STATEMENT OF HILARY STACE TO THE ROYAL COMMISSION OF INQUIRY INTO HISTORICAL ABUSE IN STATE CARE AND IN THE CARE OF FAITH-BASED INSTITUTIONS

CONTEXTUAL PUBLIC HEARING

OCTOBER/NOVEMBER 2019

The Road to the Royal Commission – a perspective from disability history

[1] According to Te Ao Māori we walk backwards into the present and future bringing those who came before us, their battles, knowledge and suffering. We honour them and learn from their stories. In previous work at the Human Rights Commission we used the whakatauki: Titiro whakamuri, haere whakamua (ask the old path for directions to the new path). We need to know our history in order to address it and help us understand why certain groups were locked away from communities and families for who they were rather than anything they had done. As disability advocate Robert Martin often says, "How can humans treat other humans like that?"

[2] This paper mainly covers 2.1 of the Scope of the Investigation but also addresses 2.2, 2.4 and 3.1. It covers the background to the development of the psychopaedic institutions, the political, scientific and social environment that encouraged extreme discriminatory practices against certain groups of people, and their legacy.

Introduction

[3] My undergraduate degree was in history and my 2011 PhD research was on autism as a public policy challenge (Stace, 2011). Disability history, ethics, research and rights have been long time interests largely due to having a now-adult son with autism. You don't have to go far in the disability world to come across our shameful and abusive history. Consequently, I have long been an advocate for an inquiry into historic abuse in state care. In 2013/14 I had contracts with the Human Rights Commission to research historic abuse and the case for an apology and an inquiry, and gathered people together who shared this cause. Unfortunately, barriers remained until the announcement of the Royal Commission in January 2018.

[4] The Royal Commission's focus is 1950-1999. But this paper reviews the social, legal, medical and attitudinal context in New Zealand since the mid 19th century that enabled such abuse to happen. It also looks at ongoing disability abuse, and restorative processes required.

Defective, deviant and delinquent

[5] Two official inquiries in the 1950s sought to control the 'defective', the 'deviant' and the 'delinquent' –the interchangeable fears of conformist New Zealand.

[6] When I was a baby my father was appointed to the Government's Special Committee on Moral Delinquency in Children and Adolescents which produced what was known as the Mazengarb report in 1954 (Mazengarb, 1954). In an era of 'moral panic' the intention was to control this potentially deviant phenomenon of 'teenagers' in the new state housing suburbs such as Naenae near Wellington.

[7] The committee rushed its hearings so the report could be sent to each household for the National Government's re-election campaign. My father was head of the Jaycees – the Junior Chamber of Commerce. As a journalist and editor he had a role in the report's production. Judge Mazengarb told Prime Minister Sid Holland that the committee members didn't need payment so my father attended the full-time committee while parenting his growing family and keeping his small business going. Meanwhile my sister shared the evidence presented to the Committee – such as Mickey Spillane novels – with her school friends.

[8] The committee decided that the best way to prevent such 'deviance' was to keep young people ignorant, so we got new censorship laws. One recommendation that took decades to overturn was that under 16-year-olds must not have access to information about contraception.

[9] This fear of young people and their potential delinquency also led to the rise of state boys' and girls' homes. A few years after the Mazengarb report, the Epuni

Boys' Home was opened in Naenae, in the heart of the new suburbia where the committee had located such threat. This Royal Commission will be hearing a lot about the long term effects of abuse from such homes.

[10] But more significantly for disabled people and families was that the previous year another Government report responded to the fear of deviance by recommending that disabled children should be locked away from their families and communities in larger numbers than ever before.

[11] The 1953 Aitken Report (or Consultative Committee on Intellectually Handicapped Children) recommended extending the existing psychopaedic institutions such as Templeton, Kimberley, Ngawhatu and Mangere into large 'mental deficiency colonies' with parents encouraged or coerced into sending their disabled children to them by the age of five (Aitken, 1953). These recommendations were despite pleas from the newly formed Intellectually Handicapped Children's Parents' Association (the IHC, founded in 1949), and World Health Organisation advice for community facilities and support for disabled children and adults (IHC NZ, 1948-2003; Millen, 1999).

[12] The Aitken report is a significant reason why we have a Royal Commission today. As a result of this report the institutions were extended and numbers of residents rapidly increased. By 1972, and the establishment of the Royal Commission on psychiatric and psychopaedic hospitals which would eventually recommend their closure, each institution was home to hundreds of disabled children, young people and adults who had managed to survive (Hutchison et al, 1953). A 1964 documentary estimated that one in a thousand children had an impairment which required their institutionalisation (National Film Unit, 1954).

[13] Smaller units were attached to some local public hospitals, while other children ended up in adult psychiatric hospitals. To deal with these growing numbers the new profession of specialist psychopaedic nurse was developed in New Zealand with inhouse training. The first cohort graduated in 1964 (Beatson, 2004).

[14] The normalisation of institutionalisation of disabled children was hard for individuals to fight. I heard of a mother who had a baby with Down Syndrome in the 1960s. The family doctor and her husband suggested the baby be put into an institution. The mother resisted until one day the father came home with the GP and an attendant from Kimberley. They forcibly took the toddler off his mother, told her not to visit for at least two years and to forget about him. Terrified and confused by such instruction the mother didn't hear about him again until after his death a few years' later.

