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Social Change & Innovation

Hāhā-uri, hāhā-tea

Māori Involvement in State Care 1950–1999

July 2021

Kei ngā tamariki o te wao
Kua tau ki te korokoro o te parata
Kua rongo-ā-tinana, kua rongo-ā-hinengaro,
kua rongo-ā-wairua
Kua riro ki te whiu o te aitanga-ā-Whiro
Kua puta i te whiu o te aitanga-ā-Whiro
Kua kohia katoa ki runga waka, kua tae katoa tātou ki uta
Kei tai te kino, kei uta te whiu
Ko koe rā kei te aroaro

Ki a koutou katoa kua wherawhera ōu hara,
ōu tukihanga atu ki te taringa
Kua horo nei ki te āwhiotanga mai o te parata
Tēnā koutou
Kua kite i a koutou katoa
Ko koe rā kei te aroaro

Mō mātou rā kua whakairongia ki te kupu te takenga
mai o te parata
Kua mate ki te kohi nei i te kupu ngaro, kua tukia te
rae ki te taketake o te korokoro,
i ngā paeāwha o te taniwha.

Kua tangihia, kua tā ki te pene, kua kapohia e whatu, ā,
kua tukua anōhia kia rere a roimata.
E tika ana kia mihia ki te māiatanga o tōu aroha
kia ūpoko pakaru te tutukihanga mai o tēnei mahi.

Tēnā tātou

To all those children who were taken from sanctuary and
thrown in to the mouth of the state
Those of you who have experienced the dislocation of your
innocence physically, psychologically and spiritually
Who have died within State Care
Who have survived State Care
All of that which has happened to you, without your permission
We have reached a reckoning
We see you

To those of you who have reached back in time to share your pain and
memories to the Commission of Inquiry
Tēnā koutou
We see you

To those of us who have come to paint the landscape in which
these horrendous actions could occur.
To us who have searched locked basements, who went down
those rabbit holes to search

We have cried, we have written,
we have read, we have cried again.
We have continued with love to successfully complete this piece of work.

Tēnā tātou

Hāhā-uri, hāhā-tea

Māori Involvement in State Care 1950-1999

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Desolate darkness, desolate light.

Mead, H., & Grove, N. (2001). Ngā Pēpehā o ngā Tīpuna. Victoria University Press: Wellington. (317, p. 59) This report shines a light on aspects of the state care system between 1950 and 1999. Much of what occurred remains in the dark. Given what has come to light has illuminated immense harm, we can anticipate that what remains unknown or unspoken (in darkness), has the potential to be equally or even more upsetting. Desolate darkness, desolate light.

Hāhā-uri, hāhā-tea - Māori Involvement in State Care 1950 - 1999

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Preface to the Research Report

Independent research commissioned by the Crown Response to the Abuse in Care Inquiry

Context

The Terms of Reference of the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Royal Commission) require it to give "appropriate recognition to Māori interests, acknowledging the disproportionate representation of Māori".

Likewise, to develop its response to the Royal Commission, the Crown needs to understand what sits behind Māori involvement with the State Care system, its impacts, and how Māori involvement has changed over time.

The history of Māori involvement in State Care is not well understood and has never been comprehensively brought together. Historical records and data relating to Māori in State Care are scarce, and such information that exists is held in disparate locations. This highlights the need for this research, given the known over-representation of Māori in State Care both historically and today.

This research will not only help the Crown Response provide the Royal Commission with some of the information it will need, it will also help inform government agencies' work on future policies, practices and services for Māori across the State Care system.

As with all aspects of the Crown Response, the commissioning of this work relating to the abuse of Māori children and vulnerable adults and their whānau, and hapū was guided by the set of principles underpinning the Crown's strategic approach approved by Cabinet in April 2019.[1]

About the Crown Response

The Crown Response to the Abuse in Care Inquiry is coordinated by a small semi-autonomous Secretariat and overseen by a Sponsoring Group comprised of the Chief Executives of the Ministries of Health, Education, and Social Development, Oranga Tamariki and Crown Law. The Crown Response reports to the Minister for the Public Service.

Further information about the Crown Response is at www.abuseinquiryresponse.govt.nz

[1] **manaakitanga:** Treating people with humanity, compassion, fairness, respect, and responsible caring that upholds the mana of those involved;
openness: Being honest and sincere, being open to receiving new ideas and willing to consider how we do things currently, and how we have done things in the past;
transparency: Sharing information, including the reasons behind all actions;
learning: Active listening and learning from the Royal Commission and survivors, and using that information to change and improve systems;
being joined up: Agencies work together closely to make sure activities are aligned, engagement with the Royal Commission is coordinated and the resulting actions are collectively owned; and
meeting our obligations under the Treaty of Waitangi: Honouring the Treaty, its principles, meeting our obligations and building a stronger Māori-Crown relationship through the way we operate and behave.

Research scope

In October 2020, the Crown Response commissioned Ihi Research (Ihi) to undertake independent research to examine the nature of Māori involvement with the care system from 1950 to 1999.[2] The research was to be undertaken using a kaupapa Māori approach and while that was the intent, the nature of the kaupapa has led Ihi to take a Māori-centred approach.

The research was completed in July 2021.

A key driver of the research is for government agencies to know what happened, why it happened, how it happened, and what were the impacts. The Crown Response proposed specific questions for the research which fall into three parts:

Part A: Link between Māori over-representation in State Care and colonisation and racism:

- To what extent, were Māori over-represented among tamariki Māori and vulnerable adults in State Care? In what care settings did the over-representation occur?
- How, and why, did over-representation of tamariki Māori and vulnerable adults in the State Care system occur? What were the factors (and who were the actors) that caused this over-representation to happen, and to continue over time?
- What indications are there that the Treaty of Waitangi was part of agencies' decision making as evidenced in available information such as policies, employment agreements, workforce practices and standards, and peoples experience of those things or the absence thereof.
- What was the contribution of colonisation, land alienation, and urbanisation to the subsequent over-representation of tamariki Māori in the State Care system? How are these factors connected to State Care (if at all)?
- Were tamariki Māori, whānau, and communities subjected to differential treatment by the State Care system (compared to that experienced by Pākehā children and families)? Are there documented examples of differential treatment or contemporary commentary about it?

Part B: Māori experiences of the State Care system:

- How has the State Care system (from 1950 to 1999) impacted on Māori as individuals and as whānau, hapū, iwi and communities – including intergenerational impacts, and impacts arising from the Adoption Act for example?
- How have Māori staff experienced working in the State Care system? Have they felt listened to, or able to contribute? Have they felt supported? How has the number of Māori staff and the experience of Māori staff changed over time?
- What initiatives have been generated and led by whānau, hapū, iwi and communities to cope with the State Care system and its challenges?

Part C: Improving the State Care system for Māori:

- How did services and systems for Māori change after the implementation of Puao-te-Ata-Tū and the 1989 Children's Young Persons and their Families Act (the 1989 Act)?
- What were the challenges to implementing Puao-te-Ata-Tū and the 1989 Act?

[2] The State Care system is defined in the Royal Commission's Terms of Reference as formal and informal arrangements in the following care settings: social welfare settings, health and disability, educational settings, and transitional and law enforcement settings. These include, for example: schools (day and residential), early childhood centres, psychiatric institutions, day and residential disability services, Police cells, borstals, children's homes, foster care and adoptions. They also cover service providers who have been contracted by State agencies to provide care services.

Approach

Ihi Research has specialist expertise in Māori research and was commissioned to carry out the research. The research was conducted through:

A. Literature reviews – Ihi drew on the considerable amount of work that has already been done on Māori experiences of care and its impacts. This existing work has been synthesised and summarised in a literature review, (particularly for Part B of the project).

B. Primary research – reviews of archival material, including publicly available material such as yearbooks and annual reports.

C. Key informant interviews – for aspects of the research where gaps in information have been revealed, or that need to be tested against real-life experiences. Ihi interviewed former agency staff, community service providers, people who were involved in development and implementation of Puao-te-Ata-Tū and Children's Young Persons and their Families Act, Māori community officers and social workers who worked directly with tamariki Māori and whānau in the period of focus. The survivor voice was provided by participant researchers who were also survivors and from survivor evidence to the Royal Commission.

Out of scope

The actions of faith-based care or the impact of faith-based institutions are not included in the scope except where state power was used to place Māori children in such institutions.

The narratives/stories of survivors of State Care abuse, (except where previously published) as this comes within the purpose of the Royal Commission of Inquiry.

Issues of Treaty breach are not addressed directly, (although recognising its relevance) because of the Waitangi Tribunal's work particularly for the Urgent Hearing - WAI 2915.

Hāhā-uri, hāhā-tea

Executive Summary

In October 2020, the Crown Secretariat[1] contracted Ihi Research (Ihi) to undertake independent research into Māori involvement in the State Care system[2] (1950-1999). The research had three key focus areas. These were to:

- Examine the extent of Māori over-representation in State Care and its link with colonisation, land alienation and urbanisation.
- Investigate Māori experiences of the State Care system, including that of Māori staff; and
- Investigate changes made to the State Care system for Māori following the Puao-te-Ata-Tū report and the Children, Young Persons and Their Families Act 1989.

The research utilised a Māori-centred approach (Cunningham, 1998) and involved qualitative and quantitative analyses. An integrative literature review of 482 documents was conducted including primary research, archival material, and publicly available reports and papers. Gaps in document analyses formed the basis of semi-structured interviews. The twenty-six participants included former agency staff, community service providers, people involved in the development and implementation of Puao-Te-Ata-Tū and the Children's Young Persons and their Families Act.

Data considerations and challenges

The scope of this research was limited by time[3] and data availability. There is uncertainty around estimates of the cohorts and numbers of Māori tamariki and vulnerable adults in State Care, due to a lack of ethnicity data collected and reported by the state between 1950–1999. The 'true' number may never be known with any degree of precision, however there is data that emphasises the extent of Māori over-representation. Ethnic breakdown was available for Youth Justice-related statistics. Justice ethnicity data indicates firstly that there was no reason why ethnicity could not have been collected by other government agencies, and secondly that the State determined it more important to collect ethnicity statistics in justice than in care settings.

Results presented in this report emphasise the devastating, intergenerational harms that tamariki Māori and whānau have experienced through enduring, systemic and structural racism across the State Care system. These findings are not new, given a large part of analysis is drawn from published material and are also highlighted in more recent inquiries and reviews[4]. However, report analysis brings together in one place, a compilation of information relating to Māori over-representation and Māori experiences of the State Care system during the review period (1950-1999). Results also identify several issues that need to be addressed in the future to improve Māori over-representation and experiences of the State Care system.

[1] A small secretariat leads and coordinates the Crown's response to the Abuse in Care Royal Commission of Inquiry. The Secretariat, Crown Response to the Abuse in Care Inquiry was set up to support Government agencies to respond to the Royal Commission.

[2]The State Care system is defined in the Royal Commission's Terms of Reference as formal and informal arrangements in the following care settings: social welfare settings, health and disability, educational settings, and transitional and law enforcement settings. These include, for example: schools (day and residential), early childhood centres, psychiatric institutions, day and residential disability services, Police cells, borstals, children's homes, foster care and adoptions. They also cover service providers who have been contracted by State agencies to provide care services. For the purposes of this report, the State Care system is aligned to various governments and State departments/agencies that operated within the defined time period (1950-1999).

[3] The research was conducted over a six month period.

[4]These include recent inquiries and reviews into State Care undertaken by the Office of the Children's Commissioner and the Waitangi Tribunal Inquiry: WAI 2915 Oranga Tamariki Urgent Inquiry.

Major findings

Māori over-representation in State Care was the direct result of enduring structural and systemic racism across multiple settings (social welfare settings, health and disability settings, educational settings, transitional and law enforcement settings, including prisons). The undermining and undoing of whānau, hapū and iwi structures and networks was not merely a result of colonisation, but an essential part of the process. For example, state policies promoted and maintained the intentional dismantling of whānau gendered relationships through white European patriarchy. In pre-colonial society, wāhine Māori had autonomy equal to males, gendered relationships were more fluid and less pronounced than those of the white European settlers. Wāhine Māori status and authority was redefined by the state, and their behaviour was often interpreted as immoral and lacking male discipline. Young unwed Māori mothers were viewed as unworthy and not fit to raise tamariki Māori. Tāne Māori were stereotyped as inherently violent, simple-minded and dysfunctional fathers. Their criminalisation through interactions with the state reinforced these perceptions.

Land alienation and urbanisation of Māori communities was central to state policies of assimilation and integration. The loss of whenua and access to traditional life-sustaining resources had a dramatic effect on whānau wellbeing and economic prosperity. Māori families moved into towns and cities where Pākehā-defined living conventions were individualistic and unfamiliar, and tikanga Māori was disparaged and maligned. Urban migration signified a critical detachment of whānau and hapū ties and support networks which previously had ensured the wellbeing of tamariki Māori. Without the supportive factors of tribal, communal life, the conditions were set for increased economic disadvantage, social dislocation and cultural disconnection. Discrimination, loss of opportunity, poor housing, unemployment, low educational attainment, poverty, drug and alcohol use gave rise to further social problems, including domestic violence.

Racism also fuelled increased scrutiny and surveillance of whānau and this was the starting point for the over-representation of Māori within State Care institutions. Officials linked Māori juvenile offences to the perceived 'defects' in their home life, including the culture and traditions of Māori communities.

Māori over-representation in welfare settings

The number and size of institutions managed by the Department of Social Welfare (DSW) has varied over time, with a peak of 26 institutions in the early 1980s. The proportion of tamariki Māori and young persons in DSW institutions was highest around the 1970s and the early 1980s, reaching up to 80% in some institutions. Through the Children, Young Persons and Their Families Act 1989, increased emphasis was given to the placement of tamariki Māori with their whānau or in the community. The overall numbers of children placed in residential institutions significantly reduced. However, the proportion of tamariki Māori admitted to state residences remained staggeringly high. Research examining children in care of the Department of Social Welfare (i.e. placed under the guardianship of the Director-General of Social Welfare via court order) in the 1970s and 80s, showed that over 50% were tamariki Māori. A 1998 birth cohort study of 56,904 children in Aotearoa New Zealand showed that by the age of 18, tamariki Māori were 3.5 times more likely to experience out of home placement than European children.

Variability in child welfare decision-making was influenced by subjective interpretations, organisational culture and systemic resources. Decisions by staff determined the subsequent intervention. Tamariki Māori were 2.5 times more likely than non-Māori children to be assessed by CYFS as abused or neglected.

Māori over-representation in justice settings

A proportion of children progressed from the care of DSW to the care of the Justice Department, in custody, under supervision or on probation. From 1964 to 1974, the total increase in rates of appearance by tamariki Māori (150% increase among boys and 143% among girls) was twice that by non-Māori. From 1964 to 1989 tamariki Māori were brought before the official bodies at much greater rates than non-Māori. Concerns were raised about the ethnic disparities and over-representation of tamariki Māori and rangatahi in youth justice statistics since the 1980s. In 1988, Pākehā accounted for 51% of known juvenile offenders, Māori for 43% and Pacific Island Polynesian for 5%.

Studying the patterns of offending, the DSW (1973) analysed a cohort of children born in 1954-55 by cumulating their first offender rates from 1965 (when they were 10) to 1971 (when they were 16). These results showed a disproportional number of tamariki Māori in the cohort who were brought to court on a legal complaint or police charge. There is an ethnic bias against Māori in the criminal justice system, which is over and above the estimated effects of social, family and individual disadvantage. This disproportionality is the result of a combination of long term social and economic disadvantage related to colonisation and ongoing systemic discrimination.

Māori over-representation in psychiatric settings

The data indicate a stark and significant rise in Māori psychiatric admissions reported from the 1960s to the 1980s. A lack of evidence hinders an exact explanation. However causal explanations include the impact of colonisation, urbanisation, socio-economic and employment factors, misdiagnosis, culturally inappropriate services, and alcohol and drug related prevalence amongst Māori.

From 1970 to 1987, tamariki Māori (10-19) and young adults (20-29) were admitted to psychiatric care at a rate approximately 1.5 times higher than non-Māori. The rate of Māori admission in the 20-to-29-year age group, increased to approximately double the non-Māori admission rate in the mid-1980s. Māori were about 2 to 3 times more likely to receive referrals from law enforcement agencies than non-Māori. From 1983 onwards, analysis indicated Māori over-representation in psychiatric care based on population percentages. In 1991, Māori contributed 15% to all first admissions and 19% to all readmissions (compared with about 13% Māori in the 1981 population Census). Māori proportion in readmissions reached 20% in 1993.

The connection between over-representation in mental health and the justice system, and the confluence of the two systems, was established in the research. The high rate of apprehension for criminal offending amongst Māori impacts on the over-representation of Māori in psychiatric institutions. The way data has been collected and presented does not allow us to describe trends in the admission and readmission data for the entire 50-year period. However, more recent qualitative evidence suggests that there were definite sub-populations who were discriminated against and persecuted through psychiatric institutionalisation, including wāhine and tamariki Māori with disabilities and takatāpui.

Evidence of negative, differential treatment

There is clear evidence of negative, differential treatment towards pēpi, tamariki and whānau Māori across the State Care system. Adoption practices of the 1960s indicate that social workers and officials treated the adoption of tamariki and pēpi Māori differently. Māori who wished to adopt were severely disadvantaged by the Court system, as they were often unable to afford court costs and/or legal representation. In addition, applications made by whānau to legally adopt relations in a legal whāngai capacity were rejected on the basis of wealth and age. Whānau were often discriminated against by magistrates who viewed Pākehā upbringing as far superior and more desirable. As a result of this bias,

and that pēpi and tamariki Māori were considered 'undesirable' and harder to place, Pākehā families of concern to social workers were more likely to be granted approval if they agreed to adopt a non-white child. Tamariki and pēpi Māori were therefore more often adopted by less desirable applicants. Tamariki Māori were also more likely to be placed in restrictive institutional environments, than European children who were more likely to end up in foster placements.

The Intensive Foster Care Scheme (IFCS) demonstrates how racism and differential treatment played out in welfare. The IFCS placement assessments were monocultural, dominated by the social work paradigm-based Euro-Western theories and practices. Pākehā children were targeted for the Intensive Foster Care Scheme (IFCS) which included better training and increased payment for the foster parents. Tamariki Māori did not receive equivalent access to IFCS. They were more likely to be placed in residential care or conventional foster care and less likely to receive intensive support.

Whānau deprivation, racism and inequitable treatment

A series of research reports from the 1960s – 1980s highlighted issues of whānau deprivation. While Māori were noted as over-represented in juvenile offending statistics, there were clear links with structural racism, poverty, educational underachievement and poorer income levels. However, socio-economic explanations aside, the data substantiate that inequitable treatment has been a characteristic of Māori engagement with the courts, police, and welfare.

Racialisation of crime and differential treatment towards Māori have been an intrinsic component of policing since the beginning of the state. There is evidence of police targeting of tamariki Māori that has continued throughout the 1950s, 1960s and beyond. The differential treatment incurred during this period is likely to have directly influenced contemporary rates of Māori imprisonment and offending. Research demonstrates that Māori conviction rates were higher compared to Pākehā (in the 1960s) and were linked with the lack of legal representation for Māori.

Māori experiences of the State Care system

The State Care system has had various and interrelated impacts on Māori as individuals, and as collectives, over the period (1950-1999). For survivors these impacts 'circle out' beyond the individual to whānau, hapū, iwi Māori as well as following generations. The psychological, cultural, emotional and physical harms arising within and from State Care were considerable. Despite the 'pathologies' resulting from their State Care experiences, the 'survivorship' of survivors must be acknowledged, their ability to endure and resist in the face of considerable and ongoing adversity.

For tamariki Māori removed from their whānau, impacts included the loss of fundamental attachment relationships. For some, removal granted them relief from abusive or harsh family environments. However, in most other cases they experienced enduring sadness, guilt and internalised blame. Tamariki Māori experiences of multiple placements while in State Care amplified their feelings of unwantedness. There was instability and insecurity arising from 'failed' and frequent placements. Tamariki Māori became wary of forging relationships with others, protecting themselves from the inevitable pain of displacement.

State Care environments exposed children to neglect, physical, sexual and emotional abuse. For tamariki Māori abuse frequently had racist overtones. Tamariki and rangatahi Māori often lost access to aspects of Māori culture that were positive and affirming. Survivors' strategies for coping with their pain and suffering could also produce secondary impacts. Alcohol and drug use is a common disconnecting/avoidance mechanism and can develop into dependence.

The failure of State Care to provide quality education for tamariki Māori led to widespread educational

under-achievement. This compromised the future employment and economic prospects of survivors. In conjunction with these factors, recruitment to gangs while in State Care set a number of tamariki Māori on a pathway to prison, with a significant subsequent effect on their life trajectories. The enduring lack of trust and resentment towards state authorities engendered by their treatment in State Care extended in life beyond, reinforced by subsequent experiences of incarceration.

Legal and institutional processes presented barriers for whānau fighting to retain their tamariki. When tamariki Māori were removed, whānau often experienced profound difficulty and sadness over the severed relationship. Tamariki Māori admitted to State Care were lost to their wider communities, often returned as damaged and traumatised adults, 'assimilated' in the most abhorrent way. For a community attempting to regroup and regenerate from over a century of depopulation and destabilisation, these losses were a substantial setback to whānau, hapū and iwi.

Individual outcomes of State Care feed into much larger social problems, transmitting the effects of trauma across generations. The mechanisms of intergenerational trauma are both biological and social, evident in deteriorating health, higher rates of incarceration, domestic abuse, unemployment, homelessness, mental illness, drug and alcohol addiction and reduced educational opportunities. All of these factors impact on the life trajectories of whānau across generations. In terms of State Care, a lack of genuine partnership with, and appropriate funding for whānau, hapū, iwi and Māori organisations has constrained efforts to support the significant needs of whānau resulting from intergenerational disadvantage and trauma.

The experience of Māori staff working in State Care

A lack of ethnicity data has constrained analysis of Māori staff working in State Care and how this has changed over time. However, literature demonstrates a continued shortage of skilled staff, particularly of Māori staff, in the State Care sector reported since the 1950s.

Early western models of psychiatric/welfare care were characterised by large institutions with a limited range of treatments. Eurocentrism dominated the profession of social work and social work practices. Residential institutions, special schools and psychiatric residences were institutionally racist. There was a lack of effective state monitoring, the administration of such institutions was mono-racial, and staff in residential institutions were often untrained and unsupervised. There was an absence of a Māori perspective during assessments and a lack of culturally appropriate programmes for Māori.

In 1985 the DSW was first recognised as institutionally racist, described as a typical, hierarchical bureaucracy, the rules of which reflected the values of the dominant Pākehā society. The department promoted a tokenistic and diluted form of biculturalism. Pākehā retained control and were reluctant to share power with Māori or hand power over to whānau. Māori public servants were often perceived by their communities as 'monitors for the state' and could be treated as 'agents of the state' by their community. Māori staff reported having to leave their 'Māoriness' at home and conform to the Pākehā hegemony within the workplace.

The impact of employment practices and conditions within the state sector has influenced Māori staff experiences in the State Care system. The emphasis

on technical qualifications effectively disqualified most Māori staff from policy making roles. Whilst there was a commitment to recruiting Māori staff in the 1980's and 1990's, recruitment tended to focus on junior entry level positions. Policies and procedures were not in place across the public service to build strategic Māori capability. There was no recognised approach to developing Māori leadership and career pathways for Māori public servants.

There is evidence of under provision of appropriate training for Māori across the State Care sector. Rōpū teams were introduced at CYFS with the specific goal of supporting Māori social workers and improving services for tamariki Māori and their whānau. Little to no resources were provided for Māori supervision or leadership to keep Rōpū teams supported and thriving. Ongoing appropriate in-service training was lacking for Māori, including clinical supervision. This has limited the development of Māori social work and critical Māori programmes in care and protection.

The lack of bicultural capability and capacity, despite the promise of Te Tiriti was a serious issue that is apparent in multiple sources over several decades. The lack of Māori capacity within the system has meant Māori staff have often had unrealistic expectations placed upon them. Māori staff were often used to provide advice on Māoritanga however, their knowledge, skill and ability went unrecognised and unrewarded. Burnout and high turnover of Māori social workers resulted in a drain of Māori knowledge and capability from the sector.

The lack of support to build indigenous research evidence in the State Care sector has had a significant impact on Māori staff. The fact that there is so little evidence of Māori staff experiences in this sector prior to 1999 is an indication of the value the state placed on Māori staff in the sector, and the lack of opportunities for Māori practitioners to research and publish during the period. While Māori staff have worked within this context, they have developed their own practices and theoretical approaches. Māori staff voiced their concerns to senior managers and were resistant to changes that they believed did not reflect the intention of te Tiriti o Waitangi/the Treaty of Waitangi or Puao-te-Ata-Tū. Māori staff described themselves as the 'squeaky wheel in the machine', realising that their resistance could compromise their opportunities and ambitions within the sector.

Resistance by Māori communities

Resistance by Māori whānau and their communities to institutional racism and the inadequacies of the State Care system occurred consistently throughout the research period. These responses increased in resistance and intensity in response to evidence of institutional racism and over-representation of Māori in the system. Complaints by tamariki Māori and vulnerable adults in the State Care system were ineffective in bringing about change. They tended not to be believed and were deemed to be untrustworthy by adults running the institution. Whānau wrote letters to advocates, welfare officers, residence staff, Government departments and Ministers inquiring after tamariki Māori and asking for them to be returned. While the actions of individuals within the system was apparent at the time, they were insufficient alone to influence change within the State Care system.

The work of advocacy groups such as ACORD and Ngā Tamatoa is particularly apparent throughout the 1970's and 1980's. Their work resulted in the closure of some institutions such as Lake Alice, and changes in conditions within justice and subsequent care for Māori. Their ability to mobilise is an example of how collectives can support individuals to bring about change.

Throughout the research period different Māori/iwi organisations have emerged to work within the state system. The state needed and wanted intervention from these organisations to assist in their assimilative aspirations for Māori. However, once the organisations formed and established their own rangatiratanga they inevitably began to challenge the status quo. These organisations were constantly engaged in 'push-pull' activity with the state. While the organisations were seeking power to determine their own futures through rangatiratanga, the

system was designed to ensure power was retained within the state.

Improving the State Care system for Māori in the 1980s and challenges encountered

In the 1980s Puao-te-Ata-Tū emerged as a critical juncture in time, with potential for substantive change, creating a blue-print for systemic transformation and partnership with Māori. Pūao-te-Ata-Tū emphasised the crisis facing many Māori communities and the dire situation of tamariki Māori in State Care. Institutional racism within the DSW was acknowledged, alongside grave concerns about cultural ignorance and detrimental policies/practices within other state departments. Urgent action was needed to address substantial harms. Despite the urgency, analysis revealed only 'initial' or 'partial' change on behalf of the state, as well as a 'reversal' of change over time.

The introduction and implementation of the 1989 Children, Young Persons, and Their Families Act (CYPF Act) was the state's main response to Puao-te-Ata-Tū regarding state obligations to Māori. The 1989 Act was designed to introduce a more culturally appropriate, accessible and more whānau-based approach to promote the wellbeing of tamariki Māori. In theory an approved Iwi Authority (or Cultural Authority) could exercise specific duties or powers, including guardianship or custody. Additionally, the 1989 Act introduced government initiatives such as an increase in frontline Māori workers.

The 1989 Act made a distinction between 'care and protection' and 'youth justice'. The rights and responsibilities of families were to be ensured by new practices, such as the Family Group Conferences (FGCs). The idea was that FGCs would be facilitated by department professionals whose main responsibility was as a resource to the family. The changes created new roles for mainly non-Māori professionals, as they were expected to present official information at the conferences, leaving families to review and discuss before returning to help develop a plan of action and resolution. Furthermore, a new Youth Court was set up to deal with youth offending. However, the implementation of the 1989 Act including FGCs were seen as largely tokenistic; a grafting of Māori faces and processes onto the same monocultural welfare system that had not fundamentally changed.

A particular focus of the Act was to be the empowerment of whānau, hapū and iwi in the care and protection of tamariki Māori. However, there was a lack of comprehensive action by the state to ensure equitable funding to harness the potential of whānau, hapū and iwi. Considerable structural barriers and competing government agendas were cited as reasons why equitable partnerships did not occur. The Public Finance Act 1989, neo-liberal reforms and loss of political commitment all became obstacles. Neo-liberal economic policies introduced in the 1980s and continued in the 1990s had devastating impacts for many Māori communities, who were in low-skilled jobs in sectors that were later decimated by state reforms.

Constant restructuring was a feature of the State Care system during the 1990s including a focus on managerial objectives, commercial branding and 'efficiencies', fuelled by a concern to reduce state expenditure. The focus was on measuring 'outputs' rather than 'outcomes'. The recommendations of Puao-te-Ata-Tū were never fully implemented. This meant structural racism and whānau deprivation endured and Māori over-representation in State Care remained disproportionately high.

Tukua mai he kapunga oneone ki ahau hei tangi māku

Send me a handful of soil so that I may weep over it[3].

[3] Māori have an intimate connection to the land and as tangata whenua we see ourselves as kaitiaki of this taonga. This connection to the whenua provides us with a source of identity, spiritual nourishment and emotional healing. Being away from home, one feels a sense of aroha and longing for the land and often feels compelled to return to fill the wairua and nourish the soul. The land absorbs the tears that we may shed and can also provide healing in times of emotional turmoil.

Pihama, L., Greensill, H., Manuirirangi, H., & Simmonds, N. (2019). He Kare-Roto. A selection of Whakataukī related to Māori emotions. Te Kotahi Research Institute Hamilton, Aotearoa / New Zealand. Downloaded from https://www.waikato.ac.nz/__data/assets/pdf_file/0008/480788/He-Kare-aa-roto-Full-Booklet-for-download.pdf

Contents

Introduction

Ihi Research was contracted by the Crown Secretariat[4] to undertake research into Māori involvement in the State Care system[5] (1950-1999). The purpose of the research is to assist government agencies, who are responding to the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Royal Commission) to better understand what happened for Māori in the State Care system during the defined period, and the consequences of this. The Crown Secretariat set the scope and the timeline for the research (November 2020 – June 2021).

The research has an intentional inward focus, to examine what happened within State care between 1950-1999 that impacted on Māori. The research does not focus on individual stories of State Care or abuse suffered in State Care, as this is the focus of the Royal Commission inquiry. To respect the request of the Royal Commission we have not interviewed survivors in the preparation of this report. We have however included survivor experiences when they are cited in existing literature and research. This research intends to provide a contextual backdrop for the narratives of Māori who have experienced State Care.

Methodology

In undertaking this research, we employed a Māori-centred approach[6] (Cunningham, 1998; Moyle, 2014) as the research team was made up of Māori and non-Māori researchers utilising both qualitative and quantitative methods. Cunningham (1998) states that Māori-centred research engages Māori in all levels of the research, operating Māori data collection and analysis processes and ensuing Māori knowledge. Moyle (2014) also argues that Māori-centred research draws strongly from Kaupapa Māori theory and principles. Moyle notes that Kaupapa Māori 'refers to a framework or methodology for thinking about and undertaking research by Māori, with Māori, for the benefit of Māori. It is a way of understanding and explaining how we know what we know, and it affirms the right of Māori to be Māori' (Moyle, 2014, p. 30).

In this regard our research kaupapa is fixed on Māori survival (Mikaere, 2011, p. 37) underpinned by a strong ethical commitment to social justice (Penetito, 2011, p. 42).

In accordance with participatory methodology Ihi Research set out to ensure partnership and engagement with researchers who had lived experience of State Care. The research kaupapa was centred on understanding the extent of Māori over-representation in State Care as well as the influencing forces, causes and impacts. The research team wanted to model a Te Tiriti-based partnership approach that was focused on restoring mana to survivors and not further perpetuating harm.

[4] A small secretariat leads and coordinates the Crown's response to the Abuse in Care Royal Commission of Inquiry. The Secretariat, Crown Response to the Abuse in Care Inquiry was set up to support Government agencies to respond to the Royal Commission.

[5] The 'state care system' is defined in the Royal Commission's Terms of Reference includes social welfare settings, health and disability settings, educational settings, and transitional and law enforcement settings, with listed exclusions including prisons.

[6] For a full description of the methodology, please refer to Chapter 9.

An integrative literature review was undertaken in the first phase of the research. A total of 482 documents including peer reviewed published papers, government reports, institutional records,are discussed in the summary of this chapter. conference papers and submissions to government were analysed. Māori research, literature, theses and Government reports were privileged in analysis. Gaps in literature review analyses formed the basis of interview questions. Twenty-six participants took part in semi-structured interviews and 19 were Māori who have experience of the State Care system. This report presents analysis of that system from an unapologetic Māori centred perspective.

Defining the State and its Care

The theoretical framework developed through this research is related to power, social control, race and racism to explain how and why tamariki Māori became over-represented in the State Care system. The legacy of the settler state[7] is very much evident throughout analysis demonstrated through negative, differential treatment[8] and monocultural practices achieved through colonisation, land alienation, imposed assimilation policies, and Eurocentric perspectives of family wellbeing, welfare and justice. Settler state structures and systems are 'intentionally and incidentally biased towards the settler' (Reid et al, 2017, p. 24) and maintained across decades through structural and institutional racism. This was emphasised within the ground-breaking Puao-Te-Ata-Tū (1988).

> The history of New Zealand since colonisation has been the history of institutional decisions being made for, rather than by, Maori[9] people. Key decisions on education, justice and social welfare, for example, have been made with little consultation with Maori people. Throughout colonial history, inappropriate structures and Pakeha involvement in issues critical for Maori have worked to break down traditional Maori society by weakening its base – the whanau, the hapu, the iwi. It has been almost impossible for Maori to maintain tribal responsibility for their own people (Ministerial Advisory Committee on a Maori perspective for the Department of Social Welfare, 1988, p. 18).

Structural racism is both devasting and insidious, resulting in institutional inequalities and psycho-social harms as experienced by indigenous communities in colonised countries (Reid et al, 2017). Our own research findings demonstrate that the over-representation of Māori within the State Care system is a result of enduring structural racism and differential, negative treatment across various government organisations and institutions, including the police, the criminal justice system, the education and health system, care and protection organisations and the welfare system. In addition, results demonstrate that the responsibility for the neglect and abuse of tamariki Māori and vulnerable adults suffered in State Care sits with many different governments as well as their departments and agencies across the designated time period (1950-1999). Research findings emphasise the considerable resistance by Māori whānau and their communities to institutional racism and inadequacies of the State Care system. The resistance occurred consistently throughout the research period.

While there are various definitions of State Care there is no single agreed definition. We note many survivors of State Care abuse prefer to use 'state custody' to highlight themes of entrapment, containment and control (P. Moyle, personal

[7] The term 'settler state' has been emphasised in literature and research related to the enduring process of colonisation and the experience of indigenous communities in colonised countries. It is used extensively by Reid, Rout, Tau and Smith (2017) as part of the He Kokanga Whare research programme funded by the Health Research Council of New Zealand (HRC ref: 11/793). The Whenua Project has been designed to explore the impacts of colonisation and land alienation on Ngāi Tahu Māori with the aim of finding culturally relevant solutions to effectively support Māori health and wellbeing. A fuller description of the term 'settler state' and its use in this report is provided in Chapter 9 Methodology.

[8] For specific findings related to evidence of over-representation and differiential treatment refer to Chapter 2 Over representation and Chapter 3 Differiential Treatment.

[9] In direct quotes we have maintained the spelling grammar of the original source

communication, 27 June, 2021). In this report we define State Care in its broadest sense. This is in accordance with the Terms of Reference included in the Royal Commission (RC) of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions, Order 2018 (pp 9-11).

'State care means the State assumed responsibility, whether directly or indirectly, for the care of the individual concerned' within Aotearoa New Zealand (p. 9). State care (direct or indirect) includes the following settings:

(i) social welfare settings, including, for example:

(A) care and protection residences and youth justice residences:

(B) child welfare and youth justice placements, including foster care and adoptions placements:

(C) children's homes, borstals, or similar facilities:

(ii) health and disability settings, including, for example:

(A) psychiatric hospitals or facilities (including all places within these facilities):

(B) residential or non-residential disability facilities (including all places within these facilities):

(C) non-residential psychiatric or disability care:

(D) health camps:

(iii) educational settings, including, for example:

(A) early childhood educational facilities:

(B) primary, intermediate, and secondary State schools, including boarding schools:

(C) residential special schools and regional health schools:

(D) teen parent units:

(iv) transitional and law enforcement settings, including, for example:

(A) police cells:

(B) police custody:

(C) court cells:

(D) abuse that occurs on the way to, between, or out of State care facilities or settings[10].

Considerations and challenges

The research team realised early on in the project that the depth and breadth of the research was constrained by the scope, time and access to evidence. Our research findings demonstrate Māori over-representation in State Care is the result of complex and interwoven causes across multiple settings (social welfare settings, health and disability settings, educational settings, transitional and law enforcement settings, including prisons). The scope is considerable given the many contexts of Māori over-representation in the State Care system, the variability of contexts and experience, and the challenges sourcing historical data over a fifty-year time period. The research team believe the findings presented in this report represent just the 'tip of the ice-berg'.

[10] We note the RC's statement 'for the purpose of this inquiry, the treatment of people in prisons does not fall within the definition of State care' however, 'the inquiry may consider the long-term effects of State care on an individual or a group of individuals. The inquiry may, for example, examine whether those who were in State care went on to experience the criminal justice or correctional systems and what conclusions or lessons, if any, might be drawn from the inquiry's analysis' (p. 10).

[11]The term ethnicity came into use within the State Sector (now Public Sector) during the mid-1970s and is one way of identifying Māori. When we use 'ethnicity data' we are referring to Māori, whānau or iwi. The way in which Māori have been defined in governement administrative records and survey data has continued to change ever since the first Māori Census in the 1850s with definitions including: Tribal in 1858; Native; Blood Quantum; Race; Māori descent; Iwi; ethnicity and now whānau.

Considerable data challenges were encountered that constrained analysis. These challenges are presented up front, so that they may be taken into consideration when reading. The lack of Māori, whānau, hapū or iwi[11] data collected and controlled by State Care agencies is part of the enduring colonising and traumatising environment (1950–1999) and beyond. The challenge is not just the extent and/or absence of data or evidence, but also in regard to representation and interpretation. There is a dearth of research on the experiences of tamariki Māori and vulnerable adults and their whānau, particularly across dis/ability communities and takatāpui who experienced State Care and in the care of faith-based institutions.

Analysis demonstrates there was wide variation in the types of ethnicity data collected, valued and utilised by the State Care system. Several themes emerged from analysis that demonstrates the colonial and racist gaze of various state institutions evidenced within historical records and published data.

- The state's unrelenting focus on Māori crime and punishment statistics. It is clear that the State Care system valued ethnicity data as it related to crime and punishment over child protection and outcomes for tamariki Māori.

- The state's total control of data as it relates to Māori engagement in the State Care system and the lack of Māori data sovereignty. This includes the State's control in terms of defining indigeneity and who counts as Māori.

- The inability of state agencies to analyse data consistently to demonstrate causation. Historically data was collected in individual client files, this data was never consistently collated or analysed to reveal trends in ethnicity, or placement. Privacy, time and resource prevents historical analysis of this data.

- The inaccessibility of evidence held by the state. The loss of key documents as it relates to the State Care system. The careless destruction of records within welfare, education and health settings is evident. This is so pervasive; it has cleared the slate for many institutions that were culpable of abuse.

- The absence of Māori voices in the research literature related to Māori involvement in the State Care system during the time period, particularly prior to 1980 (1950-1999).

Analysis demonstrates that the State Care system valued some ethnicity data, as it has collected, analysed and reported on Māori crime and punishment statistics across decades. This issue was highlighted by our analyses (refer to Chapter 2). It was also emphasised by a number of interview participants.

Research findings emphasise that the state evaluates what it 'values', rather than working in partnership with Māori as required by Te Tiriti. The state has viewed data and evidence through a monocultural and racist lens. In examining historical records,

> "It's interesting because when it comes to prison statistics, of course, we can go right back to the 1850s. When it comes to child protection, it's really only about 2000, that they had a computer system that worked. And the irony is we introduced this world-leading legislation in 1989, and did nothing to monitor it, which is absolutely disgraceful."
>
> **Len Cook, Public Servant Researcher**

categorisation of children's ethnicity included racist and deficit terms such as 'half-caste', and blood quantum descriptions. When ethnicity comments were noted in residential records these were often based on a child's skin colour. Tamariki Māori were frequently included with other 'brown' children. For example, administration records reported that 'Māori and Pacific children are the majority' of children in Campbell Park residential care. Records of individuals in State Care tended to be filled with information about the deficits of families, with little information about the wider whānau.

Our analysis demonstrates that comparative data that was collected and reported by the state has reinforced deficit stereotypes and colonial identities for Māori, in particular Māori as a criminogenic. Structural, systemic and enduring racism emerged from our data analysis, as a key feature of State Care resulting in differential treatment and over-representation of tamariki Māori and vunerable adults.

