



Punishment in an Early Colonial Society: The Inglorious History of Wellington Gaol, 1844–1931

Rebekah Bowling (Kāi Tahu) and John Pratt

Te Herenga Waka - Victoria University of Wellington, New Zealand

Abstract

In 1844, a replica of the famous Pentonville Prison was built in Wellington, New Zealand, shortly after the commencement of British colonisation. It never matched the size and scope of the London original and was demolished in 1931. However, the existence of this incongruous New Zealand institution raises important sociological issues. First, it will be argued that it had symbolic importance in maintaining settler identity with the homeland. Second, it had a functional importance in terms of the way it represented the ability of the colonial government to subdue any recalcitrant who sought to challenge the authority of British imperial power. Third, its closure came about because of longstanding pressure from local citizens, for whom its presence had become an unwanted stain on the otherwise untainted local landscape, reflecting New Zealand's transition from a frontier society to a modern society with the sensibilities associated with it.

Keywords: Pentonville; prison; New Zealand; penal culture; Māori.

Introduction

London's Pentonville Prison (Pentonville), erected in 1842, represented 'the culmination of a history of efforts to devise a perfectly rational and reformatory mode of imprisonment' (Ignatieff 1978: 11). Still in use 180 years on, it had been designed by Sir Joshua Jebb, Royal Engineer and British Surveyor-General of convict prisons and aged 49 when the prison opened. It was based on 'the separate system', a form of prison management that exercised solitary confinement to 'force the most obstinate felon to reflect, and reduce him to a state of mind in which [internal contemplation] could exercise its beneficent influence' (Henriques 1972: 77)—notwithstanding that the result of such confinement might be insanity (Cox and Marland 2019). Described as 'the most modern building in Britain', Pentonville's state-of-the-art structural design included segregated chapel quarters and exercise yards, 18-inch thick walls that diminished the transmission of sound and 520 individual cells, which contained the necessities of prison life, including central heating and a flush toilet—thereby allowing for the confinement of inmates in solitude for 23 hours a day (Henriques 1972). Greeted with great acclaim, it became the prototype for subsequent British prison development (Pratt 2002)—and much further afield. Its influence on prison building in Australia—especially HM Prison Pentridge in Melbourne, Darlinghurst Gaol in Sydney and Port Arthur Penitentiary in Tasmania—particularly during that country's time as a penal colony is well known (see, e.g., Kerr 1988). However, much less well known are its effects on prison design in New Zealand, particularly Wellington, given that this colony was intended to be and was celebrated by its original settlers from Britain as the antithesis of Australia. While the latter was commonly known throughout the nineteenth century and beyond for its 'convict stain' (Smith 2008), New Zealand, in contrast, was pictured and advertised as a pristine 'Britain of the South Pacific':

An Englishman going thither, goes among his countrymen, he has the same queen, the same laws and customs, the same language ... [and] the same social institutions, and, save that he is in a country where trees are evergreen, and where there is



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no winter, no opera, no aristocracy, no income tax, no paupers, no beggars, no cotton mills, he is, *virtually*, in a young England. (Hursthouse 1857: 637)

Nonetheless, in addition to transporting some of its early offenders to the penal colony of Van Diemen's Land (Burnett 1978), rudimentary huts had been used to house law-breakers immediately after British colonisation in 1840. In 1843, Judge Halswell described what first passed as a gaol in Wellington as a 'miserable Maori [sic] hut' (Harman 2017: 44). Its materials were 'slight' and 'flimsy', making the facility so 'deplorable' that prisoners were easily able to escape from their irons and break through the gates (*New Zealand Gazette and Wellington Spectator* 1843: 3). However, Chief Police Magistrate Michael Murphy (1842: para. 1) urged that a gaol of 'larger dimensions' with 'sufficient size and strength' was needed in Wellington and that tenders for a new gaol would be accepted in April 1842. Those submitted by 19-year-old Mr Thomas Fitzgerald, based on his plan for a replica of Pentonville, were accepted. Of Irish ancestry, Fitzgerald had been appointed Assistant Surveyor to the New Zealand Company (the private organisation led by Edward Gibbon Wakefield) that had begun colonising the archipelago ahead of endorsement from the British Government. While he had architectural training, his career as a surveyor for the civil government of the new colony meant that Fitzgerald was the closest person available for the job, and he seemingly brought a copy of the well-publicised Pentonville plans with him on the voyage to New Zealand (Richardson 1997).

The Wellington version of Pentonville was to be built atop Mount Cook, giving it a 'commanding view of the whole town' (Cooke 2006: 1), while at the same time, a glance upwards from local citizens would be met by its stern, brooding prominence. It was intended to be Y-shaped and consist of two three-storeyed wings with 96 cells in each, accommodating 382 prisoners in individual-styled cells (*New Zealand Blue Book* 1844: 201). This was despite the fledgling colony only having a population of 12,447 settlers and 73,900 Māori in total (Statistics New Zealand 2008). In Wellington, the population was 2667 settlers and 350 Māori in 1845 (Grimstone 1847: 39, 43). Nonetheless, it was also to be surrounded by a 9-foot fence, which would enclose gardens, segregated workshops and three exercise yards so that prisoner separation and classification could be enforced (Methven 2011). However, on its completion in 1844, it consisted of a one-winged half-octagon 'stub' with just 16 cells (McCarthy 2017), although there were later additions to it. When it opened, it had cost GBP1500 to be built, whereas the real Pentonville cost GBP84,186.

