

# Built Beyond American Borders: Comparing the Construction and Maintenance of the School-to-Prison Pipeline in the United States and New Zealand

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## Abstract

The school-to-prison pipeline (STPP) is the process by which children of colour are disproportionately funnelled from education institutions into the criminal justice system. This article investigates how the STPP was developed through unfolding systems of oppression in both the United States and New Zealand. Harsh disciplinary measures and zero-tolerance policies were implemented in both countries, facilitating a rise in exclusionary discipline for minority youth. Compounded by negative police contact, state care involvement, and structural inequality, children who face disciplinary measures in school are significantly more likely to become involved in the criminal justice system. The analysis presented here demonstrates how systemic racism and ongoing oppression embedded within the education systems of both the United States and New Zealand produce long-lasting, detrimental outcomes for minority children. By uncovering the underlying contributors to the pipeline, options to dismantle it can be explored.

**Keywords:** school-to-prison pipeline; juvenile justice; school exclusion; inequality; systemic racism

## Introduction

The *school-to-prison pipeline* (STPP) is a phenomenon widely known in the United States (US), referring to “interlocking sets of structural and individual relationships” that funnel children, primarily children of colour, from schools into the criminal justice system (Kaba, 2021, p. 76).<sup>1</sup> Sociocultural factors such as poverty and intergenerational trauma increase a child’s likelihood of victimisation and criminalisation (Reil et al., 2022), risk factors that are exacerbated when schools implement exclusionary measures that cut off prosocial relations (Hullenaar et al., 2021). Suspensions and expulsions are incredibly detrimental to a child’s well-being, deeply wounding their future outcomes (Hullenaar et al., 2021; Irwin et al., 2012; Leung-Gagné et al., 2022; Losen & Gillespie, 2012; Morris & Perry, 2016; Reil et al., 2022; Sanders et al., 2020). Although the term STPP has mainly been used in the context of the US prison industrial complex, a similar model can be seen playing out in other parts of the world.

While Aotearoa New Zealand (New Zealand) boasts a reputation for restorative practices, namely where youth justice is concerned (Lynch, 2012), the continued harsh punishment of Māori youth in schools

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<sup>1</sup> The term ‘justice’ is used throughout this article as an identifier for the systems that serve to punish individuals who commit, or are accused of committing, crimes. However, the word justice should be interpreted cautiously, as it is well-noted that the systems described here are often not ‘just’ or applied equally to everyone.

alongside their hyper-incarceration suggests the presence of the STPP. Despite the STPP model offering a valuable lens to understand the marginalisation of Māori youth, it has thus far been underutilised within New Zealand's academic literature (Sanders et al., 2020). This article examines the historical context that facilitated the creation of the STPP in the US and compares that with the historical context of colonisation in New Zealand. Additionally, factors that contribute to current pipeline operation are examined, such as police contact, unequal power structures, and disproportionate state care involvement. This article demonstrates similarities between systems that gravely damage both Black American and Māori youth,<sup>2</sup> showing that the STPP model is useful to contextualise the over-representation of Māori youth in the New Zealand prison system. While there is robust literature on the racialised experiences of Black youth in the US, there remains a notable gap in research on comparable experiences of Māori youth in New Zealand. As a result, this article draws from US-based research to extrapolate key parallels and evidence the existence of the STPP in New Zealand.

## Historical context: Unfolding systems of oppression

It is not by chance that minorities in both the US and New Zealand are severely disproportionately represented in figures of poverty, state care involvement, school drop-out, arrest and imprisonment (Children's Defense Fund, 2012; Reil et al., 2022). Though systems of oppression unfolded very differently in each country, marginalised populations have found themselves in a remarkably similar place, continuously depreciated in a world that demands White conformity. Minority youth are particularly vulnerable to and perceptive of this dynamic (Wray-Lake et al., 2023). In this article, the impact of systems of oppression on Māori youth in New Zealand is compared to that of Black American youth in the US, as the two groups most affected, population-wise, by hyper-incarceration in these countries.<sup>3</sup> This comparison reveals a story not constricted to geographical borders. By controlling the availability and administration of education, regimes can deliberately maintain unequal power structures that serve the interests of historically privileged White communities.