Structural and institutional racism has been an enduring feature of state monitoring of Māori communities and its data collection and analysis processes. In 1961 The Hunn Report provided statistical analysis of the 'Māori problem', citing such issues as Māori educational underachievement (particularly in higher education), as well as disparities in Māori health and life expectancy and unemployment. In 1988 John Rangihau's Puao-te-Ata-Tū report connected such 'problems' with enduring institutional racism, monocultural state practices and negative treatment towards tamariki Māori and their whānau. The report concluded that urgent and drastic changes were needed to address the crisis. Despite such alarms, research findings demonstrate the state's neglect and inaction in fully implementing the Puao-te-Ata-Tū 1988 report's recommendations. Many of the initial changes developed in response to the report were reversed over time.

A key challenge has been locating available and readily accessible evidence held by the state that relates to Māori experiences of State Care between 1950–1999. This has been due to insufficient, patchy and poor-quality ethnicity data collection and reporting across State Care institutions. More recently this absence of quality data to determine the appropriateness and quality of State Care for tamariki Māori has been emphasised (Office of the Children's Commissioner, 2015; Waitangi Tribunal Report (2021). State failure has been noted by the recently released Waitangi Tribunal Report (2021) 'He Pāharakeke, He Rito Whakakīkinga Whāruarua, Oranga Tamariki Urgent Inquiry'.

> "Despite the stated premise for intervention being in the best interests of the child, the Crown has historically failed to recognise the central finding from Puao-te-Ata-Tū concerning the place of a Māori child within the whānau and hapū community and has also failed to monitor or measure outcomes for tamariki taken into State Care, and is only now taking steps to do so" (p. 185).

A key barrier to state accountability has been the loss of key documents related to State Care institutions (Stanley, 2016). Stanley notes the destruction of data/evidence linked to residential facilities was commonplace. The keeping of historical documents was often left to department managers who used their discretion as to which records were kept. The state's control of evidence was noted by interview participants.

In undertaking this research, it has been challenging to access reports and data collected by various Ministries. It was essential to ask the 'right type' of question. Some reports were identified as available on Ministry websites yet were not retrievable when requested from the Ministry, the National Library or Archives.

Several reports that were requested required permission from the Ministry concerned, which took time, yet once reviewed the report did not hold any sensitive information. Research reports by noted Māori researchers and public servants were not readily available. It was not clear why this type of information was not freely available. The shelving of these reports indicates a lost opportunity to use the evidence available to make informed change at the time.

“

“(I remember) reading old case files in the 1990’s. If a person requested their file, I had to read it through first, then sit with them while they read it. I read of children being taken because home was judged unhygienic, alcohol misuse, but the files lacked any case notes of tracking family, seeking support from family, any recognition of family as a place for the child. I can also pretty much say that what was recorded in the file was not the recall of the person the notes were about.”.

– Pauline Tucker & Raewyn Nordstrom, Social Workers

> "The whole thing in terms of allegations of abuse ... all record of the allegations was often removed. So much of it was never written down … I actually saw in the files a manager writing to one of his staff, saying that when allegations of sexual assault were made against someone, all the allegations were placed in a brown envelope and placed inside the file, and when the person left, it was at the manager's discretion whether or not that brown paper bag stayed with the file.".
>
> **Di Dickenson, non-Māori public servant researcher**

The categorisation of reports and files in Archway, the Archival records system, was inadequate to locate and source the material. Specialists in the data held by archives were consulted for this project to assist with locating files. Hardcopy files requested had to be digitised by Archives to be accessed. The recategorization and digitising of archival data is currently underway.

The considerable challenge in trying to locate data/evidence emphasised the difficulty that survivors of State Care abuse must also experience. This was also noted in an interview with a records keeper.

The challenge of public sector data management and utilisation as it relates to whānau, hapū and iwi highlights a lack of commitment to te Tiriti o Waitangi. This has been emphasised by others. Archives New Zealand recently released the 'He pūrongo kitenga. Finding's report. Survey of public sector information management. 2019/2020'. The report forms part of the Chief Archivist's evaluation process, focusing on five main indicators to assess the overall state of public sector information management (IM). Public sector organisations include parliament offices, ministries, departments, district health boards, councils as well as education entities. Monitoring is identified as a key regulatory tool, needed for managing public sector information effectively and for enabling public sector organisations to lift performance. Importantly, the report emphasises the strategic relevance of Te Tiriti o Waitangi with the expectation that organisations will:

- Identify what information is important to Māori.
- Manage that information so it is easily identifiable, accessible and usable for Māori.
- Understand the IM implications for the organisation resulting from Treaty settlements or other agreements with Māori (p. 12).

Report findings highlighted a continued lack of understanding and resistance from the public sector of the importance of information management, as it relates to Māori. The Chief Archivist, Stephen Clarke emphasised the importance of preserving the government's digital record, warning that "if digital information isn't well looked after before it comes under my control, chances are there won't be anything much to preserve or access. We risk 'digital amnesia' and a gap in the memory of government" (p. 4). The time and resource provided for this research has dictated what the research team could cover. For example, Chapter 6 of this report explores the experiences of Māori staff working in the sector. Due to time and resource the research team focused on the Department of Social Welfare (DSW) and social workers, however other roles and departments could have been analysed with similar findings. Extended scope could have included Māori staff working across other state sectors, such as teachers and schools, police, nurses, doctors, mental health workers, and corrections staff. It is important to read this report with this knowledge, rather than think that only social workers and the DSW were involved in State Care. Despite the data challenges

encountered, this report presents clear evidence that the State Care system remains a key mechanism for, and an enduring part of the colonising environment. A raft of evidence shows experiencing this environment has had compounding negative impacts, resulting in intergenerational trauma and harm for Māori individuals, whānau, hapū, iwi, and other communities. In the interests of social justice, equity and human decency, tamariki, rangatahi and whānau Māori deserve more.

This research was concluding in May 2021, as The Waitangi Tribunal released their report on Oranga Tamariki, 'He Pāharakeke, he Rito Whakakīkinga Whāruarua, Wai 2915'. Research findings from this report support the Tribunal's findings specifically:

- The Crown has failed to fully implement the recommendations of Puao-te-Ata-Tū in a comprehensive and sustained manner.
- Structural racism is a feature of the care and protection system which has had adverse effects for tamariki Māori, whānau, hapū and iwi.
- Historically Māori perspectives and solutions have been ignored across the care and protection system.
- The disproportionate number of tamariki Māori entering and remaining in care is undesirable and unacceptable.
- It has been accepted that a significant contributing factor has been the ongoing effect of historical injustices on iwi, hapū and whānau.
- Decades of reviews, reports and legislation on child welfare services have failed to produce a system that answers the needs of whānau and tamariki. The same mistakes seem to be repeated generation after generation.
- The Treaty will be realised when no tamaiti Māori is in need of State Care.
- That Māori should be given the right to realising rangatiratanga over their kāinga.

> "Even in terms of investigations…. They (the Ministry) would not reply immediately on principle. They would drag it out all the time … I can remember banging my head against the lift, and someone saying, "What's the matter?" … "I'm white, I'm educated, I'm a records expert, and I work here, and I can't get any records out of these people. How are survivors supposed to cope?"
>
> **Di Dickenson, non-Māori public servant researcher**

In keeping with the Tribunal's findings, the research team views the recommendations of He Pāharakeke, he Rito Whakakīkinga Whāruarua, Wai 2915' as the first step in addressing injustice. These being:

1. Māori Transition Authority established with haste.

2. Governors of the Māori-led Inquiry work with the lead claimants to establish the Māori Transition Authority; and

3. Māori Transition Authority is independent of the Crown and the Crown should back away.

(Abridged from pages 175 to 182 of He Pāharakeke, he Rito Whakakīkinga Whāruarua, Wai 2915')

> "There wasn't a lot of research that I know of in terms of assessment of Family Group Conferences. We did have a research area, but a lot of their focus was on youth justice, because the government was interested in youth justice. Care and Protection appears to get less focus in the literature. There was a big focus on punishment. A lot of the focus of government was on things like that rather than actual outcomes for kids and whānau, families."
>
> **Non-Māori senior social worker**

Chapter Summaries

We recognise that the scale of this report could mean that it becomes inaccessible for many. The research team has summarised findings as part of this overall introduction that relates to key questions posed by the Crown Secretariat. The following chapter summaries reference the claims made in the body of the text. The page numbers allow readers to substantiate these claims, by referencing the analysis within the report. In this way, the following chapter summaries are presented as an evidential brief.

Chapter One Summary: Whakapapa

This chapter examines the whakapapa of Māori involvement in State Care. It is clear that colonisation and structural, systemic racism have been enduring features permeating the State Care system and child welfare policies across 1950-1999. Colonisation is more than a historic event and research findings emphasise that colonisation is part of a 'wider, enduring and cascading, traumatising environment' as a persistent mechanism of settler state policies and institutions (Reid et al, 2017, p.16) (p. 33).

The undermining of whānau, hapū and iwi structures and networks was not merely a result of colonisation, but an essential part of the process. The loss of whenua and access to traditional life-sustaining resources has had a dramatic effect on whānau wellbeing and economic prosperity. While witnessing the extreme poverty of many Māori communities, state observers often attributed their poor living conditions to laziness and a lack of self-responsibility without officially acknowledging the consequences of land confiscation, discriminating government practices, war, and introduced diseases on whānau (p. 36).

Settler state policies maintained the intentional dismantling of whānau gendered relationships through white European patriarchy. In pre-colonial society, wāhine Māori had autonomy equal to males, gendered relationships were more fluid and less pronounced than those of the white European settlers. Wāhine Māori status and authority was redefined by the settler state, and their behaviour was often interpreted as immoral and lacking male discipline (p. 38).

State sanctioned policies and practices were underpinned by epistemological racism that privileged Pākehā nuclear family practices and ways of being whilst treating whānau Māori practices as inferior and damaging (p. 48).

Racism (both structural and societal) positioned whānau ways of living and child-rearing as inherently inferior to Pākehā, perceiving traditional whānau models of childrearing as unhealthy (p. 37).

Land alienation and urbanisation of Māori communities was central to settler state policies of assimilation and integration. Māori families moved into towns and cities where Pākehā-defined living conventions were individualistic and unfamiliar, and tikanga Māori was disparaged and maligned (p. 39).

Urban migration signified a critical detachment of whānau and hapū ties and support networks which previously had ensured the wellbeing of tamariki Māori. Furthermore, papakāinga suffered the permanent loss of the most productive age demographic in the community, which destabilised tribal culture (p. 44).

Without the supportive factors of tribal, communal life, the conditions were set for increased economic

disadvantage, social dislocation and cultural disconnection. Discrimination, loss of opportunity, poor housing, unemployment, low educational attainment and low incomes created conditions ripe for social problems, including domestic violence to occur (p. 46).

The 1950s was imbued with moral panic and racism. Rising rates of ex-nuptial births post-World War II were associated with the social and moral taint of illegitimacy. Negative stereotypes of wāhine Māori as lazy mothers with lax moral attitudes were perpetuated in society. The State Care system focussed on the perceived deficits of wāhine Māori and non-Māori who had pēpi born outside of marriage. Pākehā Christian shaming, particularly of Pākehā women having Māori babies meant many pēpi were put up for adoption (p. 48).

Racism fuelled increased scrutiny and surveillance of whānau Māori and this was the starting point for the over-representation of Māori within State Care institutions. Māori juvenile offences were often linked to the perceived 'defects' in their home life, including the culture and traditions of Māori communities (p. 52).

From the 1960s onwards there were increasing numbers of children identified as state wards and this led to a corresponding increase in state funded residential institutions (p. 55).

The state's role as 'colonial parent' has not ensured the care and protection of Māori tamariki and rangatahi, indeed research analysis has demonstrated intentional neglect and abuse. The state's refusal to accept its culpability, despite considerable evidence to the contrary has contributed to intergenerational harms still experienced by whānau today (p. 65).

Chapter Two Summary
Māori over-representation in State Care

Māori have been over-represented in the state care system. There are two significant state pipelines into care, welfare notifications and youth justice, which are the focus of this chapter (p. 72).

Knowledge of the social context of Māori is crucial for understanding how the settler state perpetuated social control over Māori. (p. 72).

There are significant challenges accessing the data required to make judgements regarding Māori over-representation during the research period. Limited collation of ethnicity data and reporting by state agencies seriously compromises the ability of the state to identify how many Māori were in care during the research period (p. 72).

Computer information systems, intended as case management tools, were not designed to monitor the experiences of children and families coming to the attention of the CYPS. While ethnicity data may have been held within individual case files, it could not be collated across the management system for reporting purposes (p. 72).

The ethnicity of children who were placed in the custody of the Director-General of Social Welfare was not always published in departmental official statistics (e.g., annual reports, statistical reports) during the research period (p. 72).

Welfare settings

There were several child welfare legislation amendments and several attempted transformations by governing agencies. These early legislative acts defined and enabled state involvement in deciding the care and protection of children and young persons. While the legislation and systems were amended over the 50 years, social welfare and youth justice systems remained the two most significant pathways through which children came into care (p. 73).

The number and size of institutions managed by the Department of Social Welfare (DSW) has varied over the 50-year period of this research with a peak of 26 institutions in the early 1980s (p. 78).

The DSW 1979 annual report showed that about 80% of children in care (placement of children under the care and control of the Department) were living in the community (in foster homes, in family homes, with their own families or with relatives), while only about 20% were in institutions (p. 78).

Foster homes were used mainly for the long-term placements, while family homes and girls' and boys' homes were generally used for short-term stays. Younger children were more likely to be placed in a foster home as their first long term placement. Older children were more likely to be placed in institutionalised environments (p. 80).

There is uncertainty around estimates of the cohorts and numbers of survivors of abuse in State Care. The 'true' number of people in care, and the number of survivors of abuse over the last seven decades may never be known with any degree of precision. Estimates suggest over 100,000 vulnerable children and adults were placed in children's homes and mental health institutions between 1950s and 1980s (p. 83).

The Intensive Foster Care Scheme (IFCS) demonstrates how racism and differential treatment played out in welfare. Foster parents expressed preferences with respect to the ethnic origin of the child. More than a quarter of the scheme parents preferred to foster only Pākehā children (p. 88)

The IFCS placement assessments were monocultural, dominated by the social work paradigm-based Euro-Western theories and practices. Pākehā children were targeted for the Intensive Foster Care Scheme (IFCS) which included better training and payment for the foster parents (p. 90).

Māori did not receive similar access to IFCS and that such schemes were not designed for Māori foster parents. Māori children were more likely to be placed in residential care or conventional foster care and less likely to receive intensive support. (p. 90)

Māori were more likely to be discriminated against in placement. They were more likely to be placed in restrictive institutional environments, and European and Pacific children were more likely to end up in foster placements (p. 91).

Data kept on residential institutions is variable across settings, very few institutions have records of ethnic breakdowns of data, particularly prior to the 1980s (p. 92).

However, what is available demonstrates a rise in numbers of tamariki Māori in residences from the late-1960s and throughout the 1970s, particularly in North Island residences (p. 94).

Through the Children, Young Persons and Their Families Act 1989, a stronger emphasis was given to the placement of children with their whānau or in the community. The overall numbers of children placed in residential institutions significantly reduced. However, the proportion of tamariki Māori admitted to state residences remained staggeringly high (p. 96).

The proportion of tamariki Māori and young persons in DSW institutions was highest around the 1970s and the early 1980s, reaching up to 80% in some institutions. While the extent of disproportionality has decreased since the year 2000, Māori children continue to remain over-represented in residential institutions on population basis (p. 96).

A 1998 birth cohort study of 56,904 children in Aotearoa New Zealand showed that by the age of 18, tamariki Māori were 3.5 times more likely to experience out of home placement than European children. Seven percent of tamariki Māori in the cohort had been placed in out-of-home care (with kin, foster parents or in a residential facility) by the age 18, in comparison to 2% of non-Māori children (p. 98).

Variability in child welfare decision-making was influenced by subjective interpretations, organisational culture and systemic resources, emphasising that substantiation decisions determined the subsequent intervention. Māori children were 2.5 times more likely than non-Māori children to be assessed by CYFS as abused or neglected (p. 104).

Justice settings

A large proportion of children progressed from the care of DSW to the care of the Justice Department (in custody, under supervision or on probation). For older children, even larger proportions ended up in the judicial system (p. 136).

Ethnic breakdown was available primarily for the Youth Justice related statistics. Justice ethnicity data indicates firstly that there was no reason why ethnicity could not have been collected by other government agencies, and secondly that the state determined it more important to collect ethnicity statistics in justice than in care settings (p. 136).

The most likely pathway into care for tamariki Māori was via the justice system. Racism in the police force and differential treatment through the justice system for Māori youth is well documented and has contributed to over-representation (p. 112).

The youth justice system was a significant pathway by which children came into care. There is a lack of robust information about the true extent of offending by children and young people in Aotearoa New Zealand (p. 112).

The 1961 Hunn report perpetuated stereotypes and deficit perceptions of Māori leading to 'moral panic' and significant increases in the incarceration and institutionalisation of Māori (p. 112).

Māori children were arrested and prosecuted in disproportionality high numbers throughout the 70s and 80s. From 1964 to 1974, the total increase in rates of appearance by Māori (150% increase among boys and 143% among girls) was twice that by non-Māori (65% increase among boys and 62% among girls) (p. 114).

From 1964 to 1989 Māori boys and girls were brought before the official bodies at much greater rates than non-Māori boys and girls. Concerns were raised about the ethnic disparities and over-representation of Māori children and young persons in youth justice statistics since the 1980s (p. 118).

In 1988, Pākehā accounted for 51% of known juvenile offenders, Māori for 43% and Pacific Island Polynesian for 5% (p. 118).

Studying the patterns of offending, the DSW (1973) analysed a cohort of children born in 1954-55 by cumulating their first offender rates from 1965 (when they were 10) to 1971 (when they were 16) (p. 119).

These results clearly show a disproportional number of Māori boys and girls in the cohort who were brought to court on a legal complaint or police charge (p. 120).

Māori were more likely to be sentenced to borstal or remanded to a penal institution (p. 129).

This disproportionality is the result of a combination of both long term social and economic disadvantage dating back to the colonisation of Aotearoa New Zealand and ongoing systemic discrimination (p. 136).

Psychiatric settings

The data in this section indicates a stark and significant rise in Māori psychiatric admissions reported from the 1960s (and before) to the 1980s (p. 139).

A lack of evidence hinders an exacting explanation. However causal explanations have been put forward by researchers including the impact of urbanisation and colonisation, socio-economic and employment factors, misdiagnosis, culturally inappropriate services, and alcohol and drug related prevalence amongst Māori (p. 139).

From 1983 onwards, analysis indicated Māori over-representation in psychiatric care based on population percentages. In 1991, Māori contributed 15% to all first admissions and 19% to all readmissions (compared with about 13% Māori in the 1981 population Census). Māori proportion in readmissions reached to 20% in 1993 (p. 141).

From 1970 to 1987, Māori children (10-19) and young adults (20-29) were admitted to psychiatric care at a rate approximately 1.5 times higher than non-Māori. The rate of Māori admission in the 20 to 29 age group, increased to approximately double the non-Māori admission rate in the mid-1980s (p. 144).

Findings demonstrate that Māori were about 2 to 3 times more likely to receive referrals from law enforcement agencies than non-Māori (p. 145).

The connection between over-representation in mental health and the justice system, and the confluence of the two systems, is evident. The high

rate of apprehension for criminal offending amongst Māori people impacts on the over-representation of Māori in psychiatric institutions (p. 146).

The way in which the data has been collected and presented does not allow us to describe trends in the admission and readmission data. More recent qualitative evidence suggests that there were definite populations among Māori that were discriminated against and persecuted through psychiatric institutionalisation including wāhine and tamariki, Māori with disabilities and takatāpui (p. 148).

Health Camps

The first health camp was set up in 1919 with the initial purpose to address the children's physical needs (malnutrition, health issues). However, the focus was soon extended to include children with social and emotional needs. Prior to 1950, there were few Māori children in health camps (p. 150).

The social environment of the majority of health camps reflected socio-political attitudes of the time. Mono-cultural, assimilationist practices were present in health camps (p. 150).

There is a substantial gap until the 1980s regarding the ethnicity of children who attended health camps. However, data demonstrates an over-representation of Māori and Pacific Island children in health camps in comparison to their proportion in the general population (p. 152).

While the health camps serviced a large number of children annually, their effects were questionable, especially in terms of long-term benefits (p. 152).

Residential Schools

Residential special schools were administered either by the Department (Ministry) of Education or by voluntary agencies who received their operational funding from the government. They were established for children, whose needs (educational, physical or social) were determined to be beyond the resource of a regular school (p. 154).

A Ministerial review of the special residential schools in 1986 noted that 30% of the children in special residential school in 1986, were either Wards of the state or under voluntary parent agreements with the Department of Social Welfare (p. 156).

Māori were more likely to attend schools for children with learning and behavioural difficulties, than schools for children with physical disabilities (p. 158).

A lack of data constraints the ability of the research team to make causal judgements about over-representation in educational settings. Over-representation causation is reliant on anecdotal and qualitative observations, which suggests discrepancies in admission to special schools reflect cultural misunderstanding and racial stereotyping, and the deficit, negative views of tamariki Māori that prevailed in schools and educational settings at the time (p. 155).

Chapter Three Summary: Differential Treatment

Differential treatment is a powerful traumatising mechanism linked to structural racism and the enduring colonising environment, resulting in intergenerational harms for whānau. This chapter builds on evidence presented in Chapter 2 to emphasise the differential and racist treatment of the settler State Care system towards tamariki Māori, whānau and communities (1950-1999) (p. 167).

The analysis demonstrates the extent and interrelatedness of structural, institutional and societal racism with a particular emphasis on the failing state systems of social welfare, adoption, fostering, schooling, youth justice and policing. (p. 167).

There was differential treatment towards pēpi, tamariki and whānau Māori within adoption practices. Adoption practices of the 1960s indicate that social workers treated the adoption of Māori babies and children differently, because non-white children were 'undesirable' and harder to place (p. 168).

Māori who wished to adopt were severely disadvantaged by the Court system, as they were often unable to afford court costs and/or legal representation. Applications made by whānau to legally adopt relations in a legal whāngai capacity were rejected on the basis of wealth and age. Whānau were often discriminated against by magistrates who viewed Pākehā upbringing as far superior (p. 168).

Throughout the 1960s social workers found it harder to find adoptive homes for any child considered different. Most adopters were of Pākehā descent and were reluctant to adopt brown children due to concerns of social stigma and shame. This created a 'catch 22' situation whereby government agencies and the courts were at an impasse. The courts at the time used legislation to prevent whānau from adopting children because a Māori upbringing was considered inferior. However, Māori babies were harder to place for adoption because Pākehā parents were reluctant to raise a brown child (p. 169).

Māori babies were placed at the lower end of desirability by social workers and were more often adopted by less desirable applicants. Agencies cut corners that disproportionately positioned tamariki in Pākehā families that social workers knew were less acceptable. These Pākehā families were known by the department to have issues of concern. Hence, they were placed at the bottom of the list for adoption approval but were more likely to be approved if they agreed to adopt a non-white child (p. 169).

There were differing standards for approval and payment for Māori and non-Māori foster homes. Māori foster homes were judged more harshly, Pākehā foster homes were considered superior, and

therefore Māori foster parents received a lesser rate of payment (p. 170).

Māori children were particularly over-represented in national institutions administered by the Department that were intended for 'more difficult' children who could not be placed in foster care (p. 170).

The issue of whānau deprivation became more obvious from the findings of a series of research reports from the 1960s – 1980s. While Māori were noted as over-represented in juvenile offending statistics, there were clear links with poverty, educational underachievement and poorer income levels (p. 171).

There is evidence of differiential in the justice system. Historic explanations of higher Māori offending rates and imprisonment have consistently blamed Māori, and not the settler state mechanisms that administered European law. Literature and research analysis has highlighted that State Care systems, underpinned by the unrelenting belief in Pākehā supremacy, were racist. Socio-economic explanations aside, the data substantiates that inequitable treatment has been a characteristic of Māori engagement with the courts, police, and welfare (p. 176).

Research demonstrates that Māori conviction rates were higher compared to Pākehā (in the 1960s) and were directly associated with the lack of legal representation for Māori (p.175).

Data collected from the Children's Court indicated that tamariki and/or rangatahi did not fare any better than adults, illustrated by their over-representation processed by the justice system (p. 175).

Tamariki Māori faced institutional racism and inequities within the judicial process as they were treated differently to non-Māori (p. 177).

Research clearly demonstrates that institutional racism within the Department of Social Welfare, the Ministry of Justice, and the New Zealand Police Service has contributed to the over-representation of Māori in State Care (p. 177).

Evidence of differential treatment can also be seen in negative and damaging stereotypes. Since the 1950s, there has been concern about the stereotypical portrayal of Māori as criminal (p. 179).

Racial stereotyping was used in the reporting of crime (p. 178).

Racialisation of crime and differential treatment towards Māori have been an intrinsic component of policing since the beginning of the settler state. Policing has endured as a colonial tool to coerce Māori into submission by force. This trend of police targeting of tamariki Māori has continued throughout the 1950s, 1960s and beyond. The differential treatment incurred during this period is likely to have directly influenced contemporary rates of Māori imprisonment and offending (p. 181).

Research indicates the philosophical foundations of the 1974 Children and Young Persons (CYP) Act has contributed to the disproportionate intrusion into the lives of tamariki, whānau, hapū and iwi (p). There is clear evidence that the State Care system has failed to care and protect tamariki (p. 187).

Chapter Four Summary: The Impact of the system on Māori

The State Care system has had various and interrelated impacts on Māori as individuals, and as collectives over the period (1950-1999). These impacts 'circle out' beyond the individual survivor to whānau, hapū, iwi Māori as well as following generations. The intersection of race, gender, class and ability resulted in differential impacts for Māori men and women, and tamariki Māori with dis/abilities (p. 189).

The psychological, cultural, emotional and physical harms arising within and from State Care were considerable. For those children removed from their whānau, impacts included the loss of fundamental attachment relationships. For some children, removal granted them relief from abusive or harsh family environments. However, in most other cases, children experienced enduring sadness, guilt and internalised blame (p. 192).

Tamariki and rangatahi Māori also lost their access to the aspects of Māori culture that were positive and affirming. State Care survivors and Māori adoptees who grew up in the first half of the period in question (i.e. 1950 – 1970s), had the shared experience of growing up in contexts in which being Māori was openly disparaged (p. 194).

Children's experiences of multiple placements while in State Care amplified their feelings of unwantedness. There was instability and insecurity arising from 'failed' and frequent placements. Children became wary of forging relationships with others, protecting themselves from the inevitable pain of displacement (p. 192).

State Care environments exposed children to neglect, physical, sexual and emotional abuse. For Māori (and Pasifika) children, abuse frequently had racist overtones. Survivors' strategies for coping with their pain and suffering can also produced secondary impacts. Alcohol and drug use is a relatively common disconnecting/avoidance mechanism and will often develop into dependence (p. 193).

The failure of State Care to provide quality education for tamariki Māori led to widespread educational underachievement. This compromised the future employment and economic prospects of survivors (p. 195).

In conjunction with these factors, recruitment to gangs while in State Care set a number of rangatahi on a pathway to prison, with a significant subsequent effect on their life trajectories. The enduring lack of trust and resentment towards state authorities engendered by their treatment in State Care extended in life beyond, reinforced by subsequent experiences of incarceration (p. 199).

Despite these 'pathologies' resulting from their State Care experiences, the 'survivorship' of survivors must be acknowledged, their ability to endure and resist in the face of considerable and ongoing adversity (p. 203).

There were significant impacts for the wider whānau, although this remains an under-researched area. Legal and institutional processes presented barriers for whānau in fighting to retain their tamariki. When children were removed, whānau often experienced profound difficulty and sadness over the severed relationship (p. 203).

The loss of whakapapa connections and tamariki also undermined the key capacities and the essential purpose of whānau. For a proportion of the children removed, their reduced capacity and capability to care for others has impacted on their parenting; subject to differential surveillance, children and grandchildren of survivors are disproportionately more likely to be removed to State Care.

On a societal scale therefore, the surveillance and racism that led a disproportionate number of Māori to be admitted to, and abused in State Care, has laid the foundations for generations of marginalised and traumatised tamariki and mokopuna (p. 205).

Individual outcomes of State Care feed into much larger social problems, transmitting the effects of trauma across generations. The mechanisms of intergenerational trauma are both biological and social, evident in deteriorating health, higher rates of incarceration, domestic abuse, unemployment, homelessness, mental illness, drug and alcohol addiction and reduced educational opportunities. All of these factors impact on the life trajectories of following generations (p. 202).

In terms of State Care, a lack of genuine partnership with, and appropriate funding for whānau, hapū, iwi and Māori organisations has constrained efforts to support the significant needs of whānau resulting from intergenerational disadvantage and trauma (p. 205).

The impacts of State Care abuse were gendered. Wāhine Māori have been disproportionally impacted by State Care (p. 207).

Tamariki admitted to State Care were lost to their wider communities, returned as damaged and traumatised adults, 'assimilated' in the most abhorrent way. For a community attempting to regroup and regenerate from over a century of depopulation and destabilisation, these losses were a substantial setback to whānau, hapū and iwi (p. 212).

Chapter Five Summary: Te Tiriti o Waitangi

State agencies' interactions with Māori have been primarily punitive and paternalistic, whether this be in relation to their lands and resources (acquisition and/or management), health, education, justice, or child welfare. There has been an 'absence of te Tiriti/the Treaty' within governments' economic and social policies, an indifference or more pertinently, an explicit resistance to its application (p. 215).

Following a contentious court decision in 1877 where te Tiriti/the Treaty was defined as a simple nullity, it was rarely mentioned or considered by the state or society in general. It was largely viewed as a historic document with no applicable relevance in the development and emergence of a new society (p. 219).

Māori utilised multiple settings to keep te Tiriti/ the Treaty discourse in the public arena. This has included taking grievances through the courts, on marae, in community development, in social and academic dialogue, in political forums, and from within national and international human rights, and indigenous rights forums (p. 221).

Māori protest activism was eventually the most successful factor in achieving the desired recognition of te Tiriti/the Treaty. However, recognition and application of te Tiriti/the Treaty in Aotearoa New Zealand was dependant on it being incorporated into law which did not eventuate, aside from the second Article's right of pre-emption that is contained within the Lands Claim Ordinance 1841, and the Constitution Act 1852, until the introduction of the Treaty of Waitangi Act 1975 (p. 220).

The adoption of the Treaty of Waitangi Act 1975 and the establishment of the Waitangi Tribunal changed the political landscape of New Zealand specifically, the Māori and Crown relationship, but did not necessarily change historically deficit attitudes embedded in state agencies' practices (p. 222).

Numerous commentators have criticised the Act 1975 as it 'gave power to take grievances to the Tribunal but not have the Treaty litigated in the courts.' In other words, the tribunal can make recommendations to the courts, but does not have the power to enforce them (p. 223).

Debates in the social policy arena during the 1980s appear to be mainly related to the interpretation and application of the second article in which Māori are guaranteed the 'full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties' (p. 222).

The Tribunal's conclusions in the Motunui-Waitara report 1983, and Māori Language Claim report 1986, are relevant to the state's formulation of social policy (p. 223). The tribunal contends that Article two extends beyond literal interpretations

of tangible assets. This is a significant outcome for Māori in respect to te Tiriti/the Treaty (p. 224).

A key factor of these reports is fact that the principles were not fixed, but to be viewed and applied appropriate to the circumstances. The State-Owned Enterprises Act 1986 first used the phrase 'treaty principles', viewing te Tiriti/the Treaty as a 'living document capable of adapting to new circumstances and [ensuring]… that the principles underlying the Treaty were of greater importance than its actual words' (p. 224).

The Waitangi Tribunal reports offer valuable insights of relevance to the evolving significance of te Tiriti/the Treaty in New Zealand statute, and its application in policy. The initial decades following the establishment of the tribunal focussed mainly on recognition and redress for land and resource breaches. However, the tribunal has also provided a platform for constructive legal, social, and political debate regarding citizenship rights and obligations, the role of the state, and its social policies and associated issues of implementation, access, and equitable re-distribution (p. 224).

The developments in the 1970s and 1980s did not occur without resistance or backlash. The government's activities in the period between 1984 to 1999, were to pacify and depoliticise what were perceived as increasing Māori demands during a period of significant neo-liberal reforms (p. 226).

Māori contend government agencies have consistently failed to take responsibility for their role in perpetuating Māori inequalities, and that incorporating te Tiriti/the Treaty will provide a more balanced and holistic approach to social policy and practice (p. 228).

More recently debate has been in respect to needs-based policies versus rights-based policies, and for Māori, the relevance of te Tiriti/the Treaty in determining when, where, how and for whom policies should be enacted (p. 228).

What is apparent in the literature reviewed, is an entrenched resistance to the partnership implied in te Tiriti/the Treaty, especially regarding its relevance to social policy (p. 229).

Chapter Six Summary: Puao-te-Ata-Tū

In the 1980s Puao-te-Ata-Tū emerged as a critical juncture in time, with potential for substantive change, creating a blue-print for systemic transformation and partnership with Māori (p. 231).

Puao-te-Ata-Tū revealed the state 'awareness' of the crisis situation facing many Māori communities and the dire situation of tamariki Māori in State Care. There was acknowledgement of institutional racism within the Department of Social Welfare and grave concerns about cultural ignorance and detrimental policies / practices within other state departments. Urgent action was needed to address substantial harms (p. 239).

Despite the urgency, evidence revealed only 'initial' or 'partial' change on behalf of the state, as well as a 'reversal' of change over time (p. 239).

Initial changes arising from Puao-te-Ata-Tū included a move away from residential institutions and a reallocation of funding towards Mātua Whāngai and community-based alternatives to State Care (p. 241).

The introduction and implementation of the 1989 Children, Young Persons, and Their Families Act (CYPF Act) was the state's main response to Puao-te-Ata-Tū regarding state obligations to Māori. The 1989 Act was designed to introduce a more culturally appropriate, accessible and more whānau-based approach to promote wellbeing of tamariki Māori. An approved Iwi Authority (or Cultural Authority) could exercise specific duties or powers, including guardianship or custody. Additionally, the 1989 Act introduced government initiatives such as an increase in frontline Māori workers (p. 243).

The 1989 Act made a distinction between 'care and protection' and 'youth justice'. The rights and responsibilities of families were to be ensured by new practices, such as the Family Group Conferences (FGCs). The idea was that FGCs would be facilitated by department professionals whose main responsibility was as a resource to the family. (p. 245).

The changes created new roles for mainly non-Māori professionals as they were expected to present official information at the conferences, leaving families to review and discuss before returning to help develop a plan of action and resolution. Furthermore, a new Youth Court was set up to deal with youth offending (p. 245).

However, there was inadequate action (including State Care practice failings) and deliberate inaction on the part of the state to fully implement Puao-te-Ata-Tū's recommendations. The implementation of the 1989 Act including FGCs were seen as tokenism; a grafting of Māori faces and processes onto the same monocultural welfare system that had not fundamentally changed (p. 245).

Structural racism and whānau deprivation were not addressed. The over-representation of Māori in State Care and other negative statistics remained excessive. The implementation of the CYPF Act relied on the expertise of NZCYPF staff (the majority who were Pākehā and lacked cultural expertise) (p. 247).

Māori Department of Social Welfare staff expressed concern that Puao-te-Ata-Tū was on the 'backburner' and recommendations were not being implemented (p. 248).

Several changes made following the release of the Puao-te-Ata-Tū report were later reversed over time and there was a waning of government support (p. 249).

The 1989 shift in focus for the Mātua Whāngai policy was short-lived as it was disestablished in 1992. Initial optimism amongst Māori communities following the release of Puao-te-Ata-Tū quickly dissipated resulting in increased mistrust of the state and scepticism that partnership could be achieved (p. 247).

The implementation of the CYPF Act and the FGC were inadequate for ensuring the wellbeing of tamariki Māori and tokenistic changes were evidenced. The cultural appropriateness of the process of the FGC has been 'contested and debated by Māori' since its introduction (p. 251).

A particular focus of the CYPF 1989 Act was to be the empowerment of whānau, hapū and iwi in the care and protection of tamariki Māori. However, there was a lack of comprehensive action by the state to ensure strategies and initiatives harnessed the potential of whānau, hapū and iwi. Inadequate and inequitable resourcing also inhibited whānau engagement following the implementation of the CYPF Act (1989) (p. 252).

Eventually, Puao-te-Ata-Tū was replaced with another strategy, following a change of government. In 1994, the DSW released its new bicultural strategy – 'Te Punga'. The release of Te Punga was supposed to recommit the DSW towards a partnership with iwi, hapū and whānau under its Treaty of Waitangi obligations (p. 256).

Considerable structural barriers and competing government agendas, were cited as reasons why partnership with Iwi did not occur. The Public Finance Act 1989, the change of government and loss of political will to implement and sustain change over time (p. 257).

Constant restructuring was a feature of the state system including a focus on managerial objectives, commercial branding and 'efficiencies', fuelled by a concern to reduce state expenditure. Neo-liberal economic policies were introduced by the fourth Labour Government in the 1980s and this 'reform' was continued by the National Government in the 1990s. This had devastating impacts for many Māori communities, who were in low-skilled jobs in sectors that were later decimated by government improvements (p. 262).

The reassessment of the role of the state with a move towards individual responsibility and neo-liberal economics, re-centralised state power. Iwi Social Service research and reviews found that Iwi Social Services had not achieved better partnerships with communities. The focus on measuring 'outputs' rather than 'outcomes', meant discrimination and disparities for Māori across the State Care system remained unaddressed (p. 256).

There was deliberate inaction on the part of the state to implement key recommendation of Puao-te-Ata-Tū; including to 'attack all forms of cultural racism' and 'address whānau deprivation and alienation' (p. 249).

Structural racism is an enduring feature of the State Care system; a system imbued with inherited racist beliefs, that privilege Pākehātanga and pathologise tamariki Māori and their whānau. Continued state failure to work true partnership with Māori has resulted in enduring, intergenerational harms for tamariki Māori and their whānau, hapū and iwi. (p. 266)

Despite the findings of Puao-te-Ata-Tū, structural racism has remained a key feature of the State Care system (p. 266).

Chapter Seven Summary: Māori staff working in State Care

The metaphor of a machine is used to describe the state as active and productive. The state machine is institutionally racist and serves to marginalise Māori and maintain power. The experiences of Māori staff have to been seen through the lens of institutional racism in order to understand their experiences fully (p. 269).

It is difficult to determine the number of Māori staff in the state care sector, and how this has changed over time. Despite recommendations, no consistent definition or means of collecting or storing this information was developed for this period (p. 270).

Māori were drawn to the public service in roles where they work directly with whānau (p. 269).

There has been a shortage of skilled staff, particularly of Māori staff, in the state care sector reported since the 1950's (p. 270).

Being marginalised in the workforce creates challenges for Māori, particularly when they are isolated within Departments and institutions (p. 274).

The impact of being marginalised means it has been very difficult for Māori to drive change within the sector (p. 274).

The impact of employment practices and conditions within the state sector has influenced Māori staff experiences in the state system (p. 278).

The insistence on academic qualifications for many positions in the Department effectively locked the gate against Māori applicants (p. 278).

While there was a commitment to recruiting Māori staff in the 1980's and 1990's, recruitment tended to focus on junior entry level positions. Policies and procedures were not in place across the public service to build strategic Māori capability (p. 278).

Māori were over-represented in clerical, voluntary and care giver positions ensuring they had little to no authority or ability to influence the system (p. 276).

The lack of Māori within the Department and the distribution of Māori staff through pepper potting, left Māori unable to collectivise in the workplace. (p. 300).

Māori staff have been marginalised through inequitable employment practices and lack of opportunities to develop Māori leadership (p. 280).

There was no recognised approach to developing Māori leadership and career pathways for Māori public servants (p. 282).

The lack of Māori in State Care leadership positions was concerning (p. 282).

Marginalisation in the workforce limited the ability of Māori leaders to influence and make changes within the state sector (p. 282).

The constantly changing state has impacted on Māori staff resulting in redundancy, staff constantly changing jobs and uncertainty of employment (p. 284).

There was a disproportionate loss of Māori staff when restructuring of a department, particularly when regional offices with a high percentage of Māori staff were closed down (p. 284).

Māori staff worked within institutions that were developed under inherited colonial structures and systems which were recognised as being institutionally racist (p. 286).

In 1985 the DSW was first recognised as institutionally racist, described as a typical, hierarchical bureaucracy, the rules of which reflected the values of the dominant Pākehā society (p. 286).

The department promoted a tokenistic and diluted form of biculturalism. Pākehā retained control and were reluctant to share power with Māori or hand power over to whānau (p. 287).

Early western models of psychiatric/welfare care were marked by large institutions with a limited range of treatments. Residential institutions were institutionally racist. There was a lack of state monitoring of residential institutions, the administration of the system was mono-racial, and staff were often untrained and unsupervised (p. 288).

Psychiatric residences were institutionally racist. There was an absence of a Māori perspective during assessment, services were gatekept by Pākehā and staff were inadequately trained (p. 291).