In 1843, it was reported that there were 39 inmates sentenced to the gaol and confined within its cells—with as many as four prisoners crammed into a single room measuring only 7 feet by 5 feet (*New Zealand Blue Book* 1843: 209), thereby rendering any adaptation of the separate system of confinement impossible. In addition to these differences in scale, cost and scope, the prisoners were regularly marched out of prison to perform labour on public works rather than working in their cells or on a treadmill, one of the specific characteristics of the original. Conditions within the cells probably necessitated this anyway, but at the same time, there was a high value placed on the utility of prison labour of this kind. Thus, it was agreed in the Wellington Municipal Court in 1844 that:

An application should be made to the Sheriff, to direct the constables, or other officers in charge of the labour gangs of the prisoners in his custody, to receive instruction from the Town Council as to the improvement of such parts of the public roads or works as they shall from time to time deem most conducive to the public benefit. (*New Zealand Colonist and Port Nicholson Advertisers* 1842: 3)

Such prisoners were employed in 'breaking stones for roads, public roads and public institutions' (*New Zealand Blue Book* 1844: 93) Indeed, this 'march of shame' out of prison became a feature of town life in early colonial New Zealand:

At [10] minutes before eight ... each man is to produce the implement with which he is to labour during the day ... each man is then to be set to his work to be measured out by the overseer under the direction of the superintendent of public works. The prisoners proceeding in couples and in an orderly manner to and from such work ... during which the overseer is to prevent all idling and talking and on no account to allow speaking to passers-by. (Pratt 1992: 79)

An attempt to have the prisoners confined to the gaol by local citizens was rejected in 1854 (Pratt 1992: 82). In parliament, it was explained that this would not only be 'impractical' but 'as labour is scarce in the colony, the best practical remedy would seem to be to authorize [prisoners'] detention in the colony and their employment at hard labour on some useful public work' (Swainson 1854: 245). In other words, the separate system of confinement embedded in Pentonville had no place in its supposed Wellington replica (or, at least, what had been commenced on the drawing board as a replica).

From these grandiose plans but humble beginnings, the prison remained in use until 1900 (although it housed conscientious objectors to First World War conscription between 1917 and 1919). It was finally demolished in 1931. It was replaced by the new Wi Tako Prison, built in the then largely undeveloped Hutt Valley, 30 miles away (*Evening Post* 1919). On the face of it, the Wellington version of Pentonville seems to have been an entirely incongruous building with an equally incongruous history

that never came close to the design originally intended for it. However, the plans and intentions for the prison, its bowdlerised presence and ultimate closure raise important sociological issues about the role and place of such an institution in settler society.

First, and despite its incongruity, it will be argued that it had symbolic importance in maintaining settler identity with the homeland: it became one artefact, among a range of others, that allowed the new colony to be transformed—at least in the eyes of its settlers—from being an ‘anarchic wilderness’ to an orderly ‘Britain of the South Pacific’, and in so doing, aided settlers to maintain British identity, so important for most of them at that time in the absence of any other for them to cling to. Second, it had functional importance in terms of the way it represented the ability of the colonial government to subdue, through this expression of its power and authority, any recalcitrant who sought to challenge or corrupt the expansion of settlement, both in terms of its physical bounds and economic and social advancement: the prison would not only house members of both races who posed such threats but would be used to crush, as necessary, any more sustained resistance, as during the New Zealand Wars of the 1860s and 1870s between the Crown and Māori (Belich 1986). Third, its eventual closure came about because of longstanding pressure from local citizens, for whom its presence had become an eyesore and an unwanted stain on what to them, at least, was an otherwise untainted local landscape—reflecting as well, New Zealand’s transition from settler to modern society: in line with most other Western countries, public sensitivities now found the presence of prisons offensive and detrimental to high-quality urban development.

The Place of Wellington Gaol in the ‘Britain of the South Pacific’

The attempt to replicate Pentonville in Wellington in the 1840s had little to do with crime. Indeed, there was very little crime among both the early settlers and Māori (Dorsett 2017)—as might have been expected in the early days of the settlement, with a great scarcity of goods and personal property (at the inaugural opening of the Dunedin Supreme Court in 1851, there were no cases to be heard). The 1853 crime statistics show 1373 convictions for Europeans in the magistrates’ courts and 63 for Māori (Statistics New Zealand n.d.). Over half of these were for drunkenness, with the next highest offence being theft. In 1868, there were 16,370 convictions in the magistrates’ courts, with drunkenness constituting 42 per cent of them—as the New Zealand population grew, so did the crime figures.¹ However, a good part of this increase can be attributed to the gold rush from the 1850s and its attraction to itinerant single men (Fairburn 1989). Thus, the *Nelson Examiner* (1857: 2) urged its readers ‘to look sharply after their movable property now that so many strangers are arriving among us ... small crimes are becoming more abundant now that we have so great a moving unsettled population’. In the Otago goldfields, there were reports that:

a township was subjected for several hours to the tyranny of a few rowdies, who had evidently made up their mind to commit any outrage with or without pretext. One man, whose brogue betrayed his country ... rushed up and down the township assaulting every person he met. (Daily Times Correspondent 1862: 2)

A further report indicated that in one mining settlement, ‘gaming and fighting are becoming prevalent ... The storekeepers have agreed to appoint amongst themselves a private watchman ... many very bad characters are now in the district’ (Special Correspondent 1862: 6).

