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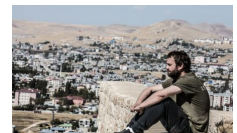
# Why did Māori never have prisons?

by **Moana Jackson** | Jun 17, 2023 | 0 🗨️ | 17 min read



“Nowhere in the Indigenous world view is there a belief that you deal with harm by locking people up.”  
— Moana Jackson.

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*It's just over a year since Moana Jackson passed away, and like everyone who knew him, here at E-Tangata we dearly miss his wisdom and guidance. No matter the kaupapa, his kōrero remains timeless, including this speech delivered in 2017 to Wellington Girls' College.*

*Hosted by JustSpeak, Moana focused on why Aotearoa should abolish prisons and instead take lessons from the way law and order was historically approached by Māori. With the permission of his whānau and JustSpeak we share his words here.*

Prisons have become such an entrenched part of western society that we forget that they're comparatively new phenomena — and that even most western societies for centuries didn't have the notion of locking up people in something called a prison. They had other ways of dealing with harm. Other ways of maintaining harmony, order and peace in society.

But because prisons have, in such a short time, become so entrenched, the conversation about their eventual abolition will be, necessarily, a long and difficult one.

In order to facilitate that conversation, to guide us not just as individuals but as a country toward something different, I think it's necessary not just to be aware of



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the relatively short history of prisons, but to be aware of their entrenchment and the powerful position that the institution of corrections holds in this country. And therefore, to be aware, as I see it, of the difficulty of the conversation.

In talking about that difficulty, I think one of the things we have to do — besides, as I often say, be imaginative and be brave — is to be honest.

For Māori people, ever since the first prison — a little raupō hut — was built in the north, our people have seen prisons as antithetical to everything that is consistent with tikanga and with our history. And as that little raupō hut expanded into the prison-building industry that we have today, that Māori view of imprisonment has merged into a clear analysis of the criminal justice system being racist.

And we need to be honest about that.

For some reason, a lot of criminologists and others have said it's unhelpful to use the word "racism". It's emotive. But unless we name the word, we can't address the problems which the word conjures up.

Now there is talk about something called "unconscious bias" and "affirmative discrimination", and so on. And those terms are at least more helpful than denying that there is bias or

discrimination but, in my respectful view, they still do not name the situation for what it is.

Part of the dissonance in this country about calling things racist is that there has developed, since 1840, this myth that the colonisation and the dispossession of Māori people was somehow better than the dispossession of other Indigenous peoples. That the Crown was somehow honourable in its determination to take away our lands, our lives, and our power.

But to have a notion of an honourable colonisation, of an honourable dispossession, is fundamentally a contradiction because you can't honourably dispossess someone of what they are — of their lands, of their history, of their language.

But the creation of the idea of a better-than-somewhere-else colonisation led to the idea that, as a result, race relations between Māori and others were better than anywhere else in the world.

And so, if there were issues with prejudice or bias, say in corrections policies or the operations of CYFS and so on, they easily get sidelined as being aberrations, as being exceptions to the rule.

People do get uncomfortable talking about racism, but if we don't talk about racism, it's rather like if women didn't challenge the patriarchy by talking about

sexism. As if women could challenge misogyny without naming it as sexism. As if women could talk about the disparities in pay between men and women, without labelling it as sexism. We don't seem to have a difficulty with using the term "sexism", but we do seem to have difficulty with using a comparative word in a different sense: racism.

So, part of the necessary debate, part of the necessary conversation leading towards the eventual abolition of prisons, in my view, is to be honest about how we frame that conversation, and to acknowledge the racism of colonisation, because in the end, colonisation was driven by decisions made in Europe, that so-called civilised white countries had a right to dispossess peoples who were not white, and not "civilised".

And although there were lots of other contributing factors to that dispossession — the mad economic drive for wealth and so on — the fundamental framework within which colonisation operated was a racist one. And it was from that racist framework that prisons and the subsequent development of corrections policies developed in this country.

And to name that for what it is, is not to suggest that everyone involved with corrections is individually racist. Just as to talk about male harassment of women is not to imply that every man is a

harasser of women. But it is to be honest, by naming the issue for what it is.