Special schools were institutionally racist. There was a lack of culturally appropriate programmes for Māori, staff were in a position of power in relation to whānau Māori, and there were no formal or informal grievance procedures for Māori children and their whānau (p. 291).

Māori welfare officers had the flexibility to respond to whānau need, however they still worked within the structures of the state (p. 295).

The social work profession has contributed to the creation, expansion, and adaptation of State Care (p. 297).

Eurocentrism dominated the profession of social work and social work practices (p. 297).

The State Care sector was hierarchical and riddled with power dynamics that inhibited care (p. 298).

Staff practices and roles within the Department were manualised, with little consideration for Māori (p. 298).

Roopū teams were introduced at CYFS with the specific goal of supporting Māori social workers and improving services for Māori children and their whānau. Little to no resources were provided for Māori supervision or leadership to keep Roopū teams supported and thriving (p. 300)

Māori volunteers within local communities wanted to make a difference for Māori children (p. 302).

The sector was heavily reliant on voluntary staff. Many volunteers were marginalised, exploited and undervalued in their work (p. 302).

There is evidence of under provision of appropriate training for Māori across the State Care sector (p. 303).

On-going appropriate in-service training was lacking for Māori, including clinical supervision. This has limited the development of Māori social work and critical Māori programmes in care and protection (p. 304).

The State Care sector was under resourced by the Crown (p. 308). The lack of bicultural capability and capacity was a serious issue that was apparent in multiple sources over several decades (p. 308).

The lack of Māori capacity within the system has meant Māori staff have often had unrealistic expectations placed upon them (p. 308).

High workload, stress and under resourcing resulted in constant staff turnover (p. 308).

The top-down approach evident in Aotearoa New Zealand's policy development between the 1950 and 1999 has had significant impact on the Māori staff (p. 310).

The emphasis on technical qualification effectively disqualified most Māori staff from policy making roles (p. 310).

Top-down policy development permitted state appropriation of Māori cultural practices to support Eurocentric policy construction and inappropriate policies and interventions (p. 310).

Originating from Māori practice, the Family Group Conferencing (FGC) intended as a process of whānau decision making was co-opted under legislation. FGC practices were inconsistent, resourcing was inadequate, and CYFS maintained decision making powers effectively nullifying whānau self-determination (p. 312).

The lack of support to build indigenous research evidence in the State Care sector has had a significant impact on Māori staff (p. 313).

The fact that there is so little evidence of Māori staff experiences in the care sector prior to 1999 is an indication of the value the state placed on Māori staff in the sector, and the lack of opportunities for Māori practitioners to research and publish during the period (p. 313).

Māori social workers in government organisations report very few examples of organisational support for Māori practices (p. 318).

Māori staff experienced feelings of conflict. Their attitude towards clients/whānau was often judged as being overly involved and unprofessional from a Eurocentric position (p. 320).

Māori public servants had to manage the dual expectations of the Māori community and the public sector (p. 320).

Māori public servants were often perceived by their communities as 'monitors for the state' and could be treated as 'agents of the state' by their community (p. 320).

Burnout and high turnover of Māori social workers resulted in a drain of Māori knowledge and capability from the sector (p. 321).

Māori staff reported being constantly at odds with the values and beliefs that were privileged and accepted as 'normal' (p. 319).

Māori staff reported having to leave their 'Māoriness' at home and conform to the Pākehā hegemony within the workplace (p. 319).

While Māori staff have worked within this context, they have developed their own practices and theoretical approaches. Māori staff voiced their concerns to senior managers and were resistant to changes that they believed did not reflect the intention of te Tiriti o Waitangi / the Treaty of Waitangi or Puao-te-Ata-Tū. Māori staff described themselves as the squeaky wheel in the machine, realising that their resistance could compromise their opportunities and ambitions within the sector (p. 327).

Chapter Eight Summary: Resistance,response and critical junctures of change

Resistance by Māori whānau and their communities to institutional racism and inadequacies of the State Care system occurred consistently throughout the research period (p. 332).

Throughout the research period 1950-1999 critical junctures occurred when Māori responded to enduring legacies of the settler state welfare system. These responses increased in resistance and intensity over the 50-year period with evidence of a rupture in the late 1980's in response to evidence of institutional racism and over-representation of Māori in the system. Despite the resistance the evidence suggests the state quickly began re-anchoring to assume power and control of the system (p. 332).

Complaints by children and vulnerable adults in the State Care system were generally ineffective in bringing about change. Children tended not to be believed, deemed to be untrustworthy by adults running the institution. Whānau wrote letters to advocates, welfare officers, residence staff, Government departments and Ministers inquiring after tamariki and asking for them to be returned. While the actions of individuals within the system was apparent at the time, they were insufficient alone to influence change within the system (p. 333).

The work of advocacy groups such as ACORD and Ngā Tamatoa is particularly apparent throughout the 1970's and 1980's. Their work resulted in the closure of some institutions like Lake Alice, and changes in conditions within justice and subsequent care for Māori. Their ability to organise and cause rupture in the system is an example of how collectives can support individuals to bring about change (p. 334).

More recently, survivors of abuse in State Care have told their stories via blogs, to researchers and in the media, these testimonies are an act of significant resistance. Recalling events of abuse can be re-traumatising for survivors particularly if they do not have authorship over their own stories or how others perceive them. The collective persistence of these narratives in the public realm have been pivotal in bringing about the Inquiry and other changes within the macro system (p. 342).

Throughout the research period different Māori/iwi organisations have emerged to work within the state system. The state needed and wanted intervention from the macro-level organisations to assist in their assimilative aspirations for Māori. However once the organisations formed and established their own rangatiratanga they inevitably began to challenge the state. These organisations were constantly engaged in push-pull activity with the state. While the organisations were seeking power to determine their own lives through rangatiratanga, the system was designed to ensure power was retained within

the state (p. 344).

Tu Tangata and Mātua Whāngai were examples of state led-interventions as a result of the policy change in the 1980's. While good intention drove the attempts to change the direction of the state, mechanisms within the state designed to retain power created significant barriers. Funding constraints, the inability to influence other social indicators, and continued intervention by the state in Māori initiatives stymied aspirations. While both Tu Tangata and Mātua Whāngai led to changes within the state welfare system, they fell short of the aspirations that underpinned their development (p. 357).

The state anchored and re-anchored towards settler state assimilative ideologies amid complaint, protest, reorganisation and restructuring (p. 366).

Chapter One
Whakapapa

Kei tua i te awe kāpara, he tangata kē māna e noho te ao nei, he mā.

Behind the tattooed face stands a stranger who will inherit the earth, and he is white[12].

[12] Mead, H., & Grove, N. (2001). Ngā Pēpehā o ngā Tīpuna. Victoria University Press: Wellington. (1261, p. 206)

The over-representation of Māori in negative statistics, including tamariki Māori and vulnerable adults in the State Care system, can only be understood within the context of historical and intergenerational trauma inflicted on whānau, and particularly wāhine Māori through colonisation, land confiscations, language and culture loss (Pihama, Cameron & Te Nana, 2019; Cram, 2011; Dalley, 1998; Jackson, 1990; Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare, 1988). In this chapter we employ Judge's (2017) definition of 'the state'; as 'a broad, holistic approach' used as a colonising and enduring process (p. 19). This is needed as the settler state was developed through a white patriarchal system. It is characterised 'by its exercise of public power and force, via its access to resources, and thus its ability to alter society' (Judge, 2017, p. 19). Therefore, the state includes past and present governments and government departments (Judge, 2017).

In framing our findings, we have also utilised Reid, Rout, Tau and Smith's (2017) aetiological framework; the study of causation that views colonising environments 'as being generated by two key types of mechanisms - structural and psycho-social' (p. 18). For example, structural mechanisms are institutional inequalities as experienced by resident indigenous communities in the settler states. These include deliberate settler state legislation and policies (such as the Native Lands Act - 1873, the Native Schools Act - 1867, the Tohunga Suppression Act - 1907) designed to eliminate cultural practices and perpetuate racist beliefs in the inferiority of the backward natives, who needed civilising for their own good. Psychosocial mechanisms include the acceptance and internalisation by indigenous communities of this 'cultural superiority' myth culminating in 'a sense of shame, shame of their culture and shame of their ethnicity' (Reid et al., 2017, p. 28). 'In blunt terms, the settler state is a creation that is both intentionally and incidentally geared against indigenous people' (Reid et al., 2017, p. 23).

Therefore, colonisation is more than a set of historic traumatic events and its devasting impacts are far-reaching. It needs to be seen as a cascading process that creates and sustains enduring racist environments whereby indigenous communities suffer (Reid et al., 2017). Pihama et al. (2019) concur, emphasising the need to understand the history and impacts of 'colonial trauma' as both 'event and as structure' (p. 13).

> This means coming to know the history of the many whānau, hapū and iwi and the violence perpetrated through colonial invasion and occupation. For example, the historical invasions of Rangiaowhia in Waikato, Parihaka in Taranaki, Gate Pā in Tauranga and many more, and in contemporary times events such as the eviction of Ngāti Whātua from Bastion Point in 1978, the Foreshore and Seabed Act confiscation of the foreshore in 2005, and the freeholding of Waitara lands in 2019. Alongside these events is the ongoing failure of the government to honour Te Tiriti o Waitangi, the embedded systemic racism in ministries and agencies, the continuing expression of deficit views and racist assumptions about Māori, and the denial of Māori status as tangata whenua, the people of the land (Pihama et al., 2019, p. 13).

Colonisation is inherently violent and traumatic and, as a result, whānau suffered daily (Pihama et al., 2019; Reid et al., 2017; Te Puni Kōkiri, 2008;). As early as 1863, legislation was used by the settler state to commit atrocities and human rights violations against whānau, hapū and iwi. For example, the Suppression of Rebellion Act 1863 suspended the right to a fair trial, ensuring imprisonment for

whānau who opposed land confiscation. Moreover, pursuant to the West Coast Settlement Act 1880, any Māori could be arrested without warrant in Taranaki on suspicion of interfering with settler state prospecting (Bull, 2004, p. 508). In addition, an indemnity Bill was passed which meant crimes against a person or property were no longer deemed a criminal offence if committed by Crown volunteers or constabulary, provided the victim was Māori (Bull, 2004, p. 509).

Our research findings demonstrate the contribution of colonisation, land confiscation, alienation and urbanisation to the overarching racist and sexist state sanctioned mechanisms that replaced tribal conventions with settler institutions. Thus, colonisation was a deliberate, enduring and destructive force perpetuated by various settler governments resulting in: whānau deprivation; psychosocial harms; and the over-representation of tamariki Māori and vulnerable adults; in settler State Care from 1950-1999 and beyond.

Background

Prior to the arrival of the European settlers, tamariki, through whakapapa, were regarded as the physical embodiment of tūpuna, thus giving them a preferential position. This ensured they were safe and nurtured. The care of tamariki and pēpi was shared within extended family structures of whānau and hapū (Durie, 2003; Hiroa, 1970). Children were

not considered the property of their parents, but belonged to the whānau, which was an integral part of the tribal system bound by reciprocal obligations. Whānau coalitions created distinct political and economic units (Durie, 2003; Reid et al., 2017).

The practice of whāngai (adoption or fostering) of pēpi and tamariki was very open (Pitama, 1997). Whāngai status enabled tamariki to maintain communication and interactions with their birth family and their whāngai family. Having whāngai status protected both the child's and hapū rights and privileges (Pitama, 1997). Raising healthy, educated tamariki was a collective responsibility (Pihama et al., 2019) as whānau were centred on common kaupapa as much as common heritage (Durie, 2003). 'Traditionally whānau, hapū and iwi lived collectively on their ancestral lands in contexts where people knew each other and their connections to each other, enabling tikanga to be enacted as a mechanism for collective wellbeing' (Pihama et al., 2019, p. 6).

Whānau were regarded as the primary social unit and cornerstone of traditional Māori society contributing to the expansion of hapū and iwi. A typical whānau comprised immediate and extended whānau members of three to four generations residing within the same dwelling. Roles and responsibilities of whānau members were clearly defined and reflected an individual's position, status and place within their social unit from birth evolving as members grew into adulthood (Metge, 1995).

Although mātua had a role in raising children and contributing to their welfare, ultimately it was the grandparents who were afforded the most influential responsibility. As elders, they held the esteemed positions as mātua tūpuna, kaumātua, koroheke, rūruhi tāua, pōua, tūnohunohu, pēperekōu, koro and kuia. Grandparents and elders alike were seen as repositories of knowledge, experience and were expected to transfer this wisdom on to their descendants and mokopuna (grandchildren). This learning continued throughout childhood and into adulthood. It was supported by: the life experiences; patience and wisdom of elders as educators; mentors; and as significant role models, influencing healthy development of their mokopuna and other members of the whānau. The term 'mokopuna' is explained as 'moko' referring to an image, often facial tattoos (moko mataora or moko kauwae/kauae), that were regarded as a person's status or signature. The word 'puna' can mean a spring or pool of water and when these words are combined, you have an image reflected in a pool. This is true of a grandparent's relationship to a grandchild; it is the grandchild who is the image of their grandparent. When the grandparent looks at the grandchild, they see their reflection, they see their mokopuna (Makereti, 1938; Buck, 1958 cited in Edwards, McCreanor & Moewaka-Barnes, 2007).

Traditionally, whānau members relied on each other and their interdependence impacted on the whānau dynamic. This level of intergenerational support ensured the younger members of the whānau were exposed to vital life-sustaining knowledge and education to test universal concepts through practical application in their lives. Core traditional values instructed through daily practices were fundamental in guiding the behaviours and activities of everyday whānau life. Amongst siblings, expectations and tikanga (customary practice) in relation to reciprocal relationships were intended to support the welfare of the whānau as a collective. For example, elder siblings referred to as tuakana, had responsibilities for leadership, protection and advice, while the younger siblings regarded as teina, were required to serve and provide (Bray & Hill 1973; Buck 1958 cited in Edwards et al., 2007; Pere, 1982). Before the arrival of white European settlers, there was a richness and depth to child-rearing practices and to the composition of whānau and hapū relationships (Durie, 2003).

Defining 'whānau'

The meaning of 'whānau' is to be born or give birth. Thus, the purpose of the wider whānau is to care for and raise the child/ren. Metge (1995) explains that within a well-functioning whānau unit, adult and elder members describe their relationship to each other's children by using the following phrase: 'ā mātou tamariki' (the children of many of us), as opposed to 'ā māua tamariki' (the children of us

two), which tends to lean more toward the Pākehā-centred approach of the nuclear family. Metge describes four key underlying principles of child rearing: tamariki are uri; children are members of the whānau; the principle of communal parenting; and the rights and responsibilities of the child. The principle 'tamariki are uri' reinforces the Māori worldview that children are direct descendants of tūpuna and must be cherished. They will eventually become the successors to their lineage ensuring whānau, hapū, and iwi whakapapa relationships are maintained (Metge, 1995).

Traditionally, tamariki were referred to as taonga. Sadler (2000) argues this is relevant to Article Two of Te Tiriti o Waitangi, meaning whānau have specific rights and responsibilities in the protection of their tamariki. Whakapapa ensured social connection, as well as obligations to the health and wellbeing of the whole (Metge, 1995; Boulton, Potaka-Osborne, Cvitanovic, & Williams, 2018). Whānau life was interconnected and intergenerational, providing a protective element for tamariki as responsibility for their wellbeing was shared (Boulton et al., 2018; Durie, 2003; Metge, 1995; Mikaere, 1994).

Mikaere (1994) asserts that prior to the colonial invasion, whānau wellbeing was associated with Papatūānuku (a female Māori deity), and the physical links to whenua. Indeed, the word 'whenua' means both land and afterbirth. The traditional and valued position of wāhine Māori and their contribution to intergenerational wellbeing, contrasted greatly to the subordinate place of women in the colonial patriarchal state (Mikaere, 1994). Conversely, the colonial settlers and power-brokers viewed land/whenua as an individually owned commodity within the context of a settler state capitalist economic system (Boulton et al., 2018; Reid et al., 2017). That Māori collective strength, underpinned by whānau, hapū and iwi relationships was threatening to 'Pākehā power-brokers' (Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare, 1988, p. 58) is evidenced by a statement made by the distinguished nineteenth century politician, Sir Francis Dillon-Bell: 'The first plank of public policy must be to stamp out the beastly communism of the Māori!' (Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare, 1988, p. 58). Document analysis demonstrates that the undermining of whānau, hapū and iwi structures and networks was not merely a result of colonisation, but an essential part of the process (Mikaere, 1994).

Colonisation, land loss and the destruction of the Māori economy

The health and wellbeing of whānau, hapū and iwi was interconnected to whenua, awa and moana, through whakapapa, including environmental and spiritual dimensions (Boulton et al., 2018; Reid et al., 2017). For example, the Tainui waka and Ngāti Tuwharetoa have viewed Waikato Te Awa as a tūpuna, a taonga that sustains mauri. This connection to whenua, awa and moana was critical to tribal identity and survival (Durie, 2003; Reid et al., 2017).

At the time of the signing of the Treaty of Waitangi/ Te Tiriti o Waitangi, whenua was the basis of the Māori economy (Cram, 2011; Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare, 1988). Māori were growers and producers, shipping their produce around Aotearoa and beyond. There were clear examples of the flourishing Māori economy that had been 'reshaped' with new settler technology; that was both highly successful and threatening to 'Pākehā power-brokers' (Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare, 1988, p. 58).

> [A]pproximately 8,000 Māori lived in [the Eastern Bay of Plenty in 1857]. They had 3,000 acres of land in wheat; 3,000 acres in potatoes; nearly 2,000 acres in maize; and upwards of 1,000 acres planted in kumara. They owned nearly 1,000 horses, 200 head of cattle and 5,000 pigs. They had built and owned four water-powered mills and 96 ploughs. They also owned a staggering 43 coastal traders averaging 20 tonnes each, and upwards of 900 canoes (Gardiner, 1994 as cited in Cram, 2011 p. 16).

Post-1840 and the signing of the Treaty of Waitangi/ Te Tiriti o Waitangi, the large-scale acquisition of land by Crown agents and settlers contributed to Māori dispossession. These changes placed Māori at a significant disadvantage in the emerging land-based capitalist economy. Ngāi Tahu for instance, 'became an impoverished and virtually landless tribe' (Te Rūnanga o Ngāi Tahu, n.d, n.p). The escalating growth in Pākehā population following the proclamation of British sovereignty in 1840, accelerated the drive and demand for land, culminating in the Land Wars fought around the country, and the subsequent land confiscation and loss of life as well as continuously exposing Māori to new diseases. It is estimated that between 1840 and 1901, the Māori population may have halved (Department of Statistics, 1963, p. 73; Lange, 2018), which is tantamount to a 'significant and sustained de-population' (Kingi, 2007, p. 5).

Beliefs in the inevitability of the decline and eventual extinction of Māori underpinned Crown policies designed to 'smooth down their dying pillow' (Featherston, 1856, cited in Buck, 1924, p. 362). Nevertheless, a period of paternalistic and protectionist social policy (1860-1920) followed, taking measures to ensure Māori survival (Armitage, 1995, p. 190), albeit by way of the prominent school of thought that Māori would survive by being racially amalgamated via miscegenation (Kukutai, 2011, p. 37), and/or adapting to European ways and becoming individualised, de-tribalised and 'educated' (Lange, 1999, p. 64).

Cram (2011) underscores land confiscations and land alienation following the signing of the Te Tiriti, as the failure of the Crown 'to protect Māori resources and economic wellbeing, as guaranteed' (2011, p. 17). In 1910 'just over 10 per cent of Māori land remained in Māori hands' (Cram, 2011, p. 17). Māori land loss and alienation has had devastating, multifaceted, and far-reaching effects (Cram, 2011; Pihama et al., 2019; Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare, 1988).

The loss of whenua and access to traditional life-sustaining resources had a dramatic effect on whānau wellbeing and economic prosperity. Colonial observers, whilst witnessing the extreme poverty of many Māori communities, often attributed their poor living conditions to laziness and a lack of self-responsibility without officially acknowledging the consequences of land confiscation, war, and introduced diseases on whānau.

> Grinding poverty in many Māori communities particularly impacted upon children, and the reports of native school teachers from this time often included observations about hungry and neglected children living in dire conditions. Narratives from this period indicate that children perceived as being neglected or at risk were cared for within wider kinship systems; as the historian Judith Binney notes, the strengths of Māori society in times of crisis were kinship and community networks, the very things which successive government policies had tried to dismantle (Kaiwai, Allport, Herd, Mane, Ford, Leahy, Varona, & Kipa, 2020, p. 24).

Colonisation and the intentional dismantling of whānau gendered relationships through white European patriarchy

In precolonial society, wāhine Māori had autonomy equal to that of males and gendered relationships were more fluid and less pronounced than those of the white European settlers (Mikaere, 1994; Salmond, 1991). This can be seen in te reo Māori with gender-neutral terms such as 'ia' for personal pronouns. Wāhine played essential roles, vital to ensuring the health and prosperity of whānau, hapū and iwi because they ensured the continuation of whakapapa (Wilson, Mikahere-Hall, Sherwood, Cootes & Jackson, 2019). The New Zealand Law Commission in its analysis of the experiences of Māori women in the Justice system cite Metge, (1995, p. 97) who asserted that for many hapū their mana is directly linked to female ancestors and recognised through names, 'for instance Te Whānau a Hinerupe, Te Whānau a Ruataupare; Rongomaiwahine; Ngāti Hine' (1999, p. 15). Wāhine has specific leadership roles within whānau, hapū and iwi and as individuals they had 'use-rights' over whenua and resources (New Zealand Law Commission, 1999, p. 15, p. 15). Wāhine shared roles and responsibilities with tāne, which was very different from the patriarchal gendered relationships of the white European settlers (Mikaere, 1994; Wilson et al., 2019). To the European settler wāhine Māori behaviour was often interpreted as immoral and lacking male discipline (Mikaere, 1994).

The status of wāhine Māori quickly changed as a result of colonial law, whereby they were viewed as subordinate to men (Mikaere, 1994; New Zealand Law Commission, 1999). This is explained in historical analysis by Dame Ann Salmond (1991):

> At the time of European settlement (from 1814 onwards) European gender relations were

> controlled by an ideology of male dominance far more severe than the agnatic biases that existed in Māori reckoning of descent group status. European women were legal minors who came under the guardianship of men and they had no independent rights to control property or to formal participation in political decision-making. Moreover, the Protestant religious sects which missionised New Zealand practised male ritual dominance, and under such influences Māori women had much to lose (Salmond, 1991, pp. 353–354).

Colonisation resulted in wāhine Māori losing their valued status within whānau and hapū as well as in the new white settler society (New Zealand Law Commission, 1999; Mikaere, 1994; Salmond, 1991). There was much resistance by prominent wāhine Māori who saw the introduction of white European patriarchal views and practices permeating through whānau. For example, Heni Sunderland, born in 1916 and a prominent woman of the Rongowhakaata tribe, resisted the allocation of male seating arrangements on the paepae of marae (Binney, 1989, cited in New Zealand Law Commission, 1999, p. 20). This resistance of prominent wāhine Māori to white patriarchal views being accepted by tane Māori was noticed.

Beliefs about female subordination were internalised by wāhine and tāne and reinforced by white European settler State Care policies and practices. Negative stereotypes of wāhine Māori as lazy mothers with lax moral attitudes were perpetuated in society and very much evident from the 1940s. Young kōtiro in urban areas were viewed as 'naturally' inclined towards 'sexual delinquency'. In the 1950s, unwed mothers whose children were deemed illegitimate, were treated as fallen women. They were perceived by the state as social problems, being unable to provide 'a normal home life' for their children (Dalley, 1998, p. 216). Being treated as a social outcast was particularly true for young pregnant, unmarried wāhine Māori who found themselves without the generational support provided by whānau. This deliberate dismantling of whānau gender relationships is an enduring traumatising mechanism caused through enduring colonising environments, resulting in intergenerational harms. This theme is explored in more depth in Chapter 3 'The impact of the system on Māori'.

Colonisation and its traumatising mechanisms: 1800-1920

Before 1860, European contact was largely 'acquisitive, exploitative and proselytising' (Armitage, 1995, p. 186). The introduction of diseases and muskets prior to 1840 saw the beginnings of Māori population dislocation and decline, estimated at 10-30% (Lange, 2018). In parallel, the introduction of religion and the 'colonising spirit' constituted an ideological assault that served to undermine Māori social and cultural structures (Kingi, 2007, p. 5; Walker, 2016, pp. 19-20). Individualisation was facilitated by the workings of the Native Land Court, established in 1865, through the conversion of traditional communal landholdings into individual titles, to expedite and enable further land acquisition (Mikaere, 1994, p. 133). Furthermore, European systems of formal education were introduced via the Native Schools Act 1867, which stipulated instruction to be given solely in English, preparing Māori children to assimilate into Pākehā society (Richmond, O'Neill & Carleton, 1867, p. 862-3).

Miscegenation did not result in the anticipated outcome of biological absorption; from the earliest census (1906), Māori choices to identify 'culturally' rather than racially served to inflate rather than diminish Māori population figures (Kukutai, 2011, p. 39). De-tribalisation was also delayed, in part due to another emerging school of thought, promulgated by a new generation of Māori political leaders educated in European institutions. Apirana Ngata and his peers in the Young Māori Party supported limited Māori self-government and the reassertion of mana in traditional tribal territories under rangatira (King, 2003, p. 469).

However, the increasing influence and involvement of Ngata and his peers in government did not mean that Māori cultural practices were left unscathed. Ngata attributed the decline in the Māori population to the persistence of harmful Māori customs as much as the effects of Western contact (Lange,

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“In the early 1980s I was friendly with Dame Mira Szászy. Mira was really an impressive woman and on the marae she would get stuck into Pākehā and bureaucrats, but she certainly gave Māori men a good serve as well. Mira was particularly angry at the lack of equality for Māori women and challenged Māori men about that. During one hui, she challenged the men about speaking rights for wāhine on the paepae.”

– Dame Margaret Bazley, Non-Māori senior public servant

1999, p. 99), and Te Rangihiroa/Peter Buck wrote that 'the greatest factor which retards the progress of the Māori in health matters, is the influence of the past' (cited in Williams, 2001, p. 179). In the early twentieth century, legislation was passed that sought to curtail certain customary practices, most notably (but not confined to) the Tohunga Suppression Act 1907.

The practice of whāngai became subject to legislative measures in 1901 (Native Land Claims and Adjustment Act 1901) as policymakers sought to dismantle Māori communalism (Sorrenson, 1975, p. 107). Thus, to be able to inherit the lands of their whāngai parents, Māori adoptees had to be registered with the Native Land Court (McRae & Nikora 2006, p. 1). Thereafter, the Native Land Act 1909 required Māori to legally adopt children through the Native Land Court to legitimise the relationship between adoptive parents and children (Mikaere, 1994, p. 137). Furthermore, the Act prohibited Māori adoption of European children in order to prevent two undesirable possibilities: European children succeeding to Māori land, and the upbringing of European children in an 'improper' way or in sub-optimal conditions, within Māori society (Keane, 2017, n.p; Findlay, 1909, p. 1275). These changes did not appear to impact negatively on the practice of whāngai, or the care of Māori children, however, they signalled a gradual encroachment of Pākehātanga (European concepts, practices and values), and a turn of the colonising gaze towards tamariki Māori.

Child welfare policy in Aotearoa New Zealand

The origins of settler-colonial state child welfare policy lie in nineteenth century England, where the separation of children from their pauper parents had been used to manage families and increase the economic productivity of parents and children (Armitage, 1995, p. 5). The grounds for state intervention in the care of children was eventually extended to include the care of orphans, truants, children of unmarried mothers, and children of parents considered to be abusive or negligent. Children were recognised for their 'perceived amenability to change, education and 'salvation', thus, in settled territories, these extant child welfare policies and mechanisms took on a new dimension; that of ensuring indigenous acceptance of British rule and enabling 'civilisation' (Armitage, 1995, pp. 5-6).

Where the primary purpose of structural colonialism is to control power and decision-making through political and governmental means in order to extract (primarily economic) benefits, this is often accompanied or followed by a form of 'cultural colonialism', where normative control of a minority group or culture is sought in order to explain and legitimise actual control (McKenzie & Hudson, 1985, p. 130). Efforts to 'civilise the savage' are central to colonising mechanisms, undertaken by missionaries and later the educational, health and child welfare systems. Interview participants spoken to, emphasised the legacy of colonisation in understanding the over-representation of tamariki Māori in settler State Care.

As colonisation gained momentum, Māori patterns of communal living, ownership, gender roles and child-rearing practices were increasingly perceived as obstructive to the assertion of colonial systems, structures and understandings leading to increased regulation of Māori traditional and cultural practices (Love, 2002, p. 6; Williams, 2001, pp. 178, 239). This form of cultural colonialism, inextricably linked with structural colonialism (Sinclair, 2004, p. 50), was part of a broader initiative following the Native Land Court legislation, to dismantle the communal functioning and organisation of Māori communities.

By 1920, Māori communities had suffered significant health, cultural, economic and social impacts as a result of structural and cultural colonialism. Reid et al. (2017, pp. 16-17) note the cascading nature of these impacts, arising from 'diverse, multiple and persisting mechanisms [that] are cumulative and compounding in their cause and effect'. Although there was evidence of Māori population recovery by the end of the nineteenth century, certain impacts remained. Impoverishment and a level of 'cultural erosion' were to be soon overlaid by other demographic and societal changes, including World

War I and the subsequent economic depression. Living in more isolated rural areas, Māori had relatively little contact with the largely urban child welfare system that had developed in the late nineteenth and early twentieth centuries (Dalley, 1998, p. 83). However, this was set to change as Child Welfare Officers expanded into rural districts from the late 1920s, and Māori began to move into cities (Dalley, 1998, p. 153).

Colonising environments: 1920 – 1950

The period 1920-1950 brought significant social and economic changes in Aotearoa New Zealand, including the sequelae of World Wars I (1914-1918) and II (1939-1945). Families and communities were affected significantly by the return of traumatised men from World War I, and the economic boom and bust that followed (McGibbon, 2012). However, as part of the government's post-war recovery measures to promote stable communities and national population growth, child and maternal health became a significant focus of social policy in the 1920s (Baker & Du Plessis, 2018). The confinement of children to institutions for lengthy periods became less acceptable given the newly increased social value accorded to child life. Thus, children tended to be boarded out with foster parents, supervised in their own homes in the community, or in community-based preventative schemes (Dalley, 1998, p. 191; Garlick, 2012, p. 32-3).

The Child Welfare Act 1925 established the Child Welfare Branch of the Education Department, which was responsible for 'orphaned, destitute, neglected and 'out of control' children' (Baker & Du Plessis, 2018, p. 3). The state responsibilities to protect and train such children bifurcated into a network of state supervised homes or institutions, and a separate system of juvenile justice through children's courts (Dalley, 1998, p. 95).

In the late 1920s, working through Māori honorary officers and local social service groups, Child Welfare Officers moved into rural districts (Labrum, 2002, p. 163). Māori children and their living conditions came under increased scrutiny with material deprivation being interpreted as neglectful or attributed to character or racial defect (Labrum, 2002, p. 167). Moral judgement was passed on Māori pastimes and expenditure, and Māori children were 'discovered' to be delinquent (Dalley, 1998, pp. 119, 155). This resulted in increasing numbers of Māori children and adolescents being brought before the courts. Correspondence between officials indicates the Child Welfare branch was aware of the impact of forced separation from whānau and wanted to keep Māori children out of its institutions well into the 1940s. This was, in part, prompted by Māori groups (for example, Te Akarana Association) communicating the importance of Māori children remaining with kin groups, within their localities and te reo Māori speaking contexts. 'Less salutary motives', including concern for detrimental Māori influence on Pākehā, also prevailed (Garlick, 2012, p. 58). In some cases, Māori children were removed from their families and sent to church or private institutions (Dalley, 1998, pp. 131, 134).

Colonising Mechanisms: Urbanisation and intentional policies of integration

From the late 1930s, growing numbers of Māori were moving away from their rural homelands. Small family farmlets and land-based Māori development schemes were no longer able to sustain the rising Māori population. Furthermore, the conscription of Māori labour into industries to support the World War II effort (via the Manpower Act 1944) accelerated the pace of Māori urbanisation (Walker, 1992, p. 500). Before 1945, most Māori lived in rural communities, concentrated in the eastern and northern parts of the North Island, leading quite separate lives from the majority of Pākehā (Hill, 2009). Within two decades, Māori underwent a massive rural exodus (Kukutai, 2011). By 1945 large numbers of landless Māori moved from what had been their traditional tribal areas, into urban centres (Brittain & Tuffin, 2017; Garlick, 2012; Reid et al., 2017; Walker, 2016). However, many whānau in the South Island sought employment across various Pākehā settlements and public infrastructure projects that were not in urban settings (Reid et

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“If a person was to ask me, 'Well, how come all these Māori kids are in State Care ... and the rate is so high?' I'd say, 'Well, it's just the continuation of colonisation.' We actually haven't got to a point where we're serious about decolonisation. So, if people are saying, 'Well, it must be post-colonisation.' I'd like to know, as Moana Jackson says, 'What date did it stop?'”

– Harry Walker, Māori public servant

al., 2017). Having been stripped of their ancestral lands and its concomitant resources, whānau and hapū had little choice but to provide the labour demanded by the industrial sector in the late 1950s. This urbanisation of Māori communities was central to settler state policies of integration (Hunn, 1961), yet 'entailed the disintegration of Māori social and cultural underpinnings that had a disruptive psychological ripple effect' (Jackson, 1998, cited in Brittain & Tuffin, 2017, p. 99).

Without educational qualifications (as a direct result of educational policy), Māori became concentrated in manufacturing and service industries, forming an urban underclass (Walker, 1992, p. 500; Labrum, 2002, p. 164). Māori families had to do more with less, based on lower median earnings and reduced entitlements to state assistance. Māori were paid pensions and benefits at lower rates than Pākehā until 1945, and in 1951, for example, the median income of a Māori male was 72.4% of that of a Pākehā male, and it had to be spread over larger families (Labrum, 2002, pp. 171, 173).

Whānau were now in a more 'precarious economic situation' as they became more dependent on the 'settler economy' (Reid et al., 2017, p. 42). Walker (1992) argued urbanisation presented fundamental difficulties for migrant Māori in overcoming racial discrimination and cultural assimilation. Whānau had to adapt not only to the nuances of the Pākehā industrial economy in seeking and securing employment, but also to budgeting, and meeting financial commitments within the urban environment.

Māori families moved into towns and cities where the Pākehā-defined living conventions were individualistic and unfamiliar, and Māori customs and ways of living were disparaged. In some cases, traditional tribal ties were severed, and the whānau was increasingly remoulded into a nuclear family arrangement (Mikaere, 1994, pp. 133-4). Echoing official policy of the time, the tenor of public thought was of paternalistic assimilation; the general public expected Māori conformity and adherence to 'British ways' (Hill, 2009, p. 34). For example, welfare officers who had the broad mandate of 'bringing urban Māori up to scratch', were frequently called in to address Pākehā neighbours' complaints of 'unseemly' Māori behaviour (Hill, 2009, p. 35). Interview analysis highlighted that tikanga Māori was often foreign and unsettling to many Pākehā families living in towns at this time.

Without the supportive factors of tribal and communal life, and in an unsympathetic, even hostile environment, the conditions were set for increased economic disadvantage, social dislocation and cultural disconnection. Māori were treated as foreigners in their own country, as they settled in urban centres dominated by Pākehā families.

Durie (2003) contends the urban environment compelled Māori to shift from the traditional whānau model to that of the settler nuclear family. By extension, urban migration signified a critical detachment of whānau and hapū ties and support networks which previously had ensured the wellbeing of tamariki Māori. Furthermore, papakāinga suffered the permanent loss of the most productive age demographic in the community, which destabilised tribal culture.

Colonising environments in the 1950s: Racism and moral panic

Racism (both structural and societal) positioned whānau ways of living and child-rearing as inherently inferior to Pākehā, perceiving traditional whānau models of childrearing as unhealthy. Through state encouraged urbanisation, Māori families became more visible in rapidly expanding suburbs as they became eligible for state housing (Brittain & Tuffin, 2017; Garlick, 2012; Labrum, 2013). Government housing policy from 1948 was one of 'pepper-potting' whereby whānau were sprinkled amongst Pākehā 'in order to avoid residential concentrations'

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“I remember a Māori family moving into our town, they lived a distance from us. The husband was a Māori dental technician and was married to a Māori wife, and they had about seven kids. And his wife died in childbirth. And when she died, the whole town was kept awake for about a week, with people coming from all over the country and arriving during the night. This was very unusual at the time. And the town went absolutely berserk because there was this wailing. Everyone was being kept awake and we'd never ever experienced anything like that. But it was that Māori people were moving into the towns with their customs … it was something that was absolutely foreign to Pākehā.”

– Dame Margaret Bazley, Non-Māori senior public servant

(Labrum, 2013, p. 71) as there had been concerns and complaints about social disorder and a 'growing Māori underclass' (2013, p. 67). Walker (1992) theorises inner-city locations were favoured in the early stages of the urban drift, because they were close to industrial centres which employed whānau. Nonetheless, as migration continued, a critical build-up of Māori within cities and suburbs occurred despite declining social conditions including high rates of unemployment, which were conducive to domestic violence, offending, and police monitoring in subsequent decades (Dalley, 1998; Garlick, 2012; Labrum, 2013).

Racism also underpinned increased scrutiny and surveillance (Labrum, 2013; Stanley, 2016). Reviewing complaints made in the 1960s to the Department of Māori Affairs (DMA) Labrum (2013) notes Pākehā objected 'to the presence of Māori' in their communities and to Māori living 'as Māori' (2013, p. 67).

The 1950s were also characterised by 'moral panic' and increased public concern over incidents of perceived juvenile delinquency. The problems of 'adjustment' were particularly notable for rangatahi, evident in 'anti-social' and 'extra-legal' behaviour (Hill, 2009, p. 35). In some areas Māori youths outnumbered Pākehā coming before the courts by 2.5-3 times (Dalley, 1998, p. 102). Comments made in the Mazengarb Report (1954) suggested that Māori made up 27% of all 'juvenile delinquents' (offenders aged 10 – 17) - three and a half times the rate for non-Māori (1954, p. 13). These Māori offences were linked to the 'culture' and 'traditions' of Māori communities and the negative impact on tamariki caused through 'defects' in their home life:

> A considerable portion of offences may come from factors inherent in the culture and traditions of the Maori and their difficulty in conforming to another mode of living. In an examination of the factors which promote juvenile delinquency special attention must be given to the type of community in which children grow up. The more normal and well balanced a community is, the greater are the child's chances of developing a well-balanced personality. The teaching at school may be good, the home training satisfactory, but these good influences may be upset by defects in the neighbourhood. When the atmosphere of home or school is unsatisfactory, the chances of normal healthy development are made progressively worse for any child whose community environment is also poor (Mazengarb Report, 1954, pp. 13- 14).

However, claims of increasing Māori juvenile delinquency within particular areas was questionable and not supported by other evidence (Clerk of the House of Representatives, 1949; Dalley, 1998; Stanley, 2016). Earlier government documents had noticed a drop in Children's Court appearances of Māori tamariki and rangatahi (Clerk of the House of Representatives, 1949). In a 1949 report written by the Acting Director of Education, Superintendent C.E. Peek, reference was made to 'recent public statements' concerning the incidence of crime amongst the Māori people and extent of Māori juvenile delinquency (aged 7-17). It was noted that 'separate statistics' on Court appearances were not kept for Māori and European children, but that annual reports by District Child Welfare Officers had noted a substantial drop in Māori children appearing in the Children's Court.

> …the total numbers of Maori children appearing before the Courts have dropped substantially. For instance, in North Auckland (where there is one of the greatest concentrations of Maori people) the peak year of the period 1938-1949 was 1943-44, when there was a total of 206 court appearances. Of this number, 146 or (70.8 per cent.) concerned Maori children, and the senior officer in that district made special comment on the high proportion of Maori to pakeha offenders that year. The latest figure shows a total of 83 appearances, both of Maori and of pakeha, in North Auckland, and there is no comment about the proportion of Maori offenders (Clerk of the House of Representatives, 1949, p. 9).

Despite the lack of evidence of a youth crime problem, the Mazengarb Report (1954) captured public and state attention. In response, a number of government initiatives were developed. For example, Child Welfare organised a media campaign to raise awareness of the increased number of children and young people involved in delinquent and criminal behaviour (Stanley, 2016). In 1957

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“In the 1940s, somewhere between the late 1930s and 1945, the urbanisation that occurred of Māori then led to quite a shift in the chance of ending up in both child protection and the court system. And I think one of the things we ignore, particularly during the 1960s is that as a result of both increased birth numbers and the shift to the cities of Māori at that time, there were four times as many Māori children in urban New Zealand in 1966 than 1951. It might have seemed to public services as quite a flood. And I think because the cities were overwhelmingly white, you had people who, although it was their country, were migrants in their own cities, but not being treated as European children were.”