[15] As noted already, this topic is also personal for me as I have an adult son with autism/learning disability. Christchurch filmmaker Gerard Smyth has made two powerful documentaries about the closure of Templeton (Smyth, 1996; 2004). The residents he filmed were much like older versions of my son's Special Olympics friends. Most interviewees were estranged from families and puzzled as to why they were there.

[16] My son was born in the 1980s when institution closures were already underway. We are the lucky first generation for whom an institution was not suggested as a suitable place for him. I wasn't told he would be better off in one. He wasn't forcibly separated from his family or community. His impairment is not blamed on me or a cause of shame for the family. Both assumptions were common only a few decades ago.

Disability as deficient, deviant and dangerous, and the influence of eugenics

[17] The 1953 Aitken report did not come out of nowhere. In New Zealand we had a long and toxic mix of colonisation, racism and eugenics in which many poor, Māori, or disabled people had no chance of equal citizenship. The antecedents of institutional abuse in state care developed over many decades. I will attempt to explain why disability was, and still is, viewed negatively.

[18] Nineteenth-century New Zealand was settled by immigrants, mainly from Britain and Europe, who endured a lengthy sea voyage for a chance of a better life in a new country. Two groups which threatened that vision in the popular mind were disabled people and people from Asia (countries with which Britain had also had recent military conflicts).

[19] Although infectious illness and accidents were common, disability was unwelcome as it challenged the ideal of a new society, and was a burden on others in a time when hard physical work and self-reliance were highly valued. Support was left to the benevolence of families or charitable aid.

[20] The immigration acts that restricted the entry of Chinese in the late 19thcentury also sought to deter disabled people. The 1882 Imbecile Passengers Act attempted to ban 'cripples, idiots, lunatics, infirm, blind, deaf and dumb' and required a bond from the ship's captain for each of these 'undesirables', and the 1899 Immigration Restriction Act banned the 'idiot', the insane and the contagious (Beatson, 2004).

[21] Mental illness, as now, was generally feared and misunderstood. The 1846 Lunatics Ordinance provided incarceration of the mentally ill, initially in jails. The first public 'lunatic' asylum was opened in Karori in 1854, followed by Porirua in 1887. The Porirua asylum mixed several categories of 'undesirables': those with mental health issues, intellectual impairment, alcoholics, as well as elderly and homeless people. Physically disabled people were often housed in the 'chronics wards' in ordinary hospitals. For decades, all these 'inmates' also provided large captive communities for doctors and specialists to practice theories and treatments (Sullivan, 1996: Beatson, 2004).

[22] As New Zealand society developed, children came to be regarded as more than little adults. The 1877 Education Act provided free, secular, primary school education. (Beatson, 2004). The Act's aim was an educated workforce while enabling state surveillance of children. Rules and inspections were rigid.

[23] Segregated residential schools developed for those with vision and hearing impairments (Beatson, 2004). But Deaf children were forced to be oral and punished for signing for most of the next century (McKee, 2001).

[24] The rise of the pseudo-science of eugenics and Social Darwinism became very influential. In 1859 Charles Darwin published his bestseller On the origin of the species by natural selection or the preservation of favoured races in the struggle for life (Darwin, 1859) The ideas of evolution, genetics, heredity and the potential of selective breeding in humans were taken up by his cousin Francis Galton who named the new science eugenics. The application of 'Social Darwinism' found fertile soil in New Zealand as well as other countries. Here these ideas were embraced by liberals and conservatives concerned about the white middle class birth rate which had started to decline in the late decades of the 19th century and consequent fears of losing their racial and moral supremacy. Improving racial 'fitness' was vital (Fleming, 1981; Sullivan, 1996).

[25] By the turn of the 20th century many of New Zealand's leading politicians, doctors and academics believed the scientific validity of eugenics. We were also proudly part of British Empire and its Mother Country or 'Home' as my New Zealand born grandparents called it.

[26] Their eugenic targets were those considered immoral and dangerous who threatened racial fitness. In New Zealand disabled or mentally unwell people and Chinese people were the main targets. Hence the poll tax and immigration restrictions mentioned earlier. (In 2002 Prime Minister Helen Clark formally apologised to Chinese New Zealanders; disabled people are still waiting.)

[27] Two influential Social Darwinists were Dr Duncan MacGregor and Robert Stout. MacGregor from Scotland was Professor of Mental and Moral Science at Otago University, and advocated in the 1870s for the extension of the definition of insanity to include `hopeless drunkards, hopeless criminals, and hopeless paupers', so that these dangerous classes might be: 'made to work for their support, and deprived of

liberty until they die, in order to prevent their injuring society either by their crimes or by having children to inherit their curse.' (MacGregor, 1876:320). In the 1880s Premier Robert Stout, a former student of MacGregor, who believed moral failings caused poverty, warned of an emerging class of permanent paupers which would pollute the new society (Sullivan, 1996). His wife Anna was a prominent suffragist. Many feminist writings of the era also reflected strong eugenic beliefs particularly as a means to rid society of undesirables such as alcoholics.

