importance and relevance of effectively framing the abolitionist narrative in justice discourse. Of primary concern was abolitionist communications with the public, as they are strongly perceived to represent an avenue for real and effective change. Akin to existing abolitionist literature, participants highlighted the necessity of disrupting the public's support of or indifference to the current overuse of prisons and generating support for the necessary changes and alternatives (e.g. see McIntosh, 2018, 2020). Furthermore, social investment and social policy were identified as vital elements of the abolitionist plan for achieving prison abolition. As described in Coyle and Schept (2018), abolitionist participants agreed on the necessity of disrupting the carceral logic, which presents

the prison as a tool for solving complex social problems. Supported by international and New Zealand literature, participants identified that investment in socially situated responses to harm (financial and otherwise), and policy reforms which address issues regarding housing, welfare, the living wage, and general investment in other basic resources are a primary means of achieving movement towards a society without prisons (e.g. see Bloom, Owen, & Covington, 2004; Robertson, 2019; Lambie & Gluckman, 2018). Transformative social investment and policy require corresponding changes from justice policy in areas such as bail, drugs, and three-strikes legislation which significantly contribute to the rising prison population.

Furthermore, long-term actions also represent an important element of the abolitionist framework, these approaches include decarceration strategies and alternative justice technologies. Common in abolitionist and reformist literature, decarceration strategies such as excarceration, a moratorium on building prisons, and constitutional transformation were identified (e.g. see Davis, A., 2003; Knopp et al., 1976; McIntosh, 2020). As these strategies are aimed at reducing the number of people going to and returning to prison, participants across the spectrum overwhelmingly supported them. It is important to note that support from reformist participants was often conditional on environmental conditions and public safety. However, parallel to the extant literature, abolitionist participants emphasised the importance of utilising prison reforms in the abolitionist framework that do not strengthen or prolong the use of the institution (Agid et al., 2004; Critical Resistance, 2012; Buttle 2017). Moreover, abolitionist participants communicated their desire for alternative models for responding to harm that prioritise the reparation of harm for the victim, perpetrator, and community, over carceral

models of punishment. Examples of alternative responses to harm included transformative and restorative justice models. A strong correlation exists between the recommendation of alternative responses to harm and the literature on and practice of Indigenous restorative justice models. Examples such as *Hollow Water* (e.g. see Aboriginal Peoples Collection, 1997; Living Justice Press, 1996) and Aroha Terry's *Marae Justice* (McDonald, 1994) demonstrate that alternative models already exist internationally and have existed in a New Zealand context, serving as examples of the possibility for in-community programmes to effectively respond to both general and violent offending.

Furthermore, rehabilitation was a reoccurring theme in participant responses representing a point of difference between abolitionist and reformist participants and literature. Embodying a common thread in reformist thought, several reformist participants spoke of rehabilitation as vital. However, these participants situated the important rehabilitative services within prisons, a concept problematised by abolitionist literature which identifies the viability of utilising existing justice strategies and models without their carceral elements (e.g. see Ben-Moshe, 2017; Scott, 2013). A further distinction in the New Zealand context arose from reformist participants who insisted on the provision of rehabilitative programmes for those imprisoned on remand or sentenced to two years or less. However, this suggestion represents a contradiction as participants across the spectrum recognised that prison is an unnecessary response for these categories of offender. Supported by the literature, abolitionist participants prioritised a remodelling of existing justice strategies, arguing that the prison environment is not conducive to positive change and that community-based programmes more effectively addressed drivers

of crime such as mental health and addiction (e.g. see Martin, 2019 and Sawicki-Mead, 2019 for discussions on similar topics). A final point of difference present in the New Zealand context was the contrasting positionality presented by a single perspective through the concept of personal accountability as a strategy for addressing harmful behaviours.

*vi) A preference for in-community supervision over incarceration*

Another mainstay in abolitionist alternatives to incarceration identified by participants and supported by literature is the preference for in-community services and supervision. Following the widespread criticism of prisons as a mechanism for addressing the causes and consequences of offending, in-community alternatives and treatment options were presented as an extension to strengthening social investment. These arguments resemble both international and regional literature on the failure of prisons and the efficacy of community-based solutions.

