

He Whakamāramatanga mo te Taihara: A Cultural-Ecological Perspective of Agency and  
Offending Behaviour

By

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**Abstract**

This thesis aims to outline the important role of culture in the development of the human mind and behaviour, and therefore argues that cultural information is a key part of forensic explanation. Differing cultural experiences, such as marginalisation, contribute to the differential representation of individuals and groups in criminal justice systems. Although there are multiple means through which this occurs, this thesis focuses on the role of the individual agentic process, nested within a historically-derived cultural context. Building on previous theoretical work, a preliminary model – the Cultural-Ecological Predictive Agency Model – is presented that might better assist comprehensive explanation of offending behaviour with reference to cultural processes and concepts. The model is then applied to an exemplar, compared to current approaches to rehabilitation and desistance, and some implications for forensic practice are suggested. The overall goal of this thesis is to explicate the potential cultural impacts on individuals who commit offences, and examine some of the causes of offending beyond ‘faulty individual psychology’.



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**Chapter One: He Whakamāramatanga mo te Taihara: A Cultural-Ecological  
Perspective of Agency and Offending Behaviour**

In any area of research and practice where understanding human thought and behaviour is the key task, culture is central due to its role in shaping human beings themselves. This is particularly important for those researchers and practitioners who are interested in understanding offending behaviours, and importantly, how we can reduce the risk of their re/occurrence. Attempts to understand offending behaviour and effectively work with individuals who have offended should be highly cognizant of the explanatory power of cultural processes and concepts. However, previous forensic literature has neglected the role of culture in the shaping of both offending behaviours and the people who engage in them, which has had implications for our practices with these individuals (Tamatea, 2017). As a result, I argue that our current means of understanding norm-violating actions such as crime are inadequate and do not equip rehabilitative interventions – which are based on our explanations of offending – to best treat individuals to reduce their risk of reoffending.

When the concept of culture *is* raised in forensic research and practice, it is often with regard to the devastating and pressing issue of the significant cultural disparities in representation in criminal justice systems. Particularly in countries with colonial histories and systems, we see vastly disproportionate numbers of members of indigenous cultures within the criminal justice sphere. For example, the tāngata whenua of Aotearoa-New Zealand, the indigenous Māori culture, make up only 15 percent of the general population, but over 50 percent of the prison population (Department of Corrections, 2018). This pattern is repeated in countries such as Australia, Canada, and the United States (Cunneen & Tauri, 2019; Tamatea, 2017). The question is raised, does culture itself have something to do with offending, and particularly with the seemingly increased offending of indigenous cultural groups? My answer is both yes and no. Yes, but only insofar as culture is something that affects the behaviour of every person, regardless of their ethnic background or status as an ‘offender’. *But* there is nothing ‘special’ about indigenous cultural groups that makes them more inherently criminal or more likely to commit crime than any other group. The difference lies in the differential historical experiences and the resulting differential application of social norms and discrimination in the contemporary context. Māori were compelled to adapt into a new and alien cultural context through violent means, with almost the entirety of the resources that sustained our lives and wellbeing removed. When we rebelled, we were punished, and the entire process that is named colonisation has laid in place

entrenched cycles of marginality, that contribute to the subordinate status of indigenous cultures. The Western criminal justice systems have played a significant part in these cycles of marginality, and therefore it is both morally, ethically, and scientifically necessary to examine the differential subjective experiences of culturally-marginalised individuals who have offended and explore the implications of this for forensic research and practice.

My focus is fourfold: firstly, how does contemporary research and practice treat and explain culture and offending? Secondly, how does culture impact upon human thought and behaviour in general? Thirdly, how can we incorporate cultural information into explanations of offending behaviour? Lastly, what does this mean for research and practice? Throughout the thesis, as a Māori-Pākehā researcher in Aotearoa-New Zealand, I will draw on examples from my own bicultural context. Although I will explicate this in more detail in the next chapter, ethnicity and culture are not the same variable, and I caution that I use these two ethno-cultural terms (Māori and Pākehā) as proxies for ‘culture’. In other words, Māori culture and Māori ethnicity are not the same thing, but in this thesis ‘Māori’ is used as a proxy term for the culture.

My second chapter will briefly explore how ‘culture’ is currently represented in general psychological research and practice. I will outline some of the problems associated with how it is defined and operationalised, and offer up the definition that will guide this thesis. I will then examine how offending behaviours are currently explained, which relies heavily on the concept of ‘dynamic risk factors’, and point to some of the criticisms of this approach made by Ward and colleagues (Heffernan & Ward, 2017; Ward & Beech, 2015; Ward & Fortune, 2016). I will then conclude the second chapter by outlining how culture has been considered in approaches to forensic explanation and rehabilitation thus far. As a result, this chapter provides the platform on which I build my own preliminary understanding of what culture means for understanding offending behaviours and how we work with the people who engage in them. This is important to avoid making the mistakes of the past, and to ensure that this thesis is not unnecessarily ‘reinventing the wheel’ (Ward, 2014).

My third chapter will begin to build the theoretical foundations for the preliminary model that I will present in chapter four. This chapter will outline a series of important theoretical developments that explicate the role of culture in not only the shaping of human behaviour, but its importance to the formation of the human mind itself. I will particularly focus on the argument made by Heyes (2018), who suggests that the development of the psychological mechanisms that underpin the extraordinary behaviours of humans relies upon cultural information. I will suggest that the mind is an embodied engine and therefore



comprehensive explanation of behaviour requires reference to multiple explanatory levels which interact and intersect. I will subsequently narrow the focus of the thesis to examine the role of subjectivity, thereby prioritising the phenomenological level of explanation by particularly noting how individuals' lens through which they see and interact with the world is shaped by subjective experience. Finally, I will introduce a current conceptualisation of the agentic processes that underpin behaviours, including offences, known as the Predictive Agency Model (PAM: Heffernan & Ward, 2017).

My fourth chapter will build upon this existing model (the PAM) and extend it to demonstrate the significant contribution of both the cultural systems in which an individual is situated *and* the historical context from which these systems are derived. The Cultural-Ecological Predictive Agency Model (CEPAM) will be presented through an exemplar, focusing on a fictional character, Liam. I will show how Liam's subjective experience of the cultural systems, and the historical context which informs these, impact upon his offending behaviour through their impact on his understanding of himself, others, and the world. I will then explicate how explanations of offending behaviours utilising the CEPAM might inform forensic research and practice in chapter five. In particular, this model will demonstrate the juncture between a sociocultural context and an individual, and I will suggest this is an important focus for intervention. The final chapter will briefly evaluate the model and make some suggestions for future directions, ending with some concluding remarks.



## **Chapter Two: Culture and Crime**

### **Setting the Scene: the Aotearoa-New Zealand Context**

In Aotearoa-New Zealand, a bicultural approach to law and policy has been implemented, with differing levels of success (Tauri, 1999). There is recognition of the indigenous Māori culture, as well as the dominant Pākehā (European) culture. Māori have enacted kaitiakitanga (guardianship) in Aotearoa-New Zealand for more than 1,000 years, but in the late 18th century, European (mainly British) immigration and settlement began, followed by a formal treaty document – te Tiriti o Waitangi (the Treaty of Waitangi) – signed in 1840. Following this document, designed to form the basis of a social and political partnership between Māori and Pākehā, the process of colonisation by the British government began. This resulted in the mass loss of Māori land to the government, generally through illegitimate means. Legislation, such as the Tohunga Suppression Act of 1907, made illegal many of the practices making up daily life for Māori (e.g., traditional healing methods), which further contributed to disenfranchisement, misappropriation, and marginalisation (Katene & Mulholland, 2011; Nakhid & Shorter, 2014). Significantly, during colonisation, justice processes shifted from a restorative model towards a more retributive, punishment-based orientation (Brittain & Tuffin, 2017; Workman, 2014), and then followed the rest of the world in adopting the use of psychological rehabilitation in order to reduce incidences of reoffending (Bonta & Andrews, 2017). In other words, Western legal categories and justice processes were introduced and enforced via colonisation, and these reflected the values and norms of the dominant Pākehā culture.

Māori today are disproportionately represented in areas of social, economic, and political marginalisation (McIntosh, 2011; Tauri & Webb, 2012; Cunneen & Tauri, 2019). One of the most concerning areas of overrepresentation is in criminal justice statistics. Recent numbers indicate Māori, who make up 15 percent of the general population, currently make up approximately 51 percent of the prison population (Department of Corrections, 2018). Observed rates of reoffending following release from prison are also higher for Māori than they are for Pākehā (Department of Corrections, 2013). Two dominant explanations for the overrepresentation of Māori in the criminal justice system posit that there is an overwhelming bias that sees Māori treated more harshly at every stage of the judicial process (Webb, 2011) and/or that Māori are disproportionately exposed to the adverse factors that predict offending (e.g., unemployment, drug and alcohol use; Morrison, 2009). However, the conclusion of some indigenous scholars that colonisation itself is criminogenic as it “...actively produces

dispossession, marginalisation, and cultural dislocation” (Cunneen & Tauri, 2019) subsumes these two avenues, as each is itself the product of colonisation.

It is necessary to briefly mention here that a recurring issue for indigenous research and researchers is a continued focus on negative outcomes and statistics, which can contribute to perceived links between that culture and these outcomes, and associated stereotypes (Moewaka Barnes et al., 2012). Unfortunately, this thesis has the potential to continue in this vein, being concerned with forensic explanation (which relies heavily on risk factors or undesirable traits). However, despite the cycles of deprivation and disadvantage described above, it must be highlighted that in 2018, while Māori made up 51 percent of the prison population, this equates to approximately 5,100 individuals (Department of Corrections, 2018), less than one percent of the overall Māori population of 744,800 people (Statistics New Zealand, 2018). While the issue of overrepresentation demands further consideration, it must be acknowledged that Māori individuals who have offended are a minority of the overall Māori population. Further, it is also important to highlight that this thesis aims to approach offending behaviour as not a ‘special category’; the explanatory model should be applicable to all forms of behaviour. There is only as much connection between culture and crime as there is between culture and behaviour in general.

### **Culture, Research, and Practice**

In psychological research, the notion of ‘culture’ is complex; it is hard to define and even harder to measure, and subsequently is often left out of consideration (Causadias, 2013). There have been many academic and colloquial uses of the term, which range significantly in their meaning (Fernando, 1991; Jahoda, 2012; Jenkins, 2015). One of the core problems is the conflation of culture, ethnicity, and race – this is recognised as an ongoing issue (Causadias, Vitriol, & Atkin, 2018a; Fernando, 1991; Kagawa, Dressler, & George, 2016; Quintana et al., 2006). Both race and ethnicity are culturally relevant terms which fit into the larger umbrella term of culture. Race refers to the social system of categorising groups based on phenotypical features, such as skin colour, whereas ethnicity refers to a more specific sense of identity and belonging, based on a shared group culture (Causadias, Vitriol, & Atkin, 2018b). Often ethnicity is confused with culture, particularly in quantitative studies that require an operational definition. This results in a less nuanced understanding of culture and cultural influences, and supports a homogenous perspective of an ethnic or cultural group (Causadias, 2013). Ethnicity can be a useful proxy for culture, but the terms are meaningfully different, and research must be considerate of this.

While definitions of race and ethnicity seem relatively stable, culture has been defined and operationalised as a variety of variables. Jahoda (2012) provides an overview of some of the definitions that have underpinned seminal research, dividing them into those that position culture as something external to a person, those that position it as something either internal or both internal and external, or those that simply group multiple definitions together into one. In the first category, culture has been defined as the effects of living in a particular social system (Schwartz, 2009), or a physical environment that is continually manipulated and shaped by the material products of previous generations (Cole & Parker, 2011). In contrast, those who see culture as something that has impacts both within and without a person focus on culture as "...networks of knowledge consisting of learned routines of thinking, feeling, and interacting with other people...[and] assertions and ideas about aspects of the world..." (Hong, 2009, p. 4) or a system of processes that is developed through socialisation and is utilised by individuals to navigate the world (Oyserman & Sorensen, 2009). The third category contains multiple definitions of culture. For example, Han (2017) discusses that, while culture overall can be defined as a 'dynamic social environment', it can also be broken down into material, social, and subjective culture. In other words, culture is present in the artefacts and material manipulations of societies' physical environments, but also in societies' sociality and shared practices, *and* the values and belief systems that these groups hold and share, which underpin their social and material cultures. Such multivariate definitions demonstrate the complexity of neatly pinpointing what culture is and is not, making it difficult to translate culture into operational terms for use in empirical research.

Following careful consideration of the literature, I view culture as a holistic feature that exists at both individual and group levels, specifically "...an orientation to being-in-the-world that is dynamically created and re-created in the process of social interaction and historical context" (Jenkins, 2015, p. 9). This orientation can exist within groups, through shared values, norms and behaviours, and within individuals, as humans are multi-faceted creatures who undergo unique experiences and operate from a subjective individual perspective. Ethnicity is important in shaping cultural experiences and cultural orientation, but no more so than other factors, such as sexuality, age, or gender, which intersect to contribute to and shape an individual's development and behaviour. In other words, culture is not a fixed aspect of a person or group, but rather a dynamic process between an individual, various groups, and their environment, which cannot be separated from their behaviour. What makes up an individual's subjective 'reality' is significantly informed by their cultural orientation. Humans consistently have experiences with ourselves, others, and the world

throughout life, and these experiences are subjectively understood and evaluated (Jenkins, 2015). What is ‘real’ is what humans implicitly or explicitly choose to recognise or deny, and taking a cultural perspective allows us to understand how this is made manifest and influences behaviour. For example, beliefs and values underpin a cultural reality in which a spirit is as real and tangible to an individual as a corporeal thing like a tree or tool.

Although this argument is outlined in much greater detail in chapter two, it is important to note here that if culture is a group and individual ‘orientation to a way of being in the world’, its impact on humans and our behaviour across time and space cannot be understated. Indeed, it will be argued that we depend on and require culture in order to develop the high-level psychological mechanisms that allow us to engage in our characteristically human activities (Hutchins, 2008). We are unlike other animals in some important ways, and ‘culture’ is a key part of this. However, despite its importance, the concept of culture has a problematic position in current scientific research, not least relating to the complexity and multiple definitions outlined above. Although studies purport to be measuring cultural processes or culture itself, due to the significant variation in definition and operationalisation, the constructs under examination are often vastly different (Kagawa, Dressler, & George, 2016). The result is a body of research that claims to be examining the same variable, but in reality is often investigating disparate areas.

In empirical research, ‘culture’ is often inferred from group membership, such as when representative samples are drawn from a population based on factors like race or ethnicity (Kagawa, Dressler, & George, 2016). Any differences between this sample and other groups are often attributed to ‘culture’ as a catch-all explanation, with little reference to the within-group variation that is as significant as between-group differences. This assumes homogeneity of group members and their behaviour, while viewing culture as a variable independent from other biopsychosocial factors. Furthermore, there is a strong tendency in Western scientific research to view culture as something that only ‘other’ minority groups possess (Causadias, 2013; Causadias, Vitriol & Atkin, 2018a). Causadias et al. (2018a) term this phenomenon the ‘cultural (mis)attribution bias’, wherein minority-group members’ behaviour is attributed to and explained by ‘culture’ considerably more often than majority-group members’ behaviour, for whom psychological concepts and processes are more likely to be utilised in explanation. This bias is a significant concern to the study of human behaviour because, as Causadias et al. note, all humans are shaped by culture. Simultaneously, the importance of psychological processes and mechanisms to human behaviour is a ubiquitous feature of humanity

The assumed universality of Western culture and the ‘othering’ of non-Western cultures has contributed to the ‘invisibility’ of how culture affects the behaviour of majority-group members (Causadias, 2013). Causadias, Vitriol and Atkin (2018a) suggest that this privileges majority-group members as unique individuals whose behaviour is the product of their individuality and psychology, whereas minority-group members are significantly more culturally-shaped and therefore implicitly assumed to be more significantly shaped by this ‘common culture’. The reality is that all humans are embedded in a sociocultural context, with consistent interaction between the individual and their context. Therefore, culture is not only relevant for the behaviour of individuals belonging to ethnic minority or non-Western groups, but for all people.