In contrast, the commissioner of gold fields claimed that ‘the condition of the miners is very favourable. Taken as a class a more respectable body of men never followed the vocation of gold-mining. Orderly and peaceable in their habits and general conduct, crime is rare amongst them’ (Harris 1863: 21). And in Nelson, fear of crime seemed to have exceeded the reality of it. Thus, one correspondent reported that ‘I was agreeably surprised at not finding disorder and drunkenness carried to so great a degree as ... I had been led to expect ... with the exception of one occurrence caused by one man ... everything was quiet’ (A Visitor to the Diggings 1857: 3). Further, the level of crime—such as it was—seems to have been concentrated primarily in the European rather than the Māori population at that time. Chief Justice Arney told the Auckland Dunedin Supreme Court that ‘I believe that we have not a single native on the calendar ... [and] crimes are of themselves of a comparatively light nature. The great majority of them are merely ordinary cases of larceny; and when one considers the habit of drunkenness that prevails so commonly among the population, one is only surprised that there should be so few cases even of larceny’ (*Daily Southern Cross* 1865: 5).

The low level of crime continued into the 1870s, as the exchange between the commissioners of the Gaols Committee for Wellington and the gaoler, Micaiah Read, confirmed:

169. Mr Wakefield: You say that there is no criminal class in Wellington; but I understand that you have sometimes very desperate scoundrels to deal with?—There are roughs who commit very violent assaults, but they are not persons who live a life of crime.

170. Is not burglary a common sort of crime in Wellington?—No

176. Mr Fox: Do I understand Mr Read says that there is no organized criminal class in Wellington?—What I mean to say is, that there is no criminal class such as that to be found in Seven Dials or St Giles, London. (Gaols Committee 1878: 7-8)

In 1840, Edward Jerningham Wakefield (1845: 150) was still able to confirm that ‘crime is rare in comparison with what it is in [Britain] ... in a country where the poorest are well off, and may even grow rich if they please, the temptation to crime is very weak ... the sorts of crimes which fill our gaols at home, and [are] found in some of our colonies, are almost entirely unknown’.

On this basis, then, there should have been no urgency to build prisons, let alone an intended replica of Pentonville. That there was such a prison reveals the symbolic role played by such an institution, at least at the time of its inception, irrespective of the level of crime. Its presence provided a sign of reassurance to the settlers that, on arrival, they remained part of the Western world and all that this involved, irrespective of whatever distance they might now be from Britain, irrespective of how illogical it might otherwise seem to try to build a prison that (in theory) could house around one-seventh of the community in which it was built, and irrespective of how fragile this new society that they had come to might be. Indeed, the greater the fragility of the new society that they were trying to create, the more necessary it would be for them to cling to this identity and the more rigorously they would attempt to impose their version of the British way of life on their surroundings.

Thus, the settlers were determined to define everything around them in specifically British terms and, in so doing, recreate what they judged to be all healthy aspects of British society. In 1848, Governor George Grey (quoted in Purchas 1909: 31) thus claimed that the ideal of the Canterbury Association (a sub-branch of the New Zealand Company in the South Island of the country) was a settlement that would reproduce ‘an English county, with its cathedral city and its famous university; its bishop, its parishes, its endowed clergy; its ancient aristocracy, its yeoman farmers, its few necessary tradesmen, its sturdy and loyal labourers’.

If these comments reflect the values of what came to be the New Zealand landowning class, emigration companies also played up the supposed resemblance to ‘the old country’ for would-be immigrants, as with Edward Gibbon Wakefield (1914: 129), for example:

[T]heir imagination is employed in picturing the colony generally, and in all sorts of particulars. The glorious climate, the beautiful scenery, the noble forests, the wide plains of natural grass interspersed with trees like an English park; the fine harbour, the bright river, the fertile soil; the very property on which they mean to live and die, first, as it is now, a beautiful but useless wilderness, and then as they intend to make it, a delightful residence and profitable domain.

Thus, the construction of a British legal and penal framework would provide protection for what was projected, particularly in advertising material as an extremely virtuous society, untainted by the ‘convict stain’ of most neighbouring Australian colonies from whatever dangers it faced. As such, the plans for Wellington gaol that would replicate Pentonville not only provided an assurance of security but reaffirmed the presence and shield of British imperial power. At the opening of the gaol, Attorney-General for New Zealand William Swainson (1859: 56-57) had reported that ‘the advent of a new power in these islands was solemnly proclaimed’ that was ‘best fitted to administer justice impartially between the native people and a still more powerful race’ than ever before.

However, at this juncture, the *New Zealand Blue Book* (1843: 229) described the gaol as having:

[a] prison wing 33 Feet 6 Inches Long by 40 feet wide and 23 feet 6 inches in height from ground to the eaves of the building. It consists of two stories with 8 Cells in each Story, and a central hall running the whole length of the Building 10 feet wide and 21 feet high to the Ceiling at the upper end of which is a Staircase leading to a Gallery communicating with the Upper Cells.