Participants indicated that for in-community alternatives and treatment options to be successful, a vast level of support from the public is required. While the public are often portrayed as being largely punitive, Lambie and Gluckman (2018) explain that generalisations on the opinions and attitudes of the public, and specifically victims, can be misleading as more nuanced research finds support for a diverse range of community and preventative measures. Throughout this research project in areas such as the literature review, the findings, and previous sections of this chapter, public support for several community-based strategies, policies, and interventions has been identified. It has been argued that alternatives with the potential to have a positive impact already exist but lack proper investment (financial and other) (e.g. see Knopp, et al., 1976; No

Pride in Prisons, 2016). In the wake of the current civil rights movement of 2020, recent abolitionist literature has more confidently recommended the defunding of institutions such as the police and prisons as a means of reallocating the necessary resources into community methods and approaches (e.g. see Critical Resistance, 2020; Stahl, 2020; Sultan, 2020; Whaipooti, 2020).

Furthermore, community and treatment options are again a long-term element of the abolitionist plan. They are not the 'quick fixes' desired of politicians in the lead up to the next election cycle, but rather, require a long-term commitment. Examples identified by participants include the creation and maintenance of habilitation centres and therapeutic communities as community-based and oriented rehabilitative approaches. Moreover, examples such as Hollow Water and Aroha Terry's Marae Justice have been identified previously in this research (Aboriginal Peoples Collection, 1997; Living Justice Press, 1996; McDonald, 1994). In part, the idea is to diminish the necessity of reintegrative services by ceasing to remove and isolate those already considered to be anti-social. In-community response models aim to enable the maintenance of positive communication with family and relative independence coupled with the provision of proficient services for addressing past trauma, healthcare issues, and upskilling social skills such as conflict resolution and managing anger. Overall, in-community models replace the carceral punishment strategies with a healthcare approach to repairing harm.

### *1.3 What about the violent offenders?*

The final theme –violence—relates to the third question of how to address violent offenders and their offending without the use of incarceration. It is important to note the necessity of changes to the language used in this research to describe ‘violent offenders’ and their ‘offending’. Participants indicated the importance and relevance of framing the abolitionist message in ways that are not harmful or problematic. Thus, a more appropriate phrasing of the third question includes terminology such as ‘criminalised persons’, ‘perpetrators of harm’, and ‘social harms’.

#### *vii) Violence is contextual*

The findings from this research demonstrate that participants across the spectrum perceived of violence as deeply contextual and that much of the general public was under or misinformed on these contexts. These findings align with extant literature which emphasises barriers to prison abolition caused by the problematic construction and consumption of narratives on acts of violence (Workman, 2018; Paine, 2009). For example, two problematic narratives in New Zealand are the oversimplification and separation of victim and offender, and the politicised nature of crime, punishment, and justice. Society is quick to move from lamenting to blaming, though, this rapid transition fails to consider the complex life stories and cultural contexts both connecting the two and often within the same person. With no intent to trivialise or diminish the suffering of their victims, participants and relevant literature recognise that in most cases, the perpetrators of these social harms have suffered great harm themselves (e.g. see Ensor & Fyers, 2019; McIntosh, 2015; Paine, 2009). Furthermore, misinformation on the realities of criminal offending is perpetuated by the justice and political sectors who deceive the public into believing that

healing and safety from harm is achieved through a system which enacts equal or greater harm to those who have harmed others (e.g. see Watkins, 2020).

Moreover, participants considered the contextuality of violence to be a significant factor in decision making on responses to these forms of behaviours and harms. As most participants recognised the problematic impacts of imprisonment, this finding aligns with international and local literature on incarceration such as McIntosh (2015) and Sered (2019) who argue that incarceration not only fails to interrupt the drivers of violence but as an institution has become part of the spectrum of violence that occurs across society. Similar to the literature, participants demonstrated varying levels of support for correctional and in-community alternatives for the perpetrators of violent social harms (e.g. see Anstiss, 2016; Polaschek, 2011; Sawicki-Mead, 2019; Knopp, et al., 1976). While reformist literature supports rehabilitative interventions, programmes, and treatments both in prisons and the community, abolitionist literature questions the applicability of such approaches for perpetrators of violence due to the complex contexts of violent behaviour. Instead, literature such as Barabas, Dinakar, and Doyle (2019) and Sultan (2020), identify the importance of defunding institutions such as prisons and redirecting funds for community reinvestment. Especially for the provision of human resources and physical infrastructure, two themes present in participant narratives as necessary for strengthening in-community alternatives for those most affected by incarceration.