When culture *has* been referenced in general explanations of behaviour, it is often positioned as a distal, monolithic factor (Causadias, 2013). This can be traced, in part, back to seminal ecological models, particularly Bronfenbrenner’s (1979) Ecological Systems Theory. Culture is only active at the exo- and macro-system levels, which have a distal, situational impact on the development and actions of a person. However, it is clear that culture’s impact is significant at every level of the systems that Bronfenbrenner puts forward, from the social/political/economic systems which govern a whole nation, to the community systems that include schooling and workplaces, down to not only an individual’s social functioning, but their psychology and biology as well (Causadias, 2013; Vélez-Agosto, Soto-Crespo, Vizcarrondo-Oppenhimer, Vega-Molina, & Garcia, 2017). The interplay between biology and culture has historically been disregarded due to culture’s status as a social phenomenon, but recent years have seen a burgeoning of evidence that indicates its significant impact on neurology, as well as physiological changes (such as the field of epigenetics; Causadias, 2013).

In forensic research, when culture has been discussed, it is often in relation to indigenous groups, who are globally disproportionately represented in criminal justice systems and statistics (Cunneen & Tauri, 2019; Tamatea, 2017). When we look more closely at the role indigenous culture and knowledge have had in scientific research, we see many of the previously described problems, and more. Given the ‘othering’ of culture and minority groups, research regarding indigenous peoples is often labelled as cultural research, regardless of whether that is the specific phenomena under examination or not. Indigenous research perfectly demonstrates the larger power dynamics that are at play in colonial societies; it is infrequent, indigenous peoples are far more often the subjects under investigation than the researchers themselves, and this knowledge derived is often unlikely to

contribute back to the wellbeing of the indigenous group from which it came (Cunneen & Tauri, 2019).

Furthermore, indigenous knowledge has an uncomfortable position in comparison to Western science. Briggs (2013) identifies three key issues which demonstrate this. Firstly, indigenous knowledge is, by its nature, locally and geographically specific – at odds with the assumed universality of scientific knowledge. Universal knowledge is more highly valued for its global application, but this universality is often assumed – another reflection of the greater societal power held by the cultural group from which this research originates. Secondly, indigenous knowledge is not seen as being as valid as scientific knowledge, as often it is not put through the standard scientific testing procedures that are viewed as producing the highest quality and most objective knowledge. Scientific methods of inquiry are highly privileged, as there is a predominant view that science is *required* to validate and legitimise indigenous knowledge. This is accompanied by an implicit assumption that indigenous knowledge cannot be trusted if it is not backed up by scientific knowledge, devaluing it as a knowledge system in its own right. Thirdly, there is an inherent mistrust of science from holders of indigenous knowledge, due to its frequent appropriation and corruption, and the risk that researchers will repackage and reproduce this knowledge as their own.

Gillett (2009) theorises on the role of indigenous knowledge and its relation to Western science. He suggests that modern science, as a child of the Enlightenment of the 16th and 17th centuries, has lost as much as it has gained over the last centuries. Cultures who remained – for lack of a better word – illiterate have, as a group and as individuals, significantly greater knowledge of their environment and resources. These cultures also have knowledge systems that retain an ability to cohesively integrate social, mental, physical, and spiritual factors into explanation. In contrast, Gillett suggests modern Western science, in reaping the gains brought about through detailed dissection of phenomena, has only recently realised the importance of the ability to integrate multiple explanatory factors. However, due to processes such as colonialism and colonisation, Western cultural knowledge practices have become dominant and privileged over indigenous ones, and the value that indigenous knowledge and practices can bring to psychology as a scientific field is often overlooked.

### **Forensic Explanation**

As well as the problems associated with academic approaches to culture, there are several issues with the current focus of forensic explanation and correctional rehabilitation. Forensic explanation relies on the concept of dynamic risk factors (DRF), which evidence indicates are reliably correlated with risk of reoffending (Bonta & Andrews, 2017).



Correctional practice has developed a focus on criminal risk and need assessment; prediction of risk of reoffending is significantly informed by presence or absence of DRF in an offending individual's life (Hannah-Moffat, 2005). DRF have also been referred to as 'criminogenic needs' (Andrews & Bonta, 2010), due to their potentially causal relationship with criminal behaviour and the assumption that addressing these needs in correctional interventions will reduce rates of recidivism. Examples of DRF include: antisocial attitudes, antisocial associates, drug and alcohol use, relationship issues, impulsivity and poor problem-solving skills. There have been several problems identified with the conceptualisation of DRF and in particular their use as causal constructs (Heffernan & Ward, 2017; Ward, 2016; Ward & Fortune, 2016). Heffernan and Ward (2017) have highlighted the limited utility of DRF, as normative (i.e., require value judgments) rather than scientific or 'real' categories. These point to trends (i.e., deviation from norms) within group behaviour, rather than being the genuine cause of individual behaviour. The assumption is that certain behaviours cause harm, and as such should be sanctioned and outlawed. DRF are the problems that are associated with and seem to predict behaviours that society has deemed harmful, and therefore are actions that violate social norms of 'good' behaviour. In other words, given that crime is a normative and culturally-created construct itself (i.e., we decide what 'harm' is and what causes it), the constructs designed to predict it are not equipped to "map onto valid patterns of psychological problems" (Ward & Fortune, 2016; p 82).

DRF are useful predictors of offending behaviour, but are limited in their ability to explain why such behaviour occurs, as they merely describe problems experienced by or observed in large groups of individuals who commit offences. Perhaps the key reason that they cannot be considered explanatory is that they do not refer to any *specific* thing that could be causal. They are composite constructs in that each risk factor is an umbrella term for multiple things, including possible causal features, contextual features, and mental state variables, and therefore are inherently vague (Ward & Fortune, 2016). For example, antisocial attitudes and thinking refers to: (a) enduring beliefs which may lead an individual towards crime, (b) thinking errors that facilitate an actual offence, and (c) post-hoc justifications and rationalisations of offending behaviour. Multiple causal possibilities may be referred to with the use of one term. DRF are further plagued by the 'grain problem', in that they are referred to at different levels of abstraction, again requiring further analysis in order to pinpoint which putative causal mechanism they are referencing. This might range from general domain categories, such as 'sexual interests', to more specific domains such as 'sexual preoccupation' and 'offence-related sexual interests' (categories which, again, can be

broken down further into more concrete domains such as the use of sex/masturbation as a coping mechanism or paedophilia). It is left to the researcher or practitioner to decide which level of detail or 'grain' to operate at for any given task.

In summary, DRF have demonstrated a useful function in their ability to predict behaviour that violates social and legal norms, but the conceptual problems above mean they are not useful explanatory constructs, they are correlates that may point to causal constructs (Ward & Fortune, 2016). Furthermore, the continued use of DRF/criminogenic needs in case formulation and treatment planning locates the causes of offending in the 'faulty psychological functioning' of the individual. This discounts contextual, historical, and cultural information, which provides critical explanatory value, particularly for members of marginalised cultural groups (Webb, 2018). Consequently, current forensic explanation, as borne out of current academic research, serves to maintain oppression of marginalised groups. Seemingly legitimate explanations for minorities' behaviours are provided, but they are incomprehensive due to this lack of consideration. Problematically, DRF do little to acknowledge the differences in experience and context which affect criminal outcomes. Given that explanation is the first step in modifying harmful behaviours, the focus on and use of DRF sets up subsequent rehabilitation as ill-equipped to make substantive change.

### **Culture and Offending**

Interestingly, the field of forensic research is one where the importance of culture is well-recognised, particularly in the practical realm, and correctional practice in Aotearoa-New Zealand is internationally recognised as a leading figure in this area (Thakker, 2014). There is a keen interest in developing culturally-informed rehabilitation programmes, and practitioners are offered cultural supervision where viable (Castell, Kilgour, & Tamatea, 2018). This is a good starting point, but the correctional departments themselves acknowledge the limitations of these efforts (Hughes, 2018). Because correctional practice is based upon theoretical and empirical research, it is affected by the trickle-down effects of the inherent problems evident in the research itself. Therefore, to best support departments and individuals concerned with providing rehabilitation, it is imperative to address these issues and strengthen our research to underpin best-practice correctional intervention. The aforementioned recognition of the importance of culture, and the pressing need to understand better the immense cultural diversity of our offending populations, positions forensic research and practice to pioneer new theoretical and empirical approaches that might then be applied in other behavioural areas.

Forensic and correctional research is an area that is understood to be a culturally-influenced field, given the pervasive role of values and norms, in turn themselves derived from the contemporary cultural context (Ward & Heffernan, 2017). If we understand offending behaviour as goal-directed actions influenced by an individual's values and underpinned by their personal capacities, and that these are located in multiple socio-cultural contexts, we may begin to better understand individual behaviour (Heffernan & Ward, 2018). A cultural perspective that takes a holistic and contextualised view of human behaviour is likely to contribute to better explanations of norm-violating behaviours, and an in-depth understanding of the unique factors, factor interactions, and factor patterns that contribute to an individual's behaviours. In Aotearoa-New Zealand, a visible and pressing issue is the overrepresentation of our indigenous Māori people in the criminal justice system. While I have earlier alluded to the problems caused by conflating culture and ethnicity, in this case ethnicity is a useful proxy term for cultural processes, in part because it is the reason Māori as a group have been historically treated differently by the context into which they were forced by colonisation.

Although there is an acknowledgement of historical trauma and systemic biases, treatment for individuals who have offended does not differ significantly to international practice. Those interventions which show the highest degree of empirical evidence in reducing recidivism are utilised the most often (Bonta & Andrews, 2017; Department of Corrections, 2009b). These programmes tend to be supplemented with varying levels of incorporation of reo Māori (Māori language), tikanga Māori (Māori practices) and models of health and wellbeing, such as Te Whare Tapa Whā (Thakker, 2014). These programmes are delivered to individuals of a wide range of cultural backgrounds, although with a specific focus on Māori individuals (Hughes, 2018). However, rehabilitation in Aotearoa-New Zealand remains underpinned by attempts to address individual psychological functioning; for example, using cognitive-behavioural therapy (CBT) techniques to change individual attitudes or thinking patterns which support offending, and equipping the individuals with strategies for effective and prosocial self-regulation (e.g., coping strategies, problem-solving, communication). Thus the assumption tends to be that the problems exist within the individual, rather than within the social structures and systems which they exist within (Webb, 2018). Such "hybrid" programmes are routinely delivered to individuals from a range of cultural backgrounds, with specific "culture-based" programmes being available to participants who identify as Māori. These programmes typically target the same factors as hybrid programmes (e.g., attitudes, drug and alcohol use), but they also incorporate a focus

on Maori reo (language) and cultural identity. As such they tend to have comparable levels of success (Johnston, 2018).

The focus on DRF as key explanatory constructs has significant ramifications for indigenous cultures such as Māori. This approach would suggest that the same underlying causes underpin offending behaviour across cultures, and differential rates in offending are the result of differential exposure to these risk factors (Bonta, LaPrairie and Wallace-Capretta, 1997). However, indigenous theorists suggest that the core criminogenic factor in indigenous peoples' lives is colonisation itself (Cunneen & Tauri, 2019). The presence, and over-exposure to, DRF is the collateral result of a process that has sought and still does seek to undermine indigenous peoples' knowledge and resources. What are suggested to be equally important causal factors in indigenous rates of offending are the social and structural inequalities that indigenous cultures are subjected to, which are not usually referred to in correctional explanation and practice (Cunneen & Tauri, 2019; Tauri & Webb, 2012; Webb, 2018). Explanations of offending that utilise DRF are viewed as scientifically valid and legitimate due to the plethora of empirical evidence available, and therefore policies based on this approach to risk and criminogenic need are also seen as legitimate and valid (Webb, 2018). The potentiality for policy itself to be a causal factor in individual offending through the continuation of subordination of Māori in society is rarely referred to outside of indigenous academia.

It is important to focus specifically on the unique role of colonisation in discussions regarding indigenous culture in forensic research and practice. Indigenous cultures such as Māori do not choose to take a subordinate position in society, nor is there something inherent about indigenous cultures that warrants this position. Indigenous cultures were forced into a new cultural, social, economic, and political context, which was accompanied by processes of dispossession and policies of disenfranchisement and social and economic exclusion (Cunneen & Tauri, 2019). The over-criminalisation that was a result of colonisation became a means of continuing the subordination of indigenous peoples, due to its significant intergenerational effects (McIntosh, 2011). Academic research has done its part, often undermining indigenous knowledge and practices as invalid or illegitimate (Briggs, 2013; Cunneen & Tauri, 2019). Importantly, the focus on statistical information (i.e., DRF) in managing 'risky individuals', such as risk assessment, is not equipped to incorporate cultural information or impacts such as marginalisation, but rather produces a homogenous view of offending individuals and the causes of their behaviour (Tamatea, 2017; Ward, Meiser, & Yates, 2007). However, the role of colonisation is crucial in understanding indigenous

individuals' behaviour; "...the colonial experience and its ongoing effects are critical to understanding how criminal justice systems interact with Indigenous peoples today and are therefore central to the development of both an Indigenous criminology and a mainstream criminology that reflects the experiences of Indigenous peoples" (Cunneen & Tauri, 2019, p. 370).

In correctional practice, there has been an interesting and paradoxical view of culture and its role in offending. A view that a fractured cultural identity may contribute to offending behaviour in members of minority cultures, and subsequent addressing of this is a useful means of rehabilitating culturally-marginalised individuals was propagated in correctional practice (Marie, 2010). A 1999 document published by the Aotearoa-New Zealand Department of Corrections outlined a set of 'Māori criminogenic needs' (Maynard, Coebergh, Anstiss, Bakker, & Huriwai, 1999). It demonstrated that cultural identity was conceptualised as a dichotomous variable (i.e., being either good or bad) and a distinct property of individuals. The list of specific Māori needs ultimately presented the effects of a fractured cultural identity as problematic emotions and cognitions, which then contributed to offending – a neat way of repackaging the risk/need approach in a culturally-flavoured manner (Webb, 2011; Webb, 2018). Again, the wider social reasons for why Māori engage in offending at a higher rate than other groups were not significantly referred to or were presented in relation to faulty individual psychological functioning (e.g., colonisation causing individual negative emotionality) rather than as direct causal influences.

However, in recent times, correctional organisations and researchers alike have adopted the stance that culture itself is not an intervention and attempts to rebuild 'cultural identity' are an inappropriate way of administering rehabilitation to cultural-minority individuals (Marie, 2010; Mihaere, 2015). However, globally culture continues to be seen as merely a responsivity factor in correctional treatment (Bonta, LaPrairie and Wallace-Capretta 1997; Department of Corrections, 2009b; Webb, 2018). It is viewed as something that affects an individual's ability to engage in treatment rather than being a part of the person that is intertwined and inseparable with the mechanisms and targets of change. This is not to say that rehabilitation programmes should not be culturally responsive. However, there is a danger of viewing a cultural group as a homogenous entity when culture is simply something that increases engagement in programmes.