– Len Cook, public servant researcher

the police initiated the Juvenile Crime Prevention Branch to focus on young people, and in 1958, the government established a Committee on Juvenile Offending (Stanley, 2016, p. 31). Increasing numbers of tamariki and their whānau came under scrutiny, not only by government agencies and their officers, but also from the public. As Stanley notes, Child Welfare staff encouraged the public, teachers and religious leaders to engage in 'delinquency spotting' and 'concerned citizens' noticed and referred Māori children and their whānau (2016, p. 31).

Concerns were fuelled by entrenched racist beliefs that Pākehā nuclear family models were far superior and more suitable for child-rearing than whānau models (Labrum, 2013). As Stanley argues, 'Māori children steadily came to notice for their 'potential' bad behaviour and their targeting was the starting point for the over-representation of Māori within institutions' (2016, p. 31). The predominant perspective among Pākehā officials, such as magistrates and child welfare officers, was that Māori youth were better off being institutionalised 'for their best interests' rather than remaining within their own whānau. (Stanley, 2016, p. 8). Indeed, some welfare officers maintained that children should be taken from their parents until they could 'prove they were fit to look after them' (Labrum, 2002, p. 170) following minor misdemeanours, such as truanting or shoplifting.

Rising rates of ex-nuptial births post-World War II were the object of another wave of moral panic, associated with the social and moral taint of illegitimacy. The Child Welfare branch was responsible for dealing with adoptions, with the exception of those involving a Māori parent adopting a Māori child, (with Māori determined by half-blood quantum or more). These 'Māori adoptions' were processed through the Māori Land Court in open proceedings, with judges and Māori welfare officers who took heed of whakapapa relationships and were more likely to recommend placement of babies with extended whānau (Else, 1991, p. 187; Mikaere, 1994, p. 139). This process was more likely for Māori birth mothers supported by their whānau, but the standard adoption process (through the Child Welfare Division, and Magistrate's Court) was more likely to be followed if Māori women were living 'more or less' as Pākehā, or the birth mother was Pākehā, or the child was deemed to be less than 'half Māori' (Dalley, 1998, p. 220; Haenga-Collins, 2017, pp. 59, 72-3). Although the precise numbers of Māori adoptees and Māori birth parents are not known due to inadequate and inconsistent ancestry/descent reporting by Child Welfare/Social Welfare (Else, 1991, p. 185), there is anecdotal evidence that a large proportion of adopted Māori children were born to Pākehā birth mothers and Māori birth fathers (for example, see participant sample from Ahuriri-Driscoll, 2020, p. 83).

As the settler state policy of 'integration' took hold in the late 1950s and early 1960s, the imperative to retain Māori children in Māori families and communities had diminished. The Adoption Amendment Act 1962 brought all adoptions under the jurisdiction of the Magistrate's Court, removing any considerations of whānau or whakapapa. Because the numbers of Māori adopting parents were relatively few (Labrum, 2002, p. 177; Else, 1991, p. 187), this meant many Māori children were adopted into Pākehā families. In this legally and socially sanctioned act, tamariki were lost to their cultural communities in large numbers.

The connection between colonisation and State Care

It is clear from research analysis that the settler state and its care systems have been deliberate in intention and design in dismantling whānau Māori networks that were crucial for health and wellbeing. The recently released Waitangi Tribunal Report (2021) 'He Pāharakeke, He Rito Whakakīkinga Whāruarua, Oranga Tamariki Urgent Inquiry' emphasises the contribution of colonisation and its devastating effects on diverse Māori communities (p. 51). The report cites evidence provided by Judge Becroft (the Children's Commissioner) as an expert witness and his testimony.

> Judge Becroft observes that epistemological racism has driven the Crown's assimilation policies by privileging Pākehā language and culture and defining Māori equivalents as

> 'other'. Furthermore, he comments, this 'was no accidental racism: it was by determined intent and design' (Waitangi Tribunal Report, 2021, p. 52).

Deliberate intentions by the settler state are visible in the various racist, patriarchal assimilationist policies and practices sustained over time through formal and informal 'traumatising mechanisms' (Reid et al., 2017, p. 21). These mechanisms not only contributed to settler colonisation, but also compounded the effect of historical trauma inflicted on whānau through land loss and cultural alienation (Reid et al., 2017).

Traumatising mechanisms were integral to settler state institutions concerned with education, employment, housing, health, justice, policing as well as child/social welfare. The over-representation of tamariki Māori and vulnerable adults in the settler State Care system cannot be separated from the socio-political and historical contexts of Aotearoa, and the deliberate dismantling of whānau Māori. The violent and enduring impacts of colonisation has

significantly reduced whānau capacity and capability to care for their own. Citing research by Timu-Parata (2009), Reid and colleagues (2017) argue:

> The years between 1964 and 1984 saw a continual decline in Māori health, largely due to poor housing, unemployment and low incomes. A contributing factor was the move to urban areas. The move gave rise to feelings of alienation, powerlessness and subsequent loss of cultural identity. Another consequence of this drastic lifestyle change was the types of diseases afflicting Māori, such as high rates of heart disease (including rheumatic fever and hypertension). Today, Māori also have high rates of incidence of cancers, mental illness and tobacco use (Reid et al., 2017, p. 148).

Psycho-social harms caused through land alienation and structural racism have left whānau physically and spiritually drained. The failure of successive governments to meet their obligations to Te Tiriti o Waitangi has severely impacted whānau health and wellbeing (Waitangi Tribunal Report, 2019; Waitangi Tribunal Report, 2021). Contemporary research programmes undertaken in Aotearoa, such as 'He Kokonga Whare: Māori Intergenerational Trauma and Healing' and 'He Waka Eke Noa: Māori Cultural Frameworks for Violence Prevention and Intervention' have highlighted the importance of understanding whānau violence as 'both the violence perpetrated by colonisation and the state upon whānau, and the violence that occurs within and between whānau members' (Pihama et al., 2019, p. 5). Intergenerational abuse within whānau has been caused through decades of deprivation inflicted by the settler state (Pihama et al., 2019; Reid et al., 2017).

Research analysis has highlighted that the policies designed and enacted by the white patriarchal settler state from the 1950s, were underpinned by epistemological racism that privileged Pākehā nuclear family practices and ways of being whilst treating whānau Māori practices as inferior and damaging. Furthermore, settler state policies supported assimilation, through land alienation and urbanisation. Several themes emerged from analysis including:

- Public, institutional and structural racism: A continued belief in the superiority of Pākehā nuclear families and child rearing practices, coupled with differential State Care treatment that negatively impacted tamariki and whānau Māori (refer to Chapter 3).

- Deliberate inaction by the white settler state to address economic, social and educational disparities facing whānau. The state publicly apportioned blame for negative social outcomes (health, justice, education and economic) to whānau Māori rather than recognise these as consequences of colonisation, land loss and cultural alienation. This is evidence of structural racism (Waitangi Tribunal Report, 2019).

- Deliberate inaction by the state to address whānau capability deprivation and 'systemic entrapment' of wāhine Māori and tamariki Māori living with whānau violence (refer to Chapter 4).

- Deliberate inaction by the State Care system to monitor 'practice' within State Care residential institutions, as well as insufficient, patchy and poor-quality ethnicity data collection are significant examples of institutional racism. This lack of appropriate monitoring, transparency and accountability demonstrates a breach of Te Tiriti o Waitangi Crown responsibilities (Waitangi Tribunal Report, 2021).

- Deliberate inaction on the part of successive governments to fully implement the 1975 Treaty of Waitangi Act and the 1988 Puao-te-Ata-Tū report recommendations and to hold State Care Departments/Ministries accountable (refer to Chapter 6).

Structural Racism within the settler State Care system

Structural and institutional racism equates to 'inaction in the face of need'. Such 'inaction can be

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“From my experience of working in various fields of nursing, heading up the Department of Social Welfare and as member of the Waitangi Tribunal, I have concluded that the cause of Māori over-representation in State Care were a likely combination of assimilation policies and urbanisation leading to loss of culture, identity and collapse of tribal life. This combined with access to alcohol which families were not able to cope with. Many people successfully made a new life in towns and cities, but some did not and were very vulnerable. I think urbanisation led to situations where people ended up separated from families, breaking down and subsequently going into State Care. There wasn't the iwi network watching out for them then. That had disintegrated. The introduction of the Domestic Purposes Benefit around the early 70s allowed this group to keep their babies. But away from tribal life they were without support and lacked skills of living needed to look after children in these urban environments. Young Māori mothers and their children and their young men were the main group at risk of being institutionalised in varying settings (Welfare homes and the Justice System). This group probably were the foundation members of the 25,000 at risk families that we identified in the Department of Social Welfare in the early 1990s. Rogernomics in the 1980s led to many Māori people who were proudly working (such as intergenerational forestry worker/s becoming unexpectedly unemployed. They were demoralised and in grief at their predicament. This came on top of the grief they carried from colonisation. The benefit cuts of the early 1990s only added further to their despair”

– Dame Margaret Bazley, non-Māori, senior public servant

conscious or unconscious; it can manifest through the deliberate intentional actions of individuals or result simply from the routine administration of public institutions that produce inequitable social outcomes' (Waitangi Tribunal Report, 2019, p. 21).

Following the diaspora of Māori from rural to urban areas during the post-World War II era, increasing numbers of Māori children were intentionally removed from their families (Stanley, 2016). From the early 1960s the settler state became aware of significant disparities between Māori and Pākehā groups (Hunn, 1961) through various reports that revealed the over-representation of Māori in offending statistics, lower educational achievement and poorer socio-economic status (Fifield & Donnell, 1980). Despite warnings of the future impact for Māori, the state was neglectful in its 'duty of care' as it failed to take adequate reparation action. Integration into Pākehā society meant whānau were now 'in a more precarious economic situation as they became almost completely enmeshed within, and thus reliant on, the settler economy' (Reid et al., 2017, p. 42).

From the 1960's, through to the 1990's, many Māori whānau were forced to give up their children often by 'well intentioned' Child Welfare staff and advocates, who were both Māori and non-Māori, unaware of the ensuing long-lasting devastating impacts to whānau (Labrum, 2002; Love, 2002; Mirfin-Veitch & Conder, 2017; Stanley, 2016). The removal of Māori children from whānau was justified as being in the best interests of the child (Mirfin-Veitch & Conder, 2017; Stanley, 2016) and through encouragement by the patriarchal settler state, white families were encouraged to foster or adopt tamariki Māori (Love, 2002).

'Good homes' reflecting Pākehā family norms were viewed as essential in terms of social progress and necessary to 'educate' Māori children and young people on simple rules of hygiene (Labrum, 2002, p. 167). The collective model of whānau with its extended, intergenerational focus was considered unhealthy and unsuitable for child-rearing. It needed to be replaced by the settler state family model with its patriarchal, nuclear and individualistic focus (Labrum, 2002; Reid et al., 2017). Educating Māori children into Pākehā ways, was seen as a way to advance the native Māori society as part of an enduring civilising mission (Reid et al., 2017; Walker, 2016). State sanctioned policies of assimilation and integration (Hunn, 1961) influenced education and child welfare practices from 1940s onwards (Walker, 1992; Walker, 2016). The superiority of the Pākehā family unit over whānau models was emphasised in academic publications at the time (Ausubel, 1961). Mikaere (2011, p. 246) cited in Reid et al. (2017) notes that, 'colonisation has always been about much more than simply the theft of land, the dissemination of an indigenous population by introduced disease and the seizure of political power, [it has always been about the intentional recreation of] the colonised in the image of the coloniser' (p. 27).

Traumatising mechanisms: The drive to 'develop' Māori people

Indigenous communities in settler states are 'subalternate' in that they are 'politically, economically and socially excluded from the power structure' (Reid et al., 2017, p. 25). The impetus to 'develop' indigenous communities and to solve their problems, is an enduring narrative of superiority and

racism embedded within settler state institutions and processes. For example, the migration of Māori families into urban settings was supported and encouraged by government economic and social policies 'to develop Māori people as a whole' (Labrum, 2013, p. 71). Previous government policies of assimilation progressed to those of integration as seen in the Hunn Report (1961). Jack Hunn and his research team were commissioned to take 'a new look at Māori affairs from every angle and invite study of the pace as well as the nature of what is being done for Māori' (Shuker, 1987, p. 13). According to Hunn (1961), integration implied 'some continuation of Māori culture' noting 'much of it, though has already departed and only the fittest elements (worthiest of preservation) have survived the onset of civilisation' (1961, p. 15). Although his assertions were criticised at the time (Biggs, 1961) integration became the state's focus. Both urbanisation and state education were viewed as key processes for ensuring Māori were assimilated into New Zealand society (Hunn, 1961). Hunn (1961) asserted there were 'broadly' three groups of Māori:

- A completely detribalised minority whose Maoritanga is only vestigial.
- The main body of Maoris, pretty much at home in either society, who like to partake of both (an ambivalence, however, that causes psychological stress to some of them).
- Another minority complacently living a backward life in primitive conditions (Hunn Report, 1961, p. 16).

Hunn (1961) believed the majority of Māori benefitted from the policy of integration, despite acknowledging some 'psychological stress'. He asserted that integration was best achieved through Māori migration into urban settings, as it enabled 'evolution' and a chance for more 'modern' groups to free themselves from their 'backward' lives (Hunn, 1961, p. 16). This confirms deliberate intention on the part of the settler state. The Hunn Report, whilst providing more comprehensive statistics in terms of the 'Māori problem', demonstrated racist and paternalist attitudes towards Māori, their culture and tikanga. In reviewing the Hunn Report, Biggs (1961) questioned Hunn's assertions regarding benefits to Māori

> Is integration as simple and polarised as the report suggests? Are the Maori who are most advanced in terms of living standards the ones who have completely abandoned their Maori institutions and vice versa? Do the backward Maori who live in isolated rural communities really provoke more of the frictions of co-existence than their city cousins who have absorbed more of the pakeha way of life? And is urbanisation the quick frictionless road to integration? If it is, why have such communities as Orakei achieved something less than complete integration after a century and more of urbanisation, and why is there so much dissatisfaction with the state of affairs among the large urban Maori population of Auckland, for example? Why in the list of Maori cultural relics are only the most obvious, even hackneyed items mentioned, while no mention is made of, for example: aroha; extended kinship obligations; attitudes to land, children, sex, rank; and other customs, values and attitudes of which long-time observers of the Maori are aware, and which are confirmed by such intensive research as has been done, research incidentally not mentioned in the report, where 'facts' are almost all figures? (Biggs, 1961, p. 362).

Despite such criticisms, the Hunn Report cemented deliberate state policies of integration particularly through urbanisation and state education. Labrum (2013) highlighted the dramatic shifts in Māori migration: 'In 1926, only 9% of Māori lived in cities and boroughs; in 1951 this figure was still only 19%; but by the mid-1970s three-quarters of the Māori population lived in urban areas' (2013, p. 70). In contrast to Pākehā families, whānau were forced to choose between their cultural beliefs and economic survival (Reid et al., 2017).

Stanley (2016) notes that for many Māori families, migration into urban areas did not result in higher wages or better lifestyles, instead children were often removed from families 'because of social disadvantage and marginalisation' (2016, p. 19). Poverty was often the precursor to the removal of tamariki Māori as many whānau found themselves

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““How is a family that has been alienated from their culture, their heritage, their whakapapa and their whanaungatanga, how are they supposed to behave? What are they supposed to do? Who’s taught them how to do this (parenting and care) well?”

– Rahera Ohia, Māori senior public servant

unemployed or on low wages. 'Families could be pushed to breaking point by unemployment, limited benefits, escalating living costs and sparse social services' (Stanley, 2016, pp 19-20). Inadequate housing, public health issues and infant mortality rates also contributed to more and more whānau coming to the attention of child welfare authorities (Labrum, 2013; Stanley, 2016). Racism fuelled the prevailing deficit views of Māori as lazy, dependents of the state, incapable of providing the right family environment for their children (Stanley, 2016).

State policies of integration resulted in whānau, hapū and iwi being further marginalised and placed in more 'precarious' economic situations (Reid et al, 2017, p. 42). Whilst acknowledging these policies improved opportunities for whānau to find better employment, housing and education, integration often resulted in low-skilled and low-paid work. The vocational focus of the education system was on providing Māori 'man-power not mind-power' (Reid et al., 2017, p. 43). From the 1960s onwards there were increasing numbers of children identified as state wards and this led to a corresponding increase of state funded residential institutions (Dalley, 1998; Garlick, 2012). The State Care system focussed on the perceived deficits of wāhine Māori and non-Māori who had pēpi born outside of marriage. Pākehā Christian shaming, particularly of Pākehā women having Māori babies meant many pēpi were put up for adoption. Within a decade, residential enrolments increased 'from 360 to 718 and existing institutions were extended to meet the demand' (Garlick, 2012, p. 63). Increasingly these facilities became 'a care option in their own right' rather than as a temporary facility prior to family placement (Garlick, 2012, p. 63). More and more whānau came under scrutiny as they struggled

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“The abuse that I was focused on (when compiling the CYPF Act) in the late 1980s was the cultural racism that essentially determined that kids had to become Pākehā in order to be seen as a success and whānau had to become Pākehā families and behave like good Christian Pākehā families even though that was the complete antithesis of who and what they are.”

– Rahera Ohia, Māori senior public servant

with constant racial discrimination and the loss of their traditional support networks (Curcic, 2019). According to Curcic (2019), daily urban life for whānau in the 1970s included at least one of the following characteristics:

> Lack of recognition, institution or everyday racism, denial of speaking te reo Māori or being able to practice cultural beliefs, economic marginalisation, domestic violence, institutionalisation in native schools and youth homes, and incarceration in borstals or prisons. Racial profiling and police arrests [also] became an everyday reality (Curcic, 2019, p 84).

Stanley (2016) highlights the dramatic growth of foster care, Child Welfare institutions and family homes were fuelled by paradigms of 'child blame' (2016, p. 5). Welfare dependents were perceived to be responsible for their own situations, given the capitalist ideologies that promoted views of the 'level playing field', individualism and individual responsibility. This again speaks to the intention and deliberate action on the part of the settler state system.

Inadequate action and inaction in the care and protection of tamariki Māori

Many have highlighted the significant practice failures by settler state funded institutions to ensure adequate care and protection of Māori tamariki and rangatahi (Becroft, 2009; Kaiwai et al, 2020) whilst emphasising the presence of severely 'abusive' State Care institutional cultures (Ernst, 1999; Mirfin-Veitch & Conder, 2017; Stanley, 2016). During the 1970s and 1980s there were increased concerns raised, particularly by Māori, about the plight of Māori children in State Care and the adverse impact of Pākehā social welfare policies (Doolan, 2005; Kaiwai et al., 2020). Stanley (2016) states that the monitoring of individual residential institutions 'was remarkably weak' (2016, p. 56). Kaiwai et al., (2020) stress that earlier 'official reports' from the 1940s – 1950s did 'consistently express the view that State Care for neglected or delinquent Māori children was inappropriate and any problems were best dealt with by working with local communities' (p. 26).

Māori resistance and rejection of state policies concerning racial integration, coupled with the call for Māori self-determination, generated increased debate about the failure of settler state social welfare policies for Māori (Kaiwai et al., 2020). Official inquiries during the 1970s-1980s revealed there were:

> High numbers of Māori children who were in State Care; there was a high rate of placement breakdown and instability; Māori children frequently were placed with non-Māori families; and Department of Social Welfare institutions were abusive and were not meeting the cultural needs of children in care (Ernst, 1999, p. 117).

Containment as opposed to therapeutic treatment

Beginning in the 1950s, Aotearoa New Zealand's Social Welfare institutions began adopting 'secure' units as a way to address the behavioural needs of children considered to be difficult or disturbed. These units are described as possessing an alarming degree of influence from the justice model in focussing on the containment rather than therapeutic practice, or care of the child (Stanley, 2016). Department manuals set out the regulations for the use of secure units from 1950 to the 1980s. However, research indicates these were vague and allowed varying practices to be adopted.

Residential worker manuals outlined secure units as places for children with particularly difficult or disturbing behaviour. However, in the absence of proper training, and a military background in lieu of social work experience, residential staff readily resorted to physical dominance and punishment as a control measure (Stanley, 2016, p. 79). Adherence to official policies on the use of secure were often disregarded and the use of secure units became common for various and unwarranted reasons. Time in 'secure' could be given as punishment for trivial acts, part of the initiation process, or simply to ease

overcrowding (Stanley, 2016, p. 123).

Contributors to Stanley's research published in Road to Hell (2016) recounted their experiences of 'secure' and other forms of corporal punishment as a humiliating and debasing introduction to institutional life. For many children, 'secure' epitomised the culture of violence within institutions through experiences of isolation and psychological abuse. For others, it sowed the seeds of institutionalisation. According to Stanley (2016), borstal secure cells were intentionally altered to add to the discomfort and degrading nature of the conditions. Kohitere Boy's Training Centre's secure units for example, were situated around a concrete yard with a wire netting roof, toilet, hand basin and bed (Stanley, 2016). In winter, all bedding was removed during the day, and in some institutions, children were not permitted to speak whatsoever (Stanley, 2016). Participants described their experiences within 'secure' as isolating and dehumanising.

The department's use of 'secure' came under international scrutiny with the release of the Human Rights Commissions 1982 report which addressed complaints made by the Auckland Committee on Racism and Discrimination (ACORD) based on their findings of cruel and inhumane treatment in Social Welfare homes. The commission was highly critical of a number of practices considered to be in breach of the international covenant on civil and political rights (Parker, 2006). Among the findings, the report highlighted that the manuals issued lacked the force of law and their contents were not widely known amongst staff (Parker, 2006).

Dr Oliver Sutherland, spokesperson for ACORD, made the following witness statements to the Royal Commission of Inquiry into Historical Abuse in State Care and in the care of faith-based institutions in 2019 in relation to the Human Rights Commission Report/Findings of 1982:

> - [58] ACORD made a complaint to the Human Rights Commission in 1979 that the state was in breach of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in relation to treatment of children by the Department of Social Welfare in residential homes. The Human Rights Commission held hearings throughout 1980 and finally issued their report in 1982 ...
>
> - [62] The Minister of Social Welfare, Venn Young, accepted that the report included some 'pretty hair-raising stuff' but criticised the process of the inquiry. Robin Wilson of the Department of Social Welfare rejected the report entirely as 'based on false complaints. Arthur Ricketts, principal of Owairaka stated that the report was 'unfair, untrue and biased'...
>
> - [65] Years later in 1996, in a published history of the Department, ex-Director of Social Work, Auckland, Robin Wilson, who had for years criticised ACORD and rejected all our complaints, was quoted by Bronwyn Dalley as saying 'Some of it was pretty indefensible ... I guess the Department shouldn't have allowed it to happen ... with hindsight a lot of what [ACORD] said was right' (Sutherland, 2019, pp. 18-21).

The state's refusal to accept its culpability, despite considerable evidence to the contrary has contributed to intergenerational harms still experienced by whānau today (refer to Chapter 4).

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“I think you can argue that we have tended to consistently under-resource the programmes that need to be in place to replace institutionalisation, whether it’s in mental health or in childcare we’ve ended up with problems because - rather than sticking people in appalling institutions like the old-fashioned mental hospitals we still haven’t had sufficient follow up care and sufficient monitoring.”

– Sir Michael Cullen, Minister of Social Welfare, 1987

Physical punishments and psychological abuse

State Care residential institutions tended to have organisational cultures of control, domination, punishment and psychological abuse. This was designed to break, divide and rule the resident populations of children and young people, of which there was an over-representation of Māori (Stanley, 2016). Although there was variability in the practice of residential staff workers, many administered and encouraged dehumanising physical punishments to affirm their control over the residents (Stanley, 2016). These were perpetrated by staff directly, or through other residents under adult supervision as a form of mob rule and affirmation of the physical dominance of the institution over its residents (Stanley, 2016). Ex-residents who contributed to Elizabeth Stanley's book, Road to Hell, recounted their experiences of being 'slapped, punched, kicked, strapped, whipped, caned, belted, hit with objects, hosed down or made to eat horrible items' (Stanley, 2016, p. 113).

The following are Dr Sutherland's witness statements to the Royal Commission relating to Owairaka Boys (14-17 years) Social Welfare Home:

> [46] Punishments were administered for misdemeanours such as being cheeky, stealing smokes, and especially for absconding. Children could be put in secure for days or weeks for persistent absconding.
>
> [47] Children were forced to do physical training or work (including mowing sports fields to the point of exhaustion) as punishment. This included running on blistered feet and being hit with a cane if they stopped (Sutherland, 2019, p. 14).

Tamariki Māori and rangatahi with disabilities, as well as vulnerable adults who were housed in State Care institutions also experienced physical, sexual and emotional abuse from staff members and/or peers (Mirfin-Veitch & Conder, 2017). Despite complaints of abuse, there was a lack of official investigation and staff members often punished children for speaking out (Mirfin-Veitch & Conder, 2017; Stanley, 2016). In addition to the general lack of care and protection from State Care institutions, the staff often lacked specific training to ensure care and protection of tamariki Māori. As well as the physical violence used as a form of control, sexual violence towards vulnerable children was also common. Stanley (2016) relays how the induction for young girls entering State Care institutions included testing for venereal disease: 'Sometimes, workers carried out inspections so roughly that they caused bodily damage' (2016, p. 63). The use of constraints and punitive control measures such as isolation/timeout boxes were common, particularly employed for children identified as troublesome or non-compliant (Mirfin-Veitch & Conder, 2017; Stanley, 2016). This lack of adequate supervision and monitoring by the state to ensure care and protection of children and young people, was against official policy (Stanley, 2016).

Stanley (2016) highlights the dramatic rise in Māori children being admitted to State Care institutions between the late 1950s through to 1980s. Citing residential statistics, Stanley noted:

> In the late 1950s and early 1960s, Māori constituted about 25% of boys in Owairaka; by the 1970s, this figure had shifted to more than 80%. In 1985, the department recorded a 78% Māori population across six Auckland institutions. Epuni, Hokio Beach and Kohitere followed a similar track (Stanley, 2016, p. 38).

Stanley (2016) reveals how the notes of residential workers were tinged with racist remarks. By inference, we can assume the racism evident across government agencies permeated into residential institutions contributing to abuse cultures.

State 'care' in such institutions served to increase incarceration rates as many tāne moved onto borstals and prisons, and wāhine graduated to mental health institutions (Stanley, 2016). Stanley (2016) uses 'Fareham House' which opened in 1944 as an example:

> Workers directed their charges to homecraft, gardening and farming, hoping they would become competent housekeepers. In 1963, Fareham House changed its intake to

accommodate just pre-adolescent girls (mainly those aged eleven to fourteen). The over-representation of Māori continued through the 1960s and 1970s, with 72% of residents being Māori in 1977. Most girls had been through other Child Welfare placements before arriving at Fareham. Officials saw them as 'of average or above-average intelligence' but that they were too 'educationally retarded' or 'emotionally disturbed' for placement in private foster homes. Most stayed for about a year and, in 1969, officials reported that over a fifth of residents progressed to a 'mental hospital' (Stanley, 2016, p. 205).

State schooling as a traumatising mechanism: Structural racism and disparities in educational attainment

The settler state schooling system from 1867 onwards has operated under racially assimilative policies that facilitated acts of structural violence and perpetuated cycles of institutional racism (Walker, 1992). Māori were prosecuted and criminalised for resisting the native school system and suppression of mātauranga Māori. According to Bull (2001), from 1897 to 1920 and beyond, government harassment of Māori through school legislation is readily discernible from justice statistics. The first charges brought against Māori for 'failing to send a child to school' appeared in 1897. From the inception of the native schooling system, tamariki Māori were restricted to manual training rather than academic endeavours. Manual training was needed to prepare them for racially defined societal roles such as agricultural labourers, domestic workers, and housewives (Walker, 1992). The state schooling system functioned to suppress Māori academic achievement and language and promote Pākehā culture (Walker, 1992). These trends have persisted across decades and are directly linked with schooling practices in State Care residential institutions.

State schooling was central to promoting policies of assimilation and integration of Māori into Aotearoa New Zealand society (Hunn, 1961). It proved a powerful tool for control and indoctrination (L.T. Smith, 1989). It is an area where institutional racism has been allowed to flourish, resulting in lower educational achievement, higher school dropouts' rates and higher truancy and suspensions rates for Māori (Bishop & Glynn, 1999; Hynds et al., 2017). Evidence highlights that tamariki Māori truanted from mainstream schools, because they found them foreign, monocultural and unappealing (Bishop & Glynn, 1999). By truanting they often found themselves picked up and incarcerated by the State Care system (Stanley, 2016). Research has highlighted the strong association between youth disengagement in education and youth offending (Becroft, 2009; McLaren, 2000). Systemic racism across the education sector was recently acknowledged by Kelvin Davis, the Associate Education Minister (Māori Education), as he launched the anti-racism school programme 'Te Hurihanganui' (Maxwell, 2020). Minister Davis pointed to the existence of low expectations of Māori students within education, highlighting that this lack of belief in Māori students and what they could achieve was systemic racism. He also highlighted the impact of streaming or banding practices within schools, positing it needed to be removed because it harmed Māori (Maxwell, 2020). Low teacher expectations restricted Māori students' opportunities to learn, resulting in their underachievement (Bishop & Glynn, 1999; Hynds et al, 2017; Walker, 2016).

“

“One Māori parent [whose son is] at Lake Alice, … his father says to the social welfare officer, ‘You treated my son like a bag of potatoes. You took him from one place to another, and we never knew where he was’. That boy had been taken from one boy’s home to another boy’s home, to another, around the North Island, and ended up at Lake Alice. The parents didn’t know that he was there. Didn’t know where he was … gets to Lake Alice … the parents never do catch up with his movements and then at Lake Alice, of course … he’s only 12 – and he’s getting shock treatment – and there’s no such thing as consent. There’s no such thing as parents being involved. So that, to me, [is as] good a case as any, to illustrate how the child is separated and torn from the only relationships that really matter in its life, which of course is with the parents and with the whānau, and the hapū, and with the iwi.”

– Oliver Sutherland, advocate for Māori

McKinley and Hoskins (2011), in a review of educational policy in Aotearoa, point to a range of state endorsed educational discourses to explain Māori underachievement. They note the 'first set of dominant discourses' emerging from research from the 1930s through to the 1960s were overwhelmingly focussed on deficit explanations for underachievement that located the 'problem' with tamariki Māori and their whānau (McKinley & Hoskins, 2011, p. 3). The Hunn report (1961) presented the extent of 'the problem' through statistical analysis, highlighting considerable gaps in Māori health and life expectancy when compared with Pākehā, disparities in educational achievement (particularly higher education), and that Māori unemployment was three times that of Pākehā. Hunn (1961) noted several interrelated problems, giving an example of a 'serious flaw' in Māori education. One was 'the lack of tuition in mathematics' particularly for Māori boys, which meant exclusion from professions such as engineering, architecture, surveying and science (Hunn, 1961, p. 26). Hunn noted that 'Maori representation at university is only about one-eighth of what it should be' (1961, p. 25). The statistical analysis that showed educational underachievement particularly in higher education clearly baffled Hunn (1961). For example, he reflected that the IQ testing which was carried out at school (resulting in children being prevented from continuing their education) was probably inadequate, and disadvantaged Māori children:

> Maori children are quite capable of absorbing education at all levels. According to teachers interviewed at Maori schools visited for the purpose of this review, the distribution of intelligence is the same among Maoris as among Europeans. Perhaps this is not borne out by intelligence tests administered to all pupils enrolling in Form III at post-primary schools, but that is probably due to the fact that the literary element of the tests related to English, not Maori language and thought. A special set of tests would have to be devised to give a true IQ rating for Maori children (Hunn, 1961, p. 23).

Hunn asserted that 'education will, in the long run, do most for the cause of Maori advancement. It is the one thing, more than any other, that will pave the way to further progress in housing, health, employment and acculturation' (1961, p. 22). This confirms how the development of Māori people in the image of the coloniser was seen as progress. However, Hunn believed the 'state of Maori education – not its quality but the demand for it' was the problem. He lamented Māori parental apathy towards education, whilst praising 'those other parents who want their children to have the advantage of a good education' (1961, p. 22).

In response, Walker (2016) demonstrates that Hunn 'did not question the moral integrity of an education system that tracked Māori away from the professions and into manual work. Nor did he see structural racism and inequality in the distribution of power as the root cause' (p. 30). Walker highlights how the underlying agenda of state education was concerned with 'subordinating Māori as an underclass of manual workers' (2016, p. 30). This again speaks to the intention of the settler state. Māori intelligence levels were tested as lower than Pākehā according to 1960s studies (Zimmerman, 1971). However, there is inherent cultural bias in intelligence tests that privilege the culture of the test designers, and the designers were not Māori. Lovegrove (1964) cited in Zimmerman (1971) noted that many studies indicated Māori children as 'less able to cope with basic intellectual and school tasks than European children of the same age' (p. 8). Lower levels of intelligence were also viewed as the reason for higher rates of delinquency among Māori. Because Māori had larger families than the typical nuclear Pākehā families, this was alleged to correlate with lower average intelligence caused by environmental factors which inhibited cognitive ability (Zimmerman, 1971). Zimmerman's reflections demonstrate the various beliefs perpetuated at the time relating to why Māori children were perceived as less intelligent than their European peers:

> At the present time there is no clear evidence to show whether it is poverty and large families, or rural location and depressed social status, or Maori inheritance patterns of child rearing or some combination of all three of these conditions, that are responsible for the type of intellectual functioning displayed by Maori children which teachers apparently

> consider restrictive, unhelpful, or countervailing (Zimmerman, 1971, p. 8).

Low expectations and negative stereotypes depicting Māori tamariki as possessing lower intelligence were plentiful in educational discourse around the 1960s. For example, Lovegrove (1966) stated 'typical Maori homes are less visually and verbally complex and less consciously organised to provide a variety of experiences which will broaden and enrich the intellectual understandings of their children' (1966, p. 34). This deficit theorising was another form of victim blaming, that taught generations of tamariki Māori that their culture was inferior to that of the white middle class (Bishop & Glynn, 1999).

Fifield and Donnell (1980) investigated trends in the socio-economic status of Māori and non-Māori over a decade, from 1966 to 1976, and how this correlated with school qualifications and employment. Their analysis showed that in 1966, 10% more non-Māori than Māori school leavers reached the fourth or a higher form, 24% more reached at least the fifth form and 25% more reached the sixth or seventh form (Fifield & Donnell, 1980). Furthermore, their analysis revealed that over 10 years this 'gap' had closed to some extent at the lower levels of education attainment but had become much wider at the higher levels. 'In 1976 only 4% more non-Māori had reached the fourth or a higher form before leaving school, 20% more non-Māori stayed on to at least the fifth form and 33% more non-Māori reached the sixth or seventh forms' (1980, p. 30). Analysis of educational attainment for University Entrance (UE) or higher in 1966, showed, the rates for Māori were 2.2% compared with 19.9% for non-Māori, in 1971 the rate for Māori was 4.3% compared with 27.8% for non-Māori, and in 1976 the rate for Māori was 5.4% compared with 29.8% for non-Māori (1980, p. 32).

Whilst for both Māori and non-Māori, the educational attainment levels increased, the gap between the two groups expanded. Fifield and Donnell (1980) demonstrated that 'in 1966, 52% of non-Māori school leavers possessed some sort of qualification, compared with 15% of Māori school leavers, by 1976, 69% of non-Māori school leavers possessed a secondary school qualification, compared with 31% of Māori school leavers' (1980, p. 32). Their analysis confirms a deterioration of educational attainment for Māori school leavers over time.

Disparities in educational qualifications of the labour force

Fifield and Donnell (1980) also examined the formal educational qualifications of the labour force for 1966 and 1971, (formal educational qualifications were not collected in the 1976 census) with a concentration on workers aged 15-24 years. They found 'the majority of both Maori and non-Maori workers aged 15-24 years had no formal qualification' (1980, p. 35). For example, in 1966, 94.6% of Māori and 74.1% of non-Māori had no formal qualification. There were slight improvements by 1971 for both groups, for example 89% of Māori workers had no formal qualifications, compared with 59% of non-Māori workers. However, the disparities were still evident between the two groups. In relation to university qualifications the widening gap was stark with non-Māori attainment almost doubling, whilst Māori attainment stayed the same at one in a 1,000 during this time period.

From their analysis, Fifield and Donnell (1980) warned, 'the relative deterioration in the position of Maori … [as compared with non-Maori] can be expected to have serious consequences' (p. 36). Thus,

they recommended urgent action by the state, noting that 'a policy commitment to promoting the social and economic advancement of the Maori people was by no means a new idea' (1980, p. 51). Despite such warnings, Māori disparities in social, economic, health and education outcomes continued, as the development and control of 'initiatives' to remedy the 'Maori problem' were insufficient lacking input and direction from whānau, hapū and iwi (Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare, 1988). Inadequate remedies (policies and practices) and deliberate inaction by the state to address the widening gaps, have been shaped by racism, both personal and structural (Cram, 2011; McKinley & Hoskins, 2011; Waitangi Tribunal Report, 2020; Waitangi Tribunal Report, 2019; Walker, 2016). State failure has had devastating, intergenerational impacts resulting in whānau capability deprivation (refer to Chapter 3).

Discussion and summary: The legacy and abuse of the 'Colonial Parent'

Research analysis demonstrates the over-representation of tamariki Māori and vulnerable adults is a direct result of the colonising settler State Care system (1950-1999) that has negatively affected generations of Māori individuals, whānau, hapū, iwi and communities. The impact was caused by the state's deliberate dislocation and disempowerment of many whānau from their ancestral lands and life-sustaining networks. Additionally, by the loss of traditional gender relationships, particularly the value and importance of wāhine Māori for collective leadership and wellbeing (Mikaere, 1994).

The state's role as 'colonial parent' has not ensured the care and protection of Māori tamariki and rangatahi, indeed document analysis has demonstrated its intentional neglect. As Judge (2017) notes, 'the New Zealand State's willingness to place children in State Care and subsequently neglect them undoubtedly constitutes systematic harm equated to state crime' (p. 37). The state's 'care' system has been a traumatising mechanism, underpinned by the structural racism that pervaded 'foster homes, family homes, religious homes, psychiatric hospitals, special needs residences, hostels, borstals and prisons among other places' (Stanley, 2016, p. 3). State Care has not produced the promised pathway to success.

Care has many meanings. According to the Office of the Children's Commissioner (2015) 'Children in the formal custody of the state are 'in care'. Care also has a more general meaning: to protect someone and provide for their needs' (p. i). The state needs to understand the quality of care and services children receive (Office of the Children's Commissioner, 2015). However, our research analysis has highlighted that patriarchy and structural racism have always underpinned the Colonial Parent's role and responsibility as 'carer'.

Māori lost their political sovereignty and have always been viewed as subordinate. They were not treated as active partners in policy making and practice monitoring to determine what constitutes 'quality care' for tamariki Māori and/or vulnerable adults in the State Care system. Dalley (1998) notes that when 'the state acted in loco parentis and took over the guardianship' of tamariki Māori there was 'scant account of Māori beliefs and practices' (p. 207). The intentional elimination and reduction of tribal institutions and their independence, coupled with the loss of ancestral lands has resulted in Māori being over-represented in negative economic and

social statistics, a cascading effect that has resulted in intergenerational harms.

The destruction of the Māori economy through land confiscations and alienation has had an enduring and devastating impact on whānau capability and capacity.

> Socio-economic determinants are a key driver of whānau vulnerability and inability to participate fully in society, with poverty being a major contributing risk factor for children. Compared to European/others, Māori are more disadvantaged on a range of economic indicators and experience poorer access to, and outcomes from, universal services (e.g., health, education). The poverty experienced by many whānau is often intrinsic to the communities in which they live. Twenty-four percent of Māori, compared to seven percent of non-Māori, live in the most deprived areas of this country (Cram, 2012, p. 7).

Research analysis exemplifies how the root causes of Māori over-representation in the State Care system are a result of enduring colonisation; the belief in the superiority of the 'mother' country (England); and the development of the settler state, its laws, institutions, policies and practices. The deliberate destruction of the cultural, spiritual and economic base supporting whānau wellbeing has produced devastating intergenerational harms (Mikaere, 1994). Institutional and structural racism within and across State Care systems is underpinned and perpetuated by the belief that Pākehā child rearing, education and justice practices are superior to Māori, and that Māori are to blame for their over-representation in negative statistics. The paternalism and structural racism evident within the settler State Care system was emphasised in interviews.

Research analysis demonstrates how successive government policies and practices have privileged Pākehā society and marginalised Māori through inadequate action and deliberate inaction, most markedly seen through State Care systematic failure. Specifically, a failure in ensuring Te Tiriti o Waitangi guides government policy and the monitoring of policies in action, particularly across the ministries with a stake in caring for Māori tamariki (such as the Ministries of Education, Social Welfare, Justice, Health, Police, Child, Youth and Family). As the ground-breaking 1988 report Puao-te-Ata-Tū noted:

> The history of New Zealand since colonisation has been the history of institutional decisions being made for, rather than by, Maori people. Key decisions on education, justice and social welfare, for example, have been made with little consultation with Maori people (Ministerial Advisory Committee on a Maori Perspective for the Department of Social Welfare, 1988, p. 18).