Additionally, as discussed in *Chapter Four*, participants across the spectrum identified a subcategory of 'violent offender' that persons and groups consider to be 'extremely violent'.

While the recognition of this subcategory was a commonality between the two participant groups, this finding also represents a point of division which is representative of a wider division in conversations on responding to violence internationally. Reformist participants perceived these perpetrators of extreme harm as too far gone or too difficult to return to a pro-social member of society, reverting to the prison as a necessity or inevitability. This is a common response found in reformist literature which speaks to the reform of damaging or harmful aspects of the prison but maintains an underlying belief that the institution remains necessary for certain perpetrators of harm (e.g. see Critical Resistance, n.d., for a charting of the differences between reformist reforms and abolitionist reforms). However, the abolitionist participants continued to identify the concept of violence as contextual, suggesting responses in line with those put forward for general and violent perpetrators of harm. Primary suggestions from the abolitionist participants were aligned with abolitionist literature which prioritise in-community alternatives over incarceration (e.g. see Common Justice, n.d.; JustSpeak, 2014; Living Justice Press, 1996). Abolitionists participants identified a minute number of cases in which containment remained necessary; however, the containment did not resemble any institution that currently exists. Akin to abolitionist literature, participants recognised the necessity of deconstructing and reimagining conceptions of punishment and confinement often proposing Nordic examples as a possible starting point.

## 2.0 Distinctive Findings

### 2.1 *The spectrum of perspectives*

As previously discussed, as the interview process progressed; it became problematic to categorise participants by the previously designated 'pro-prison' and 'pro-abolition' terms. One of the strongest points of contrast between the two categories of participants exists in their conceptions of the problems and possibilities of the prison's role. It is from this contrast that the spectrum of perspectives emerged. Having originally divided participants into categories of 'pro-prison' and 'pro-abolition', the spectrum of perspectives that emerged was unexpected. While a level of difference was assumed between the two groups, the true complexity of participants' positionalities unravelled with the sharing of their narratives during the interview process.

Having originally designated the primary focus of this research on those categorised as 'pro-prison' and 'pro-abolition', participant narratives demonstrate that the varying perspectives are complex and not necessarily belonging to separate and distinct categories. The category originally labelled 'pro-prison advocates' is better understood through two fluid categories. On one end of the spectrum, there are those who can be considered pro-prison through their support of punishment as a response to harm and prisons as a tool for solving social issues. This positionality is represented in the New Zealand context through examples such as the Sensible Sentencing Trust which seek harsher punishment in the name of the victims of crime (e.g., see Allen, 1996; Dellow, 2002; Jenkins, n.d.). A second position on the spectrum is those who identify as prison reformers. These are advocates who seek carceral transformations –sometimes conditionally— as the answer to failing prisons while continuing to support the rationale of

imprisonment as a response to certain categories of offending (e.g., see Jewkes, 2018; Jewkes & Moran, 2015; United Nations Office on Drugs and Crime, 2019).

On the other end of the spectrum, the category of anti-prison advocates is now understood to include a variety of positionalities ranging from total prison abolitionists to those who are critical of the ability of abolition to succeed but still prioritise reforms aimed at reducing the use of prisons and its harm and improving opportunities. Exemplifying these positionalities are groups such as People Against Prisons Aotearoa and JustSpeak, two organisations within the New Zealand context who actively seek the use of alternatives to incarceration through a recognition that the current system not only does not work but that it causes additional harm (e.g., see Jackson, 2019; No Pride in Prisons, 2016; Sawicki-Mead, 2019).

Having emerged from the spectrum of perspectives, the positionality of most importance can be found at the centre, those who demonstrate a significant level of commonality between the two supposed extreme positions of abolitionism and pro-prison. Positionalities that meet at the centre of the spectrum share a desire for transformative change in the penal system of New Zealand; where they differ is where and how to make that change. It is through the middle ground of shared agreement that prisons do more harm than good and necessary responses must involve a multipronged approach inclusive of systemic transformation and alternative responses to harm, that the potential for significant collaboration has emerged. The commonalities present in the centre of the spectrum of perspectives have the potential to be utilised for progress towards a reduction in the use of imprisonment and increased investment in community

alternatives and treatment options. Such collaboration has the potential to generate a strong foundation for future abolitionist efforts towards a society without prisons.