### **Summary**

Culture is an elusive and often problematic theoretical and empirical concept; it is multivariate by nature and defined in numerous different ways, and is often discounted or

misused. However, interest in culture has deepened and it is a burgeoning area of research. In the forensic realm, when culture is discussed it is often in relation to indigenous culture and groups, due to the pressing issue of significant overrepresentation in criminal justice systems around the world. However, research related to indigenous cultures and sources of knowledge, and their role in scientific research, is historically dubious. There are questions around the universality of indigenous knowledge, the scope of its application, its legitimacy and validity, as well as concerns around misappropriation. Furthermore, forensic research and practice is itself plagued by several issues, namely the reliance on statistically derived concepts such as DRF. These risk factors are best used as predictors of offending; their inherently vague nature means that they are more descriptive, and currently have limited value as explanatory constructs. However, forensic explanation continues to rely on DRF, and therefore direct treatment and rehabilitation to target 'criminogenic needs'. This 'purely psychological' approach locates all the causes of offending in the individual, and does not facilitate the incorporation of cultural and contextual information.

Subsequently, there remains a significant need to better incorporate cultural and contextual information into our explanations of offending behaviour, in a manner that does not rely on vague constructs like DRF as explanatory constructs, if we are to better understand and address the cultural disparities in our criminal justice systems. Given that crime is a social construct, it is impossible for a cultural group to be any more inherently criminal than another, so we must look to alternative explanations for this overrepresentation. The question remains, what is the role of culture in offending behaviour? To answer this, we must first understand the role of culture in behaviour generally; this is the focus of the following chapter.

### **Chapter Three: Theoretical Developments**

Although there are a number of issues associated with understanding culture, offending, and the relationship between the two, this is an area that vitally requires further theoretical and empirical research. However, offending is not a unique behavioural category; it is the result of multiple intersecting factors – like any human action. Rather than being a fundamentally different category from other human behaviour, its point of difference is the legal and social norms we apply to its occurrence. In other words, the function of crime (e.g., coping with distress, seeking intimacy/pleasure, controlling others) could closely resemble the reasons for engaging in other more or less harmful behaviours (e.g., self-harm, substance use, dating, coercion). Therefore, this chapter aims to build an understanding of how culture impacts on behaviour generally. There are several recent theoretical developments that assist this approach. The first is a unique view of cultural evolution and learning, which informs our understanding of culture's influence upon the emergence of psychological mechanisms. The second is a multi-level nested and embodied view of human beings, and the third is intersectionality. The fourth is the development of a subjective first-person perspective, in shaping the unique lens through which individuals engage with their environments. Finally, the fifth development is a view of human beings as goal-directed agents, and patterns of behaviour as goal-directed practices.

#### **The Evolved Mind and Multi-Level Explanation**

It has been long understood that culture has played a significant role in the evolution of human beings (Tomasello, 2019). However, theories vary in their emphasis on culture and what degree of impact it has had. Evolutionary psychology views our distinct psychological mechanisms as underpinned by our genes, and suggests that our environment (including culture) does not fundamentally shape our psychology, as it is only capable of triggering our cognitive development (Brown, Dickins, Sear, & Laland, 2011). On the other hand, cultural evolutionary perspectives suggest that social interaction is as likely to support the inheritance of shared features and traits as genetic evolution (Tomasello, 2019). Humans have developed mechanisms that support cultural learning, which then enables us to learn the behaviours and knowledge required to survive and thrive in our environment/s.

In contrast, a revolutionary new perspective on human evolution proposes that the psychological mechanisms that underpin distinctly human behaviour, such as language, theory of mind, and causal understanding are as much the products of cultural evolution as are attitudes, emotions, behaviour, or artefacts (Heyes, 2018). Heyes suggests that the only mechanisms humans genetically inherit are those basic processes which are common across

other animals. In humans, these basic processes have been ‘tweaked’ by genetic evolution and are present from an individual’s birth: these ‘Small Ordinary’ attributes include an unusually social temperament, attentional biases towards other humans, and uniquely powerful processors that are capable of extracting, processing, and using information to build more powerful psychological attributes. These Small-Ordinary attributes mean that as soon as a human is born, they are constantly taking in information – particularly cultural information through the course of social interaction – which is then built into the ‘Big Special’ mechanisms that allow us to behave in characteristically human ways. Therefore, culture is an essential ingredient in the development of mechanisms such as causal understanding, episodic memory, face processing, imitation, and mindreading, which Heyes terms ‘cognitive gadgets’.

If, as Heyes (2018) suggests, the mind itself is created by cultural factors, then explanations that do not include culture as a significant shaper of behaviour are incomplete. Culture is fundamental to all human activities, this includes forensically relevant activities such as norm violations (e.g., crime) and the prevention of such violations (e.g., rehabilitation). For instance, we might recognise that individuals possess an inherited capacity and tendency to form goals and plans for the future. How this capacity forms, develops, and manifests depends upon the sociocultural context of that individual and ultimately, this interaction determines the kinds of goals that are endorsed by the individual, as well as the practical means used to pursue these goals (which may be prosocial or otherwise depending on constraints, learning, etc.). The conceptualisation of the mind as being culturally created suggests that culture has a subsequent impact on other explanatory levels, including the biological, the psychological, and the social (see table 1).

Each of these levels will now be discussed in more detail, beginning with the biological domain. An interesting example of the interplay between culture and genetics is the field of epigenetics, where information is transmitted between cells that is additional to the DNA sequence (Feinberg & Fallin, 2015). There is some evidence to suggest genetic markers are inherited across generations that may affect individual development and contribute to continued socioeconomic disadvantage over time (Combs-Orme, 2017; Scorza et al., 2017). There is also burgeoning evidence that demonstrates culturally-genetically evolved differences in features including neuroplasticity, various neurological activation patterns, temperament, and psychopathology (Causadias, 2013; Kitayama, Park, & Yay-Hyung, 2015). Some examples of research regarding culturally differential neuroplasticity processes include findings that acculturation (the process of adapting to a new cultural



Table 1

*Cultural Influences on Explanatory Levels*

Explanatory Domain	Specific Explanatory Level	Examples of Cultural Influences
Biological	Genetic	Gene-Culture Co-Evolution Epigenetics
	Neurological	Neuroplasticity Activation
Psychological	Cognitive	Perception Attention
	Phenomenological	Beliefs Goals
Social	Family Context	Parenting
	Community Context	Schooling
	Broad Social, Economic and Political Context	Policy

context) is achieved more rapidly in younger, and therefore more neurologically pliable, immigrants (Cheung, Chudek, & Heine, 2011). Other findings suggest that cultural differences are associated with differential brain activation, as evidenced by functional magnetic resonance imaging (Causadias, 2013). For example, Telzer, Fuligni, Lieberman, & Galva'n (2013) found significantly less activation in the ventral striatum during reward-receiving and increased activation of the dorsolateral prefrontal cortex activation during behavioural inhibition in adolescents who hold higher levels of family obligation values.

There is substantial evidence supporting the significant influence of culture upon individual psychology, including cognitive and phenomenological processes (Matsumoto &

Juang, 2016). Kitayama, Duffy, Kawamura and Larsen 's (2003) well-known Frame Line Test study found that participants who come from collectivistic cultures such as Japanese are better at integrating contextual information when perceiving a focal object, whereas participants from individualistic cultures like North Americans are better at ignoring contextual information. The same study indicated that attentional differences influenced how much contextual information participants accounted for, with Japanese participants showing an attentional bias towards contextual information. Clearly, unique cultural processes had an impact on the cognitive processes of perception and attention, although exactly how this occurs is less clear.

Of crucial importance to this thesis is the level of phenomenological explanation. Phenomenology is concerned with the way humans subjectively experience and represent their reality from the conscious, first-person perspective, and how this then informs action and behaviours (Langdrige, 2008). Subjectivity is an evolved capacity that enhances human survival; we can mentally represent the potential opportunities and constraints in our environment and accordingly form goals, and plan and implement behaviours to achieve these goals (Neisser, 2015). Culture has a significant impact on both individuals and groups; for example, if an individual belongs to a marginalised cultural group, they may develop negative representations about themselves and their communities, which has been suggested as being importantly related to offending by indigenous individuals (Deane, Bracken, & Morrisette, 2007).

Culture's influence on social domains of human functioning has been well-elucidated by researchers (Tomasello, 2019). For example, ethnic-minority parents significantly differ from ethnic-majority parents in their parenting values, the goals they have for their children's development, and the resources available to them. Prevoo and Tamis-LeMonda (2017) discuss the more collectivistic values that underpin Latin-American family interactions, including rigid family roles and rules around fulfilling these, expectations for presentation and behaviour in the community, and how confrontation is dealt with. In contrast, Chinese families, who also show a collectivistic orientation, show more prioritisation of demonstrating modesty through your behaviour, controlling oneself, and importantly, filial piety (respect and care for parents and older relatives). Improving education and pursuing success are key childrearing goals in many Chinese families. Culture also has a marked impact on the community systems that people develop and operate within. Mejía-Arauz, Rogoff, Dexter, and Najafi (2007) found that in schooling settings, children who came from indigenous or Mexican-immigrant family backgrounds communicated as a group

significantly more often than children of European heritage, who more often communicated in pairs or individually. Another example is provided by Tsethlikai and Rogoff (2013), who found that North American indigenous children were better able to recall a general story in more detail when they were also more engaged in cultural activities in their community.

The sociocultural context is the abstract level at which group values and beliefs about the individuals and the world emerge and the broader social context is shaped through enactment of these values and beliefs. All societies, as groups of culturally shaped beings, develop values about themselves, others, and the world, in an ongoing and dynamic process (Heffernan & Ward, 2018). These values are borne out of the need for survival; a shared value base allows for a group to maintain social cohesion and enhance their ability to survive and thrive in their physical environment (Brown et al., 2011). Over time, a social group forms a shared orientation to a way of being in the world, their culture. From this value base, norms concerning what groups and individuals should or should not do are derived and enacted through shared practices (e.g., sharing resources, monogamy). Often the norms around what constitutes an offence are similar across cultures, but this is not necessarily always the case (Tamatea, 2017). Norms allow groups and individuals to evaluate whether an action or activity has been completed properly and meets the standards of acceptability (Heffernan & Ward, 2018). The enacting and maintenance of these norms occurs at the broader social level. For example, it is a safe assumption that Aotearoa-New Zealand society holds value for human life, and the belief that killing others is 'bad' or 'wrong'. This is enacted through the laws around offences related to the ending of someone's life, and the sanctions we place on those who engage in such behaviours.

### **Culture and the Embodied Mind**

The 'mind' is a tool developed via evolution to enhance human survival and reproduction by providing the means to navigate and control our interactions with the environment (Aunger & Curtis, 2015; Seligman, Railton, Baumeister, & Sripada, 2016). Within the psychological scientific community, there is a steady movement away from viewing the 'mind' as something contained within the brain, to a set of structures and processes that are distributed across the brain, body, and environment (Fuchs, 2009). In other words, behaviour is not the result of independent mechanisms operating in either the physical or mental space, but rather the culmination of interactions between an organism's brain, body, and environment. We can only hope to understand the neurocognitive system within its bodily and external contexts, all of which can be influenced and shaped by our cultural contexts (Hutchins, 2008). As Heyes (2018) suggests, the existence of the human mind is

dependent on this embeddedness; without the cultural information upon which the characteristically human psychological mechanisms are built, there would be no conscious 'mind'. Humans are capable of sophisticated thought and action, unmatched by that of any other animal. The reason for this is, in part, the cultural systems that we have created, and which have created us.

From this perspective, actions are themselves embodied; they are not triggered by a mind that is located solely in the brain; rather they are a product of a mind which is located across various levels (brain, body, environment; Fuchs, 2009). This means that explanations of behaviour require reference to multiple explanatory levels (Thagard, in press). These levels are irreducible; behaviour cannot be comprehensively explained by referring to only one level (e.g., an offence like violent assault cannot be explained completely by discussing only biological factors or contextual factors). Although by no means exhaustive, these explanatory levels are often broken down into biological (including sub-levels such as genetic, molecular, cellular, physiological, and neurological), psychological (including cognitive and phenomenological), and social (family context, community context, broad socioeconomic context, political context). Although commonly viewed as a social variable, culture plays a key role in shaping and influencing each of these levels, and therefore demands recognition in comprehensive explanations. A multi-level perspective of human behaviour is particularly important as it paves the way for the development of interventions that account for the sources of or barriers to change that are beyond any individual (i.e., in the community; Trickett, 2009).

If the mind is an embodied engine and cultural influences are present across all explanatory levels, then the mind is an inherently cultural 'thing' (Fuchs, 2009; Hutchins, 2008). Although two people might demonstrate identical physical systems, if their embodied cognitive systems contain different cultural practices and orientations, they might perceive the world and behave in markedly different ways (Hutchins, 2008). Globally, cultural groups differentially interact with and organise their physical environments, constructing artefacts such as buildings, clothing, or eating utensils that reflect their specific cultural orientation. The ways in which individuals within these groups interact with this environment are also specified according to culture, as is the meaning derived from these practices (Tomasello, 2019). Hutchins (2008) makes the claim that it is principally through the interaction of an individual's brain and body with their environment/s that high-level cognitive mechanisms are possible (the process of which could be described through the production of 'cognitive gadgets'; Heyes, 2018). Subsequently, if we ignore the crucial role of culture in the creation

of the human mind (and therefore behaviour), we “...risk distorting our accounts of human intelligence” (Hutchins, 2008, p. 2018).

Importantly, an embodied approach to understanding cognition and behaviour aligns with many holistic indigenous conceptualisations of individuals (Fuchs, 2009; Rua, Hodgetts, & Stolte, 2017). In particular, the ‘self’ in Māori culture exists beyond the individual to the individual’s interactions with others, their physical and spiritual environments, and their history and present existence. Rua et al. (2017) identify in their research some key concepts that describe the embodied Māori view of self; individuals’ interdependence with others is captured in their whakapapa (genealogy and lineage) and whānaungatanga (relationships with others), Kaumātua (elders) of individual iwi (tribal groups) represent that iwi as a collective identity, and kanohi kitea (the seen face) and tūrangawaewae (place to stand) enhance identity beyond the individual and their body. This is only a general perspective of how a Māori view of the embodied self might present; specific individuals are likely to have different conceptualisations. However, the goal of this thesis is to examine how we might better explain offending behaviours of culturally different individuals, with a focus on indigenous people who have offended, due to their marginalised and overrepresented status in criminal justice systems. An embodied perspective of the human mind and behaviour has the potential to draw together Western academic research and specific indigenous knowledge to be utilised in explanation.

In addition, an embodied perspective of the mind, and subsequently behaviour, is essential to understanding why there are ethnic differences in rates of offending, and even the types and severity of offences committed (ethnicity being a proxy for culture as a cultural factor – but not the only factor that makes a culture). Historical abuses of marginalised cultural groups are well-documented; enslavement, institutionalisation, outlawing of cultural customs and traditions, confiscation of land, and so on. This historical trauma has paved the way for the current situation, wherein members of marginalised cultural groups have a lower life expectancy, and higher rates of suicide, poverty, and criminal activity/exposure to criminal justice systems (Deane, Bracken, & Morrisette, 2007). If the mind is an embodied engine that serves to navigate our physical and social environments and our past and present environments, then individuals who grow up in these marginalised sociocultural contexts are likely to form significantly different perceptions of the world and mental representations of themselves and others which reflect these experiences (Bracken, Deane, & Morrisette, 2009). The way such individuals behave when faced with particular circumstances – which

are culturally shaped themselves – is likely to differ from those who have not developed in a marginalised sociocultural context.