## **The “warrior race” myth**

In asking the question, “Why did Māori never have prisons?”, I realise the fundamental difficulties in putting the question in that way. And that was illustrated for me by the reactions on different Facebook pages to the advertisement for tonight’s meeting.

I noticed some of the responses to “Why did Māori never have prisons?": *Because they were so busy killing and eating each other. Because they were primitive savages.*

And all of those responses illustrated to me not just the racism that I mentioned earlier, but also illustrated one of the difficulties in asking that question. Because in order to answer it, we have to peel back a lot of the untruths, a lot of the racist lies which have actually been told about Māori people. Lies which continue to lurk underneath the facade of a bright western liberal society.

One of the things that the colonisers had to do when they set out to destroy and rampage through the Indigenous world after 1492, when Christopher Columbus landed in the Caribbean, was to invent reasons or justifications for dispossessing innocent peoples who had done them no harm and posed no threat.

Part of that need to invent a dispossessable “other”, was to create racialised distinctions in which certain people are inherently inferior, and therefore deserve to be dispossessed. One of those most influential inventions was the creation of what became known as a “warrior race” — that there were certain peoples in the world who were born to fight, to kill, and were naturally violent.

This nonexistent race was created out of the fantasies of western European philosophers. And these warrior race peoples were so violent, so opposed to everything that was normal and civilised, that it was sufficient reason to dispossess them.

So Māori people were classified as a warrior race by people in the early 18th century and early 19th century who had never been to this country. And one of the earliest examples was by a proto-anthropologist from Europe, who said this of Māori people: “Blood for blood is the one law which they have, and revenge is the precious gift transferred from ferocious father to ferocious son.”

They created this image of a people who were born violent — and a racialised picture of a people, in order to dispossess them. That then became a received truth, which was often used in the early years after the signing of the Treaty. It became

a handy lie upon which to hang the taking of our lands, lives and power.

And it was an effective lie. Because if you could convince yourself that the people whose lands you were taking, who you are committing genocide against, lived lives that were contrary to everything worthy in the world, then you didn't have to acknowledge the fact that those people you were dispossessing were actually ordinary human beings, with all the human faults and weaknesses that we are prey to.

That you were not dispossessing lovers and poets, kite makers and singers, philosophers and dreamers, children who just wanted the chance to grow up. You're instead dispossessing an object.

That notion of the warrior race has persisted today. So the discussion about moving towards the abolition of prisons needs to break through and peel away that lie, because the idea that we had no prisons because we spent the whole time fighting and eating each other, is part of that lie. It buys into that mythology. If we speak through that view, then of course we had no need for prisons, because if anyone got in our way we would just kill them.

That is such an entrenched idea that's still reported today. Just recently, there was a letter to the editor of a major newspaper, which complained about how Māori spent



all the time raping, pillaging, and killing each other. A recent academic text on the life of the moa, for goodness' sake, talked about the warrior race. That when a bird was killed, idle hands made mischief, the text says, and it wasn't long before the spears which had once killed the giant bird were turned to the killing fields to destroy others.

The historian Michael King in his wildly popular *History of New Zealand*, talks about Māori people having a martial or military disposition, which is an outcome of the warrior race, to use that to describe or justify or explain the existence of Māori gangs. He had no similarly facile explanation for the existence of Pākehā gangs. But what his suggestion did was turn Māori as the warrior race into Māori as the gang race.

So I think it's important if we're going to have this honest conversation, that we break through those lies, and acknowledge, as the poet Robert Sullivan once said, that "we were free people, makers of villages and makers of waka, breathers of spirit and air".

We were human — not perfect, but we had aspirations to work with those who caused harm and to comfort those who were harmed. And it's hard to break through to that truth if we continue to buy into the lie of the warrior race.

I've often said that Alan Duff's famous book and movie *Once Were Warriors* would more appropriately be called, *Once Were Gardeners*. Or, if you are Ngāti Kahungunu, *Once, and Always, Were Lovers*. And those images are as inaccurate as the images that we once were warriors.

In Alan Duff's book, there's a really stark, frightening line where Jake the Muss talks about his ancestors, and he said: "That's all our people did, us Māoris fought each other all the time, hated each other." But no peoples are born to hate. No peoples are born just to fight and kill. For all their imperfections, societies had moments of grandeur and nobility, as well as moments of fearsome violence and hurt.