While the original Pentonville had been premised around the separate system of confinement, the building of Wellington gaol forced an immediate departure from any such possibilities. The lack of longitudinal partitions within the corridors meant that prisoner categorisation was inadequately enforced because the cell wings were unable to be divided (McCarthy 2017). In 1844 Justice Chapman initially complained to the superintendent of the gaol that it was ‘confined and unhealthy, and when crowded with the persons accused of crime and debtors, males and females, without means of classification or separation, I can bear witness that its condition is truly shocking’ (quoted in Roper 1989: 10). Within the first two years of the prison’s opening, one member of the Settlers’ Association who visited unannounced reported that ‘none of the eight cells have either light nor ventilation’, and that ‘the room stinks so abominably, that when it is opening in the morning, the amount of carbonic acid gas mingled with the most abominable effluvia, which escapes at the door, nearly knocks the turnkey down’ (*Wellington Independent* 1846: 2). He also noted that it was common to observe sick or injured inmates in the prison, stating there were

‘three lunatics shut up in their cell at night, without blankets, or clothes of any kind, and one of them has untreated ulcerated legs’ (*Wellington Independent* 1846: 2).

In further contrast to Pentonville, the cells were only furnished with a single bucket for urination and clothes washing, meaning that inmates were forced to share two doorless ‘long-drop’ lavatory arrangements situated in the single exercise yard where all inmates would congregate (Methven 2011). As noted by the Sheriff at the time, the lack of ablution facilities at the gaol undermined the ability of the prison to continuously separate inmates in accordance with Pentonville’s architectural design (McCarthy 2017). But when opened, the Wellington version of Pentonville received none of the fanfare that greeted the opening of the London original. Instead, it was described as possessing ‘gross evils’ with its lack of prisoner classification, separation and hygiene facilities (*Wellington Independent* 1846: 2).

Thereafter, the gaol was described as a ‘habitation more fit for wild beasts than human beings’ (Warden 1865: 3). One man who spent three months awaiting trial in the gaol wanted to bring attention to the ‘wretchedness and misery’ of the institution (Warden 1865: 3). He condemned the building’s lack of separation and the uncleanliness of the prison’s facilities and its inability to tend to those with illnesses and asserted that ‘many are left to die from sick [sic]’ because doctors were not positioned at the gaol, and that those who survived were left ‘unfriended by the citizens of Wellington’ due to their association with the ‘towering hell’ of the gaol on the hill (Warden 1865: 3). The lack of classification also meant that every inmate was treated with disdain regardless of their circumstances: ‘a man awaiting trial is not guilty until found so by [12] of his own countrymen and ought not to be mixed up with convicted prisoners’ (Warden 1865: 3).

However, it does seem that some attempt was made by the prison authorities to present a better functioning and more humane impression of the goal to members of the press. After a guided tour, a correspondent for the *Wellington Independent* (1866: 6) reported that it was ‘one of the most strongly secured, and best conducted houses of correction in New Zealand’ and that despite its architectural inadequacies, the prison still allowed for the distinction and separation of inmates. He was amazed by the ‘stillness and scrupulous cleanness’ of the prison, whose cells bore ‘cleanliness and comfort’ (*Wellington Independent* 1866: N6) to the extent that the heavily barred windows were the only indication that it was a gaol. This apparent cleanliness was exemplified by the ‘water of excellent quality supplied’ in the lavatory, the well-ventilated corridors and the ‘lofty’ nature of the cells to provide ample room for inmates (*Wellington Independent* 1866: 6). There was also a ‘densly [sic] dark cell’ for punishment purposes, one of the few original features of Pentonville that had been possible to construct in Wellington; 1863 gaol regulations provided for solitary confinement in the dark cell for periods not exceeding one month for prison-related offences such as mutiny (*Wellington Independent* 1866: 6). Those who were confined to it were usually shut in for 60 minutes at a time—contradicting earlier reports about its excessive use. It was also reported that the ‘perfect neatness’ and ‘excellent condition’ of the prison had been brought about by the ‘superior system’ of punishment that had been imported from the Pentonville original model, with the author concluding that Wellington gaol was a ‘fine establishment’ that treated inmates with ‘benevolence’ (*Wellington Independent* 1866: 6).

A diplomat, no doubt on another guided tour and who had visited the Darlinghurst Gaol and HM Prison Pentridge in Australia, also had high praise for the gaol (*Evening Post* 1876a: 5). Although the separate system was not completely enforced because ‘New Zealand [is] not yet advanced far enough to cope with the excellence separation as seen in Melbourne’, he recognised the potential for it through an improvement of Wellington gaol’s architecture (*Evening Post* 1876a: 5). In noting that the gaol was built on one of the most ‘healthy spots in the city’ and that inmates seldom suffered illness due to the ‘perfect replication of cleanliness, comfort and ventilation’ of the Pentonville original, this official reported that ‘we cannot see that those confined in the Wellington gaol have any cause for complaint’ (*Evening Post* 1876a: 5). Although the gaol was overcrowded and the current state of accommodation was insufficient, he claimed to have heard on ‘very good authority’ that a new wing would be constructed to mitigate this problem (*Evening Post* 1876a: 5).