### **Culture and Intersectionality**

A useful way of capturing the multiple domains/sources of cultural influence that impact on an individual's behaviour is through intersectionality (Glynn, 2016; Godfrey & Burson, 2018; Santos & Toomey, 2018). Understanding culture's impact on offending behaviour requires an intersectional perspective of people and behaviour. Glynn (2016) defines intersectionality as "...an understanding of human beings as being shaped by the interaction of different social locations. These interactions occur within a context of connected systems and structure of power" (p. 24). For example, an individual's cultural orientation may be simultaneously influenced by family of origin, peer group, engagement in leisure activities and groups, ethnicity, age, gender and sexuality, and so on. At the individual level, culture is the intersection of these influences. These variables interact differently for individuals and the subjective experience this creates plays a key role in influencing individual behaviour. These interactions can serve to create or maintain social positions of power and privilege, or marginality, and are highly relevant to forensic explanation. Those individuals who are made most vulnerable by such social interactions are all too often those for whom negative outcomes, like contact with the criminal justice system, occur (Glynn, 2016). An explanation of individual behaviour that incorporates cultural information is required then to delineate how the rather abstract concepts of power, privilege and oppression are manifested in this individual's life.

An intersectional view of humans is appropriate given its position that individuals can experience and develop in the same contexts in distinct and unique ways, depending on the social positions they hold (Santos & Toomey, 2018). Unfortunately, previous research that attempts to examine the nature of discrimination often focuses on one discriminatory aspect of persons, such as sexuality or age, which then perpetuates a monolithic view of the experiences and effects of discrimination (e.g., examining sexuality only, without considering sexuality as one factor in an amalgamation of many that combine to create a unique experience, such as race, ethnicity, age, dis/ability etc.; Santos & Toomey, 2018). Intersectionality aims to underpin research that disseminates these unique experiences. An individual can experience multiple marginalities, such as being gay, disabled, and female, but these are not additive; these marginalities combine and overlap to contribute to this individual's lived experience (Godfrey & Burson, 2018). Reference to the historical roots of the sources of discrimination is important to an intersectional approach; research indicates

that ignorance of this encourages a view of marginalised social patterns such as disparities in wellbeing or offending as being the result of something inherent in the individuals who occupy these positions (Cimpian, & Saloman, 2014; Godfrey & Burson, 2018).

Forensic explanation therefore needs to acknowledge the multiple factors that intersect to shape individual subjective experience, and that no one factor makes up an individual identity (Delgado & Stefancic, 2007). Previous attempts to explain behavioural phenomena, particularly of individuals and groups who sit at the margins of society, have often neglected the social and structural forces that serve to oppress these people in different ways. Subsequent explanations therefore do not paint a complete picture of why various behaviours occur (Santos & Toomey, 2018; Webb, 2018). Members of marginalised groups who commit offences face not only the criminal justice system and its innate biases, but the wider reality of discrimination in their sociocultural context (Glynn, 2016). Consequently, the process of continuing or desisting from crime may be experienced in a variety of ways and accompanied by various challenges and opportunities, and is significantly dependent on the navigation of this sociocultural context.

### **Culture and Subjectivity**

Intersectionality provides a lens through which we can better understand the notion of individual subjectivity. The phenomenological level of explanation refers to how humans subjectively understand, represent, and explain themselves, others, and the world (Neisser, 2015). Subjectivity is an evolved capacity that has enabled human survival; we require representations of ourselves, others, and the world in order to ‘map out’ reality, including its opportunities or constraints on things that may assist or harm our survival (Neisser, 2015). These models (i.e., mental representations) need to be reliable for humans to engage in goal formation and planning, and then put these into action. Importantly, experience is unique to each individual and therefore so is the development of the first-person perspective and the models that each person develops; without the phenomenological level of explanation we cannot completely understand an individual’s actions (Pereira & Reddy, 2016).

Baker (2015) suggests that when people are born they have a rudimentary first-person perspective on par with that of other animals. In other words, there is a capacity for intentionality that drives behaviour, but only to enable survival by orienting persons towards rewards (e.g., knowing that one needs food). However, human development occurs in the context of constant cultural learning. As a result of our ‘tweaked’ genetically inherited psychological attributes, this produces the sophisticated ‘cognitive gadgets’ that underpin distinct human activities and behaviours. We therefore develop a subjective consciousness of

ourselves as ourselves, known as the robust first-person perspective (Baker, 2015). In other words, Sally knows that ‘Sally’s pen’ is ‘her pen’, not just ‘the pen’. This perspective allows us to form and maintain a subjective level of consciousness, wherein we hold dreams, wishes, hopes, beliefs, desires, attitudes, and so on. This adaptation, a product of genetic and cultural evolution, allows us to engage in characteristically human activities such as making plans, anticipating their outcomes, and evaluating their relative success. In forensic practice the phenomenological level is where we engage with individuals who commit offences; “Practitioners gather information from the viewpoint of persons who have committed crimes (i.e., assessment and treatment), and use this information to make decisions concerning risk and to form a therapeutic alliance” (Heffernan & Ward, 2017, p. 136). Therefore, it is an essential part of how we explain offending behaviour, and a potentially vital stepping point from which change in offending individuals’ behaviour can occur.

As discussed above, individuals are exposed to an intersection of varying culturally-influenced factors, which has a significant impact on how an individual subjectively understands and experiences themselves, others, and the world. Explaining behaviour from a phenomenological perspective provides an insight into how the intersecting cultural and contextual experiences have shaped a person’s mental representations, and therefore explains, in part, why and how a person engaged in a particular action (Velez & Spencer, 2018). The cultural impacts on the social and contextual levels of explanation are well-established, as ‘culture’ has been often conceptualised as a person’s external, social environment. This thesis is concerned primarily with culture’s impact on the person (i.e., the phenomenological, subjective, or intentional level of explanation), to inform correctional practice with individuals.

Culture plays a crucial role in the formation and subsequent operation of this robust first-person perspective, or subjectivity. When humans developed language – a key vehicle for the transmission of cultural information – our ability to mentally represent ourselves, other people, the world, and the future was vastly extended. This ability substantially enhances our prospective capabilities (i.e., our ability to draw on previous experiences to form expectations of the future) and shapes our expectations for the outcomes of the behaviours we engage in. In other words, we have a capacity to exercise agency through a heightened control over our actions and their predicted consequences (Ward, 2017). The subjective first-person perspective provides the psychological foundation from which we operate and act in the world. Without reference to this perspective, it is difficult to understand



the intention and meaning behind a person's actions. This is crucial if we are to modify behaviour, as is the goal of correctional rehabilitation.

The fundamental tenet of the agentic perspective is that an action requires both an agent and an external context in which action is possible (Durrant & Ward, 2015). Culture operates at both individual and group levels and is therefore internal and external to human beings. Its significant influence on the development of the capacities and mechanisms which enable agency is demonstrable firstly through its impact on the development of subjectivity and through life experiences themselves. Culture shapes both how an individual interprets events and these events (e.g., the interpretation and subjective experience of racism, as well as the occurrence of racism itself). However, internal and external experiences of culture intersect and vary significantly across individuals, explanations of behaviour must acknowledge this individuality.

### **The Predictive Agency Model**

Agentic approaches to forensic explanation have recently been put forward as a means of addressing the conceptual problems with DRF outlined earlier (Durrant & Ward, 2015; Heffernan & Ward, 2015; 2017; Serin, Chadwick & Lloyd, 2016; Thornton, 2016; Ward, 2017). Agency is the capacity to “effectively manage multiple and sometimes competing goals in ways that enable him or her to sustain functioning, repair any damage, avoid harm or threats, and to implement plans that are cohesive and responsive to any relevant contexts – social, physical, and cultural” (Durrant & Ward, 2015, p. 192). Humans prioritise particular values or “human needs” (Ward, 2017) and develop goals and strategies to achieve them based upon their psychological capacities and external resources or opportunities. Agents are constantly situated in and interacting with a physical and sociocultural context, which is culturally shaped by the agent, but which also shapes their experiences. According to this perspective, DRF refer to psychological and social processes that *impair* prosocial agency (e.g., the formation and achievement of goals, as outlined above), or make it more likely that needs will be met via norm-violating or harmful actions. A cultural perspective that takes a holistic and contextualised view of human behaviour is likely to contribute to better explanations of norm-violating behaviours. One model which outlines this process is the Predictive Agency Model (PAM: Heffernan & Ward, 2017).

The PAM was developed by Heffernan and Ward (2017), based on earlier models of agency (Durrant & Ward, 2015; Ward, 2017). The PAM is borne out of five theoretical commitments, which align with current scientific theories of psychological and social processes and structures, and which are equipped to view humans as culturally-created

beings. The first theoretical commitment is to the culturally and genetically evolved origins of subjectivity; the ability for humans to operate from a subjective first-person perspective. This allows agents not only to survive (e.g., seek food and shelter) but also to engage in characteristically human activities such as planning, or predicting others' actions. The second commitment is to the role of affective systems in the exercising of agency, recognising that our emotions provide meaning to our experience, allowing us to evaluate our actions and their outcomes, and assign value to the outcomes we prioritise. The third commitment is to a nested view of persons, as comprised of influences and interactions across multiple levels of analysis (including biological, psychological, social, cultural, and behavioural). The PAM prioritizes the phenomenological and psychological levels of explanation but acknowledges the importance of all levels for a comprehensive explanation. The fourth theoretical commitment is to the irreducible role of subjectivity in explanations of behaviour; the first-person perspective is the lens from which an individual operates and is a key component to understanding why someone might engage in behaviours that violate social norms and cause harm (i.e., their intentions, motivation, expectations). New properties emerge across explanatory levels, and are not possible without a phenomenological or sociocultural level (e.g., behaviour may be as affected by social norms as it is by an individual's biology). The final commitment is to a view of the mind as a predictive engine, which is equipped with a unique set of capacities that allow us to use internal and external cues to predict outcomes, thus enabling our survival.

The PAM (see figure 1) encompasses these theoretical commitments. An individual develops their subjective perspective over time through interactions with their environment; shaping their general models of themselves, others, and the world. For example, models which form representations of the self, other types of people, specific people, physical environments, and opportunities to meet needs. The individual's emotional systems are developed in the same cultural contexts and assist in evaluating internal and external situations and experiences, and guiding behaviour toward valued outcomes. At particular points in time, the individual develops local models about their current situation (based on their general models), which when paired with a motivating state (i.e., a relevant need) inform subsequent actions. Implicit or explicit planning for action is based on these specific local models, which shape the individual's expectations of their environment and others (i.e., norms), the outcome of the behaviour (i.e., is it rewarding?), and whether this behaviour is likely to meet relevant needs (i.e., its likelihood of success). The action is enacted, and subsequent feedback from the environment (i.e., punishment or reward) and evaluation of this

action then results in the strengthening or weakening of the general models that informed this behaviour. For example, if the outcome violates expectations then general models may need to be revised, or strategies altered to ensure future behaviour will meet the relevant needs.

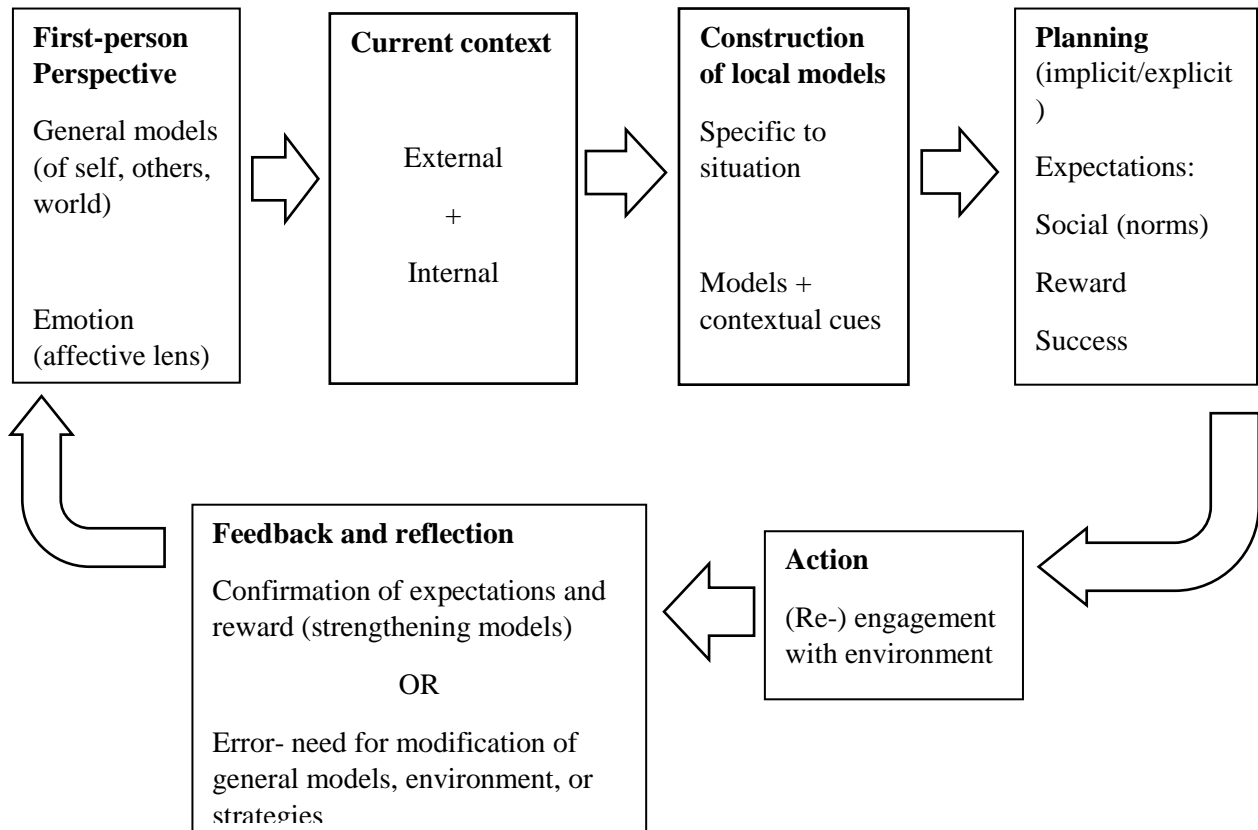


Figure 1. Predictive Agency Model (Ward & Heffernan, 2017)

## Summary

Humans have genetically and culturally evolved to develop powerful and distinct psychological mechanisms that underpin behaviour, namely cognitive gadgets. If the mind is a culturally-created engine, then culture has a significant impact on the multiple levels of explanation at which humans can be understood (e.g., biological, psychological, contextual), indeed there is significant empirical evidence that culture appears to have an impact on biology, psychology, and sociality. This aligns with the embodied view of the mind, where it is viewed as not solely located in the brain, but rather spread across the brain, body, and environment. Therefore, it seems clear that culture is necessary for humans to behave in characteristically human ways, and importantly, the embodied approach is also compatible with indigenous Māori understandings of individuals, which is a useful and significant point of convergence. Indigenous individuals who develop and operate in certain sociocultural

contexts are likely to have very different cultural understandings and models representing themselves, others, and the world, which are likely to then influence their behaviour (including offending).

To capture this properly an intersectional approach is appropriate, as it recognises the multiple factors that act and interact to create a person and underpin their behaviour. Intersectionality is a vitally important approach to understanding people who belong to marginalised minority groups, as it recognises that marginality is not additive but interactive, and serves to shape unique life experiences for individuals. These experiences are interpreted at a subjective first-person level by the individuals to whom they happen. This perspective is where individuals operate from, and it informs the goals that formed and the behaviours that are used to achieve these goals. Culture shapes not only how we interpret our life experiences and how these then inform our subsequent behaviour, but also the experiences themselves and the environments in which they occur. The PAM is a useful way of conceptualising the agency process, and an important starting point for recognising how we might begin to explain offending behaviour in a way that accounts for the cultural aspects of behaviour and the role of the sociocultural environment. I will focus on explicating this in the next chapter, in the form of a 'nested' PAM. In other words, I locate the agentic individual process within the setting of cultural systems, which are derived from a historical context (and therefore recognise the importance of historical processes such as colonisation in the role of individual behaviour such as offending).