[28] In 1903 W.A. Chapple, a politician and doctor, published his influential booklet The Fertility of the Unfit. The problem he saw was the decline in the fertility of the `fit' and the increasing birth rate of the 'unfit'. His solution lay in encouraging the 'fit' to have more children and by sterilizing the 'unfit' (those with mental, moral and physical defects) (Chapple, 1903).

[29] The Eugenics Education Society was founded in Dunedin in 1910 with a membership of politicians, public servants, scientists, doctors, ministers of religion and academics, one of whom was Truby King, the Medical Superintendent of Otago's Seacliff Asylum. They linked intellectual impairment and some physical impairments like epilepsy with inferiority and moral degeneracy (Sullivan, 1996).

[30] A note here about positive and negative eugenics. Negative eugenists sought to limit fertility while positive eugenists supported interventionist policies to increase population 'fitness'. In this context, Truby King founded Plunket in 1907. He was a positive eugenist who believed that teaching mothers the strict rules of 'scientific' mothering would increase the fitness of the race. Committees of middle class women then took the ideology to the breeding populace.

[31] But surveillance of those deemed dangerous and deviant required legislation.

[32] One of the most significant was The 1911 Mental Defectives Act which classified groups of 'other' into six categories: "Persons of unsound mind", "mentally infirm", "idiots", "imbeciles", "feeble-minded" and "epileptics" (Beatson, 2004).

[33] The 1914 Education Act required parents, teachers and police to report 'mentally defective' children to the Department of Education and the School Medical Service was founded to identify 'defective' children so they could be subject to surveillance (Beatson, 2004). Health Camps developed to temporarily remove children from their families and instil ideals of health and fitness. The new science of IQ testing provided a valuable classification tool.

[34] A 1922 committee on venereal disease was led by William Triggs, a Member of the Legislative Council. His concluding remarks expressed concerns with the role of 'feeble-minded' women infecting men, causing debauchery and corruption (Triggs, 1922). By now moral panic was high so Mr Triggs was appointed to chair a Committee of Inquiry into Mental Defectives and Sexual Offenders which reinforced the links between intellectual impairment, moral degeneracy and sexual offending in the public mind (Triggs, 1925).

[35] Theodore Gray was a Scottish clinician influential in New Zealand psychiatric hospital administration. He advocated villas instead of old multi-storey hospitals. In 1927 he succeeded Truby King as head of the Department of Mental Hospitals. To protect white racial fitness he wanted segregated farm colonies for those with intellectual disability or mental illness, registration, screening and sterilisation (Triggs, 1925). These were proposed in the 1928 Mental Defectives Amendment Bill.

[36] After much political debate sterilisation was rejected under the leadership of Opposition Labour MP Peter Fraser who would become Prime Minister a decade later (Paul et al, 2018). He was a rare voice against eugenics possibly because of his own family experiences of mental illness. As a compromise a Eugenics Board was set up to keep lists of mental defectives. Peter Fraser's wife Janet, one of our first women JPs, was appointed to this board and I like to think she quietly sabotaged it.

[37] French-born nun Suzanne Aubert who had personal experience of disability was another opponent of eugenics. She founded her Home for Incurables in

Whanganui in 1899 and, in 1907, opened her first Home of Compassion for 'needy' or disabled adults or children in Wellington.

[38] Even though eugenic sterilisation was never legalised in New Zealand many were likely disguised as operations such as appendectomies. Some survivors report unconsented sterilisation operations (Hamilton, 2012; McRae, 2014; Mirfin-Veitch, 2017).

[39] Under the 1928 Mental Defectives Amendment Act children could be taken off families. A mother provided a rare voice of protest about Dr Gray's proposed travelling clinics which would examine intellectually impaired children.

> "Oh Mother, save me from Dr. Gray
>
> 'Cause teacher says he's coming to-day
>
> And if I'm stupid he'll take me away.
>
> Oh, Mummie, save me from Dr. Gray!"
>
> "I cannot save you, my little child."
>
> His Mummie said and her eyes were wild.
>
> "You belong to the State, you're no more my child!
>
> But Oh, my darling don't stupid be
>
> Or he'll say we've tainted heredity.
>
> And must be eradicated – you and me!" (Robertson, 1989)

[40] This overview has shown how and why, over several decades, intellectual impairment and disability came to be linked with 'immorality'. Reproduction of these

'degenerates' threatened the dominant white, fit society. But there was still the legal requirement for education so in 1908, Otekaike (Campbell Park School) near Oamaru was opened as a residential school for 'feeble-minded' boys and in 1916 a residential school for 'feeble-minded' girls, Salisbury, was opened near Nelson. These special schools were run by the Education Department (Beatson, 2004).

[41] The overall effect of these influential beliefs was exclusion of the 'unfit' from mainstream society. Girls' and boys' homes, farm and residential schools and other institutions were developed to keep the sexes apart and, most importantly, prevent reproduction. Some were built on the sites of orphanages or industrial schools as more permanent placements for those who threatened racial fitness.