In the US, Black Americans have long been fighting to receive equal rights and treatment. Between the sixteenth and nineteenth centuries, more than 10 million people were captured, enslaved and transported from Africa and the Caribbean to the Americas and forced into labour (Hacker, 2020). Even after the 13th Amendment was passed in 1865, abolishing slavery in the US, Jim Crow laws kept Black Americans separate from White Americans for another century (Glasker, 2020). The 1895 *Plesy v Ferguson* Supreme Court case authorised this segregation under a "separate but equal" doctrine (Groves, 1951, p. 66). The philosophy behind this landmark decision has rippled forward since, even after its repeal via *Brown v Board* in 1954, which ruled the segregation of schools unconstitutional (Glasker, 2020). Gaynor et al. (2021, p. 51) say *Plesy* legitimised a "difference as deviance" mentality, placing "blackness in stark opposition to whiteness". It took the Civil Rights Act of 1964 and another Supreme Court decision in 1969 to officially end school segregation in print (Glasker, 2020). However, legal battles as recent as 2016 show that schools are still fighting against forced integration (Domonoske, 2016; Totenberg & Kaufman, 2007). Research shows that Black students are much more segregated from White students now than they were during the civil rights era (Orfield & Jarvie, 2020). Not

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<sup>2</sup> Due to the diversity of those who identify as Black in the United States (Tamir, 2021), the term Black American is used throughout this article rather than African American. This is consistent with the research cited throughout this article, where researchers use the term 'Black'. The term 'children of colour' is used in this article when referring to a range of ethnic minorities affected by the STPP. This aligns with Mariame Kaba's description, which does not focus solely on Black youth (Kaba, 2021).

<sup>3</sup> It should be noted that Native American adults and youth also suffer from disproportionate justice system contact, making up 2.1% of those federally incarcerated despite accounting for less than 1% of the greater population (Wang, 2021). Furthermore, Native American youth are incarcerated at a rate higher than Hispanic, Asian and White youth combined. Tribal court and federal jurisdiction over tribal lands, however, facilitate a slightly different route into the justice system for Native American youth (Wang, 2021), making the STPP model as it operates for Black Americans more applicable to the struggles Māori youth encounter.

only that, but primarily White school districts also receive \$23 billion more in funding than non-White districts (EdBuild, 2019), showing the lasting impact of the *Plessy* decision.

The continued divestment of minority students is not a solely American issue. In 2018, UNICEF ranked New Zealand 33rd out of 38 in classroom inequity, revealing massive gaps between ‘high performers’ and ‘low performers’, with the latter primarily Māori ethnicity (although ‘performance’ has long been measured by Eurocentric standards) (UNICEF, 2020). The ongoing inequity in New Zealand is not earmarked by emancipation from slavery, but rather, by colonisation and forced assimilation. James Cook’s arrival in New Zealand in 1769 marked the beginning of intense efforts by the British Government to disestablish Indigenous sovereignty through “land alienation, economic impoverishment, mass settler immigration, warfare, cultural marginalisation, forced social change and multi-level hegemonic racism” (Moewaka Barnes & McCreanor, 2019, p. 19). In 1840, a treaty was signed between the British and Māori, Te Tiriti O Waitangi, which for Māori meant they would receive protection by and from the British but retain their right to self-governance. British colonisers, however, took the Treaty signing as licence to further their subjugation of Indigenous peoples (Tauri, 2016; Webb, 2017).

In 1867, the Department of Native Affairs opened a system of schools, called Native Schools, to assimilate Māori youth, banning the use of te reo Māori (the Māori language) and implementing a European curriculum (Stephenson, 2006). A code of regulations followed shortly after, stating that once Native Schools reached a certain level of English competency, oversight would be transferred from the Department of Native Affairs to the Board of Education. Although intended to be a tool of assimilation, scholars have noted that, over time, Native Schools became a site for Māori cultural survival and community (Stephenson, 2006). Simon and Smith (2001, as cited in Cox, 2021, p. 51) stated that Māori “assistants”, often family members of students, were hired within these schools which gave them a “more comfortable whānau [family] environment” than the public school system. The small close-knit administration meant that community needs and desires could be communicated quickly and effectively, and that Māori could have a say, however marginal, in management of their schools (Stephenson, 2006). Still, an assimilationist strategy was predominant, with the Crown maintaining overarching decision-making power and, most notably, using corporal punishment to enforce a ban on te reo Māori (Cox, 2021). Furthermore, the Crown mandated that Māori land be given to the Crown to open Native Schools, furthering already extensive Indigenous land confiscation (Cox, 2021). The oppression of Māori and subversion of Indigenous culture, therefore, still proliferated through the establishment of Native Schools.