The state's distrust and 'lack of belief in Māori capacity' has been perpetuated by colonial, paternalistic and assimilationist policies (Stephens, 2013, p. 2). After analysing evidence related to the disproportionate effect on Māori, Judge (2017) concludes that institutional abuse and neglect was systematic in nature. 'In other words, the harms have causal roots located in organisational systems or policies of the state, despite sometimes being perpetrated by an individual' (Judge, 2017, p. 6).

Structural racism is 'inadequate action' and deliberate 'inaction' in the face of need (Waitangi Tribunal Report, 2019), and there is clear evidence that the settler state failed to address the aspirations and needs of whānau. Structural racism is embedded within the State Care system through traumatising mechanisms (Reid et al., 2017). Many state agencies are incriminated, including, but not limited to, the Ministries of Social Welfare/Social Development, Education, Health, Justice, Te Puni Kōkiri, and Police as well as organisations funded by the state to provide care (foster homes, faith-based and state-run residential faculties). The interconnectedness of failing State Care systems for whānau Māori has been demonstrated through our analysis. This failure has led to generations of pēpi and tamariki Māori being uplifted needlessly.

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“So we had a very awful attitude, as a country. And you can see paternalism in many comments in written reports. Māori kids were often picked up because they might be going to offend, not because they had offended. The longitudinal study by social welfare points out that the age when most Māori kids were taken into care was at age 13 and 14, while for non-Māori kids it was 16. One of the problems I think the state always has is that it thinks it's got a sort of a God-given right, and is always going to deliver a perfect service for a child, compared to anyone else. And that sort of arrogance, in a way, has dominated state welfare policies for a hundred years.”

– Len Cook, public servant researcher

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“They (the State) were bullish in their absolute resistance to any suggestion that they were discriminating (against Māori) or that they were unfair in the administration of the judicial system. Actually, further than that, they would attack us whenever they could.... And it didn't really matter whether it was the labour government or the national government ... back in the '70s to say these things was an absolute anathema to the system.... And people would say to me that I was a disgrace to my race for saying such critical things about the Pākehā culture, about the civilization, and about colonization.”

– Oliver Sutherland, advocate for Māori

Chapter Two

Māori over-representation in State Care

Kaore te aroha mōhukihuki ana, te pānga mai ki ahau, me he ahi e tahu.

Alas, this all devouring grief, that burns within me like a flame[13].

[13] Said by Ruhe, father of Maketū Wharetōtara, the first Māori judicial execution in 1842. Ruhe took his own life in 1865. Ministry for Culture and Heritage. (last updated 28 May, 2021) 'The first execution', URL: https://nzhistory.govt.nz/culture/the-death-penalty/the-first-execution.

Introduction

The purpose of this chapter is to examine the extent of Māori over-representation in the settler State Care system. To explore this issue, the chapter focusses on the two significant state pipelines into care, welfare notification and justice. Where possible the presentation of data indicating the placement of Māori within the welfare sector is discussed. Māori and Pākehā offending rates are compared to demonstrate links between the justice and welfare systems and the consequences for tamariki Māori.

This chapter begins with a brief overview of the legislation that led to Māori over-representation in State Care, followed by the presentation of available evidence. This chapter is presented in five parts:

- Part one examines the overall data available for children in the care and protection system for the research period.
- Part two examines the pathway to care through justice referrals and the subsequent over-representation of Māori in justice settings.
- Part three examines the over-representation of tamariki Māori and vulnerable adults in psychiatric settings.
- Part four examines the over-representation of tamariki Māori in health camp settings.
- Part five examines the over-representation of tamariki Māori in residential educational settings.

It is important that this chapter is read in conjunction with the evidence presented in other chapters within this document. The impact of colonisation, land alienation and urbanisation on Māori and the implications of State Care have been discussed in chapter one. Evidence of differential treatment of Māori in discussed in chapter three. Understanding history and the effects of colonisation, is necessary to understand how the operation of the criminal justice system has shaped Māori imprisonment figures (Jackson, 1988). In addition, understanding the social context of Māori, the history of imposed assimilation policies, and colonial forms of welfare and justice, is imperative for understanding how the settler state perpetuated social control over Māori.

The over-representation of Māori in State Care is observed when the proportion of Māori in State Care statistics exceeds the proportion of Māori in the general population for respective age groups. Where possible, considering the available data, we attempt to provide disproportionality and disparity ratios for ethnic comparisons, which take into account the differences in population structure and size (Cook, 2021).

The ethnicity classification is used as in the original publications – i.e., Māori, non-Māori, Pākehā European, non-European.

As discussed in the Introduction to this report, there are significant challenges accessing the data required to make judgements regarding Māori over-representation during the research period (1950-1999). The most significant barrier to examining the extent of Māori over-representation in State Care is the limited ethnicity data collected and reported by welfare agencies. The ethnicity of children who were placed in the custody of the Director-General of Social Welfare was not published in official departmental statistics (e.g., annual reports, statistical reports) during the research period. The implications regarding the lack of ethnicity statistics are discussed in the summary of this chapter.

Background - Governing legislation and administration of children in State Care

There were several child welfare legislation amendments and various attempted transformations by governing agencies during the timeframe of this research (1950-1999). The introduction of the Child Welfare Act 1925 and the Prevention of Crime (Borstal Institutions Establishment) Act 1924 established procedures and set the course for dealing with child welfare concerns and young offenders for the following fifty years (Dalley, 1998; Department of Social Welfare, 1980). These early legislative acts defined and enabled state involvement in the care and protection of children and young persons. Whilst the legislation was amended over the 50-year research period, social welfare and youth justice systems remained the two most significant pathways through which children came into State Care.

In 1926, the Child Welfare Branch was established under the Department of Education[14], which was renamed the Child Welfare Division in 1948. It was the principal state agency looking after children's welfare.

On 1 April 1972, the Child Welfare Division of the Department of Education merged with the Social Security Department to become the Department of Social Welfare (DSW), operating until 1999. During this time (1972-1999), the Children and Young Persons Service (CYPS) was established in the DSW as a dedicated agency to deal with (intervene in) issues relating to the welfare of children.

In 1999, CYPS became the Department of Child, Youth and Family (CYF), and from 2001 it came under the portfolio of the Minister for Social Development. CYF operated until 2017 when it was replaced by Oranga Tamariki. Between 1972 and 1999 custody of children in statutory care was the responsibility of the Director-General of Social Welfare (before April 1972, the Superintendent of Child Welfare)

Social workers implemented the functions of legislation related to child welfare and protection, and young offenders up to the age of 17 years. Issues within whānau and families came to official notice for different reasons. The DSW also handled almost all adoption orders regulated by the governing legislation at the time (Department of Social Welfare, 1980).[15]

A summary of child welfare legislation is provided in the Table 2.1.

[14] Prior to establishment the Child Welfare Division in 1926, the general welfare of children was mainly attended to by the Special and Industrial School Branch of the Department of Education (DSW, 1980).

[15] Social work before the 1974 Act (under the Child Welfare Division in the Department of Education) included similar functions; e.g. 'the guardianship of children committed by the Courts to the care of the State, the supervision of delinquent children where this is ordered by the Courts, the investigation of all complaints laid with respect to the treatment of children, reporting on all applications for adoption, the provision of casework services for parents requesting such assistance, reporting on all cases of illegitimate births, and the inspection and licensing of all institutions, foster homes, and nurseries used for the care of young children. The Division is also able to supply financial assistance to needy families with young children who do not qualify for social security benefits' (McLintock, 1966).

Table 2.1. A short overview of the legislation in child welfare and youth justice

Governing legislation	Establishment	Aims and enabled outcomes
1924 The Prevention of Crime (Borstal Institutions Establishment) Act		Borstal sentencing 1924-1981. The act allowed slightly older offenders (15-21) to be detained for 1-5 years with the goal of reform. Borstals included a graduated rewards system and provided occupational training.
1925 Child Welfare Act	**1925** • Children's Court	The Act was aimed to emphasise care rather than severe punishment of young people under 16.
1954 Criminal Justice Act		Enabled a wider range of penalties if Children's Court ordered a young person 15-years-and above to be brought before a Magistrate's Court for sentence or decision
	1954 • Juvenile Crime Prevention section of the Police (Youth Aid Section from 1969)	Aimed to divert offenders under 17 away from the Children's Court. Alternatives to prosecution included a police warning or informal Child Welfare supervision. Non-prosecution was likely to be applied to first offenders and those with less serious offences (Donnell & Lovell, 1982).
1961 Crimes Act		Enabled Youth offenders (16–21) to be sentenced to detention centres for three months of boot-camp style activities.
1974 The Children and Young Persons Act	**1975** •Children's Board[16] •Children and Young Persons Court	The intentions as indicated in the preamble: 'An Act to make provision for preventive and social work services for children and young persons whose needs for care, protection, or control are not being met by parental or family care and who are, or are at risk of becoming, deprived, neglected, disturbed, or ill-treated, or offenders against the law' (DSW, 1980, p. 10).
1989 The Children, Young Persons, and Their Families Act (from 2017 Oranga Tamariki Act)	• Family/Whānau Agreements as an informal type of intervention • Care and Protection Family Group Conferences • Youth Justice Family Group Conferences • Youth Court (offending of 14-17) • Family Court (offending of ≤13; care and protection)	The Act intends to minimise the involvement of young persons in the formal justice system (i.e. court appearances) by settling welfare or offending related issues in Family Group Conferences. Intention to give a priority for children to stay within whānau instead of formal departmental care.

> "There is nothing in the (Children, Young Persons and Their Families) legislation of 1989 that should have let something like that happen again (children being taken off their whānau) unless in exceptional circumstances, but it happened as a matter of course, and it's because people believe themselves to have the right to judge Māori people and then take their kids away from them. If that is not abuse, I don't know what is."
>
> **Rahera Ohia, Māori senior public servant**

During the 50 year time period three legislative provisions, The Child Welfare Act 1925, Children and Young Persons Act 1974, and the Children, Young Persons and Their Families Act 1989 modified the care proceedings by which children came into the custody of the state.

Child Welfare Act 1925

Those children, who were committed to the care of the Child Welfare Superintendent by Children's Court under the Child Welfare Act 1925, were referred to as 'State Wards' (Clerk of the House of Representatives, 1950).

- The reasons for children being committed to the care of the Superintendent included:
  (a) complaints laid against the parent(s) or official guardian(s) of the child under the Child Welfare Act 1925 (including indigent, neglected, living in a detrimental environment, not under proper control, delinquent, failing to comply with the terms of a supervision order), and
  (b) charged with an offence.

- The 1950 report reveals that 76% of 'State Wards' committed to care (total 431) were due to a complaint under the Child Welfare Act 1925 and 24% were charged with an offence (Clerk of the House of Representatives, 1950).

- Additionally, the Children's Court may have placed a child under supervision of a Child Welfare Officer and order the child to spend time in an institution or be committed to Borstal.

- Children were also admitted to institutions or taken under the control of the Superintendent because of a voluntary agreement with the parents or guardians.

- Children with special needs (such as vision and hearing impairment and/or learning difficulties, referred to as 'backward' children) were placed in special schools, also under the supervision of the Child Welfare Division.

Children and Young Persons' Act 1974

After the 1974 Children and Young Persons Act there were several routes for a child to come into the care/custody of the Department of Social Welfare as explained by Mackay (1981, p. 3):

- The majority are placed under the guardianship of the Director-General of Social Welfare by order of the Children and Young

[16] 'Introduced in 1975, Children's Boards are non-judicial bodies which provide an opportunity for a child and his family to freely discuss an alleged offence or any other aspect of family life in a confidential and supportive setting. Often cases can be resolved without needing to be referred to the Children and Young Persons Court. Each Board consists of a member of the Police, Department of Social Welfare, Department of Maori Affairs and a member of the community' (Department of Social Welfare, 1980, p. 12).

Persons Court, because the court considers either that the child is in need of care and protection, or that the child's behaviour is so difficult or disturbed that he or she cannot be effectively managed in his or her usual home.

- There are also a number of children in the care of the Department by agreement with the child's parents, under the provision of Section 11 of the Children and Young Persons Act 1974.

- The Department also provides temporary care for children who are remanded in custody by the courts, usually while their long-term needs are assessed, pending a final decision by the courts.

Until 31 October 1989, children under the Care and Control of the Department or 'Children in Care' (n=3,287) included three broader categories (Department of Social Welfare, 1990):

- Children Under Guardianship of the Director-General by Court order 70%

- Children Under Care by Agreement (with parents) 13%

- Children in Temporary Care (court remand, postponements, warrants, etc.) 17%

Additionally, 'Persons under Social Welfare Supervision or Oversight' (n=3,298) included the following categories (Department of Social Welfare, 1990):

- Children under supervision by Court order 44%

- Children receiving supportive service 34%

- Infants supervised in private foster homes licensed under the Children and Young Persons Act 1974 0.2%

- Adults receiving supportive service 22%

The corresponding figures for tamariki Māori were not available, although the subsequent review of available ethnicity data suggests that a high proportion of these children were likely to be Māori.

Children, Young Persons and Their Families Act 1989

While the Child Welfare Act 1925 and the Children and Young Persons Act 1974 mainly prioritised the protection of children, the 1989 Act emphasised the preservation of the family unit, the recognition of children as members of a family group and the importance of this to the child's wellbeing (Cockburn, 1994). The 1989 Act intended to minimise the involvement of children and young persons in the formal justice system (i.e. court appearances) by resolving welfare or offending related issues in Family Group Conferences (FGCs).

Care and Protection Family Group Conferences (dealing with welfare issues) and Youth Justice Family Group conferences (dealing with offending) were established to make decisions and plans with whānau and prevent court proceedings. The 1989 Act intended to divert care and protection cases from the courts where possible. When necessary, the Family Court could decide on emergency actions to protect a child. Cases not resolved at FGC would proceed to court. Care and protection issues and offending by children (13-years and under) would be dealt with in the Family Court; offending by young people aged between 14-17 would be handled by the Youth Court (Dalley, 1998; Department of Social Welfare, 1994; Taumaunu, 2014).

Since the 1989 Act, statistical reports of children in care has varied considerably. From 1972 until the end of 1994, reports included data on the number of children and young persons under the care, custody or guardianship of the Director-General (Department of Social Welfare, 1994). From 1995 the statistics were focussed on the number of children for whom Court orders were completed (including FGC plans). These orders usually involved the custody or guardianship of children and young persons, and the provision of ongoing support or services by CYPS (Department of Social Welfare, 1996). Further changes were made from 1997 onwards in the categorisation and collation of orders thus preventing comparisons with the previous years (Department of Social Welfare, 1997). Official statistical reports did not include ethnicity information. Some ethnicity data was available in a small number of research reports.

Part One: Care and protection

This section examines the data available regarding the placement of children, particularly Tamariki Māori, into State Care during the research period 1950 - 1999.

Placements of children in State Care

Private foster homes were the most common placements for children and young persons in the care of DSW (Department of Social Welfare, 1980). Over the years, the proportion of children in foster placements has ranged from 40-50% of all children in care (Mackay, 1981).

Social Welfare Today (Department of Social Welfare, 1980, p. 13) provides a description of other departmental placements. National and district institutions are intended for longer term rehabilitative training or short-term care for assessment, brief education and training, and placement in the community. Places are provided for children needing temporary care, children on remand from court, and children who may need comprehensive training over a period of many months. There are four main groups of residences:

Family Homes Established in the 1950s to cater for children who were considered difficult to foster but for whom an institutional placement was unsuitable (Mackay, 1981). Managed by foster parents and accommodating about six children at the time; children attended ordinary schools. There were about 150 departmental family homes in 1980.

Boys and Girls Homes Providing short-term training, assessment services and remand facilities (in secure units) for boys and girls aged 10-16 years. Schooling is generally provided on the premises, but some attend local schools.

Reception Centres Providing short-term care for small children, some of whom may be disabled.

Long-term Training Centres National institutions providing long-term training programmes from eight to 18 months. Schooling is provided on the premises and there are special remedial programmes designed to help the children for their return to the community. Most centres have some secure facilities. There were seven long-term training centres in 1980.

The number of institutions managed by the DSW has varied over the 50-year period of this research. In the early 1980's the number of institutions peaked at 26 (Dalley, 1998).

Children who experienced behavioural problems, were disabled or in need of a special education programme were accommodated in a wide range of residences operated by the DSW (or in Special Schools run by the Education Department). The DSW (Child Welfare Division before 1972) was in charge of inspecting and cooperating with children's homes and homes for children with special needs run by voluntary organisations.

In March 1950, there were 74 children's homes administered by private organisations and registered under the provisions of the Child Welfare Amendment Act 1927 (Clerk of the House of Representatives, 1950).

In 1979, there were 57 voluntary organisations providing residential services (with capacity varying from six to 60 children); the majority were administered by faith-based organisations (e.g., Anglican Trust for Women and Children, Catholic Social Services, Presbyterian Social Services, Salvation Army Social Services) (Department of Social Welfare, 1979). Children could also be placed at home with their own families on a trial basis, or with relatives, while they were in the care of the DSW.

An overview of children's placements into State Care is presented in the following table (Table 2.2)

The DSW 1979 annual report shows that approximately 80% of children in care (placement of children under the care and control of the Department) were living in the community (in foster homes, in family homes, with their own families or with relatives), whilst approximately 20% were in institutions (Mackay, 1981).

Table. 2.2. Placement types of children in State Care

Children as			
In need of care and protection	**Young offenders / delinquents**	**In need of mental health care**	**In need of special education**

Placements of children in care	
Community • Foster homes • With parents for trial period • With relatives or friends • Probation • Attending university or teachers' college • Absent without leave from a placement [missing child]	**Institutions** • Residences: - family homes - boys' and girls' homes - reception centres - long-term training centres • Private institutions/Voluntary agencies • Department of Education special schools • Hospitals • Psychiatric hospitals and psychopaedic hospitals • Borstal and detention centres • Police custody

Instability of placements

Acknowledging the frequency with which children's placements were likely to change over time is important when examining the data.

Mackay (1981) studied children placed into care in Aotearoa New Zealand in 1971. He found that each child had on average 6.5 placements over the five-year follow-up period. The high turnover rate was most evident in foster placements, on average a foster period lasted about nine months. Mackay (1981) noted in his research that home placements appeared to be the most frequently used placements. Sixty percent of the children were placed at home with their natural parents at some time during the five-year period. Fifty five percent of the children experienced foster placement, 40% experienced DSW family homes, and 50% experienced DSW girls' and boys' homes. Approximately a quarter of the children (24%) transited through the DSW long term training centres/national institutions, which were usually reserved for children considered to be difficult to manage in the community.

Similarly, research by Von Dadelszen (1987) demonstrates a large number of changes in placements for girls aged 15-16 years under the guardianship of the Director-General of Social Welfare in 1985. On average, the girls experienced 10 changes of caregivers/living situations and each girl experienced living with five distinct families. The maximum number of distinct families reported for any girl was 16. These included natural, extended and foster families as well as DSW family home foster parents. Most of the girls (79%) had experience of living in an institution at some time in their lives, with a maximum of seven institutions experienced by one girl. Thirty percent of the girls were placed in Weymouth and Kingslea girls' homes. Fifty-six percent of the girls resided in boarding schools, hostels and other private institutions. Over half of the girls (58%) had stayed in a DSW regional or national institution at some time.

Foster homes were used mainly for long-term placements. Family homes and girls' and boys' homes were generally used for short-term stays. Table 2.3 presents MacKay's data indicating the types of placements experienced by children in care. The first (short-term) placement and the first (long-term) placements arranged for children show a notable age differentiation.

Younger children were more likely to be placed in a foster home as their first long-term placement (85% of 0-3-year-olds and 71% of 4–9-year-olds, compared with only 25% of 10-17-year-olds). A DSW short-term institution was the first placement for 63% of older children (10-16 years). Twenty six percent of older children were placed in an institution for long-term placement (e.g. Kohitere or Kingslea described as training centres by DSW, but commonly referred to as detention centres by survivors).

This indicates that older children were more likely to be placed in institutionalised environments and younger children were more likely to be placed in foster homes. Corresponding figures specifically for Māori were not presented in the research report.

Research indicates that after the end of a five-year period (from the guardianship order in 1971), 46% of the children were still in care. Approximately 90% of children aged 2-9 years (at the time of the care order) were still in care five years later (Mackay, 1981).

Mackay (1981) found a large proportion of children progressed from the care of DSW to the care of the Justice Department (in custody, under supervision or on probation). Twenty percent of the children in the original sample (and 37% out of all children who were no longer in care five years from the care order in 1971) featured later in the justice system. The data for children aged 10-17 years, demonstrates that a larger proportion ended up in the judicial system. 'These are sobering figures. A third of all children (32%) who came into care aged 10 or more, and 60% of all boys of this age, passed eventually into the hands of the Justice Department' (p. 79).

Table 2.3. Types of placements experienced by children in care (Mackay, 1981)

Age	First Placement	First Longterm Placement
10-7	**63% DSW short term institution** **15%** Foster home **15%** Family home **2%** Other institutions	**26% DSW long-term institution** **25% Foster home** **10%** Family home **12%** Other institutions **7%** Natural parents
4-9	**11%** DSW short-term institution **57% Foster home** **20%** Family home **9%** Other institutions	**71% Foster home** **11%** Other institutions **7%** Natural parents
0-3	**4%** DSW short term institution **79% Foster home** **7%** Family home **6%** Other institutions	**85% Foster home** **2%** Other institutions **6%** Natural parents
All	**42% DSW short-term institution** **35%** Foster home **14%** Family home **4%** Other institutions	**17% DSW long-term institution** **45% Foster home** **7%** Family home **10%** Other institutions **6%** Natural parents

Note. Short-term = from two weeks up to three months; long term = three months or more.

Children placed in State Care 1950 - 1999

There are several reports that have attempted to estimate how many children were placed in State Care during the period 1950 to 1999. The Report of the Committee to Review the Children's Health Camp Movement (Hancock, 1984) presented data for 1980[17]. The report notes that approximately 20,000 children lived away from their parents for one month or more each year and 11,555 of these lived away from their parents for longer than a year (p. 39). These children were in substitute care (defined as 'looked after by other than biological parents, relatives or friends') or in a range of facilities under 'state oversight'. Facilities included family homes, hospitals, boarding schools and other institutions. The following table presents an overview of children in substitute care in 1980. The total data for ethnic groups was not provided. However, ethnic distribution for some categories was presented (see Table 2.11).

Table 2.4. Facilities and number of children in substitute care in 1980

Facilities	No. of Facilities	No. of Children Involved	% Boys	% Girls
Family Homes	245	1,350	55%	45%
Foster Home Programmes (Boys/GirlsHomes, Training Centres, Hostels, etc., Permanent Children's Health Camps)	56	3,120	53%	47%
Institutions	77	2,900	61%	39%
Hospitals (Special Children's units)	15	700		
Boarding Schools	104	11,500	65%	35%
Total no. of children in substitute care		19,570	64%	36%

Source. Hancock (1984)

[17] 'The data was based on the research work undertaken by Mr R Prasad, Senior Lecturer in Social Work, Social Work Unit, Department of Sociology, Massey University.

There are many inconsistencies in the collection of data relating to the number of children placed in State Care. Analysing data and sources available to him, Cohen (2011) uncovered a variation in estimates: 'officially, 130,065 admissions were processed nationwide in the 40 years to 1990. Ministry of Social Development gives the number of individual admissions during the same period as 106,985' (p. 268).

Similar estimates indicate that over 100,000 vulnerable children and adults were placed in children's homes and mental health institutions between 1950s and 1980s (Human Rights Commission, 2017, Stanley, 2017).

MartinJenkins Ltd (2020) estimates larger cohorts of young people experiencing State Care. During 1950 and 1999, 67,566 individuals were estimated to be in youth justice and 163,000 in other social welfare care settings, a total of 178,443. Table 2.5 presents this data by decade.

While the MartinJenkins (2020) report received criticism in the media, the peer review by Barry and Campbell (2020) concluded that the methodologies applied for estimating the cohort size of people in care and number of survivors of abuse in care, were fit for purpose. However, they noted the impact of the lack of data on the level of confidence in the results and suggested the estimated numbers only be regarded as indicative of potential total cohort size in care. Acknowledging the data challenges faced by MartinJenkins, Barry and Campbell (2020) concluded:

> There is inevitably a wide range of uncertainty around any estimates of the cohorts and of the numbers of survivors of abuse. Indeed the 'true' number of people in care and the number of survivors of abuse over the last seven decades may never be known with any degree of precision (p. 5).

The cohort size of Māori in care was not estimated in the Martin Jenkins report due to the scarcity of demographic information in the available data. Cook (2020) criticised the report, identifying the omission of Māori experiences in State Care as a huge failing. Cook's (2020) criticisms of the draft report included:

> Māori are not identified separately in the results of the calculations. Given the known disproportionate connection of Māori children with child welfare, as well as psychiatric institutions, the glossing over of these differences is a huge failing of the MJ report. The requirement for an ethnic analysis has not been

Table 2.5. Cohort of people within Social Welfare care settings, 1950 to 1999

Summary by decade	1950s	1960s	1970s	1980s	1990s	Total
Youth justice	**1,195**	**5,248**	**22,537**	**24,843**	**13,743**	**67,566**
Other state-wards	**16,068**	**20,130**	**33,277**	**26,735**	**14,667**	**110,877**
Total numbers of state-wards (cohorts)	**17,263**	**25,377**	**55,814**	**51,578**	**28,410**	**178,443**

Source: MartinJenkins Ltd (2020, p. 27). Youth Justice included institutions administered by DSW (Child Welfare Division pre-1972) or by the Department of Justice. The decline in cohort numbers in the 1990s is more likely to be due to incomplete data, rather than a signal of a policy or operational change.

attempted (L. Cook, personal communication, April 14, 2021).

As indicated earlier, there were challenges gathering ethnicity data for the research period, however all attempts were made to source literature (research and statistical reports) relating to the experiences of tamariki Māori and vulnerable adults within State Care. In the next section, the available literature containing statistics and discussions of the over-representation of tamariki Māori in State Care from 1950 to 1999 is summarised.

Over-representation of tamariki Māori in Care and Protection/ Child Welfare

The data collation and literature scan regarding Māori over-representation in State Care included two main settings:

- Care and Protection/Social welfare
- Youth Justice/Borstals

Additional information was collated from available sources in educational care settings (special residential schools), health care settings (health camps) and mental health settings (psychopaedic or psychiatric institutions). Early statistics with total numbers of children in State Care (i.e. under the care and control of the DSW) were published in the DSW annual reports and/or Statistics New Zealand Annual yearbooks. However, these statistical overviews did not contain ethnicity data and references to the number of Māori children placed in State Care were sparsely referenced in the literature. For example, referring to unpublished statistics by DSW, Craig and Mills (1987) highlighted:

> 'the Department of Social Welfare does not routinely collect information on the ethnicity of children taken into its care but in the year ended 31 December 1984, 51% of the 1,368 children coming into care of the Department of Social Welfare were Maori' (p. 36).

Interestingly, ethnic breakdown was available primarily for Youth Justice related statistics. That ethnicity data was collected in justice indicates there was no reason why ethnicity could not have been collected by other government agencies. That the state determined it more important to collect ethnicity statistics in justice rather than in care settings is particularly concerning.

Several research reports published in the 1970s and 1980s discuss the ethnicity of the children placed under the guardianship of the Director-General of Social Welfare, providing some indication of the over-representation of Māori in State Care.

Tamariki Māori in care - 1970s to 1980s

The Department of Social Welfare (DSW) undertook research on the characteristics and family backgrounds of children who came into the care of the DSW via a court order in the 1970s (Mackay, 1981). The research reviewed case histories of 654 children randomly selected from a national sample of 1175 children, placed under the guardianship of the Director-General of Social Welfare by the Children's Court in 1971. As described previously, these children were considered by the courts to be in need of care and protection or as displaying difficult or disturbed behaviour. After the care order, the placement trajectories of the children in the sample were followed up over a five-year period. District social workers collected and compiled the data after the five-year follow-up period between March 1977 and April 1978.

Table 2.6 presents the percentage of children in care in 1971 by ethnicity. While Mackay (1981) acknowledged the ethnic classification was not entirely identical to the census (although similar), he emphasised that 'Maoris are overwhelmingly over-represented in our sample, comprising more than half of the children' (p. 20).

The figures suggest that the proportion of Māori in State Care was four times higher than would be expected in relation to the overall NZ population.

At the time there was a notable over-representation of ex-nuptial children in the sample which was identified as a risk factor for coming into care. This tendency was more explicit for Māori children. Thirty percent of Māori children in the sample were born 'out of wedlock' in comparison to 18% of European children. Explanations of differential treatment for wāhine Māori in the State Care system are explored in chapter three. It is likely the social stigma of illegitimacy at the time, the lack of support for single mothers by the state, and the impact of urbanisation on whānau structures meant these mothers were vulnerable to state welfare surveillance at the time.

Table 2.6. Ethnic origin of the children in care by guardianship order in 1971

	Children in the Sample (n= 654)	0–14-year-olds in 1971 Census
Full European	**39.0%**	**80.9%**
Māori or Part Māori[18]	**53.1%**	**12.3%**
Pacific Island Polynesian	**3.7%**	**2.4%**
Other Ethnic Group	**4.3%**	**3.4%**

[18] Persons with more than half Māori parentage and the balance European were coded as Māori, while persons with some Māori parentage, but less than half, and the balance European were coded part Māori.

The report highlights the high prevalence for a child's or family's previous history to be noted with official agencies. For example, 94% of the children or their families had come to the notice of official agencies prior to the occasion which resulted in the care order. It appears that European children were more likely than non-European children to have come to authorities' notice for misbehaviour and inadequate home conditions. However non-European children came more frequently to official attention for offending prior to the care order (see details in Table 2.7).

Mackay assessed the reasons for courts' decisions to take a child into care (in 1971) based on the child's files. Three outcome categories were identified: offending by the child, misbehaviour by the child, and inadequate conditions in the child's home. It is important to note that while courts would have considered the child's previous history at the time, this may not have been available or compiled with the level of detail reported in the research project.

The results parallel the previous history of official contacts prior to the current care order in table 2.8

> Children of non-European ethnic origin were also more likely than European children to be taken into care on account of offending behaviour. This is in keeping with the higher levels of offending among non-European children observed prior to the care order (Mackay, 1981, p. 56).

This indicates the most likely pathway into care for Māori children was via the justice system. Racism in the police and differential treatment through the justice system for Māori youth is well documented in the literature (Workman, 2016). This is explored further in chapter three.

Table 2.7. Proportion of children who had come to official notice prior to the care order by ethnicity

	European (n=255)	Non-European (n=399)
For offending	**32%**	**47%**
For misbehaviour	**43%**	**34%**
For inadequate home conditions	**74%**	**65%**

Note. 'Non-European' was used in the original reporting of this data (Mackay, 1981, pp. 43-47).

Table 2.8. Overall reason for the care order in 1971 by ethnic origin

	European (N=255)	Māori or part Māori (N=347)
Offending	**21%**	**37%**
Misbehaviour	**22%**	**18%**
Home conditions	**58%**	**45%**

Note. 'Maori or part Maori' was used in the original reporting for this data (Mackay, 1981, p. 56).

Placement in the Intensive Foster Care Scheme (IFCS)

Subsequent research and evaluation conducted by the DSW, examined the outcomes of the Intensive Foster Care Scheme (IFCS or the scheme) initiated by the DSW and New Zealand Foster Care Federation in 1979 (Mackay, 1988; MacKay, McArthur & Von Dadelszen, 1983; Von Dadelszen, Whitney & Walker, 1988; Whitney, Walker & Von Dadelszen, 1988).

The scheme was a four-year social work programme piloted in Auckland and Christchurch with the aim of providing enhanced foster placements for those children defined as difficult, who would not normally be eligible for foster care. Differences between the scheme and traditional foster care included: foster parents were expected to have particular characteristics to be able to cope with children described as more 'difficult' or 'demanding', they were expected to undertake training before the start of the placement and participate in regular support group meetings during the fostering. Additionally, they were paid higher board rates (double the standard rate) and a one-off payment prior the placement (MacKay et al., 1983, p. 2).

Mackay (1988) examined the ethnicity of the children in different types of DSW care. For comparative purposes, information was collected for a sample of children in other placements commonly used by the DSW for similar age groups (7 to 14 years) while the scheme was operating. These placements were:

- conventional foster placements (CF)
- family home placements (FH)
- home placements (HP)
- placements in national institutions (NI)

Comparable information was collected about the children placed in

- the intensive foster care scheme (IFCS) itself.

A summary of data on ethnicity distribution within DSW placements is provided in Table 2.9. With the exception of IFCS, Auckland placements were characterised by a higher proportion of Māori children. Christchurch placements had more European children.

The most marked ethnic differences in the Auckland sample appeared for the placements in national institutions (62% Māori versus 19% European), conventional foster care (61% Māori versus 28% European) and departmental family home (52% Māori versus 34% European).

Mackay (1988) noted this would be expected due to the ethnicity of population of the two cities, with many more Māori/part Māori and Pacific Island children in Auckland. Nationally, around 12.5% of the age group 5 to 12 years was Māori in the 1981 census (Hancock, 1984).

Table 2.9. Ethnic distribution within DSW placements

	Auckland (n=158)		Christchurch (n=173)		Total (n=331)	
Placement Type	European/ Pākehā	Māori-Part Māori	European/ Pākehā	Māori-Part Māori	European/ Pākehā	Māori-Part Māori
Conventional foster care (CF) n=122	28%	61%	64%	30%	46%	45%
DSW family home (FH) n=56	34%	52%	72%	22%	54%	38%
At home on H status (HP) n=52	35%	48%	48%	45%	42%	46%
National institutions (NI) n=47	19%	62%	62%	31%	43%	45%
Intensive foster care scheme (IFCS) n=54	54%	42%	83%	17%	70%	28%

Source: Mackay (1988). IFCS placements in Auckland were between November 1979 and June 1983, and in Christchurch between May 1980 and March 1985. Other placements in Auckland ranged between April 1982 and Oct 1983, and in Christchurch between April 1982 and July 1984.

However, despite a higher concentration of Māori and Pacific populations in Auckland, IFCS was used most often for Pākehā/European children. The Auckland and Christchurch samples together show nearly three-quarters of children in the scheme were Pākehā/European (70%).

Foster parent questionnaires reveal that most of the foster parents recruited in the IFCS scheme were Pākehā (95%). This was a higher proportion than Pākehā parents in conventional foster placements (79%) (MacKay et al., 1983). In other words, conventional foster placements had more parents of Māori or Pacific Island background than the scheme placements. There were no noticeable differences in the age of foster parents across both groups (average age about 40 years old).

Foster parents, both in the scheme and in conventional foster care, expressed no preferences concerning the sex of a foster child. However, there were notable differences in preferences with respect to the ethnicity of the child. There was a stark difference between the preference for European versus Māori children among the IFCS scheme foster parents (38% versus 11%) than among conventional foster care parents (13% versus 10%). Seventy-seven percent of the conventional foster care parents did not have an ethnicity preference for the child, compared to 57% of the scheme foster parents. More than a quarter of the scheme parents preferred to foster only Pākehā children.

Table 2.10. Foster parents' preferences as to the ethnic 'origin' of the child

	IFCS Placements (n=56)			Conventional placements (n=70)		
	European child	European child	No Preference	European child	European child	No Preference
By foster mothers	39%	10%	58%	8%	8%	85%
By foster fathers	36%	12%	56%	19%	13%	68%
Total	38%	11%	57%	13%	10%	77%

Source: MacKay et al. (1983, p. 68)

The interim report on the scheme (MacKay et al., 1983) reveals social workers' conclusions that 'this type of fostering was not generally suitable for Māori or Polynesian children, as it was primarily a middle-class Pākehā scheme' (p. 132). Whilst the recruitment procedure of foster families was not entirely clear from the reports, it was noted that social workers made the final decision about which foster families to accept.

None of the reports covering the scheme offered explanation for the low numbers of Māori children in intensive foster care or why Māori foster families were not recruited for the scheme. Cultural training did not appear to be part of the preparation. The foster parents' questionnaires included questions to assess skills, confidence and knowledge about dealing with children's behavioural and developmental issues as a result of the training; however, cultural skills or knowledge were not evident. This supports other findings that placement assessments were monocultural and dominated by Euro-centric social work practices (see chapter seven).

Pākehā children were targeted for the Intensive Foster Care Scheme (IFCS) which included better training and payment for foster parents. It would be expected that all ethnic groups would be considered equitably within the programme's aims: 'the scheme was aimed at a target group of 'severely disturbed' children who would not normally be candidates for fostering in that they 'require more care than is currently available and who would normally be placed in institutions' (Mackay, 1988, p. 1). However, the data clearly shows that Māori did not receive similar access to IFCS and that such schemes were not designed for Māori foster parents, or Māori tamariki.

The data from studies by MacKay and colleagues (1983) demonstrates that Māori children were more likely to be placed in residential care or conventional foster care and less likely to receive intensive support. Furthermore, they were more likely to be discriminated against in placement. This data, in line with other findings, demonstrates Māori were over-represented in State Care institutions other than IFCS.

As mentioned previously, the Report of the Committee to Review the Children's Health Camp Movement (Hancock, 1984) published national ethnicity data for children in substitute care (defined as 'looked after by other than biological parents, relatives or friends) in 1980[19]. The data is presented in table 2.11.

[19] The data was based on the research work undertaken by Mr R Prasad, Senior Lecturer in Social Work, Social Work Unit, Department of Sociology, Massey University.

Table 2.11. Ethnic background of children in substitute care, 1980

	European	Māori	Pacific Islander	Other
In institutions	68%	28%	3%	1%
In family homes	71%	24%	4%	1%
In foster homes	72%	15%	11%	1%

Source. Hancock (1984).

This data indicates that Māori were proportionally placed in institutions (28%), followed by family homes (24%) and then foster homes (15%). The 1981 census showed that around 12.5% of the age group five to 12 years was Māori (Hancock, 1984), suggesting an over-representation of tamariki Māori in these placements.

The data indicates that Māori were more likely to be placed in more restrictive institutional environments, and European and Pacific children were more likely to end up in foster placements.

Von Dadelszen (1987) conducted research on behalf of the DSW of 15–16-year-old girls living in five main urban areas (Auckland, Hamilton, Wellington, Christchurch, and Dunedin). The girls were under the guardianship of the Director-General of Social Welfare in 1985. Of the 239 girls in the study, 37% were Pākehā, 51% were Māori and 12% were from other ethnic groups (primarily of Pacific Island origin). This data indicates Māori girls were significantly over-represented. While the ethnic breakdown per placement was not reported, at the time of the study 25% of the girls lived at home, 35% in private foster homes, 8% were placed in DSW family homes, and 20% were residing in institutions (boarding school or hostel, DSW regional or national institutions, private institutions and psychiatric hospitals).

The targeting and consequent over-representation of wāhine Māori in the State Care system supports evidence of racism through the assimilationist policies of the settler state that impacted wāhine Māori (Mikare, 1994).

The next section explores the ethnic composition of residential institutions administered by the DSW.

Over-representation in residential institutions

Residential institutions comprised a much smaller proportion of all children in care than foster care placements, (e.g., 29% of all state wards were in institutions in 1972; 20% in 1979). The Human Rights Commission (1992) noted, 'Department of Social Welfare operates residences for young people 'experiencing emotional difficulties or who are difficult to manage or whose offending cannot be managed with less intrusive controls' (p. 4).

Craig and Mills (1987) noted that older children were more likely to be placed in institutions. For instance, in 1984, 22% of 9-year-old State Wards were placed in residential institutions, the proportion increased to 47% for 14-year-olds. As children aged, issues related to care and control became more visible and there were fewer foster placements available, which increased the likelihood of institutional placements for older children (Craig & Mills, 1987).

The number of residences increased in response to a growing number of state wards and young people on

remand from the 1960s until the late 1970s. Stanley (2016) asserts the increased institutionalisation and harsh environments were a product of the highly punitive political climate when 'there was a real moral panic about youth delinquents' (p. 51). This is discussed further in chapter seven.

In 1948, the Child Welfare Division administrated 17 residential institutions; in 1972 there were 20, including five for long-term residences (Dalley, 1998).

The Education Department's special schools, Campbell Park, Otekaike (until 1987) for boys, and Salisbury in Nelson for girls in need of specialist care, were also used by Social Welfare. Gradually more institutions were established, mainly assessment and short-term remand facilities. By early 1980 there were 26 institutions run by the Department of Social Welfare (Dalley, 1998). However, by 1989 only nine institutions were still operating (Parker, 2006). In 1992, there were four residences remaining: in Auckland (Weymouth), Wellington (Epuni), Christchurch (Kingslea) and Dunedin (Elliot Street) (Human Rights Commission, 1992).

The data kept by residential institutions varied greatly across settings. In many cases there is no available ethnicity data for the children in residence, particularly prior to the 1980s. This research reviews the available literature providing information on the ethnicity of children kept in national institutions/ long-term training centres' residents.