## Chapter 6

### CONCLUSION

#### Introduction

Rather than restating the abolitionist argument, the goal of this thesis is to engage with the developing field of research on post-prison societies by investigating the barriers of abolition in New Zealand and how to overcome them — with a specific focus on violent offenders. To reiterate, this study sought to explore the following questions:

1. What are the current barriers to prison abolition in New Zealand?
2. What strategies, policies, and interventions are necessary to move New Zealand towards becoming a post-prison society?
3. How do we address violent offenders and their offending if or when we move towards a post-prison society?

The purpose of this chapter is to summarise the findings presented in the previous chapters of this thesis relevant to the questions above. This chapter will begin by stating the major findings within the context of the three guiding questions and extant knowledge and literature on incarceration, prison abolition, and violence. Following discussion on the importance of the findings and relevance to abolitionist literature, potential questions and areas of interest for future research are identified.

## 1.0 Summary of Key Findings

As the guiding questions of this thesis are broad in nature, many questions have emerged from this study. Thus, rather than providing conclusive answers, this research intends to problematise existing narratives, unpacking their complexity to highlight potential reformist and/or abolitionist pathways towards a post-prison society. Through this approach, this thesis also attempts to provide a platform for future research.

### *1.1 What are the current barriers to prison abolition?*

While participants identified many specific barriers to prison abolition, three key narratives emerged in response to this question: public attitudes, structural or macro-level barriers, and the absence of an abolitionist plan.

As explored in *Chapters Two, Four, and Five*, public attitudes have stood out as a significant barrier to prison abolition. With punishment its primary role, prisons as an institution largely serve to satisfy punitive public attitudes. Throughout participant narratives, the explicit and implicit desire for and tolerating of punishment represents a significant barrier for movement towards a post-prison society. However, Gilmore and Kilgore (2019) argue that public opinion is not as homogenous as we are led to believe, that generalisations of 'public sentiment' are exploited for personal or organisational agendas. Furthermore, described as the "perfect storm" (Participant A3, p. 109), the New Zealand media and political spheres weaponisation of narratives about class and ethnicity, and its impact on public attitudes generates a normalisation of the general public's punitive or pro-punishment attitudes. The combined generation and acceptance

of this positionality as the norm, reveals a further barrier to the imagining of and movement towards a post-prison society.

Most addressed by abolitionist participants, macro-level barriers to prison abolition include structural bureaucracy, systemic orientation, and systemic violence. Primary issues in the structural bureaucracy of New Zealand's justice system start on the ground level with improper staffing and resourcing and extend into the entrenched interests at a structural level from persons who benefit from the maintenance of the current political, economic, social, and prison systems. Second, the orientation of the entire justice system represents a *colonial construct in design and practice*. Thus, as an institution, prisons serve as a form of social control and oppression, disproportionately targeting Indigenous and other vulnerable communities within New Zealand and other settler-colonial jurisdictions (Davis A., 2003; McIntosh, 2020). Within the colonial justice framework, theories such as rational choice which focus on individual pathologies to explain the perpetration of harms, are often prioritised at the expense of more complex political, economic, and socio-cultural contexts. These contexts include racism and the intergenerational impacts of state violence, demonstrated through the overrepresentation of Māori at all stages of the justice system.

Last, an important barrier identified by participants across the spectrum was the perceived lack of an abolitionist plan or framework for moving towards, and ultimately achieving prison abolition in the New Zealand context. Aligning with the common criticisms of abolitionism, reformist participants were sceptical of attaining a society without prisons, questioning what to

do with the current volume of incarcerated persons, especially those considered violent offenders. However, both *Chapter Four* and *Chapter Five* discuss data demonstrating that while many abolitionist alternatives to imprisonment exist and reformist participants support them, these participants simultaneously failed to recognise them as part of an abolitionist framework. Therefore, rather than the lack of a plan or framework, it appears the barrier in the New Zealand context is the lack of clarity and communication by abolitionists of their framework for achieving a post-prison society. Abolitionist participants suggested that the perceived lack of a plan for eradicating prisons perhaps emerged from the non-unified abolitionist collective in New Zealand or the hesitance to propose alternatives for fear of generating further oppression.