However, despite such attempts by the prison authorities to present a sanguine picture of Wellington gaol, members of parliament articulated more widely held public opinion. During a sitting of the House of Representatives in August 1876, the gaol was described as a ‘highly ineffective reformatory institution’ that was unsanitary and overcrowded (*Evening Post* 1876b: 2). In addition, it was ‘a shocking example of that lack of proper prisoner accommodation’ where the cells ‘were not large enough for all the men to be seated’ and ‘the corridors were strewed with men sitting down to their meals’, such that prisoner classification was futile (*Evening Post* 1876b: 2). Gaol officials ‘were stuffing [100] men into places which were only fit for [30]’, and temporary accommodation for short-sentenced prisoners outside the gaol, such as in old ‘hulk’ ships, was increasingly needed (*Evening Post* 1876b: 2). In the same discussion, the Honourable Justice Richmond described Wellington gaol as ‘a place where you would send a man to take a course of contamination in a school of crime that will inevitably make you worse than you are’ and urged that ‘it shall not be too long to wait before much-needed reform is instituted’ (*Evening Post* 1876b: 2).

Thereafter, the extent of the alterations signalled in 1876 only amounted to three new cells for drunkards, two news cells for juveniles and four more dark cells in the basement, and even these took five years to be built (*New Zealand Mail* 1880: 20). Moreover, a former inmate who had actually spent time in the existing dark cell wrote of it as a ‘small densely[sic] dark room where rays of the brightest sun never penetrate’, and where lone inmates were held for days or weeks at a time with no bedding and restricted rations (*Wellington Independent* 1866: 6). Thomas Gillies MP described it as a ‘relic of barbarism’ (*Otago Witness* 1872: 2). Although it had been reported that the gaol contained a library of over 400 volumes of books and inmates received two hours of schooling every evening, no other reports of these phenomena are recorded elsewhere—raising questions about whether the diplomat’s tour had given him a genuine reflection of prison life in this institution.

The appointment of Captain Arthur Hume (a protégé of Sir Edmund Du Cane, originator of the fearsome ‘hard bed, hard fare, hard labour’ regime in British prisons) as Inspector-General of Prisons in 1880 resulted in further criticisms of Wellington gaol - and the entire New Zealand prison system (Pratt 1992). Hume’s first annual report to parliament complained that ‘the prisons, as they at present exist, are neither deterrent nor reformatory. I consider this is mainly due to the absence of any system of classification, owing to the very limited accommodation in most of the prisons’ (Hume 1881: 1). He was also encouraged to practice what he had learnt under Du Cane; indeed, this seems to have been the reason for his appointment. As was stated in parliament, ‘[prison] should have terrors. A man should not go to gaol with the expectation of coming out a far better and more skilled man than he went in. It should be sufficient for him to go there and get a wholesome terror of ever going back again’ (Joyce 1883: 207). These ‘terrors’ were to include cuts to rations, restrictions on association and separation within the prisons, with an end to public works outside them.

However, once again, the plan to model the New Zealand prison system along British lines came to nothing. The conditions of the cells, the lack of separation and classification, and the continuing need for labour beyond the prison led to the continuation of the daily march of shame and the public works programme. In 1908, a member of parliament remembered that:

In Wellington, I have often seen the spectacle presented in the public streets of as many as [40] and [50] fine, robust men, well able to do a day’s work and earn their living honestly, marching like soldiers between the place where they were exercising themselves and the Gaol ... These men were maintained in greater comfort and under better conditions than the average of the working-classes. (Hogg 1908: 298)

Though, by this time, the gaol was in terminal decline. Following the criticisms of the House of Representatives above, construction began on an entirely new prison in the late 1870s to more effectively deal with the sentencing of convicts in Wellington and to atone for the gaol’s failures. Thereafter, Justice Minister Findlay’s (1910) *Scheme for the Reorganization of the Prison System of New Zealand* departed altogether from the British mode of penal institutions as a model for New Zealand by recommending the development of penal labour camps in remote parts of the country. In this way, prisoners’ labour would continue to be utilised, but the march of shame would be ended. The Inspector General of prisons acknowledged that:

most civilised countries are considering the question of reorganization of their prisons systems, and all are agreed that the design of the buildings is a most important factor in any scheme. Our neighbours in New South Wales have realized this to the extent of abandoning large and substantially built prisons. (Department of Justice, Prisons Branch 1912: 7)

In other words, it had now become possible to understand at last that there was no need for British-style urban prisons in New Zealand or for the ultimate statement of colonial authority and assurance that an institution such as Wellington gaol had once provided.

The Gaol as an Instrument of Colonisation and Domination

Initially, Wellington gaol had helped give the settlers a sense of nationhood. It was the reconstruction of elements of the home country such as this, even with significant departures from the reality of what had been left behind, that provided settlers in New Zealand—as with those in similar colonial societies—‘with a shield against the Saracen, the only imaginable moral way of dealing with the man outside the West’ (Hartz 1964: 19). Following direction from colonial officials, Lieutenant Hobson had begun the formal process of colonisation by proclaiming New Zealand’s South Island to be *terra nullius* in 1840 (Ward 1974). This not only justified the Crown’s colonisation of the territory, but the promise of land, which then seemed freely available by virtue of the declaration, made New Zealand an even more attractive proposition for settlers. Thus, the prison had an important symbolic presence not only as a sign of reassurance for the settlers that British cultural identity had not been left behind during their voyage but also as a warning sign to those who might otherwise dispute the possibilities and qualities of settlement that New Zealand offered.