An influx of Pākehā (European) settlers into New Zealand forced White student enrolment into Native Schools where Board of Education schools were not in close proximity. Pākehā parents, unhappy with their children attending “inferior” Native Schools, pressured the Board of Education to assume ownership (Stephenson, 2006, p. 311). The *Brown v Board* decision in the US in 1954 placed the issue of racial segregation on the global stage. This made it easy for the New Zealand Board of Education, just one year later, to justify the establishment of the National Committee on Māori Education, which spent the next 14 years disestablishing Native Schools under the guise of human rights and social harmony (Stephenson, 2006). Coined by Lorenzo Morris in 1979, the *Plessy effect* is defined as “the politically motivated ease of asserting the presence of equality in the absence of meaningful standards of equality” (as cited in Henry, 1998, p. 48). Although based off an American historical event, this effect has reverberated through New Zealand’s history, launching Māori youth into Pākehā institutions that were not designed for their success.

Even amid these assimilationist integration efforts, school zoning rules made a concerted effort to keep Māori students separate from Pākehā students. Schools were allowed to cherry-pick admissions based on maintaining their “special character” (Thrupp, 2007, p. 1395). Pākehā students were often given special

consideration for admission to high-performing well-resourced schools on the basis of familial relations or social and academic achievement, while Māori children and other minorities were herded into low-decile schools,<sup>4</sup> discrimination that is reflected in school composition to this day (Gordon, 2015). Māori language schools, *kura kaupapa Māori*, have expanded widely since their creation in 1982 (Rameka & Peterson, 2021). Although official statistics suggest that enrolment numbers in these *kura* (schools) are increasing, the schools are actually struggling for admission and retention in proportion to the growing Māori youth population. Some families make the transition to traditional schooling out of concern that their children will fall behind their peers or miss out on opportunities offered to those in mainstream education (Rameka & Peterson, 2021). The following sections presented here, however, suggest that mainstream education greatly increases the risk of poor outcomes for Māori youth.

## Zero tolerance

A ‘zero tolerance’ rhetoric was developed in the US in the 1980s and 1990s, with much of the public in support of taking a ‘tough on crime’ approach (Morris & Perry, 2016). This approach was developed by the Reagan administration, necessary to facilitate their infamous ‘war on drugs’ which involved the mass imprisonment of non-violent offenders (Singer & Thompson, 2018). Simultaneously, the Reagan administration spent time attacking the public school system, employing disinformation campaigns in order to redistribute funding to already privileged school systems (Noblit, 2015). Tighter security in schools, strict rule enforcement, and harsher punishment for in-school offences mimicked the zero-tolerance sentiment that was implemented in the community more generally. This sentiment only escalated through the Bush Senior and Clinton administrations (Iocono, 2022; Leung-Gagné et al., 2022). As a result, the Safe Schools Act passed in 1994 required teachers to expel students or report them to authorities if they brought a weapon to school (Hullenaar et al., 2021). While this type of offence was rare, the legislation opened the door to a new means of handling any unsatisfactory student behaviour and positioned police officers as “first responders” to address minor student infractions (Leung-Gagné et al., 2022). The discipline of students took an increasingly harsh, punitive and exclusionary turn. As schools strengthened their relationships with local law enforcement, the STPP flourished (Hullenaar et al., 2021; Iocono, 2022). Black male students, already stigmatised through racial undertones of Reagan-era policy, quickly emerged as the ‘deviant’ other, more likely to be subjected to harsher exclusionary measures, even when exhibiting similar behaviour as their White counterparts (Welch & Payne, 2010).

It did not take long for zero-tolerance ideals to bleed over to New Zealand in the 1990s, as debates on effective crime control gained traction (Martin, 2018). The National Government in power at the time began embracing similar sentiment to that of the US, drawing less on criminological expertise and more on populist opinion. This meant advocating ‘law and order’ to improve community safety (Rodgers & Stenning, 2017). Educators in New Zealand were not shy to the zero-tolerance rhetoric, shown by the doubling number of school suspensions between 1992 and 1994 and continued increase into 1997 (Rae, 1999). The relevance of the

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<sup>4</sup> The decile system was previously used in New Zealand to identify schools that suffer from the greatest socioeconomic disadvantage (Ministry of Education, 2022). It was often used as an indicator for social deprivation (Reil et al., 2022). Children who attended low-decile schools were shown to have a much higher risk of offending, with decile 1 students twice as likely to offend as decile 10 students (Reil et al., 2022). In January of 2023, the Ministry of Education shifted to using an Equity Index rather than the decile system to estimate “the extent to which young people face socio-economic barriers to achieving in education” and to determine equity funding (Ministry of Education, 2024). Though a different classification system is in place, it is reasonable to assume that the association between risk of offending and socioeconomic disadvantage remains.