[42] The 1928 Mental Defectives Amendment Act led to the establishment of our first psychopaedic institution, Templeton Farm mental deficiency colony, in 1929 under the authority of Dr Gray and his Mental Hospitals Department (Beatson, 2004). It was near Christchurch but not too close. The first residents were boys but soon girls were sent there too, although sexes were strictly segregated inside the institution.

[43] Christchurch Documentary maker Gerard Smyth recorded stories of the residents before it closed in 1996, and caught up with some of them again in 2004 (Smyth, 1996: 2004). Some had been in Templeton for decades but didn't know why. Some had arrived by bus as small children. Dr Gray personally signed some of the admission forms.

[44] Featured in the 1996 documentary was an older man who had been a Templeton resident from the 1930s. I recently talked to one of his family members about the ongoing impact on their family history[1]. Eighty years later the younger man wonders why it all happened. In the documentary the Templeton resident says he was sent away from Riverton where he lived with his mother because he stole two pies. He was initially sent to Otekaike and then Templeton. He describes regular

---

[1] This will soon be a podcast so will be in the public record.

sexual abuse by 'the big boys' and lack of any accountability by authorities. He and another boy ran away and for punishment were beaten then forced to spend several hours a day in a small dog kennel.

[45] As a child the younger man remembers occasional visits home from Templeton by the older man but the boy was warned to keep away because the older man was rumoured to be, without any evidence, a paedophile. The younger man remembered the older man would flinch if someone came too close, as if to avoid punishment. (This reflects the reported 'Kimberley cringe' of patients anticipating physical abuse: Mirfin-Veitch & Conder, 2017).) In relating this story the relation expressed anger at the older man's mother for not only sending her son away as a child but also refusing to accept him home when the institutions started emptying. But thinking of the poem above, and the poverty of the 1930s, his mother would have had little power to fight the authorities when they came for the young shoplifter. As well, 'mother-blaming' for conditions like autism remained strong into the 1970s (Stace, 2011). Institutionalisation and the consequent shame and fear that the family experienced has affected that whanau for generations.

[46] Over time more psychopaedic hospitals were established, including Ngawhatu (Nelson), Kimberley (Levin) and Mangere (Auckland). Residential units were established in hospitals such as Dannevirke, or in psychiatric hospitals, such as Porirua which set up an autism unit in the 1970s when that diagnosis started increasing. Many disabled children spent time in mainstream psychiatric hospitals. Some examples can be found in the 2017 Donald Beasley Institute (DBI) report Institutions are places of abuse (Mirfin-Veitch & Conder, 2017). Pukeora, an institution for children and young adults with physical impairments, was developed near Dannevirke in the late 1950s.

[47] Support for eugenic policies was widespread globally and it was in this context in 1939 that a German father asked the state authorities to kill his disabled child. That was the start of the euthanasia policies of the Nazis. It is estimated that over

200,000 disabled people were killed in what is known as the 'silent holocaust' (Sullivan, 1996). Support for eugenic policies dimmed but did not die with the Nazis.

[48] In 1949 parents of children with impairments including intellectual disability founded the forerunner to the IHC (Millen, 1999). They wanted schools and community facilities for their children so they could keep them at home and out of institutions, as also recommended by the World Health Organisation. But they faced much discrimination. Oriental Bay residents petitioned against their planned school. They lobbied the new National Government for support but the government instead set up the Consultative Committee (see above) under Dr Aitken of the Otago Medical School; himself the father of a disabled daughter (IHC NZ, 1948-2003, Aitken, 1953).

[49] But as mentioned earlier, the committee instead recommended expansion of the current institutions with parents to send their children there by five. A huge expansion in institutionalisation resulted over the next two decades, even though another report in 1959 by Dr Burns of the British Medical Association supported the parents' calls for community facilities and services (Burns, 1959).

[50] The 1964 National Film Unit documentary about Kimberley mentioned above shows well-dressed children participating in a variety of interesting activities, although the voiceover is chillingly ableist (National Film Unit, 1964).2 However, this official view contradicts that of Robert Martin who was at Kimberley around that time. His memory is of, despite some good staff, boredom, rigid routines, lack of education, denial of identity including clothes, possessions and culture, neglect and frequent abuse (AttitudeLive, 2014; McRae, 2014). This documentary illustrates how easy it was to spin a good news story to reassure parents and the public, and why even official visitors didn't notice carefully hidden abuse.

[51] Years later the Confidential Forum for Former In-Patients of Psychiatric Hospitals heard about the 'back wards' of the institutions as places of horror and

---

2 Ableism is the term for discrimination and prejudice against disabled people. It evolved from eugenic assumptions and remains powerful today.

threat, of adults and children living together in distressing conditions and unconsented sterilisations (Department of Internal Affairs, 2007).

[52] By the early 1970s thousands of children, young people and adults were locked up in the network of psychopaedic and psychiatric hospitals, residential schools and youth justice homes throughout the country.

[53] Robert Martin's biography, Becoming a person, has more valuable insights into institutionalisation (McRae, 2014). Soon after his birth in 1957 he was labelled 'retarded' and placed in the expanding Kimberley Hospital and Training Centre near Levin. He also experienced Otaikeke/Campbell Park residential school in North Otago, violent and abusive foster care, and the notorious Lake Alice Hospital in rural Rangitikei. Numerous reports of abuse at its Child and Adolescent Unit in the 1970s eventually emerged. Like many other institutions it was isolated in a rural area, far from nurturing community. The doctor in charge created a climate of sadism and fear that the young people, mainly boys, could not escape.