### *1.2 What strategies, policies, and interventions are necessary to move New Zealand towards a post-prison society?*

First, the ineffectiveness of the current system was identified by participants who criticised that its primary focus was on people once they have entered the justice system, at the expense of early intervention and prevention strategies. Participants identified early intervention and prevention as one of the large-scale and multi-generational transformations required when working towards a post-prison society. Broad-based investment in support services and strategies in areas distinct from the justice sector, and treatment options situated before the occurrence of harm and victimisation were preferred over the current ‘ambulance at the bottom of the hill’ approach. Further contributing to the incremental steps required to move New Zealand towards prison abolition, participants explained the importance of widespread education strategies during the entirety of a child’s school life, teaching conflict resolution and

other healthy social skills from a young age. Last, abolitionist participants spoke of prevention methods devoid of punishment to instead use a victim-centric model giving attention to the complexity of offending profiles and enabling more fitting approaches to harm reparation for victim, perpetrator, and community.

Whatever the case is for the perceived lack of an abolitionist plan, the lack of clarity regarding specific instruction appears to generate uncertainty, and so, greater success in the future of abolitionism may come in the form of a more consistent and identifiable New Zealand specific abolitionist framework. *Chapter Five, Section v*) constructs just that, discussing in detail the following alternatives: non-justice (social investment and policy), justice (existing strategies and models with carceral elements removed), constitutional transformation (Māori sovereignty), and other justice technologies (alternative responses to harm such as transformative and restorative justice). A notable point within these alternative approaches is the importance and relevance of effectively framing the abolitionist narrative in justice discourse. Abolitionist participants explained the necessity of reframing crime and justice to an often-polarised public through positive values-based messaging rather than the default deficit model. Furthermore, while identified as a significant barrier to prison abolition in *Section 1.1* of the current chapter, public attitudes are also conceived of as an important avenue for progress towards a society without prisons. Participants articulated the importance of engaging with the public and influential sources such as the media and politicians on the heterogeneous nature of public attitudes that frequently shift as new information emerges.

A further approach that emerged from the construction of an abolitionist framework was the recognition by certain participants, of the necessity for constitutional transformation. Moreover, it remains vital to engage with Māori experiences of the system when analysing justice issues. With regards to constitutional transformation, certain abolitionist participants spoke of the importance of rectifying the pattern of marginalised Indigenous populations in settler-colonial states by not only recognising Māori as treaty partners but empowering them to lead culturally appropriate responses through self-governance (Jackson, 1988; Tauri, 2016).

Last, one of the most prevalent narratives within participant responses was the preference for in-community supervision and services over incarceration. Following a widespread criticism of prisons as a tool for solving social problems and as a mechanism of responding to the causes and consequences of social harm, in-community alternatives and treatments were identified as an integral strategy for moving New Zealand towards a post-prison society. To begin, participants argued that rectifying the often insufficient and misplaced investment (financial and other) towards alternative pathways away from imprisonment would go a significant way towards the provision of more effective rehabilitation and reintegration services. This can be understood as the defunding of violent institutions such as the police and prisons, and the redistribution of resources into already existing in-community alternatives (Barabas, Dinakar, & Doyle, 2019; Critical Resistance, 2020; Sultan, 2020). Furthermore, participants drew attention to *Hollow Water* (Aboriginal Peoples Collection, 1997; Living Justice Press, 1996) and Aroha Terry's *Marae Justice* (McDonald, 1994) as examples of the possibility for Indigenous programmes to be established and run independently from settler-colonial states, programmes with the ability to

respond to both non-violent and violent harms. Overall, participants across the spectrum overwhelmingly supported a transition in varying capacity to in-community models which replaced carceral punishment with a health-care approach to repairing harm for victims, perpetrators, and the community.

*1.3 How do we address violent offenders and their offending if or when we move towards a post-prison society?*

Participants consistently demonstrated the importance of recognising that violence is deeply contextual. An initial finding presented itself in participant critiques of the question itself. Primarily concerned with the chosen language, most participants questioned both the use of the terms ‘violent offender’ and ‘violent offending’, and the scope of their definitions. Participants expanded these terms to include several distinct groups including individual perpetrators of harm, State entities, persons of power, and a subcategory of persons who are characterised as ‘extremely violent’.