### **The real Māori way**

One of the things, I think, that will help us break through that, is to look at a little pā site back in Kahungunu, which is called Tiromoana. It's inland from the coast at Te Awanga. And from the hilltop where the pā was built, there's a view across the Pacific to Hawaiki in the imagined distance. It was a unique pā. In Kahunungu, it was called a *whare rukuruku* which were sort of outpost centres for *whare wānanga*, the higher schools of learning.

The first *whare wānanga*, established after the Tākitimu waka landed, was set

up on Waikawa Island off the Māhia peninsula. And from that and other whare wānanga throughout the rohe, as throughout other iwi, there were little sub-schools of higher learning, and Tiromoana was one of those. It was a school of learning with a special purpose.

Around the base of the hill was a whare maiere which was a place where young people, men and women, were trained in the arts of conflict and war — based on the realisation that, humans being humans, conflict would arise, which may at times devolve into war.

But, on top of the hill, in what would've been inside the palisades, was a whare-a-rongo, where the students learned about what I call the metaphysics of peace: that there was always a balance between knowing what leads to the collapse of order, and therefore conflict, and what is required to restore peace.

And the fundamental lesson in the whare-a-rongo about restoring peace was that, when harm was done, then it wasn't just harm that one individual caused to another. But it was harm which destroyed an interconnected web of relationships. And so, if you hurt someone, you hurt the whakapapa to which they belonged, and you also hurt the whakapapa to which you belonged. And there wasn't just a narrow jural underpinning of some restorative way of dealing with harm.

It was a fundamental reflection of some of the core tikanga or values that underpin the Māori world, but which were submerged, and often still remain submerged, behind the notions of this violent, macho, naturally aggressive race of people. And the fact that that has been submerged has done terrible damage, I think, to our people.

We have a lot of our young men growing up with a distorted idea of what it means to be a Māori man. And when they lash out in frustration and anger with violent acts that hurt their partners or their whānau, in the minds of many of them, that is what it is to be a Māori man. And that is a terrible, terrible, tragic consequence of colonisation. Because in the end, what colonisation does is it makes people lose faith in who they really were.

And, so, the difficulty of addressing the question “Why did Māori never have prisons?” is to break through to that very imperfect but very human reality.

And within that reality, when a wrong was committed, there were processes in which the wrong could be addressed. And, in dealing with those roles, the idea was always to mend the relationships that had been damaged. That’s sometimes called today restorative justice. In Ngāti Kahungunu, it was called mahi tūhono

— that is, work which brings people together.

So, after harm, the resolution is to bring people back together. And, interestingly, at home, the term mahi tūhono is also the word we use for making treaties. Because, in the end, to make a treaty is to bring people together. And, as with the Treaty of Waitangi, it was to bring people together to make a new relationship.

And, so, if you have a value space which acknowledges that harm will be done, that people will be hurt, but the way to resolving and healing that hurt is to seek to restore the relationship, then you have a justice system, if you like, which sees no need for prisons.

The idea then, of restoring harm, becomes a cultural ethos, which has been translated into jural action. And if we can learn more of that — and every iwi, and every hapū has their own story of how they did that — then perhaps, in this country, we might find something better than prisons. That, in the stories in this land, we might be able to imagine, and then dare enough to think of something else. And that daring to think of something else is happening with the talk about the abolition of prisons.

### **What could come next?**

In many other countries, and particularly a lot of the Northern European states,

they are actually closing prisons. So, where New Zealand is now, per capita, per head of population, one of the biggest builders of prisons in the world, other countries are doing the opposite. They're beginning to close prisons and look in their own history for something different.

What existed, say, in Norway, what existed in Finland, before the idea of prisons came on the scene?

To reach that debate, we have to debate what sort of society it is you think we live in. And that debate has particular difficulties in this country because the effect of neoliberalism over the last 30 years has been to make this a much more vindictive society.

In the 1980s, when we released the report on Māori in the criminal justice system, it was not greeted with universal acclaim because a lot of people got upset and talked about how there should be one law for all. To which my response was: Before 1840, there was one law for all, and it was ours.