[54] Robert remembered some kind staff but the harsh institutional life was frequently abusive. But, as he says, at least he could walk, talk and fight back, unlike some of his peers.

[55] When Robert reached 15, the State tossed the angry teenager out of care. He had been denied not only human rights, but culture and identity. Most affronting was that he didn't know about the All Blacks. Institutionalisation had denied him basic knowledge of the world.

[56] A 2009 *60 Minutes* documentary, Shock Treatment, told the sad story of a group of unlucky girls placed in residential State care who were suddenly all apparently diagnosed with epilepsy and put on an experimental cocktail of strong drugs, with ECT as punishment (Stuff, 2015; Wardle-Jackson, 2015)3. All without their consent or even knowledge. This was at Fareham House in the Wairarapa. Eventually

---

3 I cannot now locate this documentary but one of those affected, Beverly Wardle-Jackson, has written about the abuse. See https://www.stuff.co.nz/entertainment/books/66781693/

the management changed and the treatment ceased, but the long-term effects remain severe for many of them as reported in the documentary.

[57] There are rumours of unconsented LSD drug trials at Ngawhatu. I would not be surprised as institutionalised children and adults have long been used for drug and medical experimentation, such as with polio in the United States. Unconsented cadavers from Seacliff were provided to the Otago Medical School. It would be good if the Commission could research these rumours of egregious breaches of medical ethics.

[58] Meanwhile truant or misbehaving children (mostly boys and often Māori) as young as seven and many having what we would probably now recognise as learning or neurological disabilities could be picked up by the authorities and deposited in one of many children's homes, such as Epuni Boys' Home as described in David Cohen's 2011 memoir Little Criminals (Cohen, 2011). For some it was the first step of lifelong incarceration through the criminal justice system.

[59] While doing my PhD research I heard from an elderly man who told me his sister with Down Syndrome was sent away and not spoken about, because if anyone found out about the family's 'bad genes' other family members would not be able to find partners. A woman told me that those with autistic children faced significant discrimination as popular theories blamed 'refrigerator mothers' for their autism. They found it hard to get community acceptance or fundraise (Stace, 2011).

[60] The deinstitutionalisation movement started in the 1970s but only in 2006 did Kimberley, the last one, close after a march on Parliament. DBI's research on its closure contains diverse perspectives of residents, family members and staff (Milner, 2008).

[61] I urge people to visit the old Porirua Hospital villa which is now a museum. There are displays of 'innovative' treatments such as ECT and insulin. The seclusion room where young people were often held, and its straitjacket, are still terrifying.

Documentaries such as Mental Notes and of Robert Martin on AttitudeLive provide powerful survivor accounts (Marbrook, 2012; AttitudeLive 2014).

The Treaty of Waitangi/Māori

[62] The 1840 Treaty of Waitangi promised partnership, participation and protection for the indigenous Māori population of Aotearoa New Zealand. However, colonialism and its long term effects proved largely negative for Māori who today are disproportionately affected by socio-economic deprivation and disability.

[63] By the end of the 19th century the Māori population had dropped and European leaders assumed only 'smoothing the pillow of the dying race' was required. In an era when eugenics was powerful and non-white races feared, Māori seem instead to have been almost valorised, possibly from their reputation as warriors in the land wars and later in WW1. Significantly, they were largely segregated from Pākehā, living rurally and attending native schools. School children were punished for speaking te reo on the racist assumption that assimilation into European culture was essential. But urbanisation and a growing birth rate post WW2 threatened the dominant Pākehā population.

[64] A Māori colleague who grew up in the 1940s and 1950s told me most Māori children in his town were sent to health camps to be fed Pākehā food, culture and morality. Robert Martin mentioned that he was a rare Pākehā boy among Māori kids in the institutions he grew up in (McRae, 2014). Some educational institutions like Fareham House in the Wairarapa were specifically developed for Māori girls. In data on disability and abuse, and in survivor accounts, Māori are disproportionately affected.

Pasifika

[65] Sources such as Spectrum Care's Extraordinary Journeys provides examples of those who lost their ties to Pacific families and cultures through institutionalisation in New Zealand (Spectrum Care Trust Board, 2010). They could have come here to

escape attitudes from some Pacific cultures which consider disability as punishment for sin, or it could be as simple as lack of resources.

What constitutes abuse

[66] Abuse takes many forms and includes

- Physical – any behaviour threatening physical safety or body integrity;
- Sexual – anything non-consensual, illegal or inappropriate;
- Emotional or psychological - including threats or bullying, or undermining, segregation from friends or partners;
- Neglect - such as lack of access to medical treatment;
- Control and restraint;
- financial – stealing or withholding money;
- Cultural – excluded from ethnic, family or popular culture;
- Demeaning, for example, photographs of institutional residents without their consent;
- Witnessing abuse;
- Silencing so victims are unable or unwilling to complain.