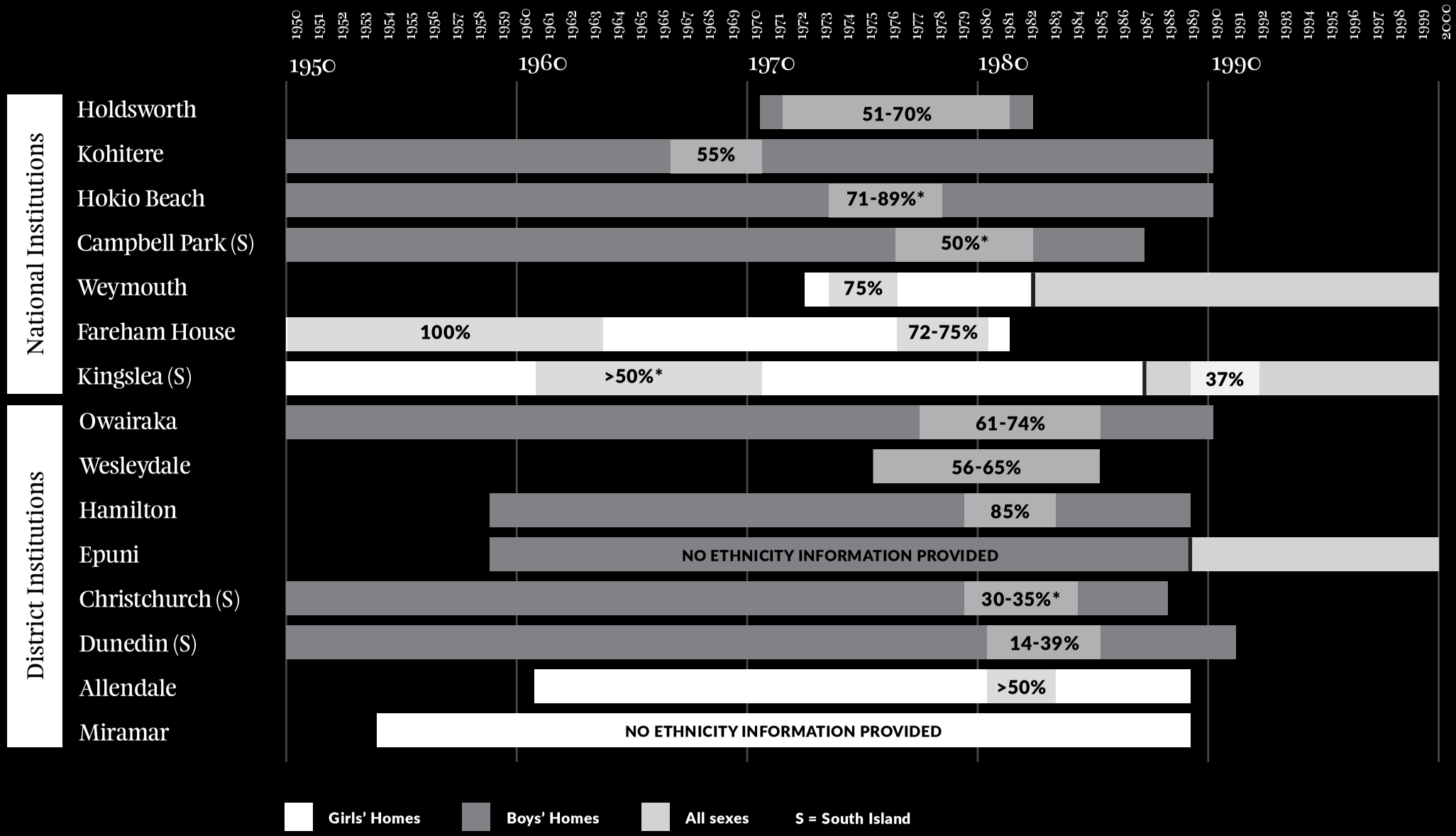
Social Welfare Residential Care 1950-1994 Report

Compiled by Wendy Parker (2006a, 2006b, 2006c), this report profiled 14 out of 26 social welfare residential institutions as well as Campbell Park which was administered by the Department of Education.[20] The ethnicity of the residents was summarised for most of the residences; however, the presentation of data by ethnic groups and years varied between the residences. It is likely the summary was influenced by inconsistent reporting of data in the original reports (mostly annual reports of the residences). While some institutions' statistics on Māori residents was provided from the 1960s (the only statistics from the 1950s related to Fareham House which was known to be 100% Māori until the mid-1960s), other institutions only reported this information from the 1980s.

Ethnicity profiles of Social Welfare Residential Institutions (divided by national institutions and district institutions) collated from Parker's (2006b, 2006c) reports are provided in Figure 2.1.

[20] The report was commissioned by the Historic Claims Unit of the Department of Child, Youth and Family Services to examine departmental and institutional practices in residences administered by the Social Welfare Department and Campbell Park run by the Department of Education. The selection of 15 residences were determined by the number of legal claims lodged against the department.

Figure 2.1. Proportion of Māori residents in residential institutions collated from Parker's (2006) reports



Note. * Data was provided for Māori and Pacific Island residents combined. The length of the bars indicates the time when the institution was open during 1950-2000. Highlighted areas indicate the time period for when the data was provided.

There was an overall tendency for Māori children to be over-represented in these institutions. Parker (2006a) emphasised 'a rise in numbers of Māori children from the late-1960s and throughout the 1970s in North Island residences' (p. 52). In contrast, Dunedin showed a decline in the number of Māori children in care during the first half of the 1980s, from 39% to 14%.

There is insufficient evidence to draw conclusions from the data regarding variations in the number of Māori children in South Island institutions. However, residential records from Campbell Park indicate concern from the Auckland Committee on Racism and Discrimination (ACORD) regarding the conditions for Māori (see chapter seven).

Ethnicity data is particularly scant between 1950s and 1960s. From the information available, the proportion of Māori in State Care appears to have increased significantly in the 1960s and stayed relatively high. Figures presented to the Human Rights Commission investigation in 1982 by the principal of Owairaka Boys' Home, Mr Arthur Ricketts, illustrate the changes in the resident numbers and dynamics over a 20-year period.

Table 2.12 demonstrates how the ethnic composition of the residents had almost reversed from 1959 to 1969. By 1978, 80% of children of residing in Owairaka Boys' Home were Māori or Polynesian.

Table 2.12. Owairaka Boy's Home figures

	1959	1969	1971 - April 1978
Beds	**42**	**62**	**Not provided**
Secure rooms	**0**	**6**	**18**
Staff	**11**	**26**	**39**
Admissions per year	**145**	**516**	**614**
Re-admissions per year	**4 boys**	**25**	**210[1]**
Ethnicity	**European 75% Māori 25%**	**European 30% Polynesian 70%**	**European 20% Polynesian mainly Māori 80%**
Age	**8-17**	**10-17**	**14-17[2]**
Average length of stay	**3.5 months**	**6 weeks**	**3-4 weeks**
Type of cases	**Majority of cases were state wards being prepared for foster care**	**More remand cases than state wards**	**-**

Source: Human Rights Commission (1982). [1] The principal stressed that with a re-admission rate of 210 in 1971-1978, over one third of the admissions had previously been in residence (about half of them had been in residence three or more times). On 6 April 1978 when the above figures were extracted, there were 52 boys in residence at Owairaka. Of the 52 residents, half were re-admissions.[2] In 1976, Wesleydale started to take 10-13 age group.

ACORD (1978) and WARAG Report (1985)

The 1978 inquiry conducted by ACORD, Nga Tamatoa and Arohanui (1979) into social welfare children's homes emphasised the large percentage of Māori in welfare homes. The reported identified these rates were not only disproportionate to the Māori population, but also to the staff in the institution. 'In most of the homes, Maori and Pacific Islanders comprise 70-80% or more of the inmate population. In stark contrast, Maoris comprise 1-5% of the Administrative/Managerial Staff of these institutions' (ACORD, 1979, p. 2).

Similarly, Dalley (1998) noted:

> [The] residential population was similar in broad outline to those appearing before court: it was predominantly male and disproportionately Māori. Auckland's Cornwall Park Reception Centre noted that two-thirds of its admissions in 1981 were Māori or Pacific Island children; Hokio had similar proportion, and staff at Weymouth recall an even higher non-Pākeha representation among the girls there (p. 293).

The 1985 report by the Women Against Racism Action Group (WARAG), provided a snapshot of the ethnic composition of the children in residential institutions in Auckland and contrasted this with the ethnic distribution of staff. Table 2.13 demonstrates that in 1983 the proportion of Māori young people residing in six Auckland departmental institutions was 62% (ranging from 44% to 64%). While only 22% were Pākehā children, 71% of the staff in these institutions were Pākehā. The authors point to 'a gross imbalance in the ethnic composition of the children in relation to the staff' (Department of Social Welfare, 1985, p. 14).

Table 2.13. The ethnic composition of the children and staff in six departmental institutions in Auckland, 1983

	Residents of Institutional Residences	Staff in Institutional Residences
Māori	**62%**	**22%**
Pacific	**16%**	**5%**
Pākehā	**22%**	**71%**

Source: Department of Social Welfare (1985).

The New Zealand Official Yearbook 1988-1989 (Department of Statistics, 1989) noted a new commitment to move away from institutional care towards community care of children and young persons following a 1986 review of Department of Social Welfare residential services.

Fulcher and Ainsworth (1994) noted that increasing disillusionment with institutional solutions to social problems in Western countries was leading to new policy directions including moving towards de-institutionalisation and community care across social service spheres. The authors note several factors that had a significant impact on the development of child and youth care services in New Zealand in the 1990s. These included practice ideologies (originating from the United States) such as normalisation and mainstreaming (in special education); de-institutionalisation (in mental health); the use of least restrictive environment, diversion and minimal intervention (in criminal justice); coupled with the economic and social reforms from the 1980s.

With the changes in DSW policies and legislation through the Children, Young Persons and Their Families Act 1989 (renamed in 2017 to Oranga Tamariki Act), a stronger emphasis was given to the placement of children with their whānau or in the community. The overall numbers of children placed in residential institutions significantly reduced. However, the proportion of Māori children admitted to state residences remained staggeringly high.

The Human Rights Commission (1992, p. 6) reported that in January 1992, there were 79 children and young people in four Department of Social Welfare residences. Children and young people of Māori and Pacific Island descent were over-represented, when compared with what would be expected from the general population (of under 17-year-olds, 24% were Māori in 1996 Census): 37% Pākehā, 15% Māori/Pākehā, 33% Māori, 15% Pacific Isalanders.

The majority of these children and young persons (78%) were referred through Youth Justice and 22% were 'in need of Care and Protection'.

Māori over-representation is also apparent in the occupancy of Child, Youth and Family (CYF) residences for later periods. This is reported in written Parliamentary Questions (1 September 2004). On 23 August 2000, there were 87 children and young persons placed in five CYF residences, 39% were New Zealand European/Pākehā, 39% were Māori, 7% were Pacific and 15% were unknown.

The review of available data indicates the proportion of Māori children and young persons in DSW institutions was highest around the 1970s and the early 1980s, reaching up to 80% in some institutions. While the extent of disproportionality has decreased since the year 2000, Māori children continue to be over-represented in residential institutions on a per population basis. The factors contributing to Māori over-representation in the State Care system are discussed further in chapter three.

Evidence from cohort studies

This section presents data from cohort studies that have been undertaken within the research period.

The Christchurch Health and Development Study (CHDS)

This study followed a cohort of 1265 children born in Christchurch urban areas in mid-1977 from birth to age 40-years. The study represents only one geographical area, which is known for its relatively small Māori population. This limits the conclusions that can be drawn nationally about the extent of Māori children in State Care. The percentage of Māori in the CHDS cohort at birth was nearly identical to the New Zealand population percentage of Māori quoted in the census statistics at the time (J. Horwood, personal communication, May 20, 2021). The study is valuable as it details the proportion of children from the cohort, including tamariki Māori, who were placed in care. The project identified three definitions of care which were combined into the category 'any care':

- Institutional care – short or long-term admission to state residential facilities for child behavioural or protection issues, as well as long-term institutional care for severe neurosensory disability.

- Foster care – children being placed with foster parents by state or other social service organisations on a short or long-term basis as a result of care/protection issues arising within the family.

- Respite care – short-term placement in health camp, Cholmondeley Children's Home or related facility.

The data provided by the project researcher Professor John Horwood (2021) is based on a sample of 1036 children, of which 11% were Māori, 3% Pacific Island and 86% European/other children 86%.[21]

The CHDS results presented in Table 2.14 demonstrate that out of the total study sample, 7% of the children were placed in State Care or equivalent by the age of 16.

Horwood (2021) commented that sample attrition (16% loss from the original cohort) had a modest association with socioeconomic disadvantage (lower maternal education, lower socioeconomic status family, single parent family), which may have resulted in a slight underestimate of the true incidence of children in care from the full cohort.

While there were no gender differences in the proportion of children in care (7% for both girls and boys), there were notable ethnic differences. The proportion of children in care was nearly 2.5 times higher for Māori (15.5%) than for European (6.3%) children.

Table 2.14. Christchurch born children in care by ethnicity and gender

	Total N	In Any Case, %	Never in Care, %
Ethnicity			
Māori	**116**	**15.5%**	**84.5%**
Pacific Island	**28**	**3.6%**	**96.4%**
European/other	**892**	**6.3%**	**93.7%**
Total sample	**1036**	**7.2%**	**92.8%**
Gender			
Male	**510**	**7.3%**	**92.7%**
Female	**526**	**7.2%**	**92.8%**

Source: Data provided by Horwood (2021).

[21] Ethnicity was assigned based on reported ethnic ancestry of the parents at the children's birth. The classification used prioritised ethnicity with Māori taking precedence.

Other Cohort Studies

Drawing from analyses of a 1993 birth cohort in 'Children's Contact with MSD Services' (MSD, 2012) the Modernising Child, Youth and Family Expert Panel (2016) identified that two in 10 children and young people were known to CYF by age 17, either through care and protection or youth justice referral. Approximately six out of 10 children in the study, who might have been considered vulnerable[22] at some point during their childhood, were likely to be Māori (Modernising Child, Youth and Family Expert Panel, 2016).

A recent study of a 1998 birth cohort of 56,904 children in New Zealand where 59% were classified as European, 23% as Māori, 10% as Pacific Islander, 7% as Asian, and 1% as other also indicated over representation. The study indicates that by the age of 18, Māori children were 3.5 times more likely to experience out of home placement than European children (Rouland, Vaithianathan, Wilson, & Putnam-Hornstein, 2019). The results demonstrated that 7% of Māori children in the cohort had been placed in out-of-home care (with kin, foster parents or in a residential facility) by the age 18, compared to 2% of European children.

Across these cohort studies, Māori children were more likely to be over-represented in groups identified as vulnerable and to be placed in out of home care.

[22]Measured as prevalence of contact with CYF

“

“The department had a focus, if you like, on investigation and assessments, and some sort of plan as a result of that. And it was really quite forensically focused, I think, during my time. And didn't really involve families as they should have been, as they could've and certainly not a wider whānau, iwi, hapū. Stop investigating and assessing people, and gathering information on people, and coordinating services that don't exist. Just help them.”

– Don Sorrenson, Māori social worker

Reports of abuse and neglect

Kaiwai et al. (2020a) note that child abuse became the focus for social workers dealing with children and young people during the 60s and 70s. This contributed to large numbers of children being admitted into state custody. Investigations involving abuse and neglect commonly resulted in children being removed from their whānau and placed in State Care. Cockburn (1994) wrote that 'child protection legislation in the English-speaking world has, in the main, sought to protect children from neglectful, harming and abusing parents, and has given the state and its agencies statutory power to intervene in families' (p. 87).

The increase in awareness of child sexual abuse since 1978 resulted in increasing investigations. In 1987 the DSW conducted research into the sexual abuse of girls in the care of the DSW (Von Dadelszen, 1987). This study noted:

> 'there was insufficient information on the problem of sexual abuse generally, and that social workers had been provided with insufficient training and preparation to allow them to deal with confidence with abuse cases that ended up on their caseloads' (p. 20).

The analysis showed that 54% of the total sample (239 girls) had experienced sexual abuse (defined as involuntary negatively viewed genital contact). There was a staggeringly high incidence of sexual abuse (80%) disclosed by girls who had resided in DSW institutions. Von Dadelszen (1987) noted that 'no systematic information had previously been collected on the sexual abuse of Māori girls and this study made some attempt to ascertain whether there were any differences between the Māori and Pākehā girls' experiences' (p. 83). While Māori girls were over-represented in the sample (51%), there were no significant differences in the incidence of sexual abuse between Māori (58%) and Pākehā (55%) girls.

The report established that 42% of the abuse occurred prior to the girls coming under the guardianship of the Director-General of Social Welfare, 40% began after guardianship, and 10% began in the same year as guardianship. Von Dadelszen (1987) emphasised the substantial amount of sexual abuse that occurred while the girls were in State Care, stating 'coming under the care of the Department of Social Welfare does not ensure safety from sexual abuse' (p. 152).

Von Dadelszen (1987) noted that 11% of girls indicated that someone in their foster family was the perpetrator of abuse. Five of the recommendations made in the report related directly to preventing and dealing with sexual abuse in foster families.

For a substantial number of girls under guardianship, there was no experience of sexual abuse recorded on their files or known to their social workers. Less than half of the girls (47%) who reported abuse at the interview had abuse recorded on departmental files and/or known to their social workers. Only 8% of the girls came into care with sexual abuse recorded as a reason for their guardianship order being made. The majority of the girls (59%) were placed under guardianship because of their home conditions, followed by offending or misbehaviour (39%). Only a quarter of both Māori (25%) and Pākehā (23%) girls told a social worker about the abuse. Māori girls (95%) reported more positive reaction by their social worker than Pākehā girls (57%). The social workers reactions were interpreted as expressions of disbelief when sexual abuse was reported by Pākehā girls (Von Dadelszen, 1987).

The Christchurch Health and Development Study (CHDS) analysed data from 1036 children born in Christchurch in mid-1977. The analysis identified a history of child abuse (sexual, physical) among the study sample which was broken down by experience of care (including institutional, foster and respite care)[23]. Both Māori and European, children 'in care' were more likely to have a history of physical and sexual abuse than children 'never in care'.[24]

[23] The information about abuse was not linked with time in care.
[24] There was a significant difference in distributions of sexual and physical abuse experience between children 'in care' and 'never in care' for both Māori and European children ($p < 0.5$ on the Chi test).

Figure 2.2 demonstrates the difference between children 'in care' and 'never in care' appeared more profound with 'severe sexual abuse' (defined by the researchers as attempted/completed penetration) at 17% versus 3% for Māori, and 23% versus 5% for European children. A slightly smaller contrast between children 'in care' and 'never in care' appeared with 'frequent, severe or harsh' physical punishment - 22% versus 10% for Māori, and 18% versus 5% for European children.

While the percentages of exposure to sexual and physical abuse for Māori and European children with care experience appear different, ethnic differences were not significant ($p > 0.5$ on the Chi test). These results suggest that experience of sexual abuse and physical punishment may have been factors influencing out-of-home care decisions for both Māori and European children. However, limited data availability does not allow us to explore other potential factors to explain why children with experience of care was approximately 2.5 times higher for Māori than for European children in the cohort. Pacific children's exposure to physical and sexual abuse appeared to be unrelated to care experiences. Whilst Pacific Island children had the highest share of sexual and physical abuse, there was just one child with history of care in the sample (1/28, i.e., 3.6%).

Caution needs to be exercised in interpreting these findings as the proportions are calculated from a small sample number (i.e., 18 Māori and 56 European children in care). However, they do provide an indication of tendencies.

Figure 2.2. Christchurch Health and Development Study, sexual and physical abuse, children in care and ethnicity

Source. Data provided by Horwood (2021)

The Children, Young Persons and their Families Act 1989

Under The Children, Young Persons and their Families Act 1989 notifications of children at risk due to abuse, neglect or misbehaviours were recorded by the New Zealand Children and Young Persons Service. As Ernst (1999) noted, 'removal of a child should occur only in cases of serious risk or harm' (p. 166). Social workers determined the level of 'risk or harm' for the child in care and protection (or CYF) notifications. They had the authority to determine if and what further action was required for notifications of 'abuse and neglect'. Notifications could be received from a variety of sources including members of the public, family or whānau, the police, schools, health professionals, or other government or community agencies. If the subsequent investigation concluded abuse was found to have occurred this would be categorised by abuse type (physical abuse, sexual abuse, emotional abuse, neglect, self-harm behaviours, problem behaviour/relationship difficulty). These risk assessments were steps towards decisions of removal of a child. As noted in chapter seven, both social work practice and risk assessment tools were drawn from Eurocentric theories and practice, with some adaptations for cultural considerations.

The ethnicity of children who were affected by, or subject to, a care and protection notification was not reported in statistical reports during the research period. Very few references to ethnicity could be found in statistical reports. In 2000, the Care and Protection, Youth Justice, Residential and Adoptions Services (CYRAS) case management system was implemented to record personal data, actions, information and responses.

However, the ethnic composition of notifications for care and protection was available for the year ending 30 June 1992 (Robertson & Maxwell, 1996). In addition, ethnicity data for notifications obtained from March to May 1993 was available in a study that used the Children and Young Persons Service computer information system (CYPS the predecessor of CYRAS), which was operating between 1990 and July 1994 (Robertson & Maxwell, 1996). Care and protection notifications, by ethnicity where it was known, is presented in table 2.15.

Table 2.15. Care and Protection notifications by ethnicity

	Year ended June 1992 (All notifications: 15,475)	March – May 1993 (Individuals notified: 716)
European	**47%**	**46%**
Māori or Māori/European	**41%**	**43%**
Pacific Island	**9%**	**8%**
Other	**3%**	**3%**

Source: Robertson and Maxwell (1996)

The results between these two different data sources demonstrate similar patterns, compared to population estimates, Māori were over-represented among children officially notified for care and protection reasons. However, there are limitations with this data. Firstly, in 36% of all notifications in 1992, ethnicity was either unknown or not stated and it was unclear how ethnicity was determined. As the notifications were not based on individual clients, re-notifications (e.g. the same person being notified more than once) may have been more common for some ethnic groups potentially inflating their proportion in the sample. Secondly, 23% of the cases in the 1993 sample were classified as 'unknown ethnicity', however unlike the 1992 reports, this sample was based on distinct cases rather than on total notifications or counts of actions.

Robertson and Maxwell (1996) recommended that clear distinctions should be made between allegations and substantiated cases in care and protection notification. From the late 1990s these distinctions started to appear in published literature on statistical research showing the ethnicity of children notified to be at risk or in need of care and protection.

Keddell, Davie and Barson (2019) acknowledge the variability in child welfare decision-making is influenced by subjective interpretations, organisational culture and systemic resources. They emphasise that substantiation decisions determine the subsequent intervention. 'Substantiations are when, after an initial notification, child protection staff conduct a risk and safety screen and make a decision that abuse has occurred' (p. 3). Concerns regarding substantiation through risk assessment scaling and social worker cultural incompetency/ racial bias has been noted in chapter seven.

Based on the Department of Child, Youth and Family Services (CYFS) statistics, during the year 1999/2000, an investigation of abuse and neglect notifications resulted in the assessment of 'substantiated' abuse and neglect among 45% of Māori, 35% European and 11% of Pacific children and young people. Māori represented 43% of all children and young people in care (0-16) for that year, showing a significant over-representation for their ethnic group (Ministry of Health, 2001).

The 'Children and Young People: Indicators of Wellbeing in New Zealand' report by Ministry of Social Development (2004) shows the rate of substantiated cases of child abuse (physically, emotionally, sexually) or neglect from 1998 to 2000 following a notification to CYFS. The rates ranged from 12.3 to 13.4 for Māori and 5.0 to 5.3 for non-Māori (as a proportion, per 1,000, of all children under 17-years of age.

This data demonstrates that Māori children were 2.5 times more likely than non-Māori children to be assessed by CYFS as abused or neglected. This data needs to be read in conjunction with other aspects of the report that provide evidence of staff unconscious bias, institutional racism and the use of Eurocentric assessment protocols, including risk estimation systems introduced in the 1990s (discussed in chapter seven). These factors contributed to hyper-vigilance in the system, increased surveillance of Māori and likely over reporting.

A study within New Zealand of the 1998 birth cohort (Rouland et al., 2019) reported the highest rates of care and protection notifications and substantiated findings of abuse for Māori than any other ethnic group. By the age of 18, 42% of Māori and 17% of European children in the cohort had received care and protection notifications. One in five (20%) Māori children had a finding of substantiated abuse (including neglect, physical, sexual or emotional abuse), compared with one in 16 (6%) of European children.

Table 2.16. Substantiated cases of child abuse or neglect, Māori and non-Māori, 1998-2000, rate per 1,000 children aged 0-16

	Māori			Non-Māori			Ratio		
Year to 30 June	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1988	**11.8**	**13.9**	**13.0**	**4.6**	**5.5**	**5.1**	**2.6**	**2.5**	**2.5**
1999	**12.3**	**14.3**	**13.4**	**4.5**	**5.5**	**5.0**	**2.7**	**2.6**	**2.7**
2000	**11.1**	**13.2**	**12.3**	**4.7**	**5.6**	**5.3**	**2.4**	**2.4**	**2.3**

Source: CYRAS (Ministry of Social Development, 2004, p. 47)

Tamariki in Care after the 1989 Act

The Department of Social Welfare (DSW) published statistical information reports on Children, Young Persons and Their Families Service (CYFS) up until 1998. These reports did not include ethnicity data. Researchers have noted the difficulty in finding ethnicity data for children in care during the 1990s (e.g. Cook, 2020).

Official Information Act requests[25] demonstrate the substantial public interest relating to care and protection issues. However, ethnicity data requests for children in care prior to 2010 is refused due to the data not being held or requiring substantial work to compile the information, which would not be in 'public interest' to pursue. For example, the Oranga Tamariki response (15 October 2018) to an Official Information Act request concerning the historical data on admissions to state residencies by ethnic groups stated:

> Prior to 1991 ethnicity data was not recorded in any format by our predecessor therefore your request for ethnicity data on admissions to Care and Protection and Youth Justice residences between 1980-1991 is refused under section 18(g)(i) of the Act as the information is not held by our department, nor do we believe the information requested is held by another department.
>
> From 1991 until 2010 all admissions into Care and Protection and Youth Justice residences were recorded in manual spread sheets. Information about ethnicity was captured in individual case files and was not centrally recorded. As such, your request for ethnicity data on admissions into Care and Protection and Youth Justice residences between 1919-2010 is refused under section 18(f) of the Act as in order for us to compile the information necessary for response would require a manual review of every individual case file. I have considered imposing a charge or extending the timeframe; however I do not believe either would enable a response and the greater public interest in staff being available to support tamariki. [26]

The ethnicity of children in State Care has been a topic of inquiry at the Waitangi Tribunal (Wai 2615, the Māori Children placed in State Care claim; Wai 2915, the Oranga Tamariki Urgent Inquiry). The Waitangi Tribunal requested information from the Crown regarding the number of tamariki Māori in State Care from 1989 onwards (e.g., Wai 2915, #A22(a), #2.5.7).

The responses to date have included explanations about the limitations of data availability and reliability prior to 2000. An assessment of the possibilities to extract reliable pre-2000 ethnicity-related data was undertaken (e.g., Copeland, 2020; Lambert, 2019). To the best of our knowledge, results of this assessment have not yet been published.

Robertson and Maxwell (1996) discuss the problems related to data from the early electronic data management systems used by CYPS. In addition to challenges associated with reliability of data due to variability in recording practice, the authors argued that the computer information systems, intended as case management tools, were not designed to monitor the experiences of children and families coming to the attention of the CYPS. While ethnicity data may have been held within individual case files, it could not be collated across the management system for reporting purposes.

[25] https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/official-information-responses/responses-to-official-information-act-requests.html; https://www.orangatamariki.govt.nz/about-us/reports-and-releases/official-information-act/official-information-act-responses/

[26] https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Report-and-releases/OIA-responses/20181015-admissions-to-care-and-protection-residences-by-ethnicity.pdf

Robertson and Maxwell (1996) conclude that 'specific research studies may be required from time to time to obtain the information necessary to monitor the operation and effectiveness of Children and Young Persons Service intervention' (p. 16).

As mentioned previously, this research has revealed a dearth of research showing ethnicity data for children affected by the Care and Protection services in the 1990s including a significant data gap for mid-1990s. Statistical reporting from 1990 reflected the changes in procedures relating to care and protection and youth justice initiated by the 1989 Act. Care and Protection Family Group Conferences and Youth Justice Family Group conferences were established to reach agreements with whānau without needing to proceed to court. The report, 'Statistics on the First Year' since the 1989 Act, produced by Maxwell and Robertson (1991) demonstrated that Māori were over-represented in all Family Group Conferences (FGC) considering their proportion in the general population (of under 17-year-olds, 24% were Māori in 1996 Census).

Table 2.17. Ethnicity of children for whom Family Group Conferences (FGC) were held in 1990

	Pākehā	Māori	Pacific Islanders
Care and Protection FGC (n=3857)	**50%**	**38%**	**7%**
Youth Justice FGC (n=5779)	**36%**	**53%**	**9%**

Source: Maxwell and Robertson (1991)

There were notable regional variations for Youth Justice conferences involving Māori young persons, ranging from 32% in the Southern region, to 72% in the Western (i.e., Waikato, Bay of Plenty and Taranaki). In the Northern region, while 49% of Youth Justice conferences involved Māori, there was also a relatively high proportion of Pacific young persons (19%) in comparison to other regions 2%-8%).

The Social Environment Scan by the DSW (1999) highlighted:

> Māori children and youth are highly over-represented among the clients of the Children, Young Persons and Their Families Service. While Māori made up 24 percent of children at the 1996 Census, they made up 42 percent of care and protection cases and 53 percent of youth justice cases that came to the attention of the Children, Young Persons and Their Families Service in the year to June 1998 (Department of Social Welfare, 1999, pp. 52-53).

In a written reply to Parliamentary Questions, the Associate Minister for Social Development and Employment Hon. Ruth Dyson provided information on the ethnicity of children and young persons in Children, Youth and Family (CYF) care in the late 1990s and early 2000 (as shown in table 2.18). At the beginning of 1999, 30% of children and young people in the care of Child, Youth and Family (n=3292) were Māori, more than would be expected from Māori proportion in the population statistics. Within Youth Justice at least half of the placements were occupied by Māori young people (14-17 years).

Table 2.18. Children and young people in care 1999 and 2000, by ethnicity

	In Care and Protection Placements as at 28 February 1999 (n=3292)[1]	In Youth Justice Placements as at 31 March 1999 (n=89)[2]	In Youth Justice Placements as at 31 March 2000 (n=149)[2]
New Zealand European/Pākehā	**61%**	**33%**	**38%**
New Zealand Māori	**30%**	**57%**	**50%**
Pacific	**5%**	**8%**	**8%**
Asian	**1%**		**0%**
Other	**3%**	**2%**	**3%**
Total	**100%**	**100%**	**100%**

Source: [1]Parliamentary Questions, 17.03.2004 Source: [2]Parliamentary Questions, 6.04.2004

Care and protection - discussion of data

The number of statistical reports and information about tamariki Māori in State Care for the research period (1950-1999) are considerably limited. There is a substantial gap in the reporting of tamariki Māori in the child welfare system before the 1970s, with the exception of some long-term residential institutions.[27] The proportions of tamariki Māori in State Care in the 1950-60s cannot be accurately identified from the available and accessible records.

The removal of tamarki from their whānau intensified from the 1960s when the previous practice (in 1930-1960s) of dealing with child neglect and delinquency issues within their local communities was dismantled (Kaiwai et al., 2020a).

Research reports by the Department of Social Welfare provide a clear indication of the over-representation of tamariki Māori across DSW placements in the 1970-80s. In most of the placement types such as conventional foster care, DSW family homes, and national institutions tamariki Māori were over-represented. This occurred more profoundly in national institutions, where the proportion of tamariki Māori was known to reach about 80% (e.g., Owairaka Boys' Home in late 1970s). Research by a Māori research team in the Human Rights Commission's (1992) report found that institutions have been frequently described as 'places of last resort' with alternative options tried and failed; however, 'all other options had seldom been explored and that institutionalisation could not accurately be described as the 'last resort'. Often the young person is institutionalised because of lack of adequate services to support family' (p. 182).

Research reports and statistics concerning Māori in care were equally limited after the passing of the 1989 Act. In 1990, the year following the 1989 Act Māori children were the subject of 38% of the Care and Protection FGCs and 53% of the Youth Justice FGCs held. This over-representation didn't appear to have changed significantly in the late 1990s. In the year to June 1998, 42% of 'Care and Protection clients' and 53% of 'Youth Justice clients' were Māori. Information sourced from parliamentary written questions/responses disclosed that Māori made up 30% of Care and Protection and 57% of Youth Justice placements in early 1999.

Statistician Len Cook (2021) noted a lower level of disproportional removal of tamariki Māori from their homes in the late-1990s compared with the 1970-80s. Māori children being placed in State Care peaked from 1971 to the mid-1980s. Perceived delinquency appeared to dominate the explanations regarding why children were taken into care in the 1970s. Disproportionality started to reduce markedly after 1988. Cohort analyses suggests the (higher or lower) level of disproportional removal of tamariki Māori during certain years mirrors the later imprisonment rates for that cohort (Cook, 2021).

Len Cook emphasises the distinct demography of Māori population that made them more vulnerable to state interventions and amplified the long-term impacts of State Care.

> At its peak in 1966, the share of the Māori population aged 14 and under exceeded 50 percent. At that time, for every Māori person aged 65 and over, there were 25 children aged under 15 years. … During the 1960s, the average number of children born to Māori women was 5.6 compared to 3.5 for Pākehā women (Cook, 2021, p. 9).
>
> For Māori, the combination of the continued inherent disproportionality along with extreme policies occurred at a time of massive demographic change, caused by being the period when the Māori birth rate peaked, urban migration was strong and in 1966 Māori children under 15 were half the Māori population. (L. Cook, personal communication, July 1, 2021).

[27] Fareham House (100% Maori girls until 1961), Kohitere Boys' (55% Maori in 1967), Hokio Boys' (growing numbers of Maori in the 1960s) and Kingslea (high numbers of Maori girls in 1961).

> "(people) didn't care enough to make sure they didn't continue to put them (Māori children) into harmful situations. It didn't matter enough that Māori kids cannot be turned into Pākehā kids. Māori kids are Māori. Why do you want them to look like you and be you?"
>
> **(Rahera Ohia, Māori senior public servant)**

Limited ethnicity data collection and reporting by welfare agencies presented a significant challenge in our research examining the extent of Māori over-representation in State Care. DSW official statistics (e.g., annual reports, statistical reports) published during the research period (1950-1999) did not contain ethnicity data for children who were placed in the custody of the Director-General of Social Welfare. Therefore, the extent to which tamariki Māori were affected by welfare services was kept away from public eye and potential scrutiny.

Research reports and official inquiries (e.g., ACORD, 1976, 1979, 1981; Human Rights Commission, 1982) relating to the time period give a clear indication of DSW officials and field workers being aware that the majority of the clients of their services were from the Māori community. These reports also highlighted the racism inherent in the justice and welfare systems that led to over-representation (Sutherland, 2020; Human Rights Commission, 1982, 1992).

Poor recording of official statistics on tamariki Māori in State Care has been critiqued by researchers and professionals (e.g., Cook, 2021; Love, 2002). The report by the Women Against Racism Action Group (WARAG) asserted, 'the dearth of statistical information on ethnicity is further evidence of insitutional racism' (Department of Social Welfare, 1985, p. 17) recommending identifying and recording the ethnicity of all DSW staff and consumers – a recommendation that took approximately 25-years to implement.[28]

Following the 1985 report by WARAG, further recommendations about improving data collection for all institutions providing out-of-family care were made by the Māori research team in the Human Rights Commission's (1992) report. Likewise, the data reliability and sourcing problems in the study of care and protection notifications were highlighted by other researchers:

There is a real need for quality information to guide policy and practice…. It is essential that New Zealand is in a position to scrutinise the actions of the State that have such a far-reaching effect on people's lives (Robertson & Maxwell, 1996, p. 17).

Love (2002) argues that the lack of statistical overview about the extent and nature of interactions between Māori families and state welfare authorities has prevented a meaningful academic analysis and denied inclusion of lived realities of Māori in the official (statistical) picture.

Due to the lack of data, Cook (2020) highlights weak formal processes for whānau to hold the statutory childcare and protection services accountable, which is created by and contributes to cultural bias against Māori. He discusses wider implications of losing whānau trust and confidence in the State Care system due to lack of public legitimacy in removal processes, and proposes that:

> Strong and trustworthy vindication of the State's childcare and protection system is needed because of the damaging and perverse effects on the welfare of mothers and their children (including the unborn) when they withdraw their trust in institutions that exist primarily for their care, by avoiding the help they exist to give (p. 367).

[28] Oranga Tamariki provides key statistics by ethnicity from FY2010-11. https://www.orangatamariki.govt.nz/about-us/reports-and-releases/statistics-about-how-we-work-with-children/

“

"It didn't need to be as difficult as what they made it really. Trying to support people, support vulnerable families, isn't always that difficult. Just get people around them, get them involved and- help them, practically, instead of investigating them all the time.”

– Don Sorrenson, Māori social worker

Part Two: Pathway to State Care through justice

The youth justice system was a significant pathway by which children came into care. According to Sutherland (2019), 'by the mid-1970s the police, rather than social workers, were the major source of admissions' (p. 9). Dalley (1998) discussed the impact of the Police Youth Aid (initially Juvenile Crime Prevention Branch/Section) on the growing number of children having contact with the youth justice system. She argued, that 'in the name of prevention, police patrolled the streets and found children in need of care' (p. 203). However, according to Dalley, Police and Child Welfare Division intentions to divert children from court may have had the opposite effect as 'the Division noted an 'almost staggering' increase in the number of Youth Aid cases from the late 1960s' (1998, p. 204).

Prior to 1975, most children and young people (aged sixteen or younger) came to the juvenile justice system's notice for offending in one of three ways (Lovell & Norris, 1990, p. 6):

1. By appearing in a Children's Court charged with an offence.

2. By appearing in a Children's Court as the subject of a complaint addressed to a parent or guardian under section 13 of the Child Welfare Act 1925. These complaints could arise either in relation to a parent's treatment of a child (e.g. because of neglect or other ill-treatment) or in relation to the child's offending or misbehaviour.

3. As the subject of a Police Youth Aid referral for offending or misbehaviour.

The only exceptions were those who were charged with murder or manslaughter, or with a minor traffic offence: such persons appeared in the Magistrates' Courts.

Much larger data sources and reports are available for Māori in the youth justice system. However, as was noted in the Youth Offending Strategy 2002, this data has limitations: 'There is a lack of robust information about the true extent of offending by children and young people in New Zealand' (Ministry of Justice & Ministry of Social Development, 2002, p. 11).

Official offending statistics

The 1950s

Statistics about youth offending in the 1950s were published in the Hunn report (1961). Commenting on offending rates (Table 2.20), Hunn drew attention to Māori juvenile offending:

> The most disturbing cause of public concern today is juvenile delinquency, or adolescent offending … and the most serious aspect of it is the inordinately high incidence of law breaking by Maoris. Not only is it almost three and a half times as high as the European rate, but also it has risen 50 per cent in four years, whereas the European rate is nearly static. (Hunn, 1961, p. 32)

The causation and criminalisation of Māori is described in chapter three. For many years following the Hunn report this data fed stereotypes and deficit perceptions of Māori leading to 'moral panic' and significant increases in the incarceration and institutionalisation of Māori (Stanley, 2016). Table 2.19 presents statistics from Hunn's report (1961).

Table 2.19. Percentage of Māori and non-Māori offenders in each age group of respective male populations, 1954 and 1958

	Māori		Non Māori	
	1954	1958	1954	1958
10-14	**2.1%**	**4.1%**	**1.2%**	**1.3%**
15-19	**4.6%**	**9.8%**	**2.2%**	**4.0%**
Total population	**3.5%**	**5.1%**	**1.4%**	**1.5%**

Source: Hunn (1961). Statistics are based on Children's Court cases and Magistrate's Court arrest cases based on the estimated population groups.

The 1960s-1970s

In 1973, the Department of Social Welfare (DSW) examined juvenile crime including court appearances based on legal complaints of children being 'delinquent or not under proper control by police or a social worker from the DSW'. The report stated: 'While a delinquent child will usually have committed an offence, a child who is not under proper control may be offending, running away, sexually promiscuous, truanting, or generally uncontrollable' (Department of Social Welfare, 1973, p. 10).

The analysis of individual children[29] appearing in Court in 1971 showed a clear ethnic imbalance among boys:

- 24% of all 16-year-old Māori boys appeared in court, while
- 6% of all 16-year-old non-Māori boys appeared in court.

The overall rate of Children's Court appearance for Māori boys (10-16 years) was 5.1 times the rate for non-Māori boys. These results show an increasing gap in the rates of offending by Māori in comparison to 1965, when the ratio for Māori to non-Māori boys offending rates was 4.2.

The differences were even greater for girls:

- 7% of all 16-year-old Māori girls appeared in Court in 1971, while
- 1% of 16-year-old non-Māori girls appeared in Court in 1971.