But in spite of the fact that it wasn't greeted with universal acclaim, there was, nevertheless, at that time in this country, I think, a generally held and accepted view that the purpose of dealing with those who cause harm should be to help them rehabilitate, help them find a place in society.

That has now changed in the last 30 years of neoliberalism. In the 1980s, a group like the Sensible Sentencing Trust would not have arisen. Now, its simplistic and often racist analysis of criminal justice issues seems to have made the Sensible Sentencing Trust the go-to place on corrections policy.

Well, I happen to believe we're better than that — and that the last 30 years of this increasing vindictiveness, of “lock them up and throw away the key”, when you even have a professor of law calling criminals “scum”, is a comparatively recent blip in time in our history. And, as I said, I think we're better than that. And if we are indeed better than that, then that should enable us to open our minds and open our hearts, to thinking about other possibilities.

And it's not as though the suggestions have not been there. In 1989, a very important report, which I'm sure many of you will have heard of, called the Roper Report on Prisons, was released, which took some very tentative steps towards looking at what it called habilitation centres. Rather than thinking of just prisons, thinking of a different place where those who have caused harm might go.

That coincided with a notion which exists in many iwi of what we used to call whare mārie, places of calm and peace. Where

sometimes, when people were under stress, heartbroken, frustrated, they would be taken to live with a whānau in a whare mārie, a place where they could reclaim their own balance — and, with that, seek restoration of any relationships that might have been damaged.

So, the ideas about what might replace prisons have already been thought about. And what I hope we might do is not just revisit reports, like the Roper report, but also look back into the history of this land, where many of the seeds of what might replace prisons are already present. And some of those stories might be hidden deep in the land, and might have been forgotten. But they are still here, waiting for us if we care to listen.

### **Looking to the future**

One of the essential parts to me of the Treaty relationship is that, like all relationships between the Crown and all those who have come here since 1840 because of the Treaty, and tātou te iwi Māori, it will be based on equivalence of authority. As the Waitangi Tribunal said in its report *Te Paparahi o Te Raki* in 2014 (contrary to what the Crown has said ever since 1840), Māori did not cede sovereignty. Māori did not give up their authority to the Crown. Or, in the language of the Tribunal, we did not cede our sovereignty. And that was consistent



with what our people have been saying ever since 1840.

If we did not cede our sovereignty, then neither did we cede or give away the constituent parts of that authority. The fundamental part of that sphere of influence which was reserved as tino rangatiratanga in the Treaty was surely the right of Māori to deal with those who cause harm, to make decisions about what things, what actions, what ideas, disturb the tenor of peaceful coexistence.

But, of course, since 1840, the Crown has assumed that it is the sole authority to determine what should be done with those who cause harm. And the most imaginative response has been to build more prisons. That is singularly unsuccessful. And, also, it seems to be contrary to the relationship envisaged in the Treaty, where if we're able to talk within a Treaty relationship, then maybe in the stories in this land, we can find something other than imprisonment as a solution to the problems caused by those who do harm.

And I imagine that if we can maintain that conversation, there are many amazing groups of young people like JustSpeak, like People Against Prisons Aotearoa, and many others, who want to participate in that debate, who want to think about what it might be like.

I always like to think it's helpful to set a goal for a difficult social conversation, to think about when we might get to that point. And when I was involved for a number of years with Matike Mai, the iwi working group on constitutional transformation, we set 2040 as the goal for constitutional change, for change in the way this country is constitutionally-ordered 200 years after the Treaty.

And I think 2040 will be quite a good date to set, when we will be further down the road in this conversation about replacing prisons with something that is indigenous to this land, which reflects the better nature envisaged in the relationships of the Treaty. And which more effectively deals both with those who do wrong and their victims.

In order to be part of that conversation, I think it's important that people realise that lots of Māori people have been having this conversation for a long time. Often, because of the rate of Māori imprisonment, its costs affect Māori people more directly. Not just because for every Māori in prison there's a whānau, there are children, and so on, but simply because of the costs of that imprisonment for those who are impacted by it.