historical context above is evident, as Māori students made up almost half of all suspensions during this time period, with the most common reason for suspension being “continual disobedience” (Rae, 1999, p. 37). In 1998, New Zealand passed an amendment to the Education Act allowing school administrators more freedom to choose disciplinary action. While this appeared to be an intentional veer away from a zero-tolerance framework, an article by Ken Rae (1999, p. 41) predicted that without a change in the “wider social environment”, New Zealand would continue to see the uneven application of strict disciplinary policies.

## Exclusionary discipline

New Zealand and the US see both similarities and differences in the implementation of school discipline, though equally leaving minority students at a disadvantage. Hullenaar et al. (2020) describes two types of reactionary school exclusion: direct and indirect. *Direct exclusions* involve on-the-ground “school resource officers” (SROs) or police officers punishing student behaviour through means of traditional crime control. The US has increasingly employed direct exclusions; a practice not adopted in New Zealand. Between 2010 and 2020, SRO presence in US schools increased from 42% to 61% (Irwin et al., 2022). School disruption charges are still viable in 22 states, for offences as simple as “boisterous behaviour” or “annoying conduct” (National Youth Rights Association, n.d.). *Indirect exclusions*, such as detention, suspension and expulsion, are more widely used in both countries. Although indirect exclusions do not hand children over to the police in the same way direct exclusions do, evidence shows that children’s removal from the classroom pushes them towards adverse consequences such as arrest and detention (Archer, 2009).

While exclusionary discipline is harmful to all students, it is unevenly applied, leaving minority students at a significantly higher risk of harsher punishment (Welch & Payne, 2010). Māori students are twice as likely to be suspended from school, accounting for half of all school suspensions in New Zealand every year for the past 20 years (Ministry of Education, 2022). Similarly in the US, Black male students are three times as likely to be suspended from school than their White counterparts (Morris & Perry, 2016). The Civil Rights Project at UCLA found that over the course of a year, one in six Black students was suspended compared with one in 20 White students (Losen & Gillespie, 2012). Numbers of suspension in both countries are reminiscent of the disproportionality in general prison populations, where more than half of those incarcerated in New Zealand are Māori, despite Māori only making up 17% of the general population (Department of Corrections, 2024), and in the US, Black Americans make up 37% of the total prison population despite only accounting for 13% of the general population (Wang, 2023).

It is widely known that school exclusionary measures are linked to criminal justice involvement in both the US and New Zealand (Archer, 2009; Gluckman & Lambie, 2018; Reil et al., 2022; Sanders et al., 2020). A longitudinal study conducted in the US found that even when students measured the same on 60 pre-suspension variables, those who were suspended from school were more likely to be arrested and placed on probation (Rosenbaum, 2020). Monahan et al. (2014) discovered that even those without previous documented behavioural issues had an increased likelihood of arrest within a month of their first suspension. Not only that, but one suspension predicted future suspensions. This may be explained, in part, using *labelling theory*, meaning that once a child is given a ‘deviant’ title, they behave in a way that further aligns with that label (Doolan, 2008; Kroska et al., 2017). This theory is used in both the US and New Zealand to discuss the progression of youth justice involvement but can also be applied to escalating student behaviour in schools. The deviant labelling of Māori and Black American students by school officials, even for minor offences, is likely to encourage future deviant behaviour (Gordon, 2015; Rosenbaum, 2020). Beyond labelling, harsh exclusionary discipline can deeply affect a child’s social identity (Hullenaar et al., 2021), leaving them to seek “meaning and identity through

association with other at-risk or marginalised youth out of school” (Sanders et al., 2020, p. 387). When a student is removed from school, outside of adult supervision, they are more likely to engage in risky behaviour that can lead to police contact (Agudelo et al., 2021), furthering their risk of long-term justice system involvement.