[67] A 2013 report by Michael Roguski (2013) provided evidence of abuse of disabled people living in the community. He examined disability support in the Gisborne area and talked to disabled people, families and advocates. He found a number of structural issues including:

- A low level of societal awareness of disability abuse;
- A variety of silencing processes;
- A lack of appropriate monitoring;
- Poor management practices;
- Inadequate reporting;
- Inadequate legislation including no protection or support for the disabled person during an investigation of abuse.

[68] The 'silencing' that he named was particularly worrying.

- For the disabled person it meant pressure not to report abuse (because of negative past experiences of reporting, fear of retribution, and the sad reality that an abusive care worker is better than no care worker);

- Disabled people feeling they were unworthy of good care, or deserving of abuse;
- Normalisation of poor treatment;
- Difficulties in communication, e.g. disabled person was non-verbal;
- Undermining of the disabled person's testimony;
- Collusion by authorities to protect the perpetrator.

[69] A 2012 survey of disability abuse in California showed a similar picture. The authors conclude that abuse is prevalent and pervasive and happens repeatedly to victims with all kinds of disabilities (Spectrum Institute, 2013).

[70] I would like to see the Royal Commission recommend a similar New Zealand-wide survey in which disabled people receiving services are free to answer anonymously (with independent support if necessary) without providers present.

Recent examples

[71] New complaints processes with the 1992 Mental Health (Compulsory Care and Assessment) Act were supposed to end abuse. Instead the Act provided a new catch all diagnosis of 'mental disorder' which was the justification for locking up young autistic man Ashley Peacock for over a decade. After many long stretches of months in seclusion, mysterious injuries, and years of parental advocacy, he was finally released into community care in 2018 (Johnston, 2018) . Media attention finally got him out, but the years of incarceration have had a negative effect on him.

[72] His is not an isolated case. In 2019 my friend with a high needs autistic daughter is often told (including by family) to put her daughter in an institution. There is nothing appropriate for her needs and her mother wants to keep her at home. So untrained and unskilled carers come regularly into the house. I have witnessed how some bring demeaning ableist attitudes. One on one care can mean no spoken interaction, locking the young woman in one room for hours without food drink or toilet breaks, deleting her TV programmes, stealing her possessions and even hitting her dog.

[73] Nothing in so-called disability support shocks me.

[74] Disabled people are still suffering abuse despite a 2008 Select Committee Inquiry, a 2013 Ministry of Health report and media investigations (Social Services Select Committee, 2008; Van Eden, 2013; Johnston, 2013). Despite some good providers, poor and neglectful care seems widespread. With such a lack of professionalism, abuse is not surprising.

[75] A 2011 Ministry of Health report revealed life expectancy of about 20 years less for people with intellectual disability than for those without, and other disparities (Ministry of Health, 2011). The 2003 To Have an Ordinary Life Report and associated reports by the DBI indicate many issues concerning health and wellbeing (National Advisory Committee on Health and Disability, 2003; Donald Beasley Institute, 2003).

[76] New Zealand has a much longer history of disability abuse than just 1950-1999.

Restorative justice and apology

[77] A fully restorative approach, starting with an official and unconditional apology from the top, may help heal and ensure no more are harmed. A good example is the 2001 apology from the Prime Minister Helen Clark to some victims of abuse at Lake Alice.

[78] 'Whatever the legal rights and wrongs of the matter, and whatever the state of medical practice at the time, our government considers that what occurred to these young people was unacceptable by any standard, in particular the inappropriate use of electric shocks and injections. (Department of Internal Affairs, 2007)

[79] It challenges two of the arguments used against complainants: that what happened was just the norm for the time, and that because such things happened

several decades ago, it is no longer relevant. A proper and respectful apology needs to be followed up by actions that are aimed at rebuilding trust.

[80] International best practice suggests a recipe for a successful apology. The Scottish Human Rights Commission suggests:

- an acknowledgement of the wrong done;
- accepting responsibility for the offence and the harm done;
- a clear explanation as to why the offence happened;
- expressing sincere regret;
- an assurance that the offence will not be repeated;
- actual and real reparations (or redress)

[81] Effective restorative processes can restore dignity and justice. Professor Chris Marshall of Victoria University cites the need for shared vulnerability between abuser and abused (in this case the RC as agent of the state):

- Vulnerability (feeling safe enough to open up);
- Voice to speak which brings out the full truth and rebalances power;
- Veracity – the factual and moral truth is revealed;
- Validation – the flip side of voice. Listener pays careful attention, displays respect, and acknowledges harmed person's needs and feelings.
- Vindication. The person who causes harm needs to accept blame and commit to repairing otherwise the victim will often continue to self-blame.
- Value finding. People who have been wronged need to find meaning in their experience so it is not entirely negative for them, for example, by preventing it happening to others. Ultimately if people can 'find grace' in the person who has caused harm, healing can become reciprocal. Something good comes out of bad. Hope for a better future is a very important outcome from restorative justice. (Marshall, 2017)

[82] Former state care inmates interviewed in the documentary Mental Notes are among those hoping for a Government acknowledgement or apology, reinforcing such calls to the earlier Confidential Forum (Marbrook, 2012).