At the onset of colonisation, there had been reports from various parts of the country of cases where sanctions against Māori defendants were not enforced or were nullified (Dorsett 2017). The existing power relations and cultural differences between Māori and settlers made it difficult to enforce the British mandate. As chief (*rangatira*), Te Heu Heu had explained to a missionary in 1839:

Why do you keep a prisoner for days and days awaiting his trial? If anyone commits a crime here, I knock him on the head at once. Then, too, you put people in prison for such small things. Now, Judge, listen to me. If a man were to dare to take one of my wives or to take this [a hatchet made of greenstone], 'I should kill him, of course, at once; but if he pilfers little things I take no notice'. (quoted in Martin 1884: 59)

The chief was not talking about a society that was governed by the whims of the strongest and the cruellest, nor was he talking about a society that had neither law nor custom to guide it. Instead, he was speaking of the Māori way of responding to wrongdoing (*hara*)—socially harmful behaviour—whether it was, in Western terms, of a criminal or civil nature. The latter could take the form of adultery (*pūremu*), trespass, sorcery or infringement of sacred areas (*tapu*), which would be vigorously sanctioned, sometimes by death, lest the offended ancestors take their revenge on those meant to police and safeguard the *tapu*. It was thought that such wrongdoing had been caused by an imbalance of the social equilibrium of some kind or other. The interests of the victim and their extended family (*whānau*) were then central to the subsequent proceedings that were intended to restore the balance. The victim's right to justice could be handed down from one generation to another and could be pursued against their own next of kin or tribe. The usual way of redressing the harm done was in the form of compensation (*utu*). This would regularly take the form of the offended party and their *whānau* acting as a raiding party (*taua muru*) and plunder the offender and their *whānau*, the scope and extent of which would have been agreed in advance: 'the Chiefs first sat down to discuss [the *murū*] amongst themselves; and their deliberation ended in their being satisfied with destroying the village of Matowe ... which had been the residence of Pomaree's son, whose death was the cause of all the late turbulent events' (Earle 1832: 256).

As the settlers began to run into conflicts with Māori, missionaries were able to act initially as intermediaries to resolve disputes between the two peoples (Ward 1974). Thus, the Reverend Henry Williams described how he persuaded the British resident in the Bay of Islands to settle for a piece of land instead of the death penalty after shots had been fired at him by local Māori: 'I mentioned to Titore our idea of disposing of the affair, at which he appeared highly delighted and much surprised at our moderation' (Williams 1961: 399).

However, to the settlers, the Māori methods of dispute resolution seemed to be nothing more than 'quaint customs' at best. *Taua muru*, in particular, seemed to involve indiscriminate thieving or armed robbery against them—and inflicted when they may even have been unaware of any wrongdoing that had provoked this action against them (Ward 1974). And anyway, their methods of redress—based on those available in Britain—should, at least in the eyes of the settlers, automatically supersede the 'primitive barbarism' Māori practices represented. Indeed, these practices were regarded by settlers as *encouraging* crime and disorder rather than resolving them. Thus, Wellington residents formed the Committee of Public Safety in 1843, which made armed patrols around the settlement to prevent any such intrusion from their Māori neighbours. It was later claimed that:

[t]he settler is exposed to daily provocations; ... should he try the experiment of driving Native cattle to the public pound for trespassing on his cultivations, a strong party of Māori, with loaded muskets, breaks down the pound and rescues them ... To save his own farm he has to pay for the extirpation of thistles on the neighbouring Native land ... Redress in the Courts of Law is not to be obtained because it would be dangerous to the peace of the country to enforce the judgement. On the other hand, Natives freely avail themselves of their legal remedies against Europeans. (Further papers relative to native affairs. (In continuation of papers presented on the 14th August, 1860) 1860: 5)

Thus, Wellington gaol was the centrepiece in this particular colonial shield that had been constructed against these local 'Saracens' as one of the armaments available to the Britain of the South Pacific against any challenges to its authority and dominion. Accordingly, this meant that the Māori mode of justice would be silenced (Pratt 1992). It gradually fell into desuetude as settler numbers and territory increased and Māori territory and population declined.² The *Magistrates' Court Act 1893* (57 Vict 1893, No. 55) formalised this silencing by proclaiming British-based judicial administration across the whole country, to which all (regardless of their race) would be subject.

This was notwithstanding that the settler mode of justice—with Wellington gaol as the centrepiece—continued to appear both nonsensical and barbaric to Māori, with its emphasis on the deprivation of time in conjunction with enforced confinement. To be punished in this humiliating fashion would be offensive to their honour and prestige (*mana*). For example, it was reported that:

A half-caste, from Kawhia, who was sentenced to imprisonment for a short-term, was set to work to cut up firewood for the court and offices. While he was employed at this work, it was ludicrous to observe the many manoeuvres he resorted to, to hide his position from the Native passers-by. He would, as soon as he observed them, cease work, and endeavour to make believe that he was simply there at his own will. At other times, when out for exercise, in the charge of the constable, if he perceived any Natives coming in the direction of the office, he would run into the court-house lobby and conceal himself behind the door, in order to prevent their seeing him. It has often appeared that to fine a Native for theft means to punish some of his relatives, as the burden of paying the fine invariably devolves upon them, and the thief really suffers nothing. The above case clearly shows that the Natives consider it a disgrace to be imprisoned, but to be fined is a mere nothing. (Reports from Officers in Native Districts 1875: 7)

However, in addition to the prison's use as an everyday sanction in the criminal justice process, it was also used as an instrument of extra-legal repression against Māori resistance to the Crown policy of land confiscation. In the community of Parihaka in 1876, ploughmen fanned out across Taranaki farmlands to assert enduring Māori ownership of the land—led by Te Whiti and Tohu of the Te Āti Awa tribe (Ministry for Culture and Heritage 2020). The colonial government responded to this resistance with laws that specifically targeted the Taranaki protesters insofar as the New Zealand Armed Constabulary Force, which combined coercive military and policing functions to enforce the colonial legal system, imprisoned the Māori ploughmen without trial (*Evening Post* 1879b: 2).