Māori girls' (10-16) overall court appearance rate in 1971 was 7.4 times the rate for non-Māori girls, which also increased from 1965, when the ratio was 5.7. Individual children court appearance rates increased from 1965 to 1971 for both groups; however, there was 104% increase for Māori boys compared to 67% for non-Māori boys, and 128% increase for Māori girls compared to 74% for

[29] These statistics included the numbers of individual children appearing in court in a year and excluded second and subsequent appearances by a child in the same year (i.e. sum of all appearances).

non-Māori girls. The differential treatment of Māori youth in the justice system is discussed at length in chapter three.

Fifield and Donnell (1980) published offending statistics by Māori and non-Māori from 1964 to 1978, illustrating the extent of the racial disparity from 1964 onwards. An examination of trends in offending revealed a substantial yearly increase of rates, coming to official notice for juvenile offending[30], for both Māori and non-Māori, males and females. However, for both sexes the increase in juvenile offending from 1964 to 1974 nearly doubled among Māori (176% increase among boys and 235% among girls) than non-Māori youth (80% increase among boys and 120% among girls).

The authors emphasised that the increasing rate of Māori offending widened the disparity between Māori and non-Māori offending from 1964 to 1974 (Table 2.20). This significant rise in offending and over-representation of Māori in justice statistics is discussed further in chapter three.

Table 2.20. Rates of coming to official notice (Children's Court appearances and Youth Aid section referrals) for juvenile offending aged 10 to 16 years, per 1000 of corresponding population: Māori and non-Māori females and males.

The same trend was observed with Children's Court appearances. From 1964 to 1974, the total increase in rates of appearance by Māori (150% increase among boys and 143% among girls) was twice that by non-Māori (65% increase among boys and 62% among girls).

Fifield and Donnell (1980) stressed that by 1974 'there was a wide disparity between Māori and non-Māori youngsters in the extent to which they were at risk of appearing in Court. For boys, this disparity was six to one, for girls eight to one' (p. 14). The offending rate[31] remained almost static for non-Māori from 1975 to 1978 (an average of 0.4% for both boys and girls a year), whilst Māori offending rate for boys increased by 4.5% on average per year, and the rate for girls increased 6.8% each year.

Table 2.20. Rates of coming to official notice (Children's Court appearances and Youth Aid section referrals) for juvenile offending aged 10 to 16 years, per 1000 of corresponding population: Māori and non-Māori females and males

Year	Māori	Male Non-Māori	Ratio: Māori/ Non-Māori	Māori	Female Non-Māori	Ratio: Māori/ Non-Māori
1964	**98.60**	**30.62**	**3.2**	**31.77**	**7.81**	**4.1**
1974	**272.14**	**54.98**	**4.9**	**106.50**	**17.18**	**6.2**
Total Increase[1]	**176.0%**	**79.6%**		**235.2%**	**120.0%**	
Mean Annual Increase	**11.5%**	**6.3%**		**13.9%**	**8.9%**	

Source. Fifield and Donnell (1980).[1] Total Increase in rates: 1964 to 1974

[30] including Children's Court appearances and Youth Aid section referrals
[31] Children's Board and Children and Young Persons Court Appearances)

In summary, Fifield and Donnell (1980) emphasised that the level of offending from 1964 to 1976 was notably higher in the Māori population than in the non-Māori population. Māori offending rates grew more rapidly than non-Māori rates, resulting in a widening gap between offending rates and an increase of the Māori/non-Māori offending ratio. Coming into contact with the police, and being charged with offending, became the most common pathway into State Care institutions during this period (Sutherland, 2019, 2020) (see chapter three for causation discussion).

The 1980s

Between 1983 and 1993, the DSW published six volumes of statistical reports on juvenile offending occurring between 1978 and 1989, in the series, the Patterns of Juvenile Offending in New Zealand. Data on the offending rates of children and young people over the 12-year period, obtained from these reports, are illustrated in Figure 2.3 All offending figures in the reports were derived from the Social Welfare operational statistics. The reports included offending rates (per 10,000) calculated by using mean annual estimates of population for the respective age group (ethnicity, age 10-16) provided by the Department of Statistics.

It is important to note that from 1978 to 1989 court appearances made up majority of the instances of coming to official notice (67% in 1978, 74% in 1981, 76% in 1985, 71% in 1989). The ethnic disparity in court appearances is evident in Figure 2.3. Court appearance rates were relatively stable among non-Māori children until 1985, fluctuating between 140 and 170 per 10,000 respective juvenile population. The same population adjusted rates were much higher for Māori children ranging from 1040 to 1200.[32]

While court appearance rates dropped from 1985 to 1989 for both ethnic groups, Lovell (1993) emphasised that the fall was greater for Māori, especially among the younger age group (10-13). From 1985 to 1989 the court appearance rate fell for Māori 10-16 years old by 58% compared with a 48% fall for non-Māori[33] (Lovell, 1993).

Despite the decline in rates, disparity between Māori and non-Māori juveniles in court appearances in 1989 remained substantial – 439 Māori versus 73 non-Māori per 10,000 respective juvenile population.[34]

Figure 2.3. Rates (per 10,000) for instances of Children and Young Person's Court appearances and overall rates for coming to official notice (10–16-year-olds)[35].

Similar disparities are notable for the overall official notice figures, which comprised of three agencies responsible for dealing with juvenile offending at the time (i.e., Children's Board, Police Youth Aid, and Children's and Young Persons Court).[36]

In 1978, the rate for coming to official notice was:

- 1580 for Māori and 250 for non-Māori (age 10-16) per 10,000 respective juvenile population.

In 1989, rates for coming to official notice showed a considerable fall, being:

- 587 for Māori and 107 for non-Māori (age 10-16) per 10,000 respective juvenile population.[37]

[32] The population adjusted rates were 1611-1810 for Māori boys, 434-566 for Māori girls, 228-282 for non-Māori boys, and 52-62 for non-Māori girls.

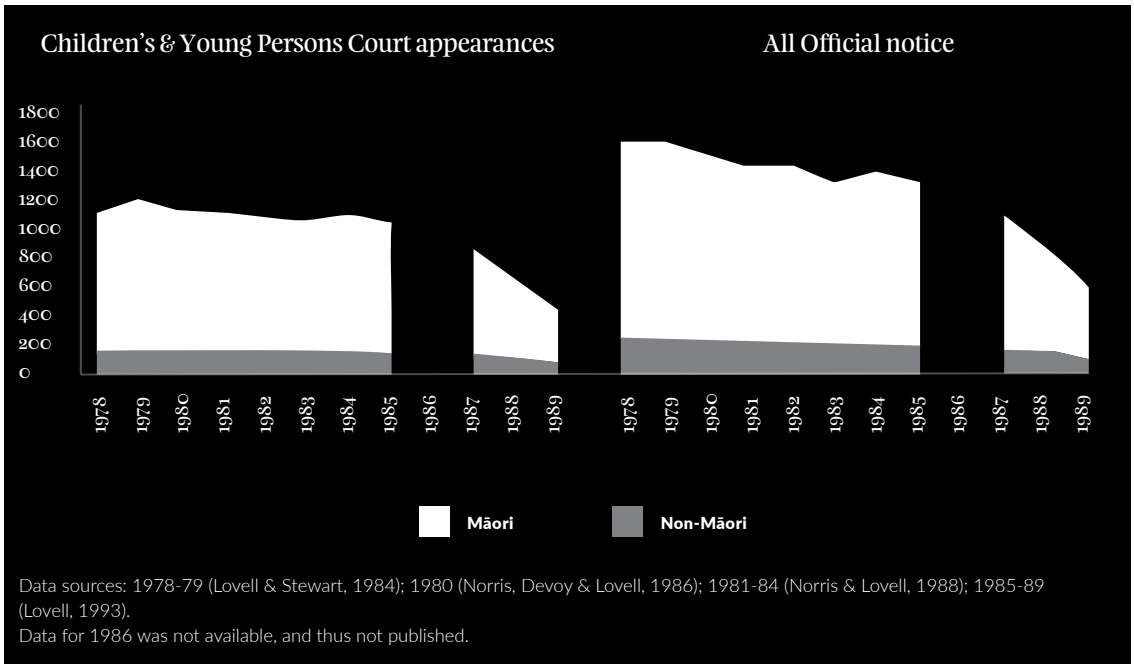
[33] Court appearance rates fell from 1985 to 1989 for Māori boys by 56%, for Māori girls by 64%, for non-Māori boys by 47%, for non-Māori girls by 54%. However, Norris & Lovell (1988) recommended caution in any comparisons of statistics before and after 1987 due to changes in calculation of the population estimates of age by ethnicity.

[34] Court appearance rates in 1989 for girls and boys: 706 Māori versus 120 non-Maori boys per 10,000 respective boys' population, and 160 Maori versus 24 non-Māori girls per 10,000 respective girls' population.

[35] These official statistics present the amount of offending by a population and do not provide the numbers of individuals involved (as one individual may be responsible for several appearances in a year.

[37] Specific rates for coming to official notice for boys and girls: In 1978, 2,281 for Māori and 382 for non-Māori boys; 849 for Māori and 111 for non-Māori girls. In 1989, 907 for Māori and 169 for non-Māori boys; 250 for Māori and 43 for non-Māori girls

Figure 2.3. Rates (per 10,000) for instances of Children and Young Person's Court appearances and overall rates for coming to official notice (10–16-year-olds)[35]



Data sources: 1978-79 (Lovell & Stewart, 1984); 1980 (Norris, Devoy & Lovell, 1986); 1981-84 (Norris & Lovell, 1988); 1985-89 (Lovell, 1993).
Data for 1986 was not available, and thus not published.

Whilst the overall official notice rates dropped noticeably by 1989, the gap between Māori and non-Māori rates only slightly reduced. Lovell (1993) highlighted that although more boys than girls came to official notice, the rate for Māori girls was consistently higher than the rate for non-Māori boys. This is apparent when we look closer at the ratio of Māori to non-Māori court appearances and 'all official notice' rates for girls and boys.

The presentation of this data needs to be read in conjunction with the differential treatment of Māori youth in the justice system. For example, Sutherland (2020) recounts how his analysis of the 'Department of Justice Statistics' for 1968 and 1969 revealed that 'twice as many non-Māori offenders had lawyers (86.7%) as did Māori (44.3%)' (p. 19). The 'great majority' of Māori children appearing in the children's court, did so 'without legal advice or representation', additionally, there was a significant 'discrepancy in sentencing' (p. 19). Indeed, Māori children were arrested and prosecuted in disproportionality high numbers throughout the 70s and 80s (Sutherland, 2020). A detailed discussion of the racism within the judicial system during this period can be found in chapter three.

Disparity ratios

Fifield and Donnell (1980) noted that due to substantial changes in the procedures for dealing with young offenders after the implementation of the Children and Young Persons Act in 1975, rates of Children's Court appearances before 1974 and rates of Children's Boards and Children and Young Persons Court appearances after 1975, are not directly comparable. However, they also argued that the ratio of Māori to non-Māori appearance rates would be expected to be largely unaffected by the procedural changes and could therefore be used for comparisons before and after the 1975 Act (pp. 11, 14).

[36] Police Youth Aid and Children's Board statistics include only those cases which did not result in a subsequent prosecution in Children's and Young Persons Court as these were counted in court appearances.

Figure 2.4. Ratios of Māori to non-Māori rates (aged 10-16) for Court Appearances and All Official Notice[38]

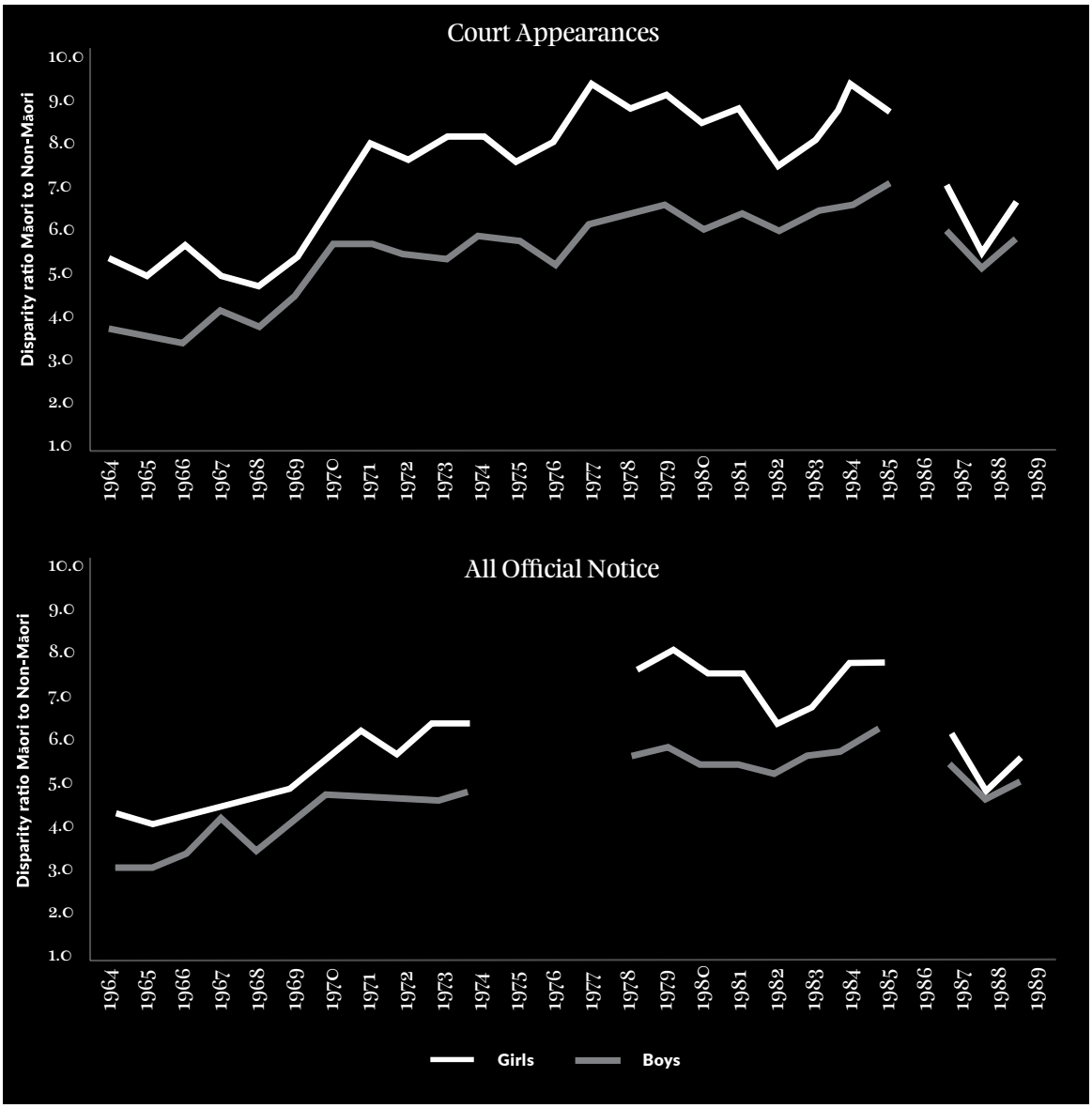


Figure 2.4 presents ratios of Māori to non-Māori offending rates for girls and boys from 1964 to 1978. If there was no ethnic disparity, the ratio would be 1:1 – with Māori and non-Māori coming to notice in jurisdictions at the same rate. However, the Figure reveals that from 1964 to 1989 Māori boys and girls were brought before the official bodies at much greater rates than non-Māori boys and girls.

[38] Court Appearances: 1964-1974 Children's Court appearances, 1975-1977 Children's Board and Children and Young Persons Court appearances, 1978-1989 Children and Young Persons Court appearances.

Fifield and Donnell (1980) observed that since the introduction of new procedures for dealing with young offenders in 1975, there was little change in the ratios between Māori and non-Māori juvenile offending[39] for the first few years. However, the ratios continued to rise from 1977 and approached 7:1 for boys and 9:1 for girls by 1978.

Overall, between 1964 and 1989 Māori boys were brought before the court at a greater rate (3.6 to 7.1) than non-Māori boys. The gap appears even more marked for girls. For the same time period the rates for Māori girls court appearances were 4.8 to 9.4 times greater than for non-Māori girls court appearances. The Māori to non-Māori ratio was higher for girls than for boys for all years except 1988. The ratio in court appearance rates were highest for girls (9:1) in late 1970s and in 1984-85. The highest ratio for boys (7:1) in court appearance rates occurred in 1985.

Similar trends appear with 'all official notices' between 1964 and 1989, although the ratios are slightly smaller (3.2 to 6.6 for Māori boys and 3.9 to 8.1 for Māori girls). This indicates that the gap between Māori and non-Māori was more prominent in court appearances than for other less formal interventions for dealing with youth offending (i.e., Police Youth Aid).

Norris and Lovell (1988) noted that the Māori to non-Māori ratio for coming to notice had increased in 1985. They suggested this was due to a greater decrease in rates for non-Māori compared with the decrease in rates for Māori (Norris & Lovell, 1988). The authors acknowledged limitations of comparing post-1978 figures with the earlier years (presented by Fifield and Donnell in 1980) due to procedural changes since 1974. However, they emphasised, 'nonetheless, it is apparent that the disparity between Māori and non-Māori rates increased from the early nineteen-sixties' (1988, p. 9).

By the end of 1989, Māori girls were brought before court at a 6.6 times greater rate than non-Māori girls; for Māori boys, the rate was 5.9 times greater. The ratio for Māori to non-Māori rates for instances of coming to official notice for girls was 5.9 and for boys 5.4. These ratios confirm just how high the disparity and gap between Māori and non-Māori representation in the youth justice system.

Concerns have been raised about the ethnic disparities and over-representation of Māori children and young persons in youth justice statistics since the 1980s. At the Child Care and Rights of Children Conference in Wellington in 1983, the Assistant Director-General of Social Work in DSW, Mr Manchester addressed over-representation in this speech:

> We have been concerned for some years at the disproportionately large number of Maori children and young persons coming before the Courts and being admitted to our remand and longer term training institutions. This proportion has risen as high as 80% in some of our institutions on occasions (Department of Social Welfare, 1983, p. 18).

The Women Against Racism Action Group (WARAG) highlighted in their report (Department of Social Welfare, 1985) the disproportionality of Māori (45%) and Pacific (16%) children and young persons in court appearances in the Auckland region in 1982. Furthermore, the group stressed that while those in contact with the justice system and DSW services were predominantly Māori and Pacific people, they were served overwhelmingly by Pākehā staff, who dominated decision-making positions. WARAG emphasised the imbalance:

> 'In total, 60% of all court reports in 1982 concerned Māori and Pacific children and young persons. Only 15% of the Field Social Workers responsible for writing these reports are Māori and Pacific people' (p. 14).

The group was concerned about the DSW's racist environment which alienated and discriminated against Māori in contact with the justice system and recommended changing the existing imbalance

[39] including Children's Board and Children and Young Person Court Appearances of 10–16-year-olds

in the ethnic composition of staff, so children and young people would be served by staff from the same ethnic background.

Longitudinal cohort study reports relating to youth justice

Official statistics record the number of all official contacts with the justice system (e.g., court appearances), which usually contain repeated contacts by the same individual in one year. Cohort studies enable studying individual offending histories over time. By following these individuals at different points of their lives it allows researchers to calculate the proportion of how many per cohort offend. According to Cook (2020, p. 11), 'cohort analyses are especially important in Aotearoa New Zealand, where there are vast differences in the population structures between different ethnic communities and in their experiences of the justice system'.

The next section includes the following cohort studies which have examined youth justice outcomes for children and young persons born between 1950 to 1999:

- Children born in 1954-55 (Department of Social Welfare, 1973)
- Boys born in 1957 (Fergusson et al., 1975a, 1975b, 1976a; Donell & Lovell, 1982; Lovell & Norris, 1990)
- Children born in 1977 in the Christchurch urban areas as part of the Longitudinal Christchurch Health and Development Study (Fergusson, Horwood & Lynskey, 1993a; Jones, 2016)
- Children born in 1989 (Ministry of Social Development, 2010, cited in Stanley, 2017)
- Children born from 1995 to 1999 (Spier, 2016).

The Department of Social Welfare (1973) studied patterns of offending for a cohort of children born in 1954-55. Their analysis cumulated first offender rates from 1965 to 1971 (i.e., first offender rates of 10-year-olds in 1965 were added to first offender rates of 11-years olds in 1966, and so on until first offender rates of 16 years olds in 1971).

Table 2.21. Percentage of Māori and non-Māori in the 1954-55 cohort who appeared in the Children's Court before age 17

Māori Boys	Non-Māori Boys	Total Boys	Māori Girls	Non-Māori Girls	Total Girls
40%	**10%**	**13%**	**17%**	**3%**	**4%**

These results clearly show a disproportional number of Māori boys and girls in the cohort who were brought to court on a legal complaint or police charge. Whilst the authors acknowledge high offending rates, they maintained:

> [the figures] almost certainly represent an understatement of actual patterns of offending, as they take no account of the thousands of young offenders each year who do not appear in Court but who instead are dealt with by the Youth Aid Section of the Police' (Department of Social Welfare, 1973, p. 16).

Following the Department of Social Welfare research, the Joint Committee on Young Offenders instigated a large-scale offending prediction study.[40] The core sample of this longitudinal cohort study involved all boys born in 1957 and who were attending a NZ state school in April 1967 (a total of over 25,000 boys). Demographic (including ethnicity assessment), school performance and social adjustment information was collected from returns provided by the boys' teachers. A complete record for these boys' appearances in the juvenile justice system for offending up to 17 years and later 24 years was subsequently compiled through searches of official records (Lovell & Norris, 1990).

This longitudinal research followed the cohort of boys to detect the onset and proportion of the juvenile offending, establishing repeat offending and examining other patterns associated with offending, including an investigation of ethnic differences. Several reports on juvenile offending have been published using data from this study (Fergusson et al., 1975a, 1975b, 1976a; Donell & Lovell, 1982; Lovell & Norris, 1990).

Fergusson, Donnell, and Slater (1975a) reported that in a randomly selected sample of 5472 from the population of all boys born in 1957, 22.8% of Māori boys had at least one Children's Court appearance by the age of 16. At the same time only 7.4% of European boys had appeared before the Children's Court, suggesting that Māori boys were three times more likely to be at 'risk' of offending.[41]

While offending rates and average number of appearances increased with decreasing socioeconomic status (defined as boy's parent occupation) for both groups, for most socioeconomic status categories, the risk of a child offending (i.e., Children's Court appearance) was higher for Māori than for European children.

From the same longitudinal study, Donnell and Lovell (1982) randomly selected a sample of 8,801 boys to examine the pattern of juvenile offending (below 17-years of age) as measured by official contacts with either the Youth Aid Section of the Police or with the Children's Court.

The results (Table 2.22) showed the incidence of offending, that resulted in Children's Court appearances, was three times higher for Māori than non-Māori boys (35% versus 11%).

When Youth Aid Section referrals were also considered, 42% of Māori boys versus 17% of non-Māori boys had come to official notice at least once. Māori were two and a half times more likely than non-Māori to come to official notice. These results highlighted that almost one in every two Māori males and one in every six non-Māori males came to official notice for juvenile offending before age 17 during this period.

[40] The committee comprising of heads of the Departments of Education, Internal Affairs, Justice, Maori Affairs, Police and Social Welfare, included a small research unit conducting research on juvenile offending. In 1981, the research unit was absorbed into the Department of Social Welfare, which continued the previous research programme (Donnell & Lovell, 1982).

[41] Note that Fergusson et al. (1975a) defined 'race' by European/non-European. However, the authors noted that 'of the 17.6% [961] of boys who were classified as non-Europeans, 66% were Maori and a further 20% were part Maori. Thus, interpretation of the classification as being Maori/non-Maori would not do too much violence to the data' (p. 6). Nevertheless, it needs to be borne in mind that 'Māori' category included about 2% of combination of Māori/Pacific Island and Māori/Asian ethnicity, and about 12% of other ethnicities (Pacific Islander, Asian and ethnicity not specified).

Table 2.22. Offending rates of the boys' cohort born in 1957 before age 17

	Non Māori	Māori
First Court appearances %	11%	35%
First official notice for Juvenile offending %	17%	42%
Repeat Court appearances %	4.5%	21%
Total sample (N)	7745	1056

Source: Donnell & Lovell (1982)

While the previous research was based on quasi-random subsamples of the study population (all NZ boys born in 1957 and attending New Zealand state schools in April 1967), Lovell and Norris (1990) conducted their analysis with all 25,497 individuals. These authors regarded the sample as representative of an entire age cohort as it represented 86% of all Aotearoa New Zealand boys who had their tenth birthday in 1967.

Their analysis found that by the end of the follow up period in 1981 (when the boys were 24 years old), about a quarter (25%) of all cohort members had appeared in court. Ethnic comparisons, however, showed profound differences – Māori boys were twice as likely (48%) to have appeared in court as non-Māori (22%). Among those who appeared in court, about half (52%) of the non-Māori boys and about one third (34%) of the Māori boys made a single appearance. The most significant discrepancy between the two groups was approximately half (48%) of the non-Māori boys appeared in court before they turned 17 compared with almost three quarters (73%) of Māori boys. This confirmed that young Māori boys (under 17) were brought to court at a much higher rate than the same age non-Māori boys.

Mentioned previously, the Christchurch Health and Development Study (CHDS), that followed 1265 children born in 1977 in Christchurch, also examined offending rates by Māori and non-Māori. Fergusson et al. (1993a) studied a sample of 739 children from the cohort (of which 11.2% were Māori/Pacific Island children). The sample showed a notable discrepancy between self/parental reported offending at age 15-years and officially recorded offending by the Police Youth Aid Section in Christchurch. Māori/Pacific Island children were found to offend at about 1.6 to 1.7 times the rate of Pākehā children based on the self-reported or parental reported offending. Data derived from official police contacts showed a 2.9 times higher offending rate for Māori/Pacific Island children. Even with identical history of self/parentally reported offending, Māori/Pacific Island children were 2.4 times more likely to come to police attention than Pākehā children. The authors concluded that the findings support the hypothesis that 'police contact statistics contain a bias which leads to an over-representation of Māori/Pacific Island children' (1993a, p. 201).

A further study by Jones (2016) examined offending and conviction rates from the same longitudinal cohort extending the analysis from adolescence to the age of 35 years. The results with 872 cohort members (of which about 10% were Māori[42]), whose official offending records were available, showed that the probability for Māori to receive one or more official charges over the life course up to 35-years

[42] Individuals in this study were classified as Māori if the parent's response indicated that their child's ethnicity was Māori or part Māori. Participants were classified as non-Māori if the parent's response indicated that their child's ethnicity was European/Pākehā or any other ethnicity.

was 34.9% in comparison to 24.0% for non-Māori. Overall, the analysis indicated that Māori were 6.6 and 6.5 times more likely than non-Māori to be officially charged or convicted with an offence.

This research demonstrated, as the participants matured from adolescence into adulthood up to 35-years of age, the disparity in rates of official contacts between Māori and non-Māori became notably higher (incidence rate ratio of 2.9 in the earlier study versus 6.5 in the later study). The analysis by Jones (2016) showed a considerable discrepancy between self-reported and officially recorded contacts and offending. Based on self-reports, Māori rates of being charged and convicted were 3.0 and 2.9 times higher than for non-Māori, while official rates of contacts (charges and convictions) were 6.5 to 6.6 times higher for Māori.

The study identified nine social, family and individual risk factors, which substantially reduced the differential in rates of official contacts. The Māori rate of official charges and convictions decreased to 1.8, and self-reported arrests and convictions to 1.8 and 1.7, respectively. However, after taking into account social, family and individual risk factors of offending, as well as self-reported rates of offending, Māori still had rates of official charges and conviction that were 1.5 higher than non-Māori (i.e., Māori had rates of official charges and convictions that were 50% higher than for non-Māori). Jones (2016) emphasised that because the residual incident rate ratio was still over 1.0, it suggested a small ethnic bias against Māori in the criminal justice system, which was over and above the estimated effects of social, family and individual disadvantage.

The Ministry of Social Development (2010, as cited in Stanley, 2017, p. 58) examined retrospectively a cohort of 58,091 people born in 1989. The analysis showed that by the age of 20-years, 1.2% (672) had been imprisoned. A high proportion of those imprisoned had a previous Child, Youth and Family (CYF) record (83%, 558) – either related to care and protection (13%, 84), youth justice (21%, 141) or both (50%, 333). These results support the link between a history of State Care intervention and subsequent imprisonment.

In a more recent cohort study, Spier (2016) examined the offending trajectories of the 1995 to 1999 birth cohorts 10 to 13-years later (data from 2009 to 2013). Based on police offender apprehension data, the findings estimated 2.8% to 3.8% of all non-Māori children from the 1995 to 1999 birth cohort had offended at least once before reaching 14-years. The estimated proportion of Māori who were known to police ranged from 10.6% to 11.7%. The author noted 'Māori children were approximately three times more likely than non-Māori children to become known to Police as an offender by age 14. The difference was larger for girls than boys when comparing Māori versus non-Māori rates' (p. 7). A more detailed discussion of the state surveillance of Māori children can be found in chapter three.

The data also showed that after being apprehended by the police for the first time, Māori children were more likely to reoffend than all other ethnic groups within all re-offending follow-up periods (from 1 year to 4 years). Spier (2016) noted the over-representation of Māori children in offender statistics: 'This over-representation at the front-end of the youth justice system flows through to other parts of the system (i.e., Child, Youth and Family and the Youth Court)' and concluded with recommendations:

Spier (92016) noted it is important to understand and address the complex interplay of risk factors that lead to Māori children, both boys and girls, being apprehended at a greater rate than children from other ethnic groups. They advised attention needs to focus on two areas, the rate of Māori children offending and entering the youth justice system and, for those children who do come in contact with the system, there needs to be effective interventions to prevent reoffending (Spier, 2016, p. 23).

Convictions and custodial outcomes for Māori

Following the Court appearances, Māori conviction rates and custodial sentences have been noted as being disproportionately high, resulting in Māori being placed either in the care of Department of Social Welfare or in penal institutions.

McCreary (1955) highlighted major discrepancies in Māori conviction rates against general population expectations. In 1952, Māori represented about 4.8% of the population over 15-years-of age, and the conviction rate expectation, based on age structure, was calculated at 6.1%. However, the actual conviction rate of Māori offenders in the Supreme Court was 19.8%, more than three times higher than would have been expected from their proportion of the total population. For the 20-24 age group, the discrepancies were four times higher (31.8%) than would be expected (7.8%).

Other research based on data collected from the Magistrates' Courts for 1964 to 1967/68 also showed higher rates of convictions for Māori compared to Pākehā (Duncan, 1972; O'Malley, 1973).

Donnell and Lovell (1982) reported that in a sample of 8,801 randomly selected boys from the population of all boys born in 1957, ethnic differences occurred not only in the offending rates, but also in the sentencing of boys who appeared before the Court. Table 2.23 shows that just 5% of non-Māori but 23% of Māori boys, from the sample, received a supervisory outcome by the court before turning 17. Likewise, 1% of non-Māori and 7.5% of Māori boys were placed in official custody, showing a difference between the groups in court outcomes. Furthermore, the proportion of Māori offenders (21%) receiving a custodial disposition as the result of Court appearance was double the proportion of non-Māori offenders (10%).

Donnell and Lovell discuss several suggested factors as contributing to these differences:

> Māoris might have lengthier previous offending records, their offences might be more serious, or their home environments might be more likely to have features which predispose the Court to custodial decisions. On the other hand, it has been suggested that Māoris are less sophisticated than non-Māoris in dealing with the legal system and that they may make a less favourable impression in Court (Donnell & Lovell, 1982, p. 34).

Lovell and Norris (1990) examined offending outcomes with the same cohort of boys born in 1957, including 25,497 boys (86% of the entire cohort). In 1981, when the boys were 24 years old, a greater proportion of Māori cohort members had experienced each type of court outcome. When only

Table 2.23. Outcomes of Court Appearances in 1974 of boys born 1957

	Supervisory outcome[43]		Custodial outcome	
	Non-Māori	Māori	Non-Māori	Māori
% of total sample	**5%**	**23%**	**1%**	**7.5%**
% of offenders	**44%**	**66%**	**10%**	**21%**

Source: Donnell & Lovell (1982).

[43] Note. In this study, a supervisory outcome included a sentence of probation, periodic detention, or being placed under the supervision of a social worker, which included regular visits by a social worker providing for long-term oversight without involving the extreme step of removal from home. A custodial outcome included a sentence of borstal training, detention centre, imprisonment, committal to mental hospital, or committal to the guardianship of the Superintendent of the Child Welfare Division (after April 1972 the Director-General of Social Welfare). The last option involves the offender being removed from home and placed in an institution, family home, foster home, residential employment, or in board and separate employment.

those who had appeared in court were considered, a significantly greater proportion of Māori had experienced outcomes involving custody (28% of Māori versus 14.5% non-Māori) or supervision (53% of Māori versus 28% non-Māori), a slightly greater proportion of non-Māori had experienced court outcomes restricting driving or involving a financial penalty (p. 178). Even when prior appearances, age and offence type were accounted for, young Māori still were more likely to be placed in custody rather than placed under supervision or being admonished.

Because Māori boys were brought before court for offending or misbehaviour complaints at younger ages than non-Māori (73% of Māori versus 48% of Pākehā made their first court appearance before age 17), they were more likely to receive custodial placements as a juvenile, and thus more likely to receive custodial outcomes as adults (12% with no juvenile custodial outcome, 39% with one juvenile custodial outcome, 69% with two or more custodial outcomes as a juvenile, received a custodial outcome in adult life). Furthermore, the proportion of cohort members receiving adult custodial outcomes was higher for those who had juvenile placements involving borstal, detention centre, or prison (46%), than those who were subject only to placement under the guardianship of the Director-General of Social Welfare (34%).

The investigation by Chief Ombudsman Sir Guy Powles (1977) presented data from the Department of Social Welfare on young persons who were remanded into the custody of the Director-General of Social Welfare. From a total of 878 young people held in Social Welfare custody in 1975, twice as many were Māori (13.2%) than European 6.7%). The same pattern appeared with borstal sentencing (5.4% for Māori versus 2.5% for non-Māori), while non-Māori tended to receive non-custodial sentences such as DSW supervision, fines, probation more frequently (80.7%) than Māori (72.1%).

Referring to the Justice statistics, Powles noted:

> The proportion of Māori children and young persons who are the subject of court decisions requiring removal from their social environment, either into the care of the Department of Social Welfare, or into institutions administered by the Department of Justice, is greater than the proportion of Māori children and young persons who appear before Children's Courts (Powles, 1977, p. 5).

Table 2.24 illustrates the Ombudsman's findings based on statistics of Justice for 1973 and 1974. The proportion receiving sentences involving removal from their social environment increased in 1974 for both boys and girls and the proportion of Māori girls sent to borstal for both years was even higher than Māori boys. While the proportion of Māori among young people receiving outcomes involving removal was over 50% in each category, less than half of the young people whose cases were 'dismissed, withdrawn or struck out' were Māori.

Table 2.24. Proportion of Māori in each category of court outcomes, in 1973 and 1974

Boys		Proportion of Māori in	Girls	
1973	1974		1974	1973
41%	**45%**	**Appearances before the Children's Court**	**51%**	**51%**
56%	**61%**	**Guardianship orders**	**55%**	**56%**
61%	**66%**	**Borstal training sentences**	**65%**	**75%**
4 out of 6	**4 out of 5**	**Receiving sentences or imprisonment**	**2 out of 3**	**-**
38%	**44%**	**Dismissed, withdrawn, struck out**	**46%**	**44%**

Source: Powles, 1977; Statistics of Justice published by the Department of Statistics

The Children in the State Custody report in 1981 compiled data on the proportion of children processed through the Courts over a 10-year period (1967-1976) who were Māori (ACORD, 1981). Of all 116,595 juveniles processed between 1967 and 1976, 41% were Māori. In the 10-years to 1976, 1,363 Māori boys and girls were sent to borstal and another 690 Māori boys to detention centres.

Moreover, an additional 500 children were received into Social Welfare custody each year on Court warrants relating to complaints that the children were in need of 'care, protection, or control (ACORD, 1981). These children may not have committed an offence, but nonetheless they received the same punitive treatment as those held on remand pending trial, and those sentenced by the Courts to DSW care (ACORD, 1981).

Sutherland (2019) argued that Māori females experienced even higher disparities than males. The proportion of Māori girls out of all girls sentenced to borstal from Children's Court ranged from 47% to 67% between 1967-1971. The compelling evidence that Māori children were being disadvantaged in justice system outcomes through the 1960s-70s led Sutherland and colleagues to conclude:

> It is very clear that Māori children receive heavier sentences than non-Māori children. Any Māori child before the court was more than twice as likely to be sent to a penal institution … as a non-Māori child, while the latter was more likely to be fined or simply admonished and discharged (Sutherland, 2019, p. 6).

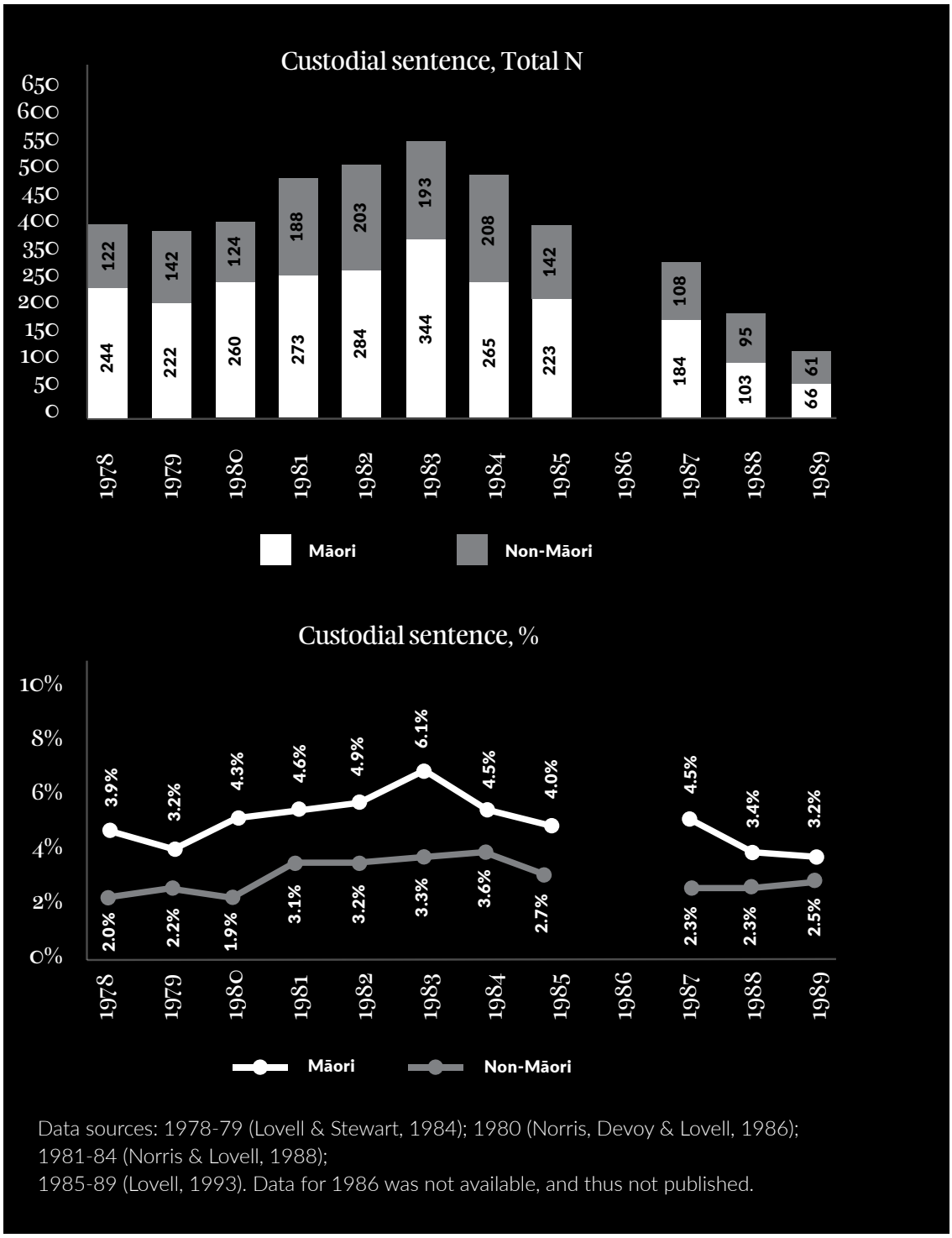
Data for later periods relating to custodial outcomes of Māori and non-Māori young persons (ages 14-16), who appeared in court due to offending, were obtained from the statistical report series the Patterns of Juvenile Offending in New Zealand, published by the Department of Social Welfare between 1983 and 1993. The court outcomes covered the years 1978 to 1989; a period when children were dealt with in accordance with the provisions of the 1974 Children and Young Persons Act. Figure 2.5 shows the results from our analysis of this data.