Moreover, problematic narrative construction and consumption on violence in New Zealand have left much of the general public misinformed of the contexts of these forms of harm. Two harmful narratives identified by participants include the politicised nature of crime, punishment, and justice, and the oversimplification and separation of victim and offender. Political misinformation has entrenched into the public psyche the belief that healing and safety from harm is achieved through an institution and a system which enacts equal or greater harm to said perpetrators (Watkins, 2020). While not diminishing the harm caused by these persons,

participants thought it significant that a high proportion of those who perpetrate harms in New Zealand have experienced substantial trauma themselves. It is upon this revelation that the importance of an early intervention and prevention strategy to justice emerges. However, not all who have histories of severe victimisation go on to perpetrate violent harm, though, those who do often have histories of both childhood and adulthood trauma. Therefore, the necessity of the 'ambulance at the top of the hill' approach emerges, using a proactive rather than a reactive model for preventing and addressing social harms.

Furthermore, participants considered the recognition of contextuality a vital factor in decision making for how to respond to these forms of harmful behaviour. With the problematic impacts of imprisonment being well documented in both international and local literature, Sered (2019) explains that the prison as an institution contributes to the spectrum of violence observable in our communities. The findings for this question on violence demonstrate widespread support among participants for increased use of in-community approaches as well and instead of carceral interventions. Across the spectrum, reformist participants supported a mixture of carceral and in-community rehabilitative interventions whereas, abolitionist participants, akin to their responses for perpetrators of non-violent harms, demonstrated a mentality that supported the use of in-community alternatives suited to this category of offender.

Additionally, as is discussed in *Chapter Four* and *Chapter Five*, a subsection of violent offender was identified. Those considered 'extremely violent' represent both cross over and divergence between general reformist and abolitionist perspectives. While both positionalities recognised

the existence of this category, their suggested responses to these more extreme harms differed. Reformist participants demonstrated an underlying belief of prisons as a necessary evil, that despite recognising the prison as a harmful institution, it remains an inevitable tool for achieving justice regarding certain perpetrators of harm. Whereas continuing to recognise violence as contextual, abolitionist participants again prioritised in-community responses over incarceration. Furthermore, abolitionist participants spoke of the necessity of deconstructing and reimagining conceptions of punishment and confinement as a means of imagining past the shortcomings of the reformist conception of prison as an inevitability. Akin to Nordic approaches to punishment, abolitionists conceive that those who may require a level of containment will do so in much less perilous conditions than our current prison conditions allow.

#### *1.4 The spectrum of perspectives*

A distinctive finding of this research is the emergence of a spectrum of perspectives in the New Zealand context. Having originally categorised participants as 'pro-prison' and 'pro-abolition', it was discovered during the interview process that these terms were no longer fitting. While extremes existed on either end of the spectrum ranging from total abolitionists to those seeking punitive reforms, those at the centre represent a significant possibility for movement towards a New Zealand without prisons. Through a shared discontent with the current role of prisons and interest in decarceration strategies and alternatives to incarceration, it is the positionalities of these participants who illustrate the potential for a future reformist and abolitionist collaboration.

## 2.0 Suggestions for Future Research

This project demonstrates that there is still a significant amount of research to be conducted in this area. In recognising the evidence already put forward for abolitionism, this research was meant as a preliminary view of abolitionist barriers and pathways away from prisons, specifically for violent offenders.

A significant portion of international abolitionist literature stops at 'prisons are bad' without undertaking deeper research to explore the necessary steps towards achieving the abolition of prisons. Research demonstrating the necessity for the abolition of prisons in the New Zealand context would add to the growing body of literature and consciousness around issues of incarceration in this country.

Additionally, further research into the role of the public as both a barrier to and pathway forward for prison abolition is a question suitable for a project with a greater amount of time and resources.

Last, future research would benefit greatly from introducing a wider sample, inclusive of substantially diverse positionalities, especially previously or currently incarcerated persons, and other judicial professionals.

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## **Appendix 1:**

### **PARTICIPANT INFORMATION SHEET**

**University of Waikato - Division of Arts, Law, Psychology, Social Sciences**

**Human Ethics Research**

**Participant Information Sheet**

**Project Title:** What About the Violent Offenders? The Possibilities and Problems of Prison Abolition in New Zealand.

#### **Principal Researcher**

Miss Katherine Hoek, Post-Graduate student, University of Waikato, Faculty of Arts and Social Sciences.