## **Impact of police contact**

Deviant labelling does not occur in a vacuum, as it is understood that the behaviour of different authority figures in a child’s life may affect their sense of self and their understanding of fairness and equality (Wray-Lake et al., 2023). Much of the research surrounding the STPP neglects to consider the way that youth interaction with police may contribute to their momentum towards the justice system. In the US, Geller’s (2021) study on youth-police contact in relation to adverse childhood experiences (ACEs) found that Black youth of low socioeconomic status have significantly more frequent and aggressive contact with law enforcement officers compared with their White counterparts. Youth experience high levels of psychological and physiological distress from police stops and become hyper-aware of the inequity that has led to their law enforcement interaction (Del Toro et al., 2022; Geller, 2021; McFarland et al., 2019). The distrust for authority that develops from these circumstances bleeds over into school, influencing youth attitudes towards teachers, administrators and institutions in general (Del Toro et al., 2022). Youth awareness that they are stereotyped, labelled as delinquents, and unfairly surveilled contributes to their disengagement in school.

Consistent with the experience of Black American youth in the US, Māori youth report increased levels of discrimination and harassment by police (Crengle et al., 2012) and are six times more likely to be apprehended than their non-Māori counterparts (Ministry of Social Development, 2016). Māori youth have expressed frustration in police assumptions of criminality (Blank-Penetito et al., 2022). A recent example of this racial profiling and disproportionate surveillance is the illicit photographing of Māori youth by the New Zealand Police. A joint investigation by the Privacy Commissioner and the Independent Police Conduct Authority (2022) revealed that police regularly took photos of Māori youth solely based on suspicion of criminal activity. In further violation of youth rights, officers took multiple sets of fingerprints and photographs during bookings, and stored them for “future reference”, even after a youth’s charges were resolved. This was done under the pretext that ‘at-risk’ youth could be monitored for early detection and prevention of criminal behaviour. Scholars have noted that the risk assessment system, used as justification here, is inextricably connected to oppressive societal structures, which also manifest within the school system (Creaney, 2013; Gordon & Webb, 2022; Tauri, 2016). High-risk scores are linked to the struggles that minorities face, allowing the state to justify further control and institutionalisation of already marginalised youth through both surveillance and exclusion (Gordon & Webb, 2022).

## **Structural inequity**

Disproportionate policing that feeds youth into the STPP, combined with systemic poverty, maintains the racist and oppressive structures that were set up in the 1800 and 1900s in both the US and New Zealand (Stewart, 2022). *Critical Race Theory* (CRT), which conceptualises how inequity and power dynamics ingrained in society keep minorities marginalised (Delgado & Stefancic, 2017), provides a valuable framework to understand the persistence of the STPP in both countries. This compelling point of comparison situates the STPP, explaining how racism, poverty and institutionalisation permeate education, working in conjunction to preserve White systems of control (Thyberg & Newhill, 2022). Research shows that in both New Zealand and the US, children of a lower socioeconomic status are more likely to attend under-resourced and underperforming schools that dole out more punitive punishment (Gordon, 2015; Irwin et al., 2012; Ministry of Education, 2022; Stewart,

2022) and therefore increase the likelihood of criminal justice involvement. Children in New Zealand who attend low-decile schools are 6.7 times more likely to be suspended than students in high-decile schools, contributing to their likelihood of justice system contact (Gluckman & Lambie, 2018). This demonstrates the relationship between poverty, exclusionary discipline and criminal justice involvement, offering compelling evidence of the STPP in New Zealand. In the US, children living in poverty are not only more likely to attend under-resourced schools but are also significantly more likely to be victim to aggressive police contact, both of which contribute to their struggle with educational achievement and fuel the STPP (Geller, 2021; Stewart, 2022).

Poverty among minorities is a severe and persistent issue, as Black children in the US are three and a half times more likely than White children to live in extreme poverty (Children's Defense Fund, 2012). Similarly, Māori children are twice as likely to grow up in severe and persistent poverty compared with their White counterparts (Gordon, 2015). Higher rates of poverty for both Māori and Black children are associated with increased prevalence of state care involvement, social exclusion, poor health outcomes and an array of other structural challenges (Children's Defense Fund, 2012; Expert Advisory Group, 2012; Gluckman & Lambie, 2018; Reil et al., 2022). Sanders and Munford (2016) describe these complex interwoven challenges as “back life” that influences student behaviour in school, impairing their ability to engage (Reil et al., 2022). Students feel alienated as administrators and teachers fail to take into consideration the struggles that they face outside of school. Irwin et al. (2012, p. 66) theorises that “large, poor, crime prone schools in high crime neighbourhoods” predispose students for STPP entry. In the same vein, Roberts (2003, p. 172) states that the systemic inequalities embedded into society are “designed primarily to monitor, regulate, and punish poor Black families”. Tauri (2016, p. 90) has similar reflections regarding New Zealand, noting severe “socio-economic marginalisation” of Māori through disenfranchisement of families and intense crime control of “wayward youth” (p. 267). This suggests that in both New Zealand and the US, the pervasive marginalisation of minorities that keeps them disadvantaged is essential in maintaining the STPP.