Of these 'rebel Maoris [sic]' who had been held for ploughing 'settler' land, 93 were eventually imprisoned in Wellington gaol in the hope that this would 'break the back of the Maori [sic] difficulty and make them completely broken', such that the possibility of continued imprisonment would force Māori to acquiesce to colonial rule (*Evening Post* 1879a: 2). Ngamari was one of the first to be arrested and sentenced. He was considered 'the most important capture ... a ringleader amongst the disaffected natives, and exercised a great influence for evil', with hopes that his detention would pacify the remaining 'savages' (*Evening Post* 1879a: 2). Thus, it was reported that the sentencing of the ploughmen to the gaol was 'an important victory for the Great Nation of New Zealand' that would, optimistically, 'silence these mutineers' who had no right to 'besmirch' the land of tax-paying citizens (*Evening Post* 1879a: 2.).

In the aftermath of these years of coercive policing and political imprisonment, Māori resistance to colonisation crumbled (Ward 1974, Pratt 1992). In this respect, Wellington gaol could claim some success—of an inglorious nature—in helping to bring it about. The gaol had been able to provide enforcement of what, in the context of New Zealand, had become the 'gentle' way of colonisation. It was not intended to racially exterminate the people of the land (*tangata whenua*); instead, the purpose was to formally silence their cultural practices and dismantle their institutional arrangements while assimilating them into the British way of life. Indeed, for the colonial government and settlers, assimilation was understood as 'the gift' of civilisation:

[I]t is ours to supply [Māori] with a system where the humblest may enjoy freedom from oppression and wrong equally with the greatest; where the light of religion and morality can penetrate into the darkest dwelling places. This is the real fulfilment of our duties; this again, I say, is the true strength and meaning of Imperialism. (Earl of Carnarvon 1878, quoted in Eldridge 1984: 184-185)

However, if this were to happen, it would necessitate the dissolution of pre-existing Māori political processes and justice practices to implement British-based law in the new colony (Jackson 1995). This dissolution was enabled by the sense of dispossession, cultural dislocation and marginalisation that followed the incarceration of Māori, an effect that disrupted their kinship interconnectedness (*whanaungatanga*), which had previously provided social cohesion (Jackson 1995).

In effect, Māori cultural practices and institutions, including their own forms of justice administration, remained extant only in remote, outlying areas, yet to be touched by European settlement, or in approved localities of display (as in Rotorua, already developing as a tourist resort by the 1890s), where Māori 'shows' entertained visitors. By this juncture, through their manifest adaptation of European cultural practices, Māori had come to be perceived more as 'good sports' than a threat:

[T]he Natives seem to be remarkably sober; they take great interest in European sports, and were, I understand, successful in carrying off the prizes in the tug-of-war both at Christchurch and Dunedin. I believe they display the utmost good humour on these occasions whether successful or otherwise. (Reports from Officers in Native Districts 1892: 9)

Assimilation (and pacification) seemed complete. Having played its part in subduing resistance to British colonisation, this particular function of Wellington gaol had come to an end.

Changing Sensibilities in the Move from a Frontier Society to a Modern Society

The sight of prisoners marching out of the gaol, wearing a uniform that was marked and numbered with the prisoner's number, the government's brand and the letter 'C'—a march that lasted until the early twentieth century—had always been problematic for many who observed this daily procession. Edward Jerningham Wakefield (1845: 302), son of Edward Gibbon Wakefield and influential within the New Zealand Company, himself had complained about having to watch the march make its way along Wellington streets, notwithstanding the utility of such labour at that time:

I remember sharing with some of the simple labourers who looked on a feeling of indignation at the brutal way in which one of the policemen repelled a friend of the prisoners who offered him his assistance to walk ... An idea of the chain-gangs of New South Wales, guarded by the Military, was called up by the displaying and jingling of handcuffs, carbines, and sabres, which accompanied the whole proceeding.

He was raising both humanitarian concerns and the association of these sights with what had come to be known as the unsavoury convict society across the Tasman Sea—the antithesis of settler expectations for New Zealand. For the Reverend Woodward as well, it was the manifest cruelty of the march of shame that he found so offensive: 'the wearing of irons is absolutely cruel ... [and] if the prisoners were to wash their clothes as they were required to do every Saturday afternoon they had to use the pails now in their possession for the common offices of nature' (Warden to Superintendent, Despatch from Governor Sir George Gray 1863, cited in Pratt 1992: 60).

However, from the 1860s onwards, it was the conduct of the prisoners, rather than the degradation of their parade, that began to be offensive to public decorum as the size of the Wellington population grew,³ in conjunction with it becoming the capital city of the colony in 1865. A Royal Commission on Prisons (1868: 15) complained that 'the habit of permitting prisoners to work in the streets of the towns ... is admitted by almost all the witnesses ... to be most objectionable, as regards both the prisoners and the public ... great criminals by this practice become objects of curiosity and subjects of exhibition to the public'. William Hutchison MP (quoted in Joyce 1883: 205) claimed in parliament in 1872 that:

it is most objectionable to have criminals under any circumstances in the midst of a numerous and crowded population, so as to be brought from time to time in the way of temptation and under the wandering gaze of children; and it so happens that the large schools of [Wellington] are situated in this neighbourhood.