### Chapter Four: A Preliminary Model

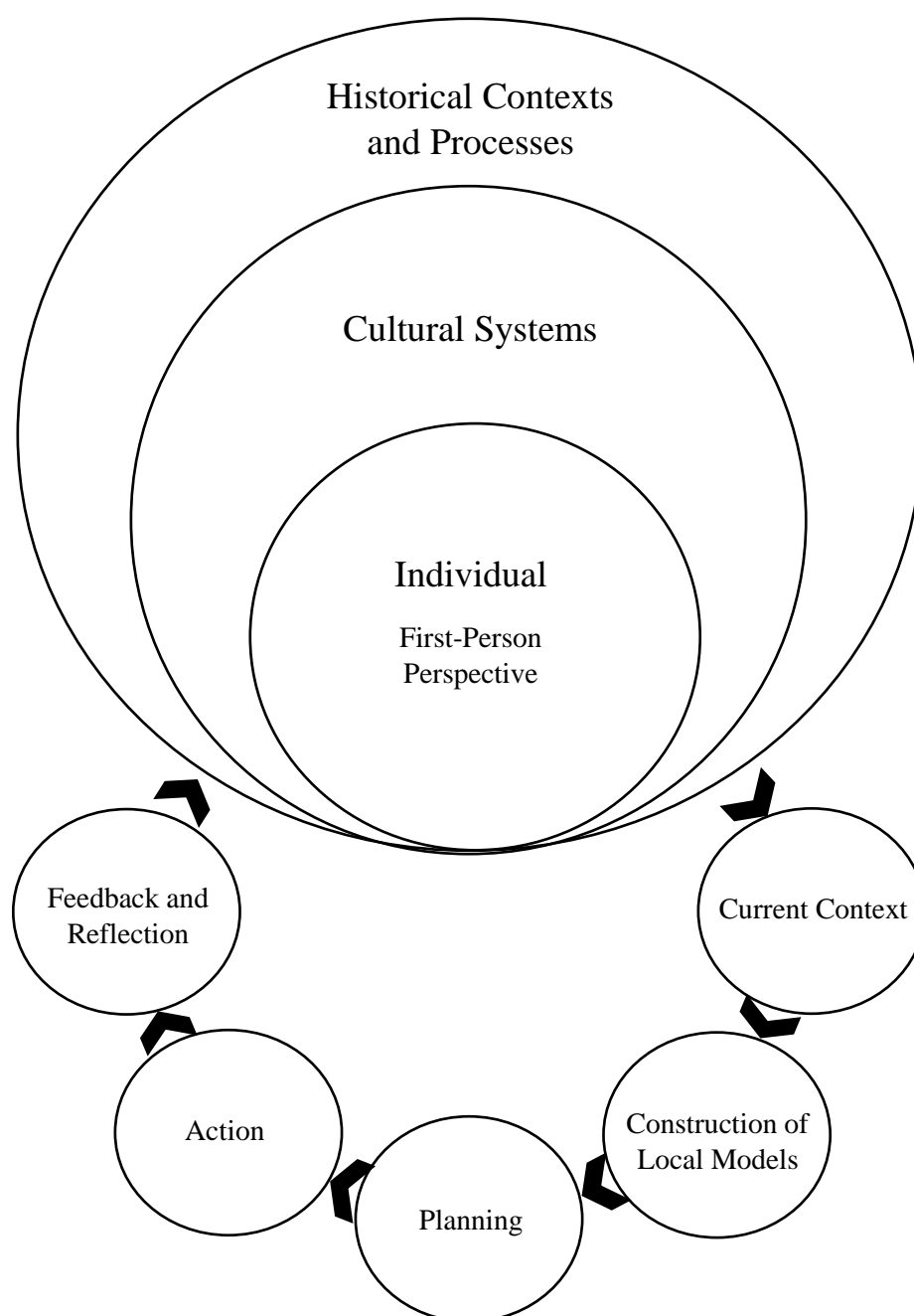
The previous chapters have outlined the problems associated with current approaches to how research understands the role of culture in shaping human behaviour, particularly offending behaviour, and have highlighted the need to construct a means of conceptualising how cultural information might be integrated with forensic explanation. The human mind is a culturally created and embedded predictive engine, and the environments and experiences that humans undergo are significantly culturally shaped as well. Offending is a contextualised action, it does not occur solely within the individual (Chan, Hollingsworth, Espelage, & Mitchell, 2016). Therefore, comprehensive forensic explanation must account for the unique processes within a cultural context that shape behaviour. The current model is an extension of the Predictive Agency Model (PAM), and therefore pays particular attention to the phenomenological level of explanation, which represents the juncture between an individual's agency and their environment (Ward, 2017).

#### The Cultural-Ecological Predictive Agency Model

The Cultural-Ecological Predictive Agency Model (CEPAM; see Figure 2) is grounded in the PAM but visually nests the agentic process within a context of cultural systems, which are derived from a historical context. Figure 2 depicts an agent nested within two significant 'layers' of cultural processes which form the context/s in which a person develops and operates; historical context and processes, and cultural systems. In the CEPAM the focus is shifted to understanding how ecological systems, such as family and community contexts, are culturally shaped and influenced – these are referred to as *cultural systems*. These systems are where the individual and the collective community interact, and therefore behaviour and the wellbeing of both individuals and communities is interconnected (Chan, Hollingsworth, Espelage, & Mitchell, 2016). I additionally focus on the *historical processes* through which the current contexts came to be, and the subjective level of experience that is continually evolving during an individual's lifetime – based on the events of their life. The assumption is that culture influences, and is the product of, historical contexts and processes that have led to the contemporary context.

#### *Historical Contexts and Processes*

The cultural systems, which form both the developmental and contemporary context in which an individual is situated, emerge from a historical context (Vélez-Agosto, Soto-Crespo, Vizcarrondo-Oppeneheimer, Vega-Molina, & Coll, 2017). Therefore, without knowledge of the historical context we cannot comprehensively understand the cultural



*Figure 2. Cultural-Ecological Predictive Agency Model.*

systems that act and interact to shape a person's life and behaviour. Importantly, reference to historical processes such as colonisation and cycles of marginalisation help us to understand how contemporary cultural systems are rooted in issues of power and privilege (Godfrey & Burson, 2018). This perspective allows us to question the in/justice of current systems and practices and understand that these may have enormous and differential impacts on the lives and behaviours of individuals. Godfrey and Burson (2018) discuss the example given by

Crenshaw (1989) of the stereotypes in North America of Black women as being more promiscuous and sexually active than White women, and show how these stereotypes emerged from a historical context in which rape of White women was illegal but not rape of Black women. Subsequently, the 'property value' of Black women was low, and the frequent cases of Black women being raped by White men (who were significantly more immune to legal consequences than Black men) led to a social climate in which Black women were legally sexually more available, and therefore seen as more promiscuous. Without the knowledge to critically analyse where current cultural systems have developed, we cannot hope to understand those systems, nor their impact on shaping human behaviour.

Another reason to integrate historical information into our explanations of individual behaviour is the adverse effects of viewing behaviour as the outcome of inherent qualities about an individual (Cimpian, & Saloman, 2014). Without knowledge of the historical context, societies tend to see social patterns such as overrepresentation in criminal justice systems as the fault of the individuals who make up these patterns; in other words, these individuals' inherent qualities are the mechanism behind the pattern of a group's behaviour. I am not suggesting that individuals are not accountable for their behaviour, but evidence indicates when we are aware of the social inequalities that often underpin problematic social patterns of behaviour, the systemic, institutional, and structural factors that also underpin these patterns are made more salient to us (Godfrey & Burson, 2018). Attributions about behaviour that posit the cause of social patterns as the inherent qualities of the group members underlie problematic stereotypes and incomplete explanations for these individuals' behaviour. In contrast, attention to the historical context contributes to our understanding of problematic social patterns and reduces explanatory reliance on static group identities.

In summary, any understanding of the interaction between persons and contexts is limited if there is no consideration for the historical processes through which these came to be. An individual's opportunities to behave in certain ways may be constrained (or not) by aspects of their sociocultural environment, which are the current manifestations of historical processes (i.e., changes in the environment and social processes over time). For example, colonisation has led to a cycle of entrenched marginality for indigenous cultures around the world, which has resulted in a contemporary context in which members of these groups are significantly less likely to achieve educational goals. This in turn decreases the likelihood of prosocial employment and attainment of positions power and increases the likelihood of negative outcomes such as offending (Ward, 2017). In addition, what constitutes a crime is a historically-informed construction based in cultural values; a group's values evolve and

change over time, and consequently so do norms and laws. What is acceptable behaviour in one time and place may not be in another (Heffernan & Ward, 2018; Tamatea, 2017).

### *Cultural Systems*

Culture is as dynamic and ever-changing as humans are and this process of change has important implications for contemporary society. The development of shared values is borne out of the need for survival; as a shared value base allows a group to maintain social cohesion and collectively enhance their ability to navigate and thrive in their physical environment (Kearns, & Forrest, 2000). Over time, a social group forms a shared orientation to a way of being in the world, their 'group culture'. In other words, a historical context maps the path by which a contemporary socio-cultural context came into being. Norms concerning the types of practices that are 'good' or 'acceptable' are enacted through multiple layers of cultural systems (Heffernan & Ward, 2018). These cultural systems can be as broad as a nation's overarching governing, social, political and economic systems and institutions, or as specific as an individual's immediate community and family settings (Vélez-Agosto, Soto-Crespo, Vizcarrondo-Oppenheimer, Vega-Molina, & Coll, 2017). The cultural nature of these systems, as well as the practices through which we interact with them means there is consistent bidirectional action and impacts between the individual and their cultural context (Vélez-Agosto et al., 2017).

It is therefore essential that our analysis of an individual and our explanation of their (offending) behaviour is representative of individual and collective factors that act and interact to shape behaviour (Chan, Hollingsworth, Espelage, & Mitchell, 2016). Modifying behaviour is the ultimate goal of forensic rehabilitation, and the systems that make up a cultural context are all important in instigating such change. These systems "...represent collective experiences and processes that influence individual behaviours and experiences" (Chan, Hollingsworth, Espelage, & Mitchell, 2016, p. 22). They also represent barriers to or facilitators of prosocial behaviour; an individual can make as much progress as is humanly possible during a rehabilitation programme, but outside of this, they return to the same context that may have also contributed to their offending behaviour. Explanation that is cognizant of the systems factors that shape behaviour is better positioned to underpin interventions that can directly target, at the very least, how an individual navigates the barriers or facilitators in their environment (Ward & Fortune, 2016). Furthermore, explanations that do not consider the effects of cultural systems in directly contributing to offending (i.e., such as a 'purely psychological approach') then may hinder individuals' changes in rehabilitation, as the responsibility is placed solely on the individual and their



problems (Shaw, McLean, Taylor, Swartout, & Querna, 2016). Offending individuals do not exist in isolation from these systems, therefore nor should explanations of their behaviour. By incorporating cultural systems into forensic explanation, we can ascertain the social location of an individual, in other words "...the groups to which they belong based on their position in history and society..." (Shaw et al., 2016, p. 36). Their social location affects what resources they will be able to access, such as 'desistance factors' like stable employment, as well as potential barriers to the desistance process, including systemic factors.

The cultural systems in which a person is embedded are important in two ways: first, they make up the context in which a person currently operates. This context may provide opportunities and means to behave in pro- or antisocial ways, and as previously mentioned defines when a behaviour is norm-violating or not. Secondly, humans develop their first-person perspective in a cultural environment/s. Therefore, how someone understands their life experiences shapes how they see themselves, others, and the world in general, which influences their behaviour. A person raised in a context where friends and family often commit crime – and where societal attitudes exist that this is expected (or even inevitable) behaviour for this group – may hold mental representations of offending behaviour as beneficial, normal, and expected, and therefore that an outcome such as prison is similarly inevitable. Once in a specific situation (which is influenced by the sociocultural context) the local models this person constructs and the implicit or explicit planning engaged in may lead to a norm-violating action. I will now present an exemplar and outline how the CEPAM can provide a more comprehensive explanation of their behaviour than the typical focus on dynamic risk factors.

### **Application and Exemplar**

Liam is a 23-year-old male of Pākehā and Māori descent. His parents, who both identify as Māori and Pākehā, divorced when he was four, and he and his younger sister were raised by their mother. His mother briefly had a new partner, who was occasionally violent towards Liam, his sister, and his mother. Liam found reading difficult from an early age, and quickly grew to dislike school, where he misbehaved and was often in detention. He gradually fell behind his classmates, eventually leaving school at age 15 to work for his uncle's construction business. This uncle, the main male influence in Liam's life after his parents' divorce, is peripherally involved in a local gang. Liam began to spend more time with his uncle's friends, eventually joining the gang as a result. In this context, Liam began to think that violence was a powerful way of showing his dominance and getting what he wants. At a party one night, a rival gang member was present and Liam, under the influence of

alcohol, assaulted him. Some months later, Liam was convicted of aggravated assault and given an 18-month prison sentence.

***Exemplar: Correlates of Violence***

The typical explanation of Liam's offence, and thus the focus of efforts to reduce his risk of reoffending, would rely upon the dynamic risk factors (DRF) which are judged to have influenced his behaviour. In this example, two important DRF are the attitudes Liam holds around violence, and the associates (and enemies) he has gained through joining the gang. Evidence indicates that these two risk factors are amongst the strongest predictors of offending behaviour, and they are often measured and evaluated together (Banse, Koppehele-Gossel, Kistemaker, Werner, & Schmidt, 2013; Bonta & Andrews, 2017). As outlined earlier, DRF are multi-faceted descriptions of offence-related characteristics, aspects of individuals and their environments which predict recidivism. Bonta and Andrews suggest that pro-criminal associates provide antisocial learning opportunities, in both the development of pro-criminal attitudes and the practical aspects of how to commit crime, for example providing opportunities or sharing 'expertise' (i.e., techniques for crime). Antisocial attitudes are "...thoughts, feelings, and beliefs that are supportive of criminal conduct" (Bonta & Andrews, 2017, p. 123). As such, these can be many different things, and they can occur at different times. Pro-criminal cognition can occur prior, during, and/or after an offence, and could be in the form of justifications, rationalisations, neutralisations, excuses, devaluations, but also other attitudes that might be approving of or favourable towards crime (Banse, Koppehele-Gossel, Kistemaker, Werner, & Schmidt, 2013; Bonta & Andrews, 2017; Mills, Kroner, & Forth, 2002). Offence-supportive attitudes are essentially any type of cognition which makes it more likely that the individual will engage in offending.

***Exemplar: Historical Context and Processes***

We can add to this vague explanation by examining the historical context. Aotearoa-New Zealand is a colonised country that is governed largely in line with Pākehā cultural values. Māori are recognised as tāngata whenua (indigenous people of the land), but remain a marginalised ethnic minority within the dominant Pākehā society. The social history has seen severe deprivation and disadvantage for Māori through disenfranchisement, misappropriation, and marginalisation. In recent years, there has been a renaissance of Māoritanga (Māori culture), but the statistics proving the disadvantage and inequality remain. Throughout all of this, Māori contact with the criminal justice system has steadily increased (Webb, 2011). Simultaneously, and likely relatedly, Aotearoa-New Zealand society has become increasingly more punitive in response to offending (Pratt, 2006). Perpetuated by our society's harsher

criminal justice policies, I suggest that the maintenance of this overrepresentation is also due in part to the act of explaining offending from an individualistic perspective, with little reference to the history from which this problem emerges (Webb, 2018; Webb & Tauri, 2012). This places the onus of responsibility completely at the door of the individual who, while rightly should be held accountable for their actions, is ill-equipped to change the historically entrenched political and social factors that form their context.