### *Care or custody?*

While the structural inequalities faced by minorities in both the US and New Zealand are blatantly displayed by the STPP, they are also glaringly evident in the recently identified state-care-to-prison pipeline. The removal of children of colour from their homes is prevalent as is regular abuse within state care. Removal by child welfare agencies is done under the guise of protection (Macdonald, 2023), reflective of the way that assimilation of Māori into the Pākehā school system was forced for the sake of ‘equality’ (recall the Plessy effect). The assumption that Māori are unsafe in their homes due to their family's inability to maintain their safety is apparent in the disproportionate number of Māori youth in state care. The same holds true for Black children in the US (Stewart, 2022).

Black children are seen as in need of protection within the US, simply by way of their economic standing. Poverty level rather than severity of maltreatment is the strongest predictor of their entry into state care (Goetz, 2020). This is much less so the case for White families, who are assumed to be able to care for their children despite their socioeconomic status (Goetz, 2020). Regularly ignored by the government are the devastating outcomes linked to state care including increased school disengagement and entry into the criminal justice system. It is evident in these intersections, seen in both the US and New Zealand, that ‘care’, ‘control’ and ‘custody’ have become interchangeable, with what remains of the welfare state being utilised as another means of oppression of minorities (Macdonald, 2023).

In New Zealand, Māori experience increased cultural devastation when children are removed from communities (Macdonald, 2023). This is evidenced in both the STPP and state-care-to-prison pipeline.

Interestingly, the Child Welfare Act 1925, which accelerated the removal of Māori children from their homes, was housed under the Department of Education, the same entity that disbanded the Māori Native Schools some time later. To advance colonisation in the same fashion as school integration, the Child Welfare Act broke the intergenerational transfer of mātauranga Māori (knowledge), tikanga (customs), and te reo (Macdonald, 2023). Parental rights were dissolved as children faced disconnect from their families and culture. The transfer of children to state custody also meant children lost their rights to their ancestral land. This is extremely pertinent due to the long history of land alienation that characterised relations between Māori and Pākehā from 1840 onwards, leaving Māori with just 4.8% of their ancestral lands (Macdonald, 2023).

Māori children's growing stereotype of delinquency was and continues to be linked to improper care by their families,<sup>5</sup> rationalising an increased dependence on the welfare system and, in turn, an expansion of prisons and youth justice facilities around New Zealand (Macdonald, 2023). This is evidenced in the US as well, as the number of “crossover youth”, who are involved with both the welfare and justice systems, increases (Goetz, 2020). The Adoption and Safe Families Act adopted in 1997 in the US, intended to “expedite family reunification or permanent removal” (Goetz, 2020, p. 289), only created a system that disproportionately fed Black children into the foster care system, making them more likely to experience earlier justice system contact and face harsher consequences than their White peers, even for trivial offences (Ryan et al., 2007; Yang et al., 2017). Just as in the STPP, Black children who are in foster care are labelled as “broken, deviant, and high-risk” (McLaughlin et al., 2018, as cited in Goetz, 2020), making them significantly more likely to exhibit behaviours that fulfil these labels (Goetz, 2020). Ryan et al. (2007) explain a strong correlation between foster care, early justice system involvement and school disengagement. They describe children in foster care as exhibiting “low levels of academic achievement, lack of participation in school activities, low aspirations for continued education, unpleasant relationships with teachers, rejection of administrative authority, disregard for school policies and rules, and dropping out” (p. 84). Though a variety of factors may contribute to a child's criminal justice system involvement, there is evidence to show that removal from home and removal from school are strong predictors of future offending (Stewart, 2022). This bolsters the existence of the STPP in the US and further supports the existence of the STPP in New Zealand, working alongside the established state-care-to-prison pipeline.