#### **Introductions**

Kia ora/hello, my name is Katherine, I am a student at the University of Waikato, enrolled in a Masters' of Social Science. As part of my course of study I am undertaking research on the possibilities and problems with New Zealand becoming a post-prison society. I am contacting you as a potential participant in my research. The purpose of this document is to provide you with background information that will enable you to make an informed decision as to whether or not to be involved.

#### **What is the study about?**

The purpose of the project is to research issues and barriers that may inhibit New Zealand from becoming a post-prison society. The researcher is particularly interested to find out how we might address violent offenders and their offending if or when we considered abolishing prisons.

#### **Why is this study important?**

The proposed study is important because to date there has been little empirical research into the possibilities of New Zealand becoming a post-prison society, or of the issues and barriers we may face if we began to seriously consider this move.

**What is involved if you participate?**

If you agree to be involved you will participate in a 1-on-1, semi-structured interview with the Principal Researcher. It is anticipated that the interview will take between 45 minutes to 1 hour to complete.

**Is our interview confidential?**

Yes. Except for the main researcher, no one else will know we met; nor will they be able to link you to what we talked about. Any information written about you will be de-identified; neither the transcript or my notes will include your name or any other identifying factors. Instead you will give you a code name or you can choose one for yourself. The Principal Researcher will take all reasonable steps to make sure that your right to confidentiality is protected.

**What happens if I talk about something criminal I have done or am doing?**

The researcher will make every effort to ensure communications with the participant are treated as confidential, but if any activity poses a serious threat to the health and safety of an individual or the public, the researcher will disclose that information to the appropriate authority.

**Where can I go to for more information on this project?**

You can contact me via my contact details below.

Thank you for taking the time to read this and for participating in my research (should you decide to do so):

Researcher: Miss Katherine Hoek  
02102757654  
kpghoek@gmail.com

This research project has been approved by the Human Research Ethics Committee of the Division of Arts, Law, Psychology, Social Sciences. Any questions about the ethical conduct of this research may be sent to the Secretary of the Committee, email [fass-ethics@waikato.ac.nz](mailto:fass-ethics@waikato.ac.nz), postal address, Division of Arts, Law, Psychology, Social Sciences, University of Waikato, Te Whare Wananga o Waikato, Private Bag 3105, Hamilton 3240.

## Appendix 2:

### CONSENT FORM

**University of Waikato – Division of Arts, Law, Psychology, Social Sciences**

**Possibilities and Problems with Prison Abolition**

#### Participant Consent Form

Name of person interviewed: \_\_\_\_\_

I have received a copy of the Participant Information Sheet describing the research project. Any questions that I have, relating to the research, have been answered to my satisfaction. I understand that I can ask further questions about the research at any time during my participation, and that I can withdraw my participation at any time [up to four weeks] after receipt of a draft transcript of my interview.

During the interview, I understand that I do not have to answer questions unless I am happy to talk about the topic. I can stop the interview at any time, and I can ask to have the recording device turned off at any time. I have been made aware that as I am part of a small community involved in this issue, it is possible I can be identified through comments that I make in my interview.

When I sign this consent form, I will retain ownership of my interview, but I give consent for the researcher to use the interview for the purposes of the research outlined in the Information Sheet.

I understand that my identity will remain confidential in the presentation of the research findings.

Please complete the following checklist. Tick [✓] the appropriate box for each point.	YES	NO
I wish to view the transcript of the interview.	<input type="checkbox"/>	<input type="checkbox"/>
I wish to receive a copy of the findings.	<input type="checkbox"/>	<input type="checkbox"/>

Participant :	Researcher :	Katherine Hoek
Signature :	Signature :	_____
Date :	Date :	_____
Contact Details :	Contact <u>Details</u> :	02102757654
_____		kpghoek@gmail.com
_____		_____

## Appendix 3

### INTERVIEW SCHEDULES

I'd like to ask you some questions about prisons and the current state of incarceration in New Zealand

I hope to use this information as part of my master's thesis on prison abolition in New Zealand.

I am interested in your thoughts on the barriers facing the prison abolition movement in New Zealand in moving towards a post-prison society.

The interview should take about forty-five minutes to an hour. Are you comfortable with that time frame?

