

MAORI OFFENDING — A VIEW FROM WITHIN

Maori youth are consistently placed at a disadvantage in their contact with the criminal justice system. Notwithstanding fairly widespread reservations about the official data, the pattern over many years strongly suggests a systematic disadvantage for Maori. This does not necessarily mean wholesale prejudice on the part of law enforcement and the judiciary, but that something is operating in community relations as reflected in high arrest, charges, convictions and over-representation in prisons.

Maori criminal offending is published in extracts such as the following:

"At 31 March 1980, 13% of the population aged 17 and under were Maoris. Forty-nine per cent (49%) of all Children & Young Persons Court appearances were Maori." (Source: Social Welfare Department).

The inference is, of course, that Maoris individually are coming before the Childrens Court out of all proportion to their numbers in the total New Zealand population. In fact, the comparison is quite wrong.

The "13% of the population" refers to those people who saw themselves as Maoris and counted themselves as such once only on the night of official Census. The "49% of Children & Young Persons Court appearances" refers to how the official policies processed individuals and identified them as they appear in the system. It is the appearance that is counted and added up at the end of the year. The same person is counted each time he or she appears in Court.

This is like a farmer trying to judge the extent of mastitis infestation in his herd by adding the same infected cows to the total each time they appear for milking. It makes more sense to count once only those infected and get a total of individuals in the herd. If he keeps counting appearances he will eventually get more appearing than there are cows infected.

Official statistics on criminal offending don't count individuals. They count only charges or offences. We simply don't know how many Maoris (or for that matter, any other ethnic group), are in the total

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group of persistent or first-time offenders. Incredible, but true. One also wonders why the individual is ignored. Could it be that the Courts process only charges and offences at the cost of individuals?

It is entirely probable that only a relatively small group of Maoris are responsible for offending out of all proportion to their numbers.

DISADVANTAGED

There is a strong field of opinion that criminal offending, especially juvenile offending, is predominantly a lower socio-economic class activity. The connection between that and the relatively high proportion of the Maori population being young and from the lower wage earning homes is easy to make.

The lack of money to pay for legal services is undoubtedly having a big influence on the end result of offences being brought before the Courts. Fairly well educated people with money and with the "right" attitudes to others of like disposition, have a systematic advantage in the legal process. They are well reinforced through their social institutions, so more attuned to the game. They are also much more aware of their rights and the power of money to ensure that those rights are exercised. Their offending tends to be private and hidden. Maori offending is for public record.

The Maori, because of his/her social and cultural remoteness from the

world of judiciary, experience the shadow rather than the substance of equality before the law. Money may not be everything, though it counts for an awful lot in getting justice.

There is nothing called "law" which you can buy from a shop. We can't go to a grocer and buy 10lbs of law, put it in our basket and take it home. If the law is "broken", we can't see the pieces of "broken law" like those of a cup or plate. We only know about the law. It is in the mind. How it gets there is something else again. We pay people for our ignorance of law. Some people — lawyers, policemen, and police-women, traffic officers, the Judges and Court people — are in a pretty privileged position. They know far more about the "law" and what it is all about than others. They know the tough hide of the charges and the soft under-belly of technicalities which work in proving or disproving those charges.

IGNORANCE — NO EXCUSE

Here again we have another systematic disadvantage for Maori in the legal process. The old saying that, "ignorance of the law is no excuse" is pretty well much of a fairy tale. There is such a huge amount of law waiting around to be broken and so many eager forces ready to pounce, that the typical citizen can hardly spend a day without breaking one sort of law or another.

Knowledge is a definite advantage. Either knowledge of the requirements of laws or knowledge about what to do when things go wrong. The Maori very often, lacks both advantages. Such disadvantages can be very costly in terms of peace of mind and freedom of action. However, it is not simply a matter of knowing. It is a matter of understanding. Society expects to spend millions of dollars on teaching lawyers, judges, law enforcement officials and others working the legal system, so that they will not be "ignorant before the law" It enhances the mysticism of the wig and gown, the polished rituals and the intonations of those lesser mortals in the dock.

In comparison with such learned gentry, the Maori is technically unfit to plead. He/she simply does not comprehend the scene being en-