## **Discussion: Dismantling the STPP**

It is clear from the research presented here that the existence of the STPP in both the US and New Zealand is detrimental to students of colour. Research has invariably shown that zero-tolerance policies and school exclusions do not improve school safety or climate and do not act as a deterrent for future misbehaviour (American Psychological Association Zero Tolerance Task Force, 2008). Addressing student behaviour with harsh discipline actually exacerbates tension between students and staff (Devlin & Fisher, 2021; Hullenaar et al., 2020). Once children of colour are labelled as ‘deviant’, further behavioural issues, social exclusion and school disengagement are likely to follow. Children's removal from social supports through school exclusion severely damages their development and ability to self-regulate, greatly increasing their risk of justice system involvement. This is exacerbated by ongoing systemic racism and structural inequities, which leave minority communities impoverished and subject to increased state intervention and police contact. Together, these

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<sup>5</sup> Māori parent-child relationships prior to the arrival of the British in New Zealand were notably marked by intimacy and softness. Family violence was introduced through colonialism where parents were strongly encouraged to adopt authoritarian methods to control their children (Cox, 2021).

factors sustain the STPP, as students face hefty long-term consequences for failing to conform to a White school system that was never designed for their success.

The systemic harm caused by the STPP extends beyond individual youth outcomes, also facilitating egregious rights violations for both Māori and Black American communities. In New Zealand, the development and continuance of the STPP and state-care-to-prison pipeline is in violation of multiple principles of te Tiriti o Waitangi. In 2018, the Waitangi Tribunal found that by not prioritising the reduction of disproportionate incarceration of Māori, the Crown has failed its Treaty responsibility to protect Māori interests (Waitangi Tribunal, 2018). The principles of “active protection” and “equity” have been breached not only within the justice system but also within education, as harsh punitive exclusionary measures are disproportionately used on Māori students. Additionally, the second report of Te Uepū Hāpai i te Ora | Safe and Effective Justice Advisory Group (2019) found that the Treaty obligation of tino rangatiratanga (self-determination) has not been honoured as Māori communities have not been able to design and deliver their own justice services. This is applicable to the education system, since Māori have not been allowed ample funding and opportunity to create solutions for their children’s needs in schools (Reil et al., 2022). In the US, the disproportionate disciplinary measures used against Black children as well as their concentration in under-resourced schools has regularly been identified as a violation of their civil rights (Losen & Gillespie, 2012). In violating Black children’s right to non-discrimination in education and equal access to educational opportunities, they face wounded future outcomes, manifesting in increased barriers to achievement and success (Henry et al., 2022). Although both the US and New Zealand are aware of the severe disadvantages that minority youth face, neither country has made substantial moves to correct the flawed framework that underlies the STPP. In order to maintain the rights of minorities in both countries and rectify a deeply inequitable system founded in systemic racism and oppression, a procedural overhaul is necessary.

One attractive solution to replace punitive measures in schools is the implementation of *restorative practices* (RP). Those in favour of criminal justice reform have been drawn to restorative principles as they promote repair of harm and connectedness rather than punishment. Scholars in New Zealand, a country known for its restorative methods, have promoted the benefits of RP such as conflict resolution, empathy building and reflection (Dyson et al., 2022; Gordon, 2015; White & Kearney, 2015). *Restorative justice* (RJ) continues to gain traction in the US as a viable solution to decrease rates of youth offending, though the definition has been widely broadened to include peer mediation, community service, parental engagement and self-discovery (Agudelo et al., 2021). Some schools implement restorative measures sparingly, distinguishing between students who are suitable for RP versus school exclusion (Gordon, 2015). Unfortunately, this largely defeats the purpose, as those who would be excluded before the availability of RP will still be excluded. The productivity of RP is most evident when a whole-school approach is taken, meaning all teachers and administrators handle behavioural issues or conflict in a restorative manner, and that they are adequately trained to do so (Gordon, 2015). Not only that, scholars argue that the culture of a school itself must change, with a “consistent embedding” of restorative principles, emphasised by prominent school figures such as the principal and administration, but also the wider community (Jones, 2021). A multitude of research has highlighted the benefits of RP in schools; however, the feasibility of implementing these practices thoroughly and effectively requires careful consideration.

Many of the challenges that have been outlined regarding the implementation of RP in schools are related to the capacity of teachers who are regularly over-worked and under-resourced. A 2019 report done in the US schools praised the potential of RP but emphasised the amount of time, money and concerted effort that must go into sustaining a restorative climate (Fronius et al., 2019). In New Zealand, some Indigenous