I've previously emailed you the participant information and informed consent sheets, but I would just like to reiterate a few things, like

- Confidentiality. While you are part of a small community involved in this issue so it is possible for you to be identified through comments made during this interview, I will make all attempts possible to ensure your identity remains anonymous in my transcripts, masters, and any subsequent publications. This includes allocating you a code name or you choosing one for yourself, which would you prefer?
- On withdrawing, you are able to withdraw at any point during this interview and any time up to four weeks after receiving a draft transcript of the interview.
- Also, you retain ownership of the data provided in this interview and by signing the consent form you are agreeing for me to use it for the purpose of my master's research

Do you have any questions at this point?

I am hoping to audio record our interview if you are okay with that? The recorded data will be stored in a locked cabinet in my supervisor's office for five years following the completion of my research. You can request the recording be stopped at any point during the interview.

**Pro-Abolition Questions:**

1. I will begin by asking what is your position on prison abolition?
  - Why are you a prison abolitionist/ what has led you to hold this position?
  - Why do we want to think about abolition, what makes it an important thing to think about and work towards?
2. What do you think are the current barriers to prison abolition in New Zealand?
  - Ask for their evidence on each point, what are they basing their arguments on?
  - [Politics— ‘Tough on Crime’] Can you comment on the kinds of tactics and strategies used in political discourse that act as a barrier to prison abolition? E.g. tough on crime rhetoric.
  - [Media and community—Bias] Ask them specifically how as an abolitionist do you get your message out there
  - Public/media/political discourse
3. What strategies, policies, and interventions do you think are necessary to move New Zealand towards becoming a post-prison society?
  - (In other words—what changes need to be made to start New Zealand moving towards abolishing prisons) e.g. reallocating govt funding into things like mental health and moving them out of the prison or changing the public's opinion
  - Gendered approaches?
  - [Women—Gendered violence] A number of those currently incarcerated have histories of violence, particularly male violence towards women. So, in closing the prisons, are there any specific strategies, policies or interventions you think are necessary to address this and protect women?
  - Another specific group in New Zealand's criminal justice system is Maori, are there any strategies, policies or interventions you think are necessary to specifically address Maori overrepresentation at all points in the criminal justice system? (Especially prisons) If yes, what are they?
  - Early intervention through education- what are we teaching? E.g. conflict resolution?
  - [Inequality—Poverty] How to deal with these high-level structural barriers?
4. How do you suggest we address violent offenders and their offending if or when we move towards a post-prison society?
  - Address things like halfway houses and open prisons like in Norway
  - Surveillance – If surveillance comes up, I can ask how to avoid creating a shadow of the prison: How do we avoid simply recreating the prison outside the prison?
5. Is there anything else you would like to add, or think is necessary to include?
6. What do you think is most important to consider in my research?
7. Could you recommend one or two people who might be interested in being a part of my research

**Pro-Prison Questions:**

1. I will begin by asking what is your position on prison abolition?
  - Why are you a prison abolitionist/ what has led you to hold this position?
  - Why do we want to think about abolition, what makes it an important thing to think about and work towards?
  
2. What would you consider to be New Zealand's most effective response to offending?
  - What makes imprisonment a better or more effective strategy or response than prison abolition?
  - Why do you consider prisons important and why should we continue to use prisons as a response to criminal conduct/ offending?
  - If New Zealand was to consider abolishing prisons or drastically reduce prison populations, what do you see as the 3 or 4 most significant issues with that?
    - (Their philosophy/view of punishment and prisons)
    - Why— ask them to justify their position. Rationale/ reasons you believe justifies continued use of prisons? Why do you see prisons as valuable? As the best response?
    - [Prisons work] What is meant by this? How do you measure the impact of prisons? What is your evidence for this?
    - [Make us safe] what evidence is there that this is the case?
  
3. What strategies, policies, and interventions do you think are necessary to make prisons more effective as a response to crime?
  - Restorative Justice
  - Transformative Justice
  - Approaches to address the Maori overrepresentation.
  - Open Prisons
  - Would you support a ceasing of new prison builds in an attempt to control prison populations?
  - Would you support a reduction in the prison population?
    - [Yes]—What strategies etc. do they think we should implement or support to reduce the number of people we send to prison?
    - [No]— Why? What is their rationale?
  
4. How do we effectively address violent offenders and their offending?
  - If not via programs, then what should we be doing with them prior to their release back into the community?
  
5. Is there anything else you would like to add, or think is necessary to include?
6. What do you think is most important to consider in my research?
7. Could you recommend one or two people who might be interested in being a part of my research?