This historical context is important as it helps to explain why someone like Liam is more likely to have DRF such as antisocial associates and attitudes present in his life. Māori, as a historically marginalised group, have become exposed to cycles of inequality that perpetuate overrepresentation in criminal justice statistics across time (McIntosh, 2011). The various forms of social disadvantage that have resulted from colonisation, such as poverty and poorer education, are all intertwined and contribute to increased exposure to various risk factors (e.g., delinquent peers, poor problem-solving abilities). Imprisonment in particular has had a clear intergenerational effect on Māori; prison affects not only the prisoner but their wider social contexts, particularly their partners and children. The justice system places members of marginalised groups into prison, which evidence repeatedly demonstrates is a traumatising and criminogenic setting in and of itself (Bales & Piquero, 2012; Cid, 2009), and then returns them to the same sociocultural environment after their sentence, with the added pressure of having to reacclimatise to society and the stigma of a criminal record.

### ***Exemplar: Cultural Systems***

The contemporary sociocultural context and the various cultural systems that form it are a product of the historical context. The values and subsequent norms enacted through governmental policy, and the agencies and institutions which implement these, outline what behaviours are acceptable and not acceptable. However, marginalisation and inequalities established over many years contribute to a context that limits opportunities for prosocial behaviour and increases the likelihood of antisocial behaviour. The justice system is a perfect example, wherein Māori are more heavily policed, more likely to be apprehended, charged, convicted, and sentenced to prison terms than non-Māori (Webb, 2011). Similarly, in community-level cultural systems, such as schools and workplaces, Māori are less likely to achieve academic goals, which translates into problems with Māori representation in highly-skilled employment or positions of authority (McKinley, & Hoskins, 2011). Although change is occurring, often as a result of Māori-led initiatives such as kaupapa-Māori centred educational pathways, most students are still located in English-medium schools where Western cultural values guide what outcomes are equated to successes.

It is in this context that Liam has developed and currently operates. He was raised in a family environment where Māori heritage was recognised, but like many families, was disconnected from wider whānau, hapū and iwi contexts. As a single-parent and therefore single-income family, there was significant financial stress, and limited educational and leisure opportunities. Liam attended a low-decile school (which had significantly less resources to support student learning than higher-decile schools) and due to his reading difficulties, came to see himself as ‘stupid’ and ‘naughty’, and school was a source of continued negative evaluation. At home and school, Liam learnt that his identification as Māori placed him in a stereotypical category where normalisation of negative outcomes was rife, particularly in relation to crime and prison. This was reinforced when he regularly received detention at school for misbehaving. This stereotype was never challenged across these settings, as a result of his family’s disconnection and the educational system’s prioritisation of Pākehā cultural values.

### ***Exemplar: First Person Perspective and Predictive Agency Model***

Liam’s first-person perspective contains a number of general models, including: that he is bad, prison is a normal eventuality for his social network, the world is place in which you have to defend yourself before others can hurt you, and that he is already seen as a criminal by most of society anyway. To Liam, violence is a normal and viable way of achieving goals and a source of positive reinforcement, such as feeling respected and safe. Subsequently, the general models that influence Liam’s decision to assault the rival gang (outlined above) are a product of the various subjective experiences that occurred in Liam’s life thus far. He sees himself as fitting into a negative stereotype that is often linked to his ethno-cultural background in his experiences across various settings. These negative outcomes have been positioned as ‘normal’ experiences. He has further learnt that the actions that constituted his index offence were positively reinforced in his environment, and therefore are useful to achieve his goals. Indeed, it could be argued that this behaviour is adaptive in his environment (Ward & Carter, in press), as actively choosing not to engage in this action could result in, at best, outcomes like social disapproval and isolation.

Liam has a somewhat negative affective lens through which he sees the world and as such is overly sensitive to perceived threats or aggressive cues. This has developed via repeated exposure to violence and the subsequent need to be vigilant in situations where he could be hurt, and has generalised to sources of unease or uncertainty (e.g., around unknown people). Liam expects to see danger in his environment and so he often finds it. At the party where Liam’s offence occurs, many of the people present have been drinking alcohol, and

Liam himself is also intoxicated. It is loud and there are a lot of people he does not recognise. Liam is on high alert, leading to anxiety and hypersensitivity to changes in his environment (e.g., noticing when people enter the room, prolonged eye contact, signals of disrespect). Liam perceives the arrival of a rival gang member (who stares him down) as a sign of disrespect and threat to his social standing, as well as a potential threat to his safety and a transgression of him and his peers' social power (it being 'their' party). Implicitly, local models about how to behave in this specific situation guide Liam's behaviour. For example, if he lets him get away with it he will be ridiculed or it will happen again, and he has seen others assault rival gang members in similar situations, creating a kind of script for this particular situation and similar ones.

His plans for this situation are based on the expectation that violent behaviour will be socially acceptable in his current context, and that this behaviour will be successful and rewarded, as it has been in the past. This planning may or may not be an explicit process; Liam may respond to his rival in a seemingly automatic manner, but it is important to note that Liam may have considered other avenues of behaviour, such as removing himself from the party and thereby removing the threat. However, previous experience may have taught him that behaving like this will be punished (disapproval from his peers and undermining of his strength and social power), and he therefore disregarded this option. He puts his (implicit or explicit) plan of using violence to dispatch this threat into action and violently assaults the rival gang member, causing significant physical harm and trauma, which in turn causes his victim's peers to respond in an angry and upset manner and his peers to approve.

The feedback and reflection process mostly confirms Liam's general and local models. Liam's peers reward his behaviour by voicing their approval of his actions, and he is further reinforced by the removal of the perceived threat. However, in the longer term, Liam's actions cause deep distress to his family, who are exposed to negative media attention and a subsequent public backlash. Liam is convicted of aggravated assault and sentenced to an 18-month prison term. Delayed by several months after Liam's offence, his conviction does little to punish his actions and reduce their future occurrence, and his prison term serves to fulfil his expectation that he would eventually go to prison and reinforce the normalcy of crime (i.e., 'it's just something that happens to people like me'). While in prison, Liam forms connections with other antisocial peers. He receives very few opportunities to complete rehabilitation programmes due to his short prison sentence, long waiting list times, and a perceived lack of motivation. When Liam leaves prison, he becomes unemployed as his uncle has hired someone in his place, and his criminal record means other employers are reluctant

to take him on. He now spends all his time with his previous social group and reconnects with some of his peers from prison. As a result, the ‘punishment’ of prison has maintained Liam’s perception of the world as a place where criminality and prison is normal for people like him, and his trajectory is inevitable. It provided him with further antisocial connections and removed potential prosocial opportunities and factors that may have supported desistance from crime.

In Liam’s case, the presence of the DRF of antisocial associates and attitudes that might predict his offending are highly influenced by cultural and historical processes. Firstly, the predictive-agency perspective holds that DRF are “...broad categories that containing (proxies for) weakness or strength in the capacities underlying predictive-agency that cause behaviour that is more or less harmful and/or illegal in particular contexts.” (Heffernan & Ward, 2017 p. 138). For Liam, the presence of peers who supported antisocial attitudes and behaviour is construed as a weakness as he developed similar attitudes after positively evaluating those who hold these attitudes, and the attitudes themselves. In this case, believing violence is a viable way of achieving goals such as social approval, is (one of) the attitudes that Liam positively evaluated, as it is reinforced in this context and is associated with emotions such as pride and belonging. When Liam finds himself in situations where a need (e.g., safety, mastery) is unmet or threatened, his culturally informed models facilitate behaviours which have been used to achieve these needs in the past.

This analysis allows us to understand that Liam’s offending behaviour, for which he remains responsible and accountable for, is as much shaped by cultural processes and contexts as any other behaviour. While the causal mechanisms embedded in the broader DRF are likely to affect Liam’s behaviour, the nature of the presence of these, as well as the opportunities for pro-and antisocial behaviour provided to Liam in his sociocultural context, are culturally influenced. Māori resources and lifestyles were ruptured when colonial power began to assert its dominance in Aotearoa-New Zealand, and subsequent reactions and behaviours by Māori were deemed ‘antisocial’ and punished. Over 200 years later, the cycle of intergenerational inequality has produced a context that actively maintains a social hierarchy that serves to burden Māori with the material manifestations of this inequality, such as overrepresentation in the criminal justice system (Webb, 2018; Workman & MacIntosh, 2013). For Liam, the expectation that he not reoffend after prison requires him to not only shift how he perceives his experiences and make stark changes to his lifestyle (effectively asking him to remove his social network as it is ‘antisocial’), it also requires him to do this in the face of a society that works to maintain the social subordination of his culture. This is not

to say that it is impossible for him to make changes, but suggests that there are also broader social and systemic influences at play.

### **Summary**

The CEPAM is an important step towards understanding the ways through which culture has an impact on behaviour, including offending. A continued reliance on DRF as they are currently conceptualised and used in forensic explanation is not likely to yield the changes in rehabilitation that are required to address the cycles of marginality that some cultural groups are exposed to, and reduce the level of harm we currently see in our communities. By recognising that humans are embedded within a context that is made up of multiple historically-derived cultural systems, which all have a direct impact on individual behaviour, we can recognise that different cultural groups have different experiences, even within the same sociocultural context.

This is made clear in the case of Liam, who as a young Māori male is exposed to a different pattern, in part due to his cultural background, of intersecting factors within his cultural context. This significantly shapes his subjective interpretations of these experiences, and the models that he then develops about himself, others, and the world. These form the base which guides Liam's subsequent actions. Importantly, the outcome – Liam's behaviour – does not *have* to be norm-violating, this pathway underpins every form of action. Furthermore, while Liam's cultural background is Māori-Pākehā, the CEPAM can be applied to any person, regardless of their culture. A White woman from Germany is also developmentally and currently nested in a context made up of multiple cultural systems which are derived from a historical context, and her behaviour is as equally culturally shaped as Liam's. It is also important to note that Liam's cultural context did not necessarily have to lead him towards offending. If he had experienced the violence from his mother's partner differently (e.g., developing negative attitudes toward violence, or receiving support from his mother) or his school years had been experienced differently (e.g., the presence of a supportive teacher or achievement in sports) then he may have developed alternative models/mental representations. These are sometimes referred to as protective factors or strengths.

The value of the CEPAM is that through its focus on the cultural impacts on an individual's behaviour it allows for an understanding of that person's differences to other members of their culture, as well as the commonalities. No two people are the same, regardless of shared group membership. We can avoid homogenous and one-size-fits-all approaches by relying on models such as the CEPAM to gain a better understanding of

offending than simply relying upon lists of DRF. In the following chapter, I shift the focus to explore what this approach might potentially mean for forensic research and practice.

Although preliminary, the model is intended to explicate the role of culture in behaviour for researchers and practitioners, particularly given that the phenomenological level of explanation – individuals' lived experiences and their subjective interpretations of these – can underpin treatment targets.



### **Chapter Five: The CEPAM, Rehabilitation, and Desistance**

The original PAM was developed to address theoretical problems with DRF by locating them within an agentic perspective of behaviour, and identifying weaknesses to be targeted in intervention. Rather than relying on lists of risk factors for different types of crime, offending is understood to be goal-directed, like any other behaviour. In other words, offences are attempts to achieve goals in legally unacceptable ways (such as coping with negative emotionality through substance use). The CEPAM is further equipped to ensure an individual's motivation and the agentic processes that lead to behaviour are positioned within a historically-derived cultural context, which influences every level of explanation. By doing so, this approach respects an individual's autonomy and agency regarding their behaviour, but remains cognizant of the contribution of the broader, intersecting causal components that exist outside of an individual's psychological functioning. An agentic perspective further allows us to understand the function of behaviour, and when behaviour might be considered maladaptive or adaptive in certain contexts (Ward & Carter, in press). Certain groups have differing capacities and opportunities for prosocial behaviour, often as a result of historical processes. The CEPAM seeks to locate the internal and external impacts of this on offending, but with a focus on explaining individual behaviour to avoid a homogenous conceptualisation of 'culture'. Shared cultural heritage does not equate to shared subjective experience, which is influenced by gender/age/sexuality etc., as well as ethnicity. It is hoped that the CEPAM will encourage a multi-level, intersectional view of offending behaviour, and a deeper incorporation of specific cultural knowledge into forensic research and practice.

#### **CEPAM and the Risk-Need-Responsivity Model**

The Risk-Need-Responsivity (RNR) model is the dominant framework underpinning forensic rehabilitation in countries around the world, including Aotearoa-New Zealand (Bonta & Andrews, 2017). The model is derived from the Psychology of Criminal Conduct (Andrews & Bonta, 2010; Bonta & Andrews, 2017), and the three core principles are presumed to guide rehabilitation to effectively reduce the risk of reoffending. The principles are as follows: *risk* refers to the idea that treatment and treatment intensity should be matched with risk level (i.e., intensive treatment for high-risk individuals); *need* refers to the notion that treatment should target those DRF (criminogenic needs) which research has indicated show the strongest association with offending; and *responsivity* refers to the stipulation that treatment should be based on cognitive, behavioural, and social learning theories and delivered in a way that individuals will be most responsive to (Bonta & Andrews, 2017). Chapter two contained a summary of the multiple criticisms that have been made of the

DRF/criminogenic needs approach adopted within the RNR framework, such as the lack of specificity and inherent vagueness of these constructs. Current forensic explanations unfortunately often rely on identifying the presence of DRF in the lives of individuals who have offended, and renaming these as criminogenic or rehabilitative needs, which then become treatment targets. Webb (2018) further pointed out the limited utility of using DRF/criminogenic needs with culturally-marginalised groups such as indigenous cultures: explanation that relies on these merely serves to locate the causes of offending within the faulty psychology of an individual, with little to no regard for contextual, social, and historical factors. Furthermore, it has been suggested that the presence of DRF in the lives of individuals who belong to culturally-marginalised groups is primarily the result of the historical trauma of colonisation, and therefore to continue to rely on these as explanatory constructs is to perpetuate already-entrenched cycles of marginalisation (Cunneen & Tauri, 2019). Ward, Meiser and Yates (2007) made the criticism that the RNR model is ill-equipped to account for cultural and contextual differences in forensic explanation, as its reliance on DRF is in service of applying a universal and general approach to this task. Therefore RNR takes a one-size-fits-all approach to understanding offending behaviour.

However, this is not to say that for these reasons the RNR model and the DRF/criminogenic needs approach should be abandoned. The RNR model is the favoured rehabilitation framework for correctional departments and facilities, and is built upon a significant and valuable foundation of empirical evidence. I argue however, that the CEPAM is likely to support the RNR model in being a means of understanding how to incorporate contextual and cultural information into forensic explanation. By utilising the CEPAM, practitioners can identify specific treatment targets as weakness in the capacities underpinning predictive agency, while recognising that the cultural context, and the systems contained within, has a significant role in shaping these. Furthermore, to not recognise that our cultural context is historically-derived would be to ignore the significant impact that historical processes have in shaping human behaviour; indigenous cultures do not simply exist as marginalised communities – this marginalisation was created through the process of colonisation (Cunneen & Tauri, 2019; Webb, 2011; Webb, 2018).