How care can be transformed

[83] Building 'right' relationships (Kendrick, 2009) and addressing our 'ableism' is required. Ableism sees disability as a diminished state of being human which should be ameliorated, cured or eliminated (showing its links to eugenics). Ableism needs to be challenged wherever it exists, whether in state policies, service providers or community attitudes.

[84] Urgent attention to workforce development is required to raise the professionalism and status of care work or 'personal assistance'. Proper training and career pathways are needed with a professional body, registration and complaints processes and code of ethics.

[85] The outdated *Protection of Personal and Property Rights Act 1988* needs updating to reflect the articles of the *UN Convention on the Rights of Persons with Disabilities* (CRPD).

[86] We do have some aspirational policy to guide us. For example, the 2001 NZ Disability Strategy states that:

> *Underpinning the New Zealand Disability Strategy is a vision of a fully inclusive society. New Zealand will be inclusive when people with impairments can say they live in:*
>
> *'A society that highly values our lives and continually enhances our full participation'.*
>
> (Ministry of Health, 2001)
> The CRPD spells out those rights and what they look like (UN, 2006).

[87] To move forward we need an apology from the top for over a century of eugenic-based state policies targeting disabled children, young people and adults. It

was wrong, unjust and unfair and its legacy lingers in ongoing reports of disability discrimination and abuse.

[88] As Robert Martin says:

> *Though it's great that New Zealand closed its last institution, being institutionalised is not just about the buildings – the bricks and mortar – it's also about values, beliefs, actions and activities. It's about the way things are done, the decisions that are made, who makes them and who has the control. In New Zealand we still need to work hard to ensure that people with disabilities do not continue to be institutionalised even though they live in community settings.* (People First, 2010:9)

Bibliography

Aitken, R. *et al* (1953). *Report of the Consultative Committee set up by the Hon. The Minister of Education in August 1951.* Wellington: NZ Parliament.

Beatson, P. (2004). *The disability revolution in New Zealand: a social model* (2d ed). Palmerston North: Massey University.

Burns, C. (1959). *The mental deficiency services: an analysis of existing policy and the community's requirements: a report*. Wellington: British Medical Association. New Zealand Branch. Mental Deficiency Sub-committee.

Chapple, W.A. (1903). *The fertility of the unfit*. Melbourne, Christchurch: Whitcombe and Tombs.

Cohen, D. (2011). *Little criminals: the story of a New Zealand boys' home.* Auckland: Random House.

Dalley, B. (1998). *Family matters: child welfare in twentieth-century New Zealand* Auckland: AUP.

Darwin, C. (1859). *On the origin of species by means of natural selection, or the preservation of favoured races in the struggle for life*. London: John Murray.

Department of Internal Affairs (2007) *Te Aiotanga: Report of the Confidential Forum for former in-patients of psychiatric hospitals*. Wellington: Department of Internal Affairs.

Donald Beasley Institute (2009). *The Great Life project; a report prepared for IHC/IDEA Services by the Donald Beasley Institute in collaboration with the IHC Self Advocacy Advisory Committee.* Dunedin: Donald Beasley Institute.

Donald Beasley Institute (2003). Background papers to the 'ordinary' life report. Dunedin.

Fleming, P.J. (1981). *Eugenics in New Zealand 1900-1940.* Unpublished MA thesis Massey University.

Grant, J. (2007). Community participation and quality of life for ex-Templeton Centre residents: policy, theory and practice. An opportunity for NGO collaboration. *Social Policy Journal of New Zealand* (30), 70-93.

Hamilton, C. (2012). Sterilisation and intellectually disabled people in New Zealand—still on the agenda?, *Kotuitui: New Zealand Journal of Social Sciences Online*, 7:2, 61-71.

Hunt, A. (2000). *The lost years: from Levin Farm Mental Deficiency Colony to Kimberley Centre*. A. Hunt.

Hutchison, C.P et al. (1973). *Services for the mentally handicapped : third report of the Royal Commission of Inquiry into Hospital and Related Services*. Wellington.

IHC New Zealand Deposited Papers, 1949-2003 MS Papers 2003-211. Alexander Turnbull Library.

Johnston, K. (2018). Autistic man Ashley Peacock remains locked up a year on. *NZ Herald* 21 May.
https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12054812

Johnston, K. (2013). Boy left to eat grass at horror home. *Fairfax NZ News*, 5 May.

Kendrick, M. (2009). *Letting in the light: reflections on leadership, ethics and human services*. Brisbane: CRU Publications.

McKee, R.L. (2001). people of the eye: stories from the Deaf world. Wellington: BWB.

McRae, J. (2014). *Becoming a person: the biography of Robert Martin*. Nelson: Craig Potton.

MacGregor, D. (1876). The problem of poverty in New Zealand Part III. *New Zealand Magazine*, Vol.1, No.3 (July 1876), p.320.

Marbrook, J. (2012) *Mental Notes* [documentary]
https://www.imdb.com/title/tt2076270/

Marshall, C. Address to the NZ Fabians, Wellington, May 2017.

Maxwell, G.& Liu, J.H. eds, (2007). *Restorative Justice and Practices in New Zealand: towards a restorative society*. Wellington: Institute of Policy Studies.