And, so, if we had a sort of sliding scale of where the country is in talking about prisons in a meaningful and change-positive way, where it's between 1 and 10,

I'd guess Māori people are about 6, and most other people are about 2. Groups like JustSpeak and People Against Prisons are probably at about a 9. But there's a substantive difference.

Those of you who've heard me talk before, will know I like telling stories about my mokopuna, and this is one I've told quite often, because it illustrates that in the way that only the wisdom of mokopuna can.

One of my mokopuna grew up with the reo as her first language, and now she's got a little older, she's speaking English, of course, and learning to read and write in English. And we were sitting together one day and she was reading through a list of English words, stumbling over the pronunciation sometimes, trying to work out what they meant, and so on. And then she went silent for a while, and then she hit me, as mokopuna tend to do. "Koro, Koro, what's this word?" I said: "Spell it." And she spelt it: *Future*. I said: "Oh, that's future." And she said: "What's future?" Do you know how hard it is to explain to a child what future is? And, so, I said: "It's when we take all our yesterdays, and all of our todays into our tomorrows."

And as soon as I said that, I thought: She probably hasn't got a clue what I'm talking about. But she happily carried on reading. And the next morning, I was in the kitchen and she came bustling in. She went to the cupboard, got her little

lunchbox for kura out of the cupboard, put some food in the lunchbox, grabbed a bottle of water, and went outside. And I saw her stuffing her lunchbox into the saddlebag on the side of her little bike. And, as she did that, a little Pākehā mate of hers came along, who some of my whānau call her shadow, because he's two years younger than her and he sort of follows her everywhere. And he said: "What are you doing?"

With that frustrating way that kids have, she said: "Nothing." And she got on her bike and started to peddle up the drive. And this little Pākehā boy said: "Where are you going?" And she said: "I'm going to find a future." And he said: "Can I come?" And she looked over her shoulder and said: "Can you keep up?"

It seems to me that if we are to navigate into the future, where the abolition of prisons becomes a reality, then we have to encourage each other to keep up. To encourage each other to believe that even those who do the most harm deserve understanding as fellow human beings — and that those who they harm need support and caring and nurturing, not just to find calm within themselves again, but the strength to rebuild a relationship with those who did the damage.

And I don't underestimate the difficulty of that shift. But I believe the Treaty gives us a framework within which we can work

towards it. And I believe, as I've said, that we are better than that.

I often say that if we're going to change things, and have a meaningful conversation about prisons, then we have to be brave. And we have to be imaginative. And if we say: "I think we should abolish prisons," to not accept when someone responds by saying: "That's unrealistic." Because every time someone says "that's unrealistic" — and the Crown says that to Māori all the time — that's not a debate. That's not a conversation. That's a closing-off of discussion. But we're often dissuaded from imagining something when we're told it's unrealistic.

I like to imagine hundreds of years ago, one of our tīpuna, standing on the shore of Hawaiki. Looking out across the Pacific, the greatest ocean in the world. Looking out at the distant horizon, and saying: "I wonder what's beyond that horizon? I think we should go there." And I bet his mate standing next to him said: "No, no, bro, that's unrealistic."

But we did it. We did it. Because part of being brave, is to take a deep breath, and then do what might, at the time, seem impossible. And often to even mention prisons in the same sentence as abolition seems to be impossible. And anyone can be brave. Anyone can be imaginative. If

we have the will to believe we can do something better.

I recently found a poem by a Ngāi Tahu poet which, in a few short verses, summed up that connection between imagination and courage. The poet's name is Teoti Jardine, and he wrote a poem about his kui, and it goes like this:

*My great great grandmother wove  
her korowai with clouds and  
braided bull kelp lines to hold the  
tide.*

*She knew no fear, reaching beyond  
the blue every day, she would tidy  
up the sky.*

I know lots of kui who are brave and imaginative like that. I know lots of young people who are brave and imaginative like that. And that's what we need to move from a country with one of the highest rates of incarceration in the world, to a country which dares to believe there's another way of doing things. I hope you will be part of the conversation.

*Moana Jackson (1945 – 2022) was Ngāti Kahungunu, Ngāti Porou, and Rongomaiwahine. Moana loved telling stories to, and for, his mokopuna. He hoped they would grow up in a land where te Tiriti would finally be seen as*

*the base for respectful political relationships.*

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