The CEPAM might also assist in elucidating what acts as a risk factor and when. This is one of the primary areas of value; the extended and concentrated focus on contextual factors and cultural systems in the CEPAM highlights the situationally-bound nature of what makes a risk factor. As predictors of reoffending, DRF go some way to assisting in keeping our communities as safe as possible via risk assessment and management (i.e., responding to

imminent risk). Furthermore, the presence of psychological processes and mechanisms is ubiquitous across cultural groups and therefore they are an important part of forensic explanation. However, the manifestation and individual functioning of these varies and is shaped via cultural learning, and so this is a valuable source of information. This is reflected in the finding that current rehabilitation programmes appear to have a similar impact on individuals regardless of ethnic or cultural heritage (Johnston, 2018; Usher & Stewart, 2014). However, general effect sizes for these programmes remain relatively modest (Klepfisz, Daffern & Day, 2016; Polaschek & Collie, 2004; Schmucker & Losel, 2015), pointing to the need to develop more comprehensive, multi-level explanations to guide subsequent treatment programmes with all individuals. This might be achieved by conducting research that is better able to consider the causal impact of cultural systems and contexts, to underpin correctional intervention.

### **CEPAM and the Good Lives Model**

Although the CEPAM can support the RNR model by providing a means through which cultural and contextual information can be incorporated into explanation, the Good Lives Model (GLM) may be a more meaningful way of understanding offending individuals and behaviour. The GLM (Ward & Maruna, 2007) is also rooted in a view of offending as agentic, goal-directed behaviour, wherein an individual seeks to achieve goals through illegitimate or harmful means. In the case of Liam, his social status and position in the eyes of his peers is a highly valued primary goal in his current context. However, if he had a prosocial behavioural repertoire to draw upon and was surrounded by peers who facilitated prosocial behaviour, this value might have encouraged Liam to pursue academic excellence through high grades at school and winning competitions as means to achieve increased social status. In both cases, it may be the same valued outcome that Liam is trying to achieve – and therefore his behaviours are functionally identical. It is the context in which Liam has developed and is currently acting in that facilitates whether or not this is ‘risky’.

The GLM posits that there are a set of primary human goods (PHGs) which include needs such as relatedness, excellence in work, and knowledge, that are fundamental and universal across cultural groups. However, this universality is not intended to be prescriptive; while the eleven categories are assumed to be prioritised across cultures, they are broad and recognised as valued and sought differently by different individuals. For example, a Māori person may demonstrate relatedness as a prioritised value in their life, evidenced by their significant active social connection to a large variety of whanaunga (relatives) and friends, embedded in the context of iwi and hapū (tribe and sub-tribe). In contrast, a Pākehā person’s

value of relatedness might be evidenced more by specific connections with their romantic partner and parents. In this perspective, behaviour is intentionally guided by how an individual prioritises which goods are most important to them. Offending behaviour is simply an action and/or outcome which violates the social norms of the cultural context in which it occurs. Because the GLM is flexible and holistic, it can remain responsive to degree of cultural information that is not possible in a prescriptive approach such as the RNR model alone.

The GLM, as a rehabilitation framework, is designed to incorporate the major principles of the predominant RNR model, which focuses on reduction of risk. It conceptualises DRF as obstacles to, and illegitimate means of, obtaining legitimate goals (e.g., committing a theft to enable the purchase and consumption of illicit substances as a means of coping with negative emotionality). Given that the GLM subsumes and reconfigures the DRF/criminogenic needs approach, it should work at least as effectively as the RNR model, and is underpinned by the same evidence base (Leaming & Willis, 2016). However, unlike the RNR model which has a main goal of (statistical) risk reduction, the GLM's focus is on the promotion of a meaningful, 'good' life, which is prioritised equally alongside risk reduction.

Crucially, the GLM aligns with the CEPAM as it takes an individualised approach to understanding and intervening with offending individuals and their behaviours (Ward & Maruna, 2007). Indeed, the CEPAM can support the GLM by explicating how an individual's development and current behaviour is nested within a context consisting of multiple cultural systems, and making clear the interaction between an individual's agency and their context/s. This ensures the causes of offending are not seen as universal, as the things that may act as weaknesses or strengths that inhibit or facilitate legitimate attainment of goals may act as such differently according to individuals *and* their contexts. Further, the incorporation of systemic and historical factors ensures that the causes of offending are not viewed as 'purely psychological' or solely located in the 'faulty psychology' of the individual (Godfrey & Burson, 2018; Webb, 2018). By seeking to understand both how behaviour is nested within these cultural contexts and the function of norm-violating behaviours, the CEPAM and the GLM acknowledge that offending may sometimes be adaptive in certain contexts (Ward & Carter, in press), as in the case of Liam in this thesis; it is possible that he was in physical danger which he managed to escape by committing assault. Rather than seeing culture as simply a responsivity factor, the CEPAM is a preliminary step towards understanding better its causal nature, particularly in the area of offending behaviour.

Importantly, there has been some preliminary exploration of the utility of the GLM with non-Western cultures and knowledges (see Chu, Koh, Zeng & Teoh, 2015; Leaming & Willis, 2016). The PAM, and the CEPAM, are broad frameworks in which it is possible to embed more local and specific theories. Of particular relevance to this thesis, Leaming and Willis (2016) examined the compatibility of the GLM with Māori models of wellbeing, including Te Whare Tapa Whā (Durie, 1985) and Te Wheke (Pere, 1991). They found several theoretical points of convergence, suggesting the GLM is appropriate to utilise alongside these specific indigenous models. This is an essential area for forensic research and practice to explore further in order to understand and address the significant overrepresentation of indigenous peoples in criminal justice systems. An integrated approach utilising both the GLM and specific Māori models works to address the inherent under-valuing of mātauranga Māori in the criminal justice system, related to the delegitimising and undermining of indigenous knowledge and practices that has commonly occurred in criminal justice settings (Cunneen & Tauri, 2019; Leaming & Willis, 2016; Tauri & Webb, 2012).

Specifically, Leaming and Willis (2016) suggested that the GLM and Māori models share a holistic view of individuals who have universal needs and associated aspirations, as well as a recognition of personal agency and autonomy in behaviour, and an emphasis on health promotion as well as risk reduction. In contrast, the RNR model fundamentally conflicts with Te Whare Tapa Whā and Te Wheke due to its predominant focus on risk reduction, and its inability to view offending individuals through a holistic lens. Leaming and Willis (2016) point out that the PHG categories can be collapsed across the four domains of wellbeing contained within Te Whare Tapa Whā, such as taha whanau/social wellbeing (relatedness and community) and taha tinana/physical wellbeing (physical health and survival). This demonstrates the shared holistic view of behaviour; neither approach views ‘unwell’ behaviour (such as offending) as having a sole universal cause and purpose. Similarly, the authors also indicate convergence in the view that rehabilitation should support health promotion as well as risk reduction, and a view of offending individuals as being active, autonomous agents who should not simply passively receive intervention but should be positively engaged and motivated in the rehabilitative process. The way to do so is to recognise the needs and values (PHGs) of the individuals undergoing intervention. Lastly, Leaming and Willis (2016) make the important point that Māori models are concerned with wellbeing, not with offending rehabilitation specifically. The GLM, as a forensic rehabilitation framework, is equipped to support these models in a correctional context,

without depriving them of their distinct cultural knowledge or undermining the legitimacy of their use.

Subsequently, it seems there is considerable explanatory strength to be gained from utilising a model such as the CEPAM, as it can incorporate contextual and cultural information into forensic explanation, alongside a reconfigured view of DRF. Importantly, the CEPAM can therefore better support rehabilitative models such as the RNR and the GLM, and potentially underpin rehabilitation that is integrated with the practices of alternative knowledge systems such as mātauranga Māori. The CEPAM is likely to also be a useful way for researchers and practitioners to understand the general influences of culture on behaviour, and then apply specific cultural models within this framework (e.g., recognising the impact of a colonial society on indigenous people and applying specific indigenous models within the general framework of CEPAM). It is interesting to consider therefore, how this might manifest in rehabilitation programmes themselves. The CEPAM outlines the juncture between an individual's first-person perspective and the agentic process of behaviour, and the historically-derived cultural contexts in which the individual is situated. The question now is how this might be addressed in how we work with individuals who have committed offences. I suggest that by using the CEPAM, programmes can better support individuals in their desistance from crime journeys through a) encouraging an identity shift by reclaiming their narrative through counter-stories, and b) providing individuals with the sociocultural capital needed to navigate their context/s.

### **CEPAM and Desistance**

If desistance from crime – the process of cessation from offending – is produced through the interplay of natural maturation, individual choice and the wider social structures within which the individual is embedded (Bracken, Deane, & Morrisette, 2009), the CEPAM can provide a stepping stone from which we can understand how intervention might support this. In forensic practice, the tendency to explain offending behaviour with reference primarily to an individual's psychology (i.e., faulty cognitive and affective functioning assumed to result in norm-violating behaviour; Bonta & Andrews, 2017) results in intervention that often utilises cognitive-behavioural therapy to analyse and break down 'problematic' thoughts and behaviours (Cunneen & Tauri, 2019; Leaming & Willis, 2016; Tauri, 2012; Webb, 2018). However, drawing together somewhat disparate areas of literature, including that relating to desistance but also that pertaining to critical race theory, intersectionality, and social or cultural capital, suggests that rehabilitative practices might be improved via a CEPAM-based view of behaviour.

By using the CEPAM, we can begin to work with how an individual understands their own identity and narratives as an someone who has also committed an offence. We can support individuals such as Liam to recognise the multiple factors that have shaped his experiences and the historical processes from which his context has been derived, and equip him with the sociocultural capital to navigate this context pro-socially. Societal change is required to address the larger structures and processes that have contributed to, for example, indigenous cultures' marginality across social wellbeing statistics – an impossible task for one programme to achieve. However, a programme that does not endeavour to provide its participants with the skills and resources needed to navigate an adverse environment is at risk of merely setting them up for failure (Chan, Hollingsworth, Espelage, & Mitchell, 2016; Shaw, McLean, Taylor, Swartout, & Querna, 2016). The desistance process is likely to be encouraged if rehabilitation can support individuals to make changes to their own conceptualisations of themselves and their behaviours, but it should also be recognised that desistance is also the product of dynamic interactions between the power structures and resulting resources and barriers that are active in an individual's environment (Bracken, Deane, & Morrisette, 2009; Laws & Ward, 2011).

In keeping with the agentic perspective of (offending) behaviour, researchers have suggested that humans, as active agents, construct narrative identities across our lifetimes that serve to help us understand who we are and what we care about (i.e., the values that underpin our goals and subsequent behaviour; Ward & Marshall, 2007). As discussed in chapter two, how we conceive of ourselves as ourselves – our subjective first-person perspective and the general models upon which we base our understanding of the world – is rooted in the cultural context within which we develop (Baker, 2015). We construct these identities through how we prioritise and realise those 'goods' which are important to us. For those individuals who commit offences, DRF merely represent variations in the capabilities, resources, and opportunities available to achieve goals and attain goods. As Ward and Marshall summarise, "...identities contain a plot, actors, contexts, and narrative that link past and future events with the individual's goals and intentions...a narrative identity creates meaning out of the disparate aspects of people's lives and by so doing tells them how to live and who they fundamentally are." (Ward & Marshall, 2007, p. 298)

For individuals who belong to culturally-marginalised groups, such as Liam, the CEPAM highlights that cultural context plays a significant role in shaping the content of mental representations, and therefore the construction of identity as well. In Liam's situation, being young, Māori, and male, are all intersecting and interacting factors that contribute to

his general models around his being viewed by society as inherently criminal, and his expectations of offending and prison as inevitable life experiences. When Liam eventually leaves prison, he will return to the same context as before, but now with the additional stigma of a criminal record, and the lessons that time inside will have taught him. Therefore, culturally informed rehabilitation is essential for Liam to recognise the impact that his cultural context has had on his behaviour and yet reconfigure his identity to be at the same time more pro-socially orientated in his context. It is also essential for him to be equipped with the skills and resources to navigate how he behaves in this context, where every level of the cultural systems has a direct impact on his capacities and opportunities for pro-sociality.

Significantly, the intersectionality and critical race literature has promulgated the use of ‘counter-stories’ in research and rehabilitation, which may be a useful area to examine in conjunction with the CEPAM (Glynn, 2016; Sharma, 2010; Solórzano & Yosso, 2002). The very factors that intersect to contribute to the presence of offending behaviour are those that act as barriers to individuals who wish to desist from crime. Culturally-marginalised offenders must construct counter-narratives of their own lives and realities, that combat the ‘inherent criminality’ that a purely psychological explanation of their behaviour confers upon them. In order to be effectively rehabilitated, individuals must be able to meaningfully understand and make sense of their world, in order to avoid reoffending. Such narratives then “...form a bridge between individual experience and systemic social pattern...” (Glynn, 2016, p. 28). This change must start at the point of forensic explanation, as this is the basis for consequential rehabilitation and treatment. The CEPAM illuminates how embodied and experiential knowledge can be integrated with a perspective of current forensic explanation (i.e., DRF), and from here we can begin to understand the cultural impacts that have helped to shape an individual’s identity. A similar trend in academia will enable the production of theoretical and empirical research that appropriately accounts for the complexity that accompanies the examination of humans as inherently cultural creatures who constantly operate in a historically-derived sociocultural context. Importantly, research by and for those cultural groups who are disproportionately represented in criminal justice systems is essential, to prioritise and privilege their voice and experience.

There is significant evidential support for the relationship between individual identity and offending (Rocque, Posick, & Paternoster, 2016), and such narratives can represent the “...junction between individual and society...” (Fleetwood, 2016, p. 175). Similarly, there is significant evidence that indicates an association between improved life outcomes (e.g., mental health, educational, and occupational) and ‘critical consciousness’ (Godfrey &



Burson, 2018). Critical consciousness is the ability to “...critically evaluate societal inequities and take action to change them...” (Godfrey & Burson, 2018, p. 17). Particularly for young people, such as Liam, there is a burgeoning area of scholarship that suggests being critically conscious is beneficial for individual wellbeing (Christens & Peterson, 2012; Olle & Fouad, 2015; Rogers & Terriquez, 2013). Godfrey and Burson (2018) link this to the emerging literature regarding intersectionality, and argue that a view of behaviour that is cognizant of the intersecting forces that shape individuals and their lives, such as the CEPAM, is capable of underpinning further exploration of the utility of critical consciousness.

Importantly, the act of being critically conscious and changing how an individual conceives of themselves in light of cultural systems and processes is not about constructing a new persona which they attempt to ‘live up to’. Rather, it is about ensuring that both research and individual explanations of behaviour is based, in part, upon the lived experience of culturally-diverse people, particularly those who exist at the margins of society (Godfrey & Burson, 2018; Ward & Marshall, 2007). This provides a lens through which critical analysis of the majoritarian stories can be conducted, to evaluate the power structures that influence who has access to what (e.g., behavioural repertoires, material resources, opportunities) in particular contexts. When we normalise actions and label individuals in certain ways (e.g., ‘offender’ instead of ‘person who has offended’), “...society, science, psychology, and education are complicit in discrimination against race, gender, sexual orientation and other [cultural] differences.” (Sharma, 2010; p. 345). As Willis (2018) points out, how we communicate about and to individuals who have engaged in offending behaviour – particularly in our explanations of such behaviours – has important implications for both the discourses which society creates about them, but also the representations that these individuals have of themselves. If we wish for individuals to reintegrate into our communities and be able to behave pro-socially (thereby reducing their risk), we must accept them as ‘fellow travellers’ and our language should follow suit (Willis, 2018). By acknowledging the influence of cultural and historical influences alongside the agency of the individual, practitioners can avoid seeing the individual as faulty or as inherently criminogenic, and can instead view their behaviour as the product of the interaction between a cultural-ecological context and an agentic individual.

Furthermore, the use of the CEPAM highlights the need to provide individuals who have offended with the means to navigate their sociocultural environment/s, which I suggest can be done through an acquisition of social and cultural capital (Bracken, Deane, &

Morrisette, 2009; Shepherd, Delgado, Sherwood, & Paradies, 2018). Desistance from crime requires that people confront the opportunities and barriers in their context. Sociocultural capital is a broad term; it roughly refers to the resources that are utilised by members of society to realise opportunities for pro-sociality, and to achieve socially normative tasks (e.g., gain employment; Bracken, Deane, & Morrisette, 2009). This argument is in line with the Good Lives Model; individuals should be equipped with the means to attain those things valued by them in prosocial and healthy ways (Ward & Marshall, 2007).

