

Racial stereotyping, domestic violence and the state: Other avenues for examination

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Abstract: In addition to the analysis undertaken by Professor G. Raumati Hook in his two target articles (Hook, 2009a; 2009b) our understanding of the complex social factors that influence conviction and incarceration rates can be enhanced by the use of ethnographic and other qualitative social science methods.

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In his two target articles in this issue, Professor Hook addresses the particularly vexing issue of the inter-relationships between domestic violence legislation, racial stereotyping, and varying conviction and incarceration rates of Māori, Pacific Islander and Pākehā men. With respect to the variety of factors that may influence conviction rates, Professor Hook notes the difficulty of assessing the multiple and often inter-related factors that influence conviction and incarceration rates. It is in the spirit of wishing to further our understanding of such social phenomena that I offer a social anthropologist's perspective on how such complexities can be addressed.

Professor Hook approaches the phenomenon of disproportionate domestic violence convictions among Māori through a statistical analysis of conviction rates using Statistics New Zealand data. Conviction rates of Māori, Pacific Islander and Pākehā males from 1980 to 2007 for domestic violence and other crimes are examined. In taking this approach, Professor Hook focuses primarily on one possible contributing factor; namely the Domestic Violence Act (1995). He suggests this Act may have been applied differently depending on the ethnic background of the accused. He further indicates that the historical disempowering of Māori during colonialism, negative media representations and society-wide prejudices against Māori may play a role in contributing to this phenomenon.

I would like to suggest that we broaden our focus and consider how we can add to statistics-based analysis in order to enlarge our understanding of these complex issues. For while there is ample evidence of Māori being portrayed in the media and in other forms of popular culture as more closely associated with criminal activity than other ethnic groups (Kernot, 1990; Walker, 1990), just how this might be related to domestic violence conviction and incarceration rates could benefit from the addition of complementary forms of analysis. In particular, much can be gained by adopting ethnographic and other qualitative approaches that examine the everyday routines, experiences and conceptual categories that are enacted in private homes, across communities, in police cars or in courtrooms as a means of understanding violence (both domestic violence and other forms), racial stereotyping and the role of the state; and in this case, in particular the activities of policing, legislation and juridical decision-making.

With this suggestion in mind, two specific areas that merit further examination are: differing social attitudes towards the reporting of domestic violence across communities and over time; and attitudes towards the accused during both arrest and ensuing juridical processes. It is emphasised that I do not present these as enabling a *conclusive* explanation of differing conviction and incarceration rates but rather as some avenues, amongst others, that could shed further light on these issues.

Starting with the first point (different social attitudes towards reporting), in order to fully understand the significance of the differences in domestic violence conviction rates that Hook highlights, we need to know if Māori men are being arrested at a similarly disproportionate rate as they are being convicted. If this is so, it would indicate that further attention should be paid towards the processes that lead up to an arrest. One area to examine would be how various communities across ethnic groups, locations (rural versus urban, for example) and classes utilise not only the police but unofficial processes as well as other legal mechanisms for dealing with domestic violence. Surveys informed by local knowledge or in-depth ethnographic examinations would be of use here for determining what other avenues for assistance are used in conjunction or in lieu of police intervention to provide protection to victims. These may include intervention by religious or other community leaders, community-wide sanctions against reporting domestic violence, and the use of other juridical processes such as divorce proceedings or the issuing of protection orders.

Furthermore, rates of reporting domestic violence need to be historically contextualised. So that in addition to Hook's focus on historical changes in domestic violence legislation, other causative factors such as changing community attitudes towards domestic violence, the influence of public campaigns against domestic violence and media publicity surrounding cases of domestic violence can be taken into account. All these factors can impact upon both the likelihood of victims calling the police and the likelihood of police making an arrest.

Let us explore one example of what such 'cultural' factors might look like. Professor Hook's figures reveal a prominent rise in domestic violence conviction rates from 1980 to 1995, with a particularly sharp rise in 1994 and 1995. He suggests that these increases were shaped partly by legislation and that in some cases the rise might have been in anticipation of legislation that was about to take effect, signalling a pre-emptive shift in police and court responses to domestic abuse. If we allow ourselves to include wider cultural factors, however, we might be led to consider other precipitating factors. The steep rise in 1994 and 1995 could, for example, be partially shaped by increased reporting rates due to the widespread publicity generated by the film *Once Were Warriors*, which was released in New Zealand in 1994. While the film has been noted for inculcating an image of Māori as inherently violent (Ferguson, 2009), according to a number of scholars as well as media accounts and interviews with the film's producer Robin Scholes and leading actor Rena Owen, it also transformed the acceptability of talking about domestic violence across New Zealand and in particular amongst Māori. As film studies Professor Kirsten Moana Thompson asserts, "After the film's release, women's refuges reported a surge in admissions and police noted a rise in the reports of domestic violence. Jill Hema, a Maori women's refuge coordinator observed: 'South Auckland refuges were overflowing. Women have been coming through saying, 'We've seen *Once Were Warriors* and that's me. It's hit home.'" (Thompson, 2003, p. 233). Similar statements also appear in the film *Beth's World* (1997) and in work by Martens (2007) and Polk (1995). Even if this shift in social attitudes was a temporary one, it might constitute one piece of the larger puzzle of inter-related social forces that shaped this trend.

In addition to rates of reporting, two other possibilities noted by Professor Hook—the increased likelihood of the police making an arrest if the accused is Māori and prejudicial treatment of Māori defendants by the justice system—similarly lend themselves to potentially productive qualitative examination. In the case of police prejudice, this could be established by comparing records of police call outs with arrest rates. Moreover, if differentials in arrest rates were found to be the case, then an in-depth examination of police attitudes and interactions with various communities would be of use in determining how Māori come to be criminalised through such encounters. If, however, the disproportional rate of conviction is *not* reflected in a similar disproportional rate of arrest, this might suggest that dynamics in the courtroom are essential to creating such a discrepancy. A close analysis of how domestic violence legislation is applied in legal decision-making would reveal what underpins these

discrepancies, as would attention to the impact of class and the kinds of legal services to which defendants of different class backgrounds have access. In addition to analysing court documents, interviews and participant observation of courtroom dynamics would be most useful in establishing whether or not this is the case. Finally, it is also possible that both scenarios—prejudice by the police as well as prejudice in the courtroom—are at play, in which case ethnographic methods could be of use in teasing apart the confluence of these factors at various sites.

Allen Feldman's work on the criminalisation of African-American men in the US (Feldman, 1994) offers a model for examining the impact of race on arrest and conviction rates. In assessing the influence of racial stereotyping on a single case—the high-profile arrest and conviction of Rodney King—Feldman utilised interviews with the police involved in King's arrest, trial excerpts of the police records, court room transcripts and media representations of the case in order to conclusively demonstrate how racial stereotyping directly influenced both arrest and conviction (Feldman, 1994). While Feldman focused on a single case, a similar methodology could be productively applied to an examination of multiple cases which, alongside statistical data, would provide a nuanced perspective on the dynamics at play in differential conviction and incarceration rates.

Professor Hook's articles raise some crucial questions regarding the interplay between racial stereotyping, police response, juridical processes and differential outcomes across ethnic groups with respect to convictions and incarcerations for domestic violence. By broadening the scope and methods of analysis, we can add to his analysis and further enhance our understanding of the complex social dynamics that underpin these phenomena.

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