Mazengarb. O. (1954) *Report of the Special Committee on Moral Delinquency in Children and Adolescents.* Wellington: Government Print.

Millen, J. (1999). *Breaking barriers: IHC's first 50 years.* Wellington: IHC NZ.

Milner, P. (2008). *An examination of the outcome of the resettlement of residents from the Kimberley Centre.* Dunedin: Donald Beasley Institute.

Ministry of Health (2001). *The New Zealand Disability Strategy: making a world of difference/whakanui orange*. Wellington: Ministry of Health

Ministry of Health (2011). *Health Indicators for New Zealanders with intellectual disability*. Wellington.: Ministry of Health.

Mirfin-Veitch, B. and J. Conder (2017). "Institutions are places of abuse": the experiences of disabled children and adults in state care. Dunedin: Donald Beasley Institute.

National Advisory Committee on Health and Disability (2003). *To have an 'ordinary' life: kia whai orange 'noa'*. Wellington.

National Film Unit (1964). *One in a thousand.* [documentary]

O'Brien, P. & Sullivan, M. (eds) (2005). *Allies in emancipation: shifting from providing service to being of support*. Melbourne: Thomson, Dunmore Press.

Parker, W. (2006). *Social welfare residential care 1950-1994; prepared for the Historic Claims Team*. Wellington, Ministry for Social Welfare

Paul, D.B., J. Stenhouse, H. Spencer, eds. R eds. (2018) *Eugenics at the edges of empire: New Zealand, Australia, Canada and South Africa.* Palgrave Macmillan.

People First New Zealand (2010). *A place of our own: living with the legacy of institutionalisation*. People First NZ: Wellington.

'Robert Martin: the people's advocate' (2014). *AttitudeLive.* https://attitudelive.com/watch/Robert-Martin-The-People-s-Advocate

Robertson, A., Frawley, P. & Bigby C. (2008). *Making life good in the community: when is a house a home' looking at how homely community houses are for people* *with an intellectual disability who have moved out of an institution*. Melbourne: La Trobe University/ State Government of Victoria.

Robertson, S. (1989) *Production not reproduction: the problem of mental defect in New Zealand, 1900-1939.* Unpublished BA Hons thesis, University of Otago.

Roguski, M. (2013). *The Hidden Abuse of Disabled People Residing in the Community: An Exploratory Study prepared for Tairawhiti Community Voice.* Gisborne: Kaitiaki Research.

Smyth, G. (1996). *Out of sight* [documentary]. Christchurch.

Smyth, G. (2004). *Out of sight, out of mind* [documentary]. Christchurch.

Social Services Select Committee (2008). *Inquiry into the Quality of Care and Service Provision for People with Disabilities*. Wellington: House of Representatives

Spectrum Care Trust Board (2010). *Extraordinary journeys: twelve extraordinary people retrace their journeys from institutional care to supported community living*. Auckland: Spectrum Care Trust Board.

Spectrum Institute (2013). *Abuse of people with disabilities: victims and their families speak out. A report on the 2012 National Survey of Abuse of People with Disabilities.* Los Angeles US. http://www.disabilityandabuse.org/survey/survey-report.pdf

Stace, H. (2011). *Moving beyond love and luck: building right relationships and respecting lived experience in New Zealand autism policy*. Unpublished PhD thesis, School of Government, Victoria University of Wellington

Stace, H. & Sullivan, M. (2011). 'A society that highly values our lives and continually enhances our full participation' *Policy Quarterly* , vol 7, no 3 (August): 50-55

Standards Plus (2007). *Seeking community/he ngakau aata kitea: living with a learning disability.* Standards Plus/Whitireia Publishing: Auckland.

Stanley, E. (2016) *The road to hell: state violence against children in postwar New Zealand*. Auckland: University Press.

A stolen childhood: a story of abuse as a state ward. *Stuff* 28 Feb. 2015 https://www.stuff.co.nz/entertainment/books/66781693/

Sullivan, M. (1996). *Paraplegic bodies: self and society*. Unpublished PhD thesis, University of Auckland.

Tennant, M. (2007). *The fabric of welfare: voluntary organisations, Government and welfare in New Zealand, 1840-2005.* Wellington, Bridget Williams Books.

Triggs, W. et al (1925). *Mental defectives and sexual offenders: report of the Committee of Inquiry appointed by the Hon Maui Pomare, Minster of Health*. Wellington: NZ Parliament.

Triggs, W. et al (1922). *Venereal diseases in New Zealand: Report of the committee of the Board of Health Appointed by the Hon. Minister of Health.* Wellington: NZ Parliament.

United Nations (2006). *Convention on the Rights of Persons with Disabilities*. New York: United Nations

Van Eden, K. (2013). *Putting People First A Review of Disability Support Services Performance and Quality Management Processes for Purchased Provider Services.* Wellington, Ministry of Health, 2013.

Wardle-Jackson, B. (2015) *In the hands of strangers: a NZ childhood stolen, a memoir*. Penguin.

White, N. (2007) 'Saying sorry effectively: Government apologies for historical wrongs' in Maxwell & Liu Eds *Restorative justice and practices in New Zealand: towards a restorative society*. Wellington, Institute of Policy Studies, chapter 13.