Indigenous cultures, as one of the types of culturally-marginalised groups most commonly overrepresented in criminal justice systems, might benefit from preliminary research around the efficacy of interventions that are designed by indigenous researchers and utilising indigenous knowledges and practices. This work indicates these can be a useful way of: a) allowing individuals to learn about a part of them that has been previously stigmatised or unknown, thereby going some way to address colonial hurts; b) developing the skills that will support the acquisition of social capital (e.g., learning practical skills that increase chances of employment, or working towards educational goals); and c) providing a space for individuals to examine how their narrative might change with increased access to sociocultural resources in unison with an increased awareness of the impact that their sociocultural context has had upon their actions thus far (Chan, Hollingsworth, Espelage, & Mitchell, 2016; Deane, Bracken, & Morrisette, 2007).

### **CEPAM and Research**

I briefly mentioned in the above section the importance of changing the narrative for culturally-marginalised individuals, in research as well as in the process of rehabilitation and desistance from crime. This indicates the importance of person-centred research, that is concerned with subjective experience. At the heart of the CEPAM is the phenomenological level of explanation, which is important for understanding what the intersection of varying cultural factors (e.g., ethnicity, gender, sexuality, age, and so on) means for the lived experience of individuals. Forensic science highly values empirical (mostly quantitative) evidence (e.g., a rational-empirical approach to ‘what works’ – Andrews & Bonta, 2010). However, ‘culture’ as a broad, all-encompassing orientation to a way of being in the world is impossible to capture neatly in quantitative measures – although *aspects* of culture are (e.g., if research were to examine one domain of cultural influence, such as sexuality – although this removes the nuance that intersection and interaction create). It is suggested that qualitative approaches to research, that encourage research participants to elucidate their subjective experiences and how they make meaning out of these, are crucial to provide the

data that allows researchers to identify broad patterns of cultural influence and experience (Langdridge, 2008).

The intersectionality and critical consciousness literature agrees: qualitative approaches to research allow researchers to examine individuals' awareness of the intersecting cultural factors that contribute to cycles of marginality or social power, and how these people understand this through their representations of themselves, others, and the world (Godfrey & Burson, 2018). Qualitative methods could allow researchers to further elucidate how individuals feel they may address those factors which maintain marginality (e.g., employment, education, poverty, bias), whether their actions will be efficacious or not. There is little research of this nature regarding members of indigenous cultures generally, although there has been speculation around the utility and compatibility of qualitative methods with mātauranga Māori (Leaming & Willis, 2016; Nakhid & Shorter, 2014; Rua, Hodgetts, & Stolte, 2017). For Māori, pūrakau (narratives and storytelling methodologies) have been a key means of storing and sharing knowledge. Therefore researching the narratives of the people who have committed offences may be an appropriate means of capturing the specific nuances of Māori culture and what this means to different individuals (i.e., the subjective level of explanation). Nakhid and Shorter (2014) in particular provide a vitally important examination of the experiences and perspectives of four Māori men who have been previously imprisoned; their stories highlight the wide range of factors that intersect and interact to shape behaviour, and their within-the-system knowledge provides a perspective of the functionality of rehabilitation programmes that is sometimes missing from academic and practical research. Further research of this type may provide valuable insights into the agency process for these individuals, and may go some way towards testing the utility of the CEPAM in formulating cases using these real-world narratives.

### **Summary**

The aim of this chapter is to demonstrate what the incorporation of contextual and cultural information into forensic explanation might mean for how we understand the individuals who offend, and how we work with them in rehabilitation. The CEPAM works to resolve the problem of relying on DRF as explanatory constructs, which further maintains a view of offending as caused solely by an individual's 'faulty psychological functioning'. It can supplement the RNR model, by contextualising the causal aspects of DRF within a theory of human agency that is particularly cognizant of cultural influences and processes. This can support treatment that is more individually-tailored, avoiding a one-size-fits-all approach.

The CEPAM is strongly positioned to work in unison with another rehabilitative framework, the Good Lives model, which also positions offending within the context of human agency. ‘Crime’ is understood to be the inappropriate and illegal means of attaining prioritised and valued goods, such as relatedness. As a holistic and strengths-based model, the GLM is better positioned to work with models and explanations that are culturally-diverse, as it views the individual as nested within multiple (cultural) contexts, within a positive paradigm. This can support rehabilitation programmes’ attempts to encourage individuals to desist from offending; desistance is thought to be borne out of natural maturation, an individual’s agentic process in deciding to desist, and the access or lack thereof to resources and skills that enable the desistance process in the real-world context. Individuals all face different challenges in these latter tasks, depending on the unique intersection of factors they experience during their lifetime. Using the CEPAM, rehabilitation can be underpinned by explanation that integrates and understands these influences.

## **Chapter Six: Evaluations and Conclusions**

I have outlined why a model like the CEPAM is necessary, as accounts of behaviour that do not consider contextual and cultural information provide distorted and incomplete explanations of human experience and action. Problems that arise by relying on DRF in their current state are addressed by utilising the PAM as a foundational model. From this perspective, DRF (and protective factors) are broad categories which contain weaknesses (or strengths) in the capacities underlying an individual's predictive-agency that cause behaviour which may or may not be norm-violating (Heffernan & Ward, 2017). The CEPAM develops the PAM significantly by explicating the role of historically-derived cultural systems in the agentic process. What follows is an evaluation of the CEPAM and its utility for informing progress in the realms of theory, research, and practice (Ward, Polaschek, & Beech, 2006).

### **Evaluation and Future Directions**

In line with the original PAM, the CEPAM endeavours to understand offending not as a specific type of problem, but as a form of general goal-directed behaviour. The focus is shifted away from understanding offending as a unique phenomenon and towards understanding it as the outcome of an agentic process in which a person is equipped with the ability and capacity to behave intentionally. The CEPAM views individuals as beings with goals, and varying abilities and capacities to behave in a prosocial manner to achieve these goals. Offending is simply a behaviour that might be an outcome of an individual's attempts to achieve goals using inappropriate and illegal means. The focus is therefore around the function of offending, rather than the offence itself (Ward & Carter, in press). This increases the CEPAM's explanatory depth as it can be applied to a much wider range of behaviours than the explanations and descriptions provided using the DRF/criminogenic needs.

In addition, both the PAM and CEPAM are conceptual frameworks within which local theories are intended to be embedded, offering flexibility and the consideration of a multitude of relevant contextual and personal factors (Heffernan & Ward, 2017; Heffernan, Ward, Vandeveld, & van Damme, 2018). In other words, these models provide the foundations for further explanatory depth (i.e., the specific mechanisms underpinning agency) to be added by future research, thereby demonstrating fertility (Heffernan, Ward, Vandeveld, & van Damme, 2018). The use of integrative pluralism – the process of linking together local theories across levels of explanation – was important in developing the PAM (Heffernan & Ward, 2017; Ward, 2017) from areas across evolutionary biology, metaphysics, cognitive neuroscience, and psychology. The CEPAM thus unifies multiple different areas of behavioural and cultural research in an innovative way; utilising the PAM alongside theories

of cultural evolutionary psychology, intersectionality, subjectivity, as well as broader ecological approaches. As a result of this approach, the CEPAM is rooted in research, both empirical and theoretical, that means it is consistent with current theories of general human behaviour. While the model itself has not yet been tested empirically, this is an avenue that future research might endeavour to explore.

Importantly, the CEPAM goes beyond the foundational PAM and offers a preliminary understanding of how culture affects the agentic process and thus influences behaviour. Two key pathways through which culture exerts its influence are: (1) via influencing the immediate context, and therefore what experiences an individual is exposed to both in their development and in their current day-to-day life, and (2) via its impact on the phenomenological level – i.e., the cultural experiences an individual undergoes contributes to the formation of cognitive gadgets, including general models, which underpin this individual's subsequent actions. The cultural systems which make up a cultural context are shaped over time, with multiple intersecting influences contributing to create an environment in which individuals have unique experiences. The CEPAM is consistent and coherent with other ecological theories of human behaviour but takes a step further in recognising culture's impact on all of these systems (Causadias, 2013; Vélez-Agosto, Soto-Crespo, Vizcarrondo-Oppenhimer, Vega-Molina, & Garcia, 2017).

While the practical utility of the CEPAM is outlined in detail in the previous chapter, it is important to mention that it has potential to underpin rehabilitation that is more considerate of the multiple cultural and contextual factors that influence individual behaviour. Being an extension of the PAM, it is capable of reconceptualising DRF to pinpoint specific weaknesses that can then form specific treatment targets. The CEPAM builds on this by providing a perspective that integrates cultural and contextual information which further increases our understanding of the potential causal mechanisms behind individual behaviour (including offending). The CEPAM is therefore able to support the RNR approach by explicating the relationship between cultural systems and processes and behaviour, and supporting rehabilitation by identifying specific causal features (and therefore treatment targets) that are situated within the broader categories of DRF. Further, because the CEPAM grounds (offending) behaviour in the context of human agency, it aligns with the Good Lives Model; a holistic strength-based framework for rehabilitation. The GLM posits that rehabilitation should focus on wellbeing and goods promotion in the lives of individuals who have offended, of which risk reduction emerges as a desirable side effect. Rather than simply seeking to remove those things that are seen as facilitating offending (i.e., a risk-reduction

approach), the GLM seeks to understand the function of offending (i.e., the goals of the individual) and support the individual to seek these goals in a prosocial way.

The rehabilitation programmes guided by these rehabilitation frameworks aim to support individuals to desist from crime; but currently the majority of programmes are based on explanations of behaviour that locate the causes of offending predominantly within an individual's presumed faulty psychological functioning. Treatment therefore seeks to address problems such as 'antisocial attitudes' and 'poor self-regulation'. However, as the CEPAM illustrates, individual behaviour is influenced by both the opportunities for anti- and pro-social behaviour in one's environment, as well as the effects of the cultural environment on the agentic process. Rehabilitation can address this by helping individuals develop a personal narrative and recognise how their unique sociocultural position has contributed to their offending. Identity theories of desistance suggest that an individual's decision to desist is important to this process, and the technique of counter-stories and similar practices can support individuals in making this decision (Glynn, 2016; Sharma, 2010; Solórzano & Yosso, 2002). Furthermore, the decision alone is not enough to facilitate desistance but individuals who are able to recognise their cultural context and its impact on their actions are better positioned to undergo programmes that aim to develop sociocultural capital, i.e., the skills and resources needed to navigate the cultural context in a prosocial manner.

Subsequently, the CEPAM has good heuristic value as it opens the way for future work, which could look at examining and identifying the broad factors which might populate different sections of the CEPAM. Once this topography of factors has been mapped out, researchers can begin to investigate causal relationships between factors. Further research is also required into how these areas relate to the specific mechanisms of agency (e.g., how we form general and local models). Thus, the status of the CEPAM is to serve as a theoretical framework to guide the identification of relevant factors and their putative causal processes, and structure explanatory models. The fact that it is a broad framework allows it to be applied to any individual regardless of cultural background, but this means it requires use in conjunction with specific, local theories to provide a deeper understanding of the various causal components of behaviour. For example, the previous chapter highlighted the utility of the CEPAM/GLM with specific cultural models such as Te Whare Tapa Whā. The CEPAM provides a more structured way of considering and unifying such diverse approaches, thus reconciling otherwise distinct approaches to explanation and research, and offering new avenues for exploration. However, further theoretical and empirical work is needed to explore the use of the CEPAM as a research and practice framework. Qualitative research that

attempts to capture how individual forensic researchers and practitioners of varying cultural backgrounds currently conceptualise and utilise the notion of ‘culture’ in their work with individuals who have offended might help to ‘ground’ the CEPAM in a practical context. Qualitative methods could also allow researchers to further investigate how offending individuals feel they can address those factors which maintain marginality (e.g., employment, education, poverty, bias) and whether their actions will be efficacious or not.

As a final suggestion, I have alluded earlier to the often negative nature of cultural (specifically indigenous) research in relation to offending, and the risk of forming problematic connotations between specific cultural groups and stereotypes around norm-violating behaviour. It might therefore be important to apply a strengths-based research paradigm to future research in this area. The CEPAM can be equally applied to those variables that sit within the umbrella terms of ‘protective factors and strengths’. Thus, the CEPAM approach can helpfully guide investigation into why, in Aotearoa-New Zealand, despite the prevalence of a number of systemic risk factors, the majority of Māori do not offend. The CEPAM therefore helps to reframe investigations more positively and overcome the ethical and scientific limitations of risk-based approaches. Understanding why the majority of individuals, of all cultural backgrounds, do not offend is as crucial as understanding why offending occurs in the first place. Such insights can be highlighted to socially empower these groups (moving beyond deficit approaches) and promote desistance more effectively – by actively building desistance-related capacities and opportunities.

### **Conclusions**

An examination of the concept of culture in the field of forensic research and practice yields some interesting insights; there are multiple theoretical and conceptual issues with the way culture alone is operationalised and understood in psychological and behavioural research. Best practice demands that correctional intervention be based upon theoretical and empirical research, which therefore is unfortunately affected by the inherent problems of cultural and forensic research. Ultimately, the forensic field’s reliance on poorly integrated and incoherent constructs such as dynamic risk factors to explain offending behaviour only serves to do further disservice to those it aims to rehabilitate. Indigenous and non-indigenous scholars alike argue further that the reliance on the risk factor/criminogenic needs approach provides an impoverished understanding of behaviour as there is little room for contextual and cultural information, which provides critical explanatory value. This serves to maintain cycles of marginality for those people who belong to culturally-marginalised groups, such as indigenous individuals, and does not underpin rehabilitative treatment for any individual with



a comprehensive explanation for their behaviour. However, forensic research and practice in Aotearoa-New Zealand is especially well-positioned to pioneer approaches to the field that understand the fundamental importance of culture in the formation and therefore explanation of behaviour. Better research is crucial to provide the theoretical and empirical information needed to form the basis for correctional interventions that incorporate this understanding into practice.

The Cultural-Ecological Predictive Agency Model is able to provide this critical explanatory information and overcome the problems of utilising dynamic risk factors as explanatory constructs. It is an extension of the Predictive Agency Model, which reconceptualises these risk factors, and provides a roadmap for a preliminary understanding of how to integrate cultural and contextual information with forensic explanation. It is my hope that this form of explanatory model is able to be explored further in rehabilitation and desistance research, as there are some important implications for its use in guiding and underpinning treatment, as well as other avenues for future research. It can bolster the Risk-Need-Responsivity model for the reasons mentioned above and seeks to assist in identifying more specific and individualised treatment targets. It also aligns well with the Good Lives Model, which takes a human agency approach to understanding offending behaviour as well, and it is also useful in explicating the relationship between an individual's agency and their sociocultural context, a relationship which figures heavily in desistance theories and research.

There is little, if any, fundamental difference between those individuals who commit crime, and those who do not. Behaviour is always the outcome of multiple factors that can have an influence across a person's lifespan. The CEPAM is one way to begin to conceptualise how an outcome such as violent assault might be not only the product of 'the presence of DRF' but particularly the subjective experience of operating in a context that contains multiple cultural systems, which have emerged from a historical context. Risk factors are situated within this context, but to understand the nature and impact of these, we require contextual and cultural information. Human nature and our characteristically human practices critically rely on culture, and we must frame our explanations of behaviour accordingly. Failure to do so will result in poor research, which will lead to unjust social outcomes and ineffective practice.



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