scholars have strongly criticised the way in which RJ principles are applied to youth justice. Framed as a “by Māori, for Māori” approach, the criminal justice system has actually implemented a symbolic, tokenistic process that does not accept input from or fulfil the needs of Māori (Moyle & Tauri, 2016). The claim that RJ practices are culturally sensitive fails to acknowledge the wider Eurocentric context that is at the core of educational and criminal justice institutions. Recent literature produced in the US has also questioned the effectiveness of RP in schools in decreasing racial disparities, finding that although overall exclusionary measures used by RP schools decreased, disciplinary measures for Black students remained the same (Davison et al., 2022). Stewart and Ezell (2022) emphasise that RP does not erase the stereotyping and racial profiling that Black students face. The same phenomenon is seen in the juvenile justice system, even though arrest and incarceration rates have dropped, the disproportionate arrest and incarceration of Black youth and Māori youth has remained consistent (Stanley & Monod de Froideville, 2020; Stewart, 2022). RP may be best utilised in small schools with a high teacher to student ratio to handle student needs or behavioural challenges one on one (Jones, 2021). This would allow teachers to more easily build relationships with students and their families, to know their struggles outside of the classroom and make room for their back life (Sanders & Munford, 2016).

Beyond implementing RP in schools, scholars have pushed government to address the underlying disparity that drives the STPP. Reil et al. (2022) argue for the funding of education, social services and child welfare systems, and for a line of communication to be established between those institutions to replace the siloing that exists today. Stewart (2022) posits that a child’s journey down the pipeline may be initiated by schools but is further facilitated by systemic pathologising of low-income minority families, as institutions blame them for not maintaining control or safety of their children. Stewart, therefore, proposes that funding for the carceral state be reallocated to address structural challenges that contribute to children’s entry into the pipeline, such as housing instability, financial struggle and complex trauma. Additionally, Stewart (2022) suggests that rather than blaming families, they should be consulted on what support they need to maintain stability.

Finally, a child’s behaviour in school cannot be separated from the framework and historical context that individual societies operate under (Reil et al., 2022). Schools as institutions were designed by White communities for White communities and still operate as such, even though it is clear that a Western model does not work for everyone. Therefore, schools must reflect on their own racial biases (Agudelo et al., 2021), as active participants in the ongoing oppression of minorities. With government support and adequate funding, schools can take a wholistic and multisystemic approach to establish a sense of trust, belonging, support and equity, creating an environment that allows all youth to thrive. Social-emotional learning and trauma-informed therapy should be explored as meaningful ways to support students in managing their back life at school (Sanders & Munford, 2016). These approaches have been consistently linked to positive outcomes in youth development (Durlak & Weissberg, 2007; Jones et al., 2017; Leung-Gagné et al., 2022; Reil et al., 2022; Thyberg & Newhill, 2022). Furthermore, to honour te Tiriti o Waitangi in New Zealand, and civil rights in the US, schools must develop culturally appropriate and collaborative responses that ensure “participation, partnership, and protection” (Reil et al., 2022; see also, Severinsen et al., 2020). Lessening the disproportionate amount of intensive disciplinary measures for both Māori and Black American youth should be prioritised, with the specific needs of those communities considered and meaningfully addressed.

## Conclusion

This article has demonstrated that a web of factors come together to push both Black American and Māori youth down a similar path, demonstrating the globalisation of the STPP and offering a compelling lens to examine the hyper-incarceration of Māori youth. Using Kaba’s (2021) definition of the school-to-prison

pipeline—“interlocking sets of structural and individual relationships” that funnel children, particularly children of colour, from schools into the criminal justice system—evidence has been presented establishing the existence of the STPP in the New Zealand context. Harsh school disciplinary measures, high frequency of police contact, and sociocultural factors such as poverty, welfare involvement and intergenerational trauma are the interlocking factors that work among a systemically racist backdrop to feed children in both the US and New Zealand into the prison industrial complex. Both delinquency and safety, often in tandem, have been used as justification for state intervention, yet state intervention has proven to be harmful to children, who become increasingly disconnected from their communities and discouraged by their isolation and negative labels. Both New Zealand and the US have developed systems of oppression through different means, and both have vulnerable children who are equally compromised and continually feeling the harsh effects of colonisation (in New Zealand) and slavery (in the US). These devastating events unfolded in the not-so-distant past, such that we cannot separate historical context from the current state of injustice. Authority figures dispense discipline and punishment inequitably, using biased discretion to suspend students for “disobedience” (Rae, 1999) and arrest them for “disrespect” (Brown et al., 2009). The devastating outcomes that minority youth face as a result of the STPP necessitate large-scale fundamental change in not only how school discipline is handled but also how communities are supported. Breaking down the STPP means lightening the baggage that a child brings into school with them, ensuring police are not profiling youth of colour, and providing adequate support for not just children but also their families. By investing in communities and creating spaces where children can safely express their thoughts and emotions, rather than face harsh punitive measures for complex feelings, schools can help reduce the likelihood of justice system involvement for youth.

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