He went on to add that:

it is impossible to avoid pointing out the deplorable mistake made by the Government in setting down a convict establishment in the centre of [Wellington] ... It is objectionable from every point of view—objectionable as opposed to all good taste or propriety in placing a criminal lazar-house on the finest site in the whole town, where a public building dedicated to some noble or benevolent purpose should stand as the cynosure to the public eye. (quoted in Joyce 1883: 205)

By this juncture, the presence of the gaol itself had also become offensive to the sensitivities of an increasingly bourgeois Wellington population, with frontier manners, habits and everyday sights now carefully hidden. As David Hamer (1990: 248) put the matter, 'the impact of being the capital [from 1865] was soon felt ... result[ing] in a rapid expansion of the role of the central government and the growth of a Wellington based bureaucracy [needing] fine homes ... adjacent to parliament'. Indeed, by the end of the nineteenth century, an elite upper-class society had formed in Wellington, mimicking the etiquette and manners of their English counterparts, with carefully choreographed visiting rituals, fashionable dress and appearance, and exclusive dining and entertaining arrangements (Nicholls 1990). At the same time, there were regular complaints that the presence and visibility of the gaol took the gloss off such finery. One letter to the *New Zealand Times* (Brown 1897: 3) stated that it was:

a disgrace that a gaol should be placed in such a conspicuous position in the capital city ... [T]he gaol looms up against the skyline and naturally attracts the attention [of visitors]; and when informed what it is they exclaim: 'What! That your gaol, perched on your highest hill and overlooking your whole city; the thing is monstrous!' ... [I]n Australia, Wellington is known, even by people who have never seen it, as the city where their most conspicuous building is their gaol.

Instead of providing settlers with reassurance about their national identity or security against any incipient Māori uprising, as it had previously done, it was as if the omnipresent sight of the gaol now reversed the respective qualities of New Zealand and Australia: its presence tainted the purity of the former when it should have been the latter—still the refuge of larrikins and bush rangers in popular discourse at least—that bore this convict stain in perpetuity. Thus, a contemporary account reflected that:

the gaol is odiously, offensively objectionable. Ostentatiously stuck there in one of the most noticeable spots in the city, it continually invites questions from new arrivals in the port as to what building that conspicuous one may be ... our gaol is

blatantly paraded as one of the unavoidable sights of the city; criminality is advertised on top of a central hill. (*New Zealand Mail* 1898: 39)

Thereafter, it was remarked in parliament that the fact that Wellington gaol was located in an ‘affluent residential area’ was ‘like a man having a rubbish-heap on his front lawn’, and its visibility was both ‘distasteful and offensive’ (Laurenson 1900: 599).

However, by this time, Wellington gaol was nearing the end of its existence. Inspector-General of Prisons Hume explained that it had to be left ‘lying idle’ because of ‘local agitation’ against its presence (Department of Justice, Prisons Branch 1900: 3). During the next two decades, it was renamed as the Alexandra Military Depot. In what amounted to its epitaph, the *Evening Post* (1926: 7) reported that the gaol was ‘Wellington’s greatest white elephant ... and is so designed as to be of practically no value for any other purpose. It is considered to be an impossible task to rearrange the interior, and so solidly is this place built that nothing short of dynamite will shift it’. This prediction proved correct. A headline in the *Evening Post* (1931: 11) read: ‘Old Gaol Smashed ... the Mount Cook gaol stood until last evening as Wellington’s most unwanted building. At 7 o’clock 50 charges of explosives were fired simultaneously and five thousand tons of brickwork of the heaviest type crashed down’.

As has been demonstrated, the roles first expected of the gaol had come to an end by the late nineteenth century—an indication in itself of New Zealand’s emerging confidence in its own identity rather than having this tied inextricably to Britain as one of its colonies. And, with the transformation from settler to modern society by this time, we also find the emergence of those sensibilities characteristic of the modern world in general in place (Pratt 2002). This meant that gaols had become disturbing, distasteful sights; similarly, the people sent to them should be kept within them rather than visible beyond them to a shocked and offended public. Wellington gaol had become one such repugnant spectacle and remained so until dynamited out of existence.

Correspondence: Rebekah Bowling, Assistant Lecturer in Criminology, Te Herenga Waka - Victoria University of Wellington, New Zealand. rebekah.bowling@vuw.ac.nz

¹ The New Zealand population had increased from 22,108 settlers and 65,650 Māori in 1850 to 300,000 and 47,330, respectively, by 1874 (Statistics New Zealand 2008).

² ‘A significant demographic milestone was reached in 1886—for the first time the majority of non-Māori people living here were New Zealand-born rather than immigrants. Most continued to see themselves as British and referred to Britain as “home”. But there were signs that they were also beginning to identify with this place. The term New Zealander now had a wider application. At the 1896 census the non-Māori population was just over 703,000. The Māori population was under 40,000. The transformation of New Zealand from a Māori to a non-Māori world was complete’ (New Zealand History n.d., Pratt 1992).

³ The population of Wellington increased from 4200 in 1862 to 57,663 by 1905 (McGill 2003: 27; Yska 2006: 34).

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