Table 2.25. The proportion of Māori in each category of a Court sentence imposed on children during the 10 years from 1967 – 1976

Fine	Periodic Detention	Detention Care	Social Welfare Care	Borstal
29.1%	**35.9%**	**48.7%**	**53.5%**	**59%**

Source: ACORD, 1981, as cited in Sutherland, 2019, p. 6.

Figure 2.5. Outcomes of Children and Young Person's Court appearances



Data sources: 1978-79 (Lovell & Stewart, 1984); 1980 (Norris, Devoy & Lovell, 1986);
1981-84 (Norris & Lovell, 1988);
1985-89 (Lovell, 1993). Data for 1986 was not available, and thus not published.

Figure 2.5 illustrates the ethnic differences in absolute numbers and percentages of court appearances leading to custodial outcomes. Custodial outcomes for 14–16-year-olds included sentences to a term of corrective training, detention centre, youth prison, and imprisonment. While the proportion of Māori children, who received custodial sentences, dropped from 67% (33% non-Māori) in 1978 to 52% (48% non-Māori) in 1989, Māori remained over-represented throughout the investigated period. It is clear from the data that court appearances by Māori were more likely to result in custodial sentences, with the gap closing towards the late 1980s. Furthermore, during the years: 1978, 1980, 1983 and 1987, Māori court appearances were approximately twice as likely to result in custodial sentences.

Based on 1990 youth justice statistics, Fulcher and Ainsworth (1994), noted that approximately one in 10 (11%) young people aged 14-16 were found guilty and sentenced by the Courts to imprisonment or corrective training. An additional 4% were supervised by the Department of Justice through its Probation or Periodic Detention services. Thus, these young people, of which the majority were Māori and Pacifica youth, ended up in the adult system. This finding was emphasised by the authors:

> Based on 1990 statistics, there is a strong case for arguing that the country now abandons roughly 1 in 7 [15%] of its young people referred to the courts to an adult system that neither takes account of their personal and social development as adolescents nor provides managed care towards rehabilitation. Well over half of these young people abandoned to the adult system are of Maori and Pacific Island descent (Fulcher & Ainsworth, 1994, p.10).

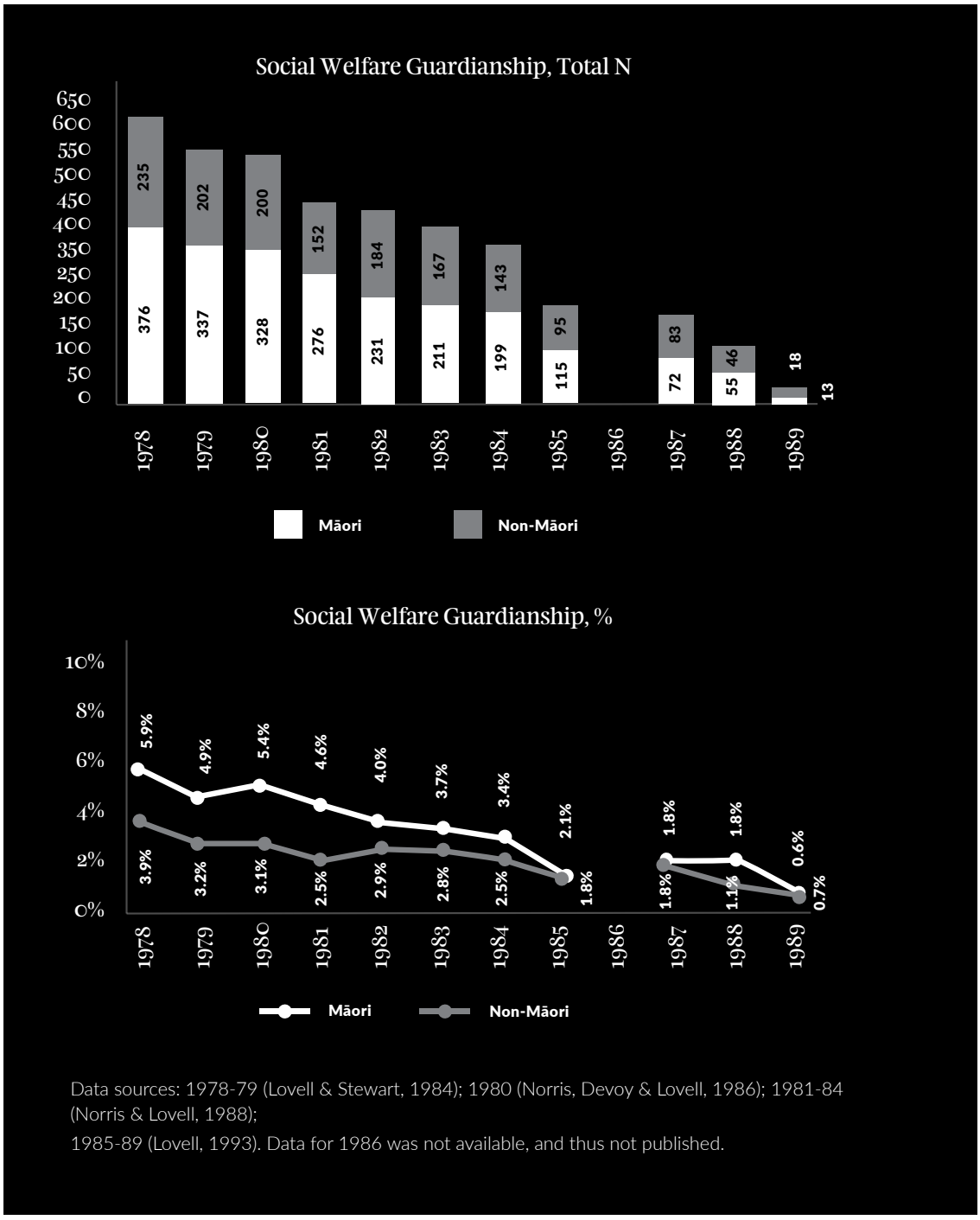
Figure 2.6 displays the number and percentage of Māori and non-Māori children, who were placed in the custody and guardianship of the Director-General of Social Welfare as a result of a court appearance for offending for the years 1978 to 1989. As above, the data was compiled from the Patterns of Juvenile Offending in New Zealand reports.

While the overall number of guardianship orders as a result of offending reduced from 1978 to 1989 for both Māori and non-Māori (aged 10-16), Māori children remained over-represented in guardianship orders (42%-52%) based on population statistics. Until 1984, a greater percentage of Māori children were placed under the guardianship of the Director-General of Social Welfare, with the biggest gap between Māori and non-Māori occurring between 1978 and 1981. Based on this data, the disparity between Māori and non-Māori receiving guardianship orders substantially reduced from 1985 to 1989. However, Māori were more likely to receive 'periodic detention and community work' as a court outcome, and less likely to receive admonitions than were non-Māori of the same age (Lovell, 1993, p. 22).

Data indicates that Māori youth (15-years-old), who were referred to Youth Justice Family Group Conferences during 1988 were found to receive more severe outcomes (e.g., orders for supervision either in the community or in a residence) by the Youth Court (Maxwell, Robertson, Kingi, Morris, & Cunningham, 2004).

Overall, our analysis demonstrates that tamariki and rangatahi Māori were disproportionately affected by court outcomes resulting in their placement in penal institutions or under the care of the settler state system. Chapter 3 highlights how processes and systems influenced adverse outcomes for Māori children.

Figure 2.6. Outcomes of Children and Young Person's Court appearances



Data sources: 1978-79 (Lovell & Stewart, 1984); 1980 (Norris, Devoy & Lovell, 1986); 1981-84 (Norris & Lovell, 1988);
1985-89 (Lovell, 1993). Data for 1986 was not available, and thus not published.

Over-representation of Māori youth in penal institutions

Māori youth experience with a penal institution could occur through sentencing to prisons and borstals or being remanded in custody to a penal institution. As evidenced in the previous section, Māori were starkly over-represented in receiving custodial sentences which lead to their over-representation in penal institutions.

Early data from the 1950s indicates that Māori youth were over-represented in penal institutions. McCreary (1955) contrasted prison population statistics with the general population statistics taking into account a different age structure of Māori and Pākehā populations. The following table indicates that Māori boys aged 15 to 19 years represented 9.8% of the total male population in this age group in 1952. However, Māori boys represented about 25% of the inmates in the prison population of this age group. Thus, Māori representation in prisons was 2.5 times higher in the 15-19 years age group than in the general population, rising to four times higher for the 20-24 years age group.

Table 2.26. Prison population – male prisoners by ethnic group, 1952

Age	Māori male % of the population	% of Māori inmates	% of Pakeha male inmates	Total N of inmates
15-19	**9.8%**	**24.6%**	**75.4%**	**195**
20-24	**7.4%**	**30.4%**	**69.6%**	**494**
All ages 15+	**4.7%**	**18.1%**	**81.9%**	**2,185**

Source: Data obtained from McCreary (1955).

The Prevention of Crime (Borstal Institutions Establishment) Act 1924 enabled young persons (15-20) to be sentenced to borstal for a maximum of five years, which was reduced to three years in 1954 (Criminal Justice Act 1954) and reduced again to two years in 1962 (Criminal Justice Amendment Act 1962) (Schumacher, 1971).

The primary intention of borstal sentences was to reform young offenders; however, the high rates of reconviction of borstal trainees after their release, signalled the failure in achieving this purpose, and in April 1981, borstal training was eventually abolished (Williams, 1984). Despite the lack of 'success', borstal training 'remained one of the most significant forms of custodial sentence available to the Courts' (Williams, 1984, p. 78).

According to Williams (1984), the prerequisite of borstal sentences included detention to appear expedient for and conducive to reformation and the prevention of crime. However, the courts sentenced youth offenders to borstals in obvious disregard of that principle. His critical appraisal emphasised that,

> 'borstals had long since come to be treated as the dumping place for all young offenders who, in the sentencers' opinion, had to be incarcerated for a number of months because they did not deserve any leniency or because they were not eligible for other sentences' (p. 81).

Māori were more likely to be sentenced to borstal as evidenced in the composition of borstal population and court outcomes as discussed previously.

Schumacher (1971) analysed the factors related to reconviction amongst a sample of Waipiata Borstal trainees. Waipiata Borstal was established in August 1961 in Central Otago as an open borstal recruiting trainees from other borstal institutions, 'who were regarded as having a better than average potential for good citizenship' (p. 6). The study included 251 trainees received at Waipiata between January 1962 and August 1965 and released from borstal after at least one year by mid-1966 (the study cohort was born between 1942-49).

The author noted the disproportionately high ratio of Māori to New Zealand Europeans[44] among the borstal trainees: 'Māori males in the age group 15-20 years made up less than 10% of the total NZ male population aged 15 to 20 in the years during which the youths in this study were sentenced to borstal. Yet they constituted nearly 36% of the trainees in the study' (p. 21).

Pre-release prognosis reports by the borstal superintendent also indicated ethnic disparities, with favourable prognosis being much less common among Māori trainees. Only 28% of Māori youths were considered to have favourable prospects in comparison to 51% of Aotearoa New Zealand European youth. Negative stereotyping and racism contributed to the further higher reconviction rates by Māori youth. While the overall reconviction rate was 70% (175/251) within a one year follow up period since their release from borstal, Māori youth were more frequently reconvicted (79%) than New Zealand Europeans (63%).

However, there were no significant differences in the seriousness of their reoffence or the total number of reconvictions between Māori and NZ European youth.

The study also showed that 23% of the borstal trainees had been in children's homes or child welfare institutions. Youth, who had been in child welfare institutions or committed to the care of Child Welfare Superintendent as their most serious previous penalty, had a greater total number of reconvictions (61%) and were more frequently reconvicted for a major offence (82%) than youth without such previous experience/penalty (33%, and 53%, respectively).

While the Waipiata borstal was designed for trainees regarded as having more positive prospects for their future, the author concluded that Waipiata trainees' criminal offending and post-release adjustment was as unsatisfactory as for youths detained in other borstal institutions. The study indicated that for youths, who were reconvicted (n=175), less than a half (45.7%) of them remained in the community (i.e., received fines, probation), while 45.6% received imprisonment and 8.6% were sentenced to borstal again. These results support William's (1984) appraisal that 'for many years now it has been accepted that borstals were very 'successful' in producing ex-inmates with a veritable string of further convictions rather than in contributing to the prevention of crime' (p. 79).

The pipeline from borstal to prison is well established in the data. Research demonstrates that Māori youth were more likely to be charged with offending, more likely to receive a custodial/residential sentence, more likely to be held on remand, and less likely to be represented by a lawyer (Sutherland, 2020). The evidence clearly indicates that Māori were criminalised through the structural racism within the justice system (for more discussion refer to chapter three).

Remanded in custody to a penal institution

Children and young persons could be held on remand in adult prisons in addition to social welfare homes, police custody (cells), psychiatric wards, or psychiatric hospitals before or after their hearing in the Children's Court (Sutherland, 2019). In 1976, the Auckland Committee on Racism and Discrimination (ACORD) published a report 'Children in Prison: Where is the Justice? Who is the Criminal?'. This

[44] Terms used from original document 'any trainee of half-Maori blood or more was classified as Maori' (p.21).

report expressed concern that Māori and Polynesian children were impacted by remands into the adult prison system.

The report instigated Chief Ombudsman Sir Guy Powles to undertake an investigation into children and young persons on remand in penal institutions. The findings of the investigation were compiled in a draft report in 1977; while Powles retired and left the publication of the final report with his successor, it did not get officially issued. Subsequently, ACORD released the information from the draft report to the public (Sutherland, 2019).

Powles' report contained figures provided by the Secretary for Justice, which included details of young persons aged between 14 and 16 years held on remand in Aotearoa New Zealand prisons for the years 1974 and 1975. Based on the calculations from the absolute numbers, it is evident Māori made up about half of the young people who were remanded to prisons throughout Aotearoa New Zealand.

Powles' report indicated that of all young persons remanded to adult prisons in 1974, 52% were Māori or other Polynesian; this increased to 57% in 1975 (see also Sutherland, 2019).

The Department of Social Welfare provided further data to Powles on young persons who were remanded into the custody of the Director-General of Social Welfare. Between 1 April and 31 December 1975, a total of 878 young persons were held in Social Welfare custody, of which half were Māori (51%) and about one third (32.5%) were of European descent.

Table 2.27. Young persons (14-16) remanded in prisons, 1974, 1975

	Male				Female			
	European	Māori	Other Polynesian	Total	European	Māori	Other Polynesian	Total
1974	48%	47%	5%	234	40%	51%	9%	35
1975	43%	53%	4%	291	41%	45%	14%	29

Data source. Powles (1977)

A study published by the Department of Justice (1979) followed-up Powles' investigation and examined young persons remanded in custody to a penal institution (11 prisons in total) at any time during 1977 and up to 31 March 1978.[45]

In the final sample of 282 young males in the custody of Justice Department (and excluding those with race unknown), the proportion of Māori prevailed over any other ethnic group:

- 57% of those remanded in custody before conviction,
- 68% of those remanded after conviction,
- 63% of those remanded in custody at any stage of the proceedings.

The 1979 report analysed the ethnic composition of those remanded in penal institutions which showed that among 14-16 years old males in 1976, Māori represented:

- 36.5% of the total persons appearing in the Children and Young Persons Court;
- 41% of the distinct cases appearing in the Magistrate's Courts.

The report (Department of Justice, 1979) emphasised that 'although this is only a raw analysis it does suggest an imbalance with, all things being equal, more Māori being remanded in custody than would be expected' (p. 7). The report recommended:

> A deeper study needs to be undertaken to assess the interacting circumstances that result in a decision for custody. We must say however that we cannot envisage a situation where the Court could properly consider race, per se as the discriminating factor that influences the remand decision (Department of Justice, 1979, p. 17).

The research also showed, that out of all young persons who were remanded in a penal institution for the research period (1977 to early 1978), in 36% of the cases the information on the remanded individual could not be located or linked with the Justice Department records (as per information provided by the institution to the research group).

This study was just a snapshot in time. However, research highlights that for approximately a third of all the young people remanded in penal institutions, their alleged offences could not be linked or found in Justice Department records. It is not clear whether this is a failure in record keeping or if young people were remanded in penal institutions for no legal reason.

The 'Children in the State Custody' report in 1981 released by the Auckland Committee on Racism and Discrimination (ACORD) found that children were more likely to be placed in custody than adults:

> In 1975, only 6.9% of adults were sentenced to terms in custody, compared with over 10% of children (3.6% sentenced to terms in penal institutions and 6.8% to the care of DSW, of all 14–16-year-olds charged with offences before the Children and Young Persons Courts). Of all 14–16-year-olds charged with offences before the Children and Young Persons Courts, 2.9% were remanded in prisons, and about 10.5% more were remanded in Social Welfare Custody. While only 6.4% of adults facing charges in the Magistrate's Courts (renamed District Courts) were remanded in custody (ACORD, 1981, p. 6).

Māori children were being remanded into adult prisons at a higher rate than European children, which placed them at a higher risk of being physically and sexually assaulted, as there was 'no policy to separate young people from adults in New Zealand prisons' (ACORD, 1981, p. 5). ACORD (1981) highlighted the case of a 12-year-old boy who was kept in an adult prison, with no separate facilities for children:

[45] This study did not examine the incidence of remands into the custody of the Director-General of Social Welfare.

> During his detention he was visited by the more influential of the older boys and men and fed chocolates and given comics as an inducement for sexual favours. This is the reality of a situation to which the Department of Justice is a party (ACORD, 1981, p. 5).

With the passage of the CYPF Act 1989 the detention of under 17-year-olds on remand in adult prisons was statutorily ended. This was 17 years after the Nelson Māori Committee had first launched a campaign against the practice (Sutherland, 2019). However, problems related to the practice of remanding young persons in police cells for prolonged periods continued into the 1990s and beyond. A report by the Commissioner of Children 'Young people in Police cells' (Office of the Commissioner for Children, 1997) reiterated concerns of remanding young people in prison-like conditions in police cells for, which the Commissioner described as 'unacceptable in a civilised society' (p. 2).

The concerns included young persons freely associating with adult detainees; a heightened risk of suicide and self-harm; and solitary confinement in a small space for a prolonged period (up to 21 days). The Commissioner for Children highlighted:

> If a family or community member was placing young people in conditions such as those experienced in Police cells the Department [of Social Welfare] would be quick to intervene. Yet where young offenders are being held in appalling conditions in Police cells because of the Department's failure to ensure suitable residential accommodation, its reaction has been to blame others rather than review its own policies and practices (p. 16).

Overall, research data indicates disproportional treatment at all levels of justice system. Māori children and young persons were brought before the Children's Court at higher rates than non-Māori. Of those who were charged, Māori were disproportionally represented in the sentence categories that would most likely result in removal from their whānau.

Youth Justice outcomes after the 1989 Act

Māori remained over-represented in Youth Justice statistics after the passing of the Children, Young Persons and Their Families Act 1989. Maxwell and Poppelwell (2003) published statistics relating to young persons' (aged 14 to 16 years) court appearances for the time period just before the introduction of the Children, Young Persons and Their Families Act 1989 and continuing up to 2001. The authors presented population-adjusted rates of distinct young persons who appeared in Youth Court on at least one occasion in the course of a year.[46] The rates at which young people appeared in Youth Court were calculated for each ethnic group (per 10,000 respective population).

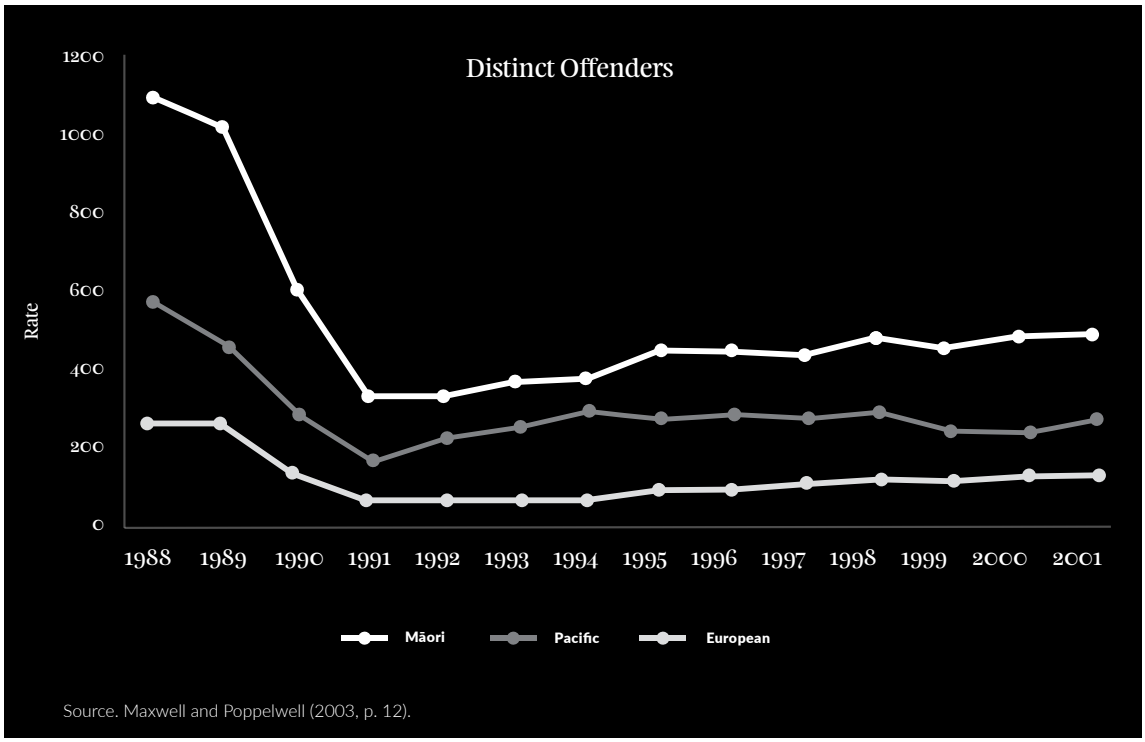
Figure 2.7 indicates a substantial decrease in the rate in appearances from 1988 until 1991 for all ethnic groups, which according to the authors may be due to the initial impact of the 1989 Act. After 1992, the rates started to rise again but during the next 10-years, only reached to about half of the rates prior to the introduction of the 1989 Act.

As seen in the Figure 2.7, the rates of Māori appearances were much higher from 1989 – 2001. The rate for Māori young people was about four times that for European[47] young people and twice that for Pacific Island young people.

[46] Note, the previous DSW statistical reports included counts of all charges laid in Children and Young Persons Court, which did not reflect the actual number of persons appearing as one person may have been charged with several offences and appeared more than once per year. Also, DSW publications included age 10-16, while Youth Court appearances in the current publication only include age 14-16.

[47] "European" also included all other who were not classified as "Maori" or "Pacific Island" on the Youth Court statistics.

Figure 2.7. Rates of distinct offenders per 10,000 European, Māori and Pacific youth aged 14-16 years for 1988-2001 in all Youth Court areas



Source. Maxwell and Poppelwell (2003, p. 12).

The authors surmised that:

> these data support the conclusion that the present youth justice system continues to be more effective than methods of the past in diverting young people from criminal proceedings. However, the amount of diversion from the Youth Court by the use of other strategies, such as direct referrals for a family group conference, appears to have declined since 1991. (Maxwell and Poppelwell, 2003, p. 15)

However, ethnic disparity remained high in a disproportionately large share of Māori young persons appearing on charges. Fulcher and Ainsworth (1994) highlight, 'in 1990, Maori adolescents made up 51 percent of cases brought before the courts, yet they made up only 12 percent of the total population aged 14-16 years' (p. 5).

Further, the 'Youth Offending Strategy' by the Ministerial Taskforce on Youth Offending (Ministry of Justice & Ministry of Social Development, 2002) included concerns about the high rates of offending by young Māori. Based on the data for under 17-year-olds from 1991 to 2000, the document highlighted that Māori youth comprised about half of youth in the youth justice system, including Police apprehensions, youth justice Family Group Conferences and court prosecutions. The Ministerial Taskforce emphasised the Māori over-representation in the youth justice statistics in relation to the population: 'In 1996, the proportion of under 17-year-olds who were Māori was only 24%. Māori children and young people are therefore significantly over-represented in youth offending statistics' (p. 12). They also identified 'gaps in effective programmes delivered by and for Māori, and insufficient information for Māori youth and whānau about what programmes are available' (2002, p.14).

Maxwell and Morris (1991) noted that in 1988, Pākehā accounted for 51% of known juvenile offenders, Māori for 43% and Pacific Island Polynesian for 5%. They acknowledged the disproportionally high number of young Māori in the offending statistics but suggested that police statistics may have overestimated the number of Māori due to a different ethnicity categorisation than used in census data (attributing ethnicity based on the appearance and name as compared to person with half or more Māori descent[48]). The authors further provided an early analysis of police statistics,

before and after the 1989 Act and emphasised no significant changes in offending patterns were found, including the proportions of Pākehā and Māori juvenile offenders.

Maxwell and Morris (1993) provided an updated analysis of the previous comparisons which resulted in the similar conclusion that 'very little change has occurred' (p. 214).

This disproportionality is the result of a combination of both long-term social and economic disadvantage related to enduring colonisation and ongoing systemic discrimination (Becroft, 2015; Cleland & Quince, 2014; Henwood, George, Cram, & Waititi, 2018).

> Certain groups were over criminalised, not just because they committed more crimes, but because they were subject to over-surveillance. In addition, they did not have influence in the framing or enforcing of laws, with the result that the legal system did not take account of their norms or values, and instead promoted and protected the interests of those in the dominant power structures. (Quince, 2007, p. 344)

Presenting police data on detected juvenile offenders from 1978 to 1990, Maxwell and Morris (1993, p. 211) concluded that proportions of juvenile offending attributed to Pākehā, Māori and Pacific Island offenders have fluctuated relatively little over the twelve-year period; with Pākehā making up just below 50% of all juvenile offenders, whilst the majority of the remaining half are Māori, and Pacific Islander represent about 5%.

Referring to crime statistics,[49] Social Environment Scan (Department of Social Welfare, 1999, p. 56) emphasised that 'Māori youth are far more likely to be apprehended by the police than other youth: in 1995, the rate per 1,000 population aged 0-16 was 107 for Māori, 52 for Pacific youth, and 28 for other youth'. Further, Māori accounted for 55% and Pacific young people for 10% of prosecutions/court cases involving young people (14-19) that were finalised in 1997 (Spier, 1998, as cited in Department of Social Welfare, 1999).

	Two quarters before the Act[1]	Two quarters after the Act[2]
Māori boys as % of male juvenile offenders	**43%**	**45%**
Māori girls as % of female juvenile offenders	**46%**	**51%**

[1] October 1988 to March 1989; [2] October 1989 to March 1990

	Year before the Act[1]	Post-Act 1990[2]
Māori boys as % of male juvenile offenders	**42%**	**43%**
Māori girls as % of female juvenile offenders	**46%**	**47%**

[1] October 1988 to September 1989; [2] Calendar year 1990; the first quarter of the Act's operation October to December 1989 was excluded.

[48] Note that Māori Affairs Amendment Act 1974 introduced change in the definition of ethnicity based on self-identification ("a person of Māori ancestry may classify himself as 'Māori' if he so wishes"). This definition was used in 1976 Census but still required specification of the proportion of decent. Since the 1986 Census, official statistics used ethnic categorisation based on self-identified cultural affiliation (without references to degrees of decent/blood).
[49] Statistics New Zealand (1996). New Zealand Now – Crime (p. 38) cited Department of Social Welfare, 1999, p. 56.

Youth Justice – discussion of data

While the extent of tamariki Māori in care and protection was less documented, there were numerous statistical reports published on tamariki and rangatahi, who were affected by the Youth Justice system with statistics mainly provided about youth coming to official notices and appearing in court.

Official statistics and cohort studies showed a high ethnic disparity in offending statistics throughout the research period. Between 1964 and 1989 Māori boys were brought before the court at 3.6 to 7.1 greater rates than non-Māori boys. The rates for Māori girls court appearances were 4.8 to 9.4 times greater than for non-Māori girls court appearances, showing an even larger gap for girls. The ratios of Māori to non-Māori court appearance rates were highest around 9:1 for girls in late 1970s and in 1984-85, and 7:1 for boys in 1985.

Whilst similar trends appeared with all official notices between 1964 and 1989, the ratios were slightly smaller, which indicates that the gap between Māori and non-Māori was more prominent in court appearances than in other less formal bodies dealing with youth offending (i.e., Police Youth Aid).

The publication of ethnicity data in justice statistics during the period, indicates the state did have the mechanisms to collect ethnicity data. However, it only collected this data in justice and not welfare settings. The collection and publication of the over-representation data without causal explanations such as the impact of colonisation, land alienation urbanisation, structural racism, and increased surveillance of the state, created the impression that Māori were predisposed to criminality. This deficit narrative located the problem within the individual and not the state, and fed the racial criminal stereotype of Māori men. Webb (2009) notes that too often analysis ignores the wider social context in which offending figures are generated. 'The failure to situate offending statistics with the broader cultural and historical context, can lead to a limited understanding that ignores how crime figures are socially constructed' (Webb, 2009, p. 3).

Sensational media coverage and reporting offending statistics that omitted contextual (historical and socio-political) influences created and reinforced negative stereotypes of Māori, which in turn influenced public fear, police apprehensions, court outcomes and policy changes (Cook, 2021; Jackson, 1988). This is further elaborated in chapter three which examines the differential treatment of Māori as part of the enduring colonising environment within the settler state system.

Limitations and implications

As noted earlier, disproportionality and disparity ratios between Māori and non-Māori were calculated based on the general population statistics at the time to take into account different sub-population structure and size. However, the collection and classification of ethnicity has changed over time and different ethnicity categorisations were potentially used in research and official statistics which may have affected findings and temporal comparisons.

Bull (2009) notes that caution should be taken when comparing the differences between ethnic groups and the recorded rates of interaction with the justice system, solely on the basis of population size alone (Bull, 2009). In Aotearoa, the ethnic groups have distinct demographic features. The Māori population, for example, are younger than other groups, which is pertinent to analyses of crime as

most crime in Aotearoa New Zealand is committed by young people between the ages of 14 years to 30 years (Chong, 2007). Ideally, imprisonment rates need to be age standardised by population to allow accurate comparison (Webb, 2009).

In addition, researchers (Cook, 2021; Cormack, 2010; Jackson, 1988; Love, 2002) have discussed problems with statistics relating to variations in definitions of ethnicity in the censuses (biological definitions based on 'degrees of blood' versus cultural affiliation and self-identification) and between state agencies (judgement by physical appearance and name versus self-identification). Earlier biological approaches ('full-blood', 'half-caste') were based on assimilationist policies (Cormack, 2010) and the expectation of 'extinction' of Māori people as a statistical category in the long-term (Colgan, 1972; Love, 2002).

> In settler societies, the official definitions and approaches to classifying indigenous peoples have often served the interests of settler governments and institutions, rather than meeting indigenous rights to self-determination and free expression of indigenous identity. These categorisations have been used in varying ways at different times to contain, marginalise, exclude, assimilate, and make invisible, indigenous peoples (Cormack, 2010, p. 6).

Since the 1986 Census, official statistics have moved away from the biological basis of ethnic categorisation to an approach based on self-identified cultural affiliation with more than one group if applicable (Cook, 2021; Cormack, 2010).

Ethnicity determined on a biological basis was culturally inappropriate, ethnic identity assigned by perception and judgment contained inaccuracy (Jackson, 1988). Historically, police practice included recording ethnicity based on offenders' self-identification or assigning ethnicity of offenders from their appearances and name. Jackson (1988) argues that 'observer estimation to classify Māori offenders in fact produces not a 'Māori crime rate', but a 'Māori as perceived by the police' crime rate' (p. 18).

The findings in this chapter need to be situated within these limitations as different ethnicity classification approaches may have contributed to under-counting (e.g., biological criteria) or over-counting (visual assessment by officials) of Māori population in research and statistics.

It is acknowledged by the researchers examining offending that statistics do not represent true offending in the population as some offenders may remain undetected. Police apprehensions may be influenced by police profiling of offenders, public attitudes and involvement (e.g., reporting to police). There is evidence that racial bias and prejudice within the settler state system and public discourse has resulted in inflated Māori apprehensions in comparison to non-Māori, as well as over-reporting of Māori whānau to welfare agencies (Sutherland, 2020).

The focus of this section was to examine the extent of Māori over-representation in the welfare system. We compared Māori and Pākehā offending rates to demonstrate how the justice pipeline fed the welfare state Māori tamariki. The focus of the next chapter is to explain how these statistics were socially constructed and reinforced through the differential treatment of Māori in the settler state system. It emphasises how understanding the over-representation of indigenous people in criminal justice system requires a comprehensive analysis, including addressing a multitude of interrelated socio-cultural factors (Cunneen, 2006; Jackson, 1988; Webb, 2009).

> An adequate explanation involves analysing interconnecting issues which include historical and structural conditions of colonisation, of social and economic marginalisation, and institutional racism, while at the same time considering the impact of specific (and sometimes quite localised) practices of criminal justice and related agencies. (Cunneen, 2001, as cited in Cunneen, 2006, p. 7)

While the full extent of Māori tamariki over-representation in State Care is unknown, the existing evidence provides enough confidence to assert that tamariki Māori were over-represented in care and

protection and youth justice settings. In addition, the two most significant pathways into State Care, justice and notification to welfare, also demonstrate over-representation. Māori were more likely to be brought to the attention of the state, more likely to be criminalised, more likely to be taken into State Care for less apparent risk, more likely to be placed in a harsher environment, and less likely to receive intensive support while in care than Pākehā children.

> "The children's courts statistics going right back to the 50s are very good, while Family Court statistics are awful and the ethnicity in them is very poor."
>
> **Len Cook, public servant researcher**

Part Four - Over-representation in psychiatric settings

The following section examines evidence of over-representation of tamariki Māori and vulnerable adults in psychiatric settings.

Context and background to Māori psychiatric rates

A short analysis of trends in psychiatric care for Māori prefaces this section to provide context. The concept of 'mental illness' used in Western medicine did not exist in traditional Maori society; it was imported as part of the colonial infrastructure (Cram, Te Huia, Te Huia, Williams, & Williams, 2019). Early studies into Māori mental health conducted in the early 1940s, appeared to be largely concerned with understanding the apparent lack of mental illness within Māori communities. In short, attempting to understand why Māori were less susceptible to mental illness. Te Kani Kingi writes about this time period,

> 'Putting aside the obvious difficulties of assigning diagnosis, and the ability of non-Māori researchers to interpret cultural norms, the results of this study reveal a number of interesting findings. The first is based on observations of Māori communities and an analysis of admissions data. In this regard the study showed that the overall incidence of mental disorder, amongst Māori, was about a third that of Pākehā. In terms of major functional psychotic disorders, the study also showed that the Māori incidence was about half that of Pākehā. Problems connected to war neurosis showed similar patterns'. (Kingi, 2005, p. 4)

The issue of Māori mental illness is described in the research as a 'contemporary phenomenon'. Durie wrote in 1994.

> 'During the nineteen fifties, non-Māori admission rates to psychiatric hospitals were relatively high, mental hospitals were comparatively large and general hospital psychiatric units were few and small. It was the era of institutional care; interestingly, Māori did not feature as significant consumers' (p. 243).

The data in this section indicates a stark and significant rise in Māori admissions reported from the 1960s (and before) to the 1980s. Researchers have previously identified the dramatic change in Māori psychiatric admission patterns and have suggested possible explanations (Durie,1994; Dyall,1997; Kingi, 2005; Baxter, 2007; Lawson-Te Aho, & Liu, 2010). However, a lack of evidence hinders an exacting explanation. Kingi (2005) presents five themes across the data that are abridged and discussed here:

1. The issue of cultural decay or alienation. The impact of the urban shift and social integration, led to cultural isolation and alienation from many of the traditional structures that in the past had protected Māori. For many, cultural decay was inevitable as was an increased susceptibility to mental health problems (p. 7). In 1991 Dr Erihana Ryan described the disproportionate rate of distress amongst Māori as 'fundamentally an expression of colonisation' (Dow cited in Cram et al., 2019, p. 112).

2. The impact of unemployment. In times of economic growth and prosperity jobs were relatively easy to come by, reasonably well-paying, and fairly secure. However, during the 1970s, New Zealand experienced a significant economic decline. Rising rates of unemployment had a detrimental effect on society as a whole, it was particularly devastating for the Māori community. Māori tended to be employed in primary industries – freezing workers, production hands, and associated sectors. This led some to describe Māori as the 'shock-absorbers for the rest of the economy'. While viruses and pathogens require 'certain conditions to flourish, the consequences of high unemployment (and all that is associated with it) created a perfect environment for mental health problems to develop (p. 7).

3. The misdiagnosis of Māori. There is anecdotal evidence that Māori were misdiagnosed with mental health problems. In speaking with those who worked in the sector during the 1970s, certain themes emerge and in particular how cultural norms were sometimes interpreted as clinical abnormalities…it is important to consider that many behaviours are culturally specific and that what may seem strange or bizarre in one culture may in fact be normal or accepted within another (p. 8).

4. A historical preference by Māori to care for their own within the whānau. Up until very recently most mental health facilities were located in remote or isolated settings, the buildings were large and often unwelcoming. Many were self-contained communities (complete with farms and shops) which meant that contact with the outside world was infrequent; a strategy also designed to placate public fears of the mentally ill and to reduce the apparent risk of contamination. If low admissions were a partial consequence of Māori not seeking care, then it appeared that by the mid-1970s Māori whānau were more willing to relinquish this responsibility, further contributing to increasing admissions (p. 9).

5. The impact of alcohol and drug related disorders. These disorders disproportionately affect Māori and reflect an overall pattern of unsafe and unhealthy consumption. Alcohol has almost become a cultural norm for Māori and appears to be entrenched within many whānau. Although this can be said for many families, both Māori and non-Māori, it is the pattern of consumption and the manner in which this is done that causes concern. In this regard, the culture of binge drinking, the associated link to other types of substance abuse, and the elevated risk of related social problems, has also done much to create a fertile environment for Māori mental illness (p. 10) (Abridged from Kingi, 2005).

More recently research has indicated that childhood emotional loss and trauma, provide both the experiential, psycho-emotional and physiological template for addiction. 'Rather than choice, chance or genetic predetermination, it is childhood adversity that creates the susceptibility for addiction' (Mat , 2012, p. 56). See chapter 4 for further discussion regarding the impacts of Māori involvement in State Care.

Kingi (2005) surmises it is impossible to say with any certainty what caused the transformation from the historical patterns of Māori mental health to the contemporary issue of Māori mental illness. The change, however, was 'dramatic, though not entirely unexpected given the immense social, cultural, and demographic changes that took place. The one thing that is certain however, is that a combination of factors that are responsible' (p. 19).

Time and resource constraints mean that the following analysis presents only a snapshot of data. However, the analysis did identify trends in the psychiatric inpatient populations covering the time period 1960 to 1994. First admission age-specific rates per 100,000 of the mean population for Māori and non-Māori are examined. Analysis also includes the proportion of Māori in all first admissions and readmissions (1971-1994), as well as some referral sources (e.g., law enforcement agency) and an analysis of gender distribution.

Mental health care settings – tamariki Māori and vulnerable adults in psychiatric institutions

Patient admissions to psychiatric and psychopaedic institutions were examined. Psychiatric institutions provided care for people assessed to have a mental illness and/or intellectual disability. Psychopaedic institutions were responsible for caring for people with intellectual disabilities.

Additionally, general hospital psychiatric units provided acute psychiatric care and Salvation Army institutions had specialised alcohol addiction treatment programmes (Craig & Mills, 1987).

Craig and Mills (1987) defined an institution as 'a place where residents choose or are compelled to reside for purposes of receiving care and/or control outside of a family setting' (p. 2). This definition includes hospitals and other care settings such as health camps, residential special schools, children's homes, penal institutions, etc. (Craig & Mills, 1987).

In 1979, there were:

- 14 psychiatric institutions (e.g., Lake Alice, Cherry Farm),
- four psychopaedic institutions (Braemar, Mangere, Templeton, Kimberly),
- 13 psychiatric units in public hospitals, and
- Four Salvation Army institutions (e.g., The Bridge) (Department of Health, 1981).

The following section provides an overview of available mental health statistics that were compiled annually (1971-1994) by the National Health Statistics Centre of the Department of Health.[50]

The data is presented for Māori in relation to non-Māori patients, including:

a). First admissions are persons who have been admitted as an inpatient to a psychiatric hospital, a public hospital psychiatric unit or a Salvation Army institution for the first time.

b). Readmissions, include persons who have been previously admitted to psychiatric institutions.

Proportion of Māori in the first admissions and readmissions

Analysis focused on the numbers and proportion of Māori in all first admissions and readmissions in psychiatric institutions from 1971 to 1993.[51] The proportion of Māori admissions in psychiatric care was compared with the percentage of Māori across quinquennial population censuses (1971-1991).[52] Analysis revealed that the number of Māori first admissions increased from 1971 to 1993 by 96% (from 358 in 1971 to 701 in 1993).

The total number of readmissions increased by 238% (from 669 in 1971 to 2262 in 1993). Readmissions made up a larger share of all admissions among Māori inpatients, with the proportion of readmissions increasing over the years (from 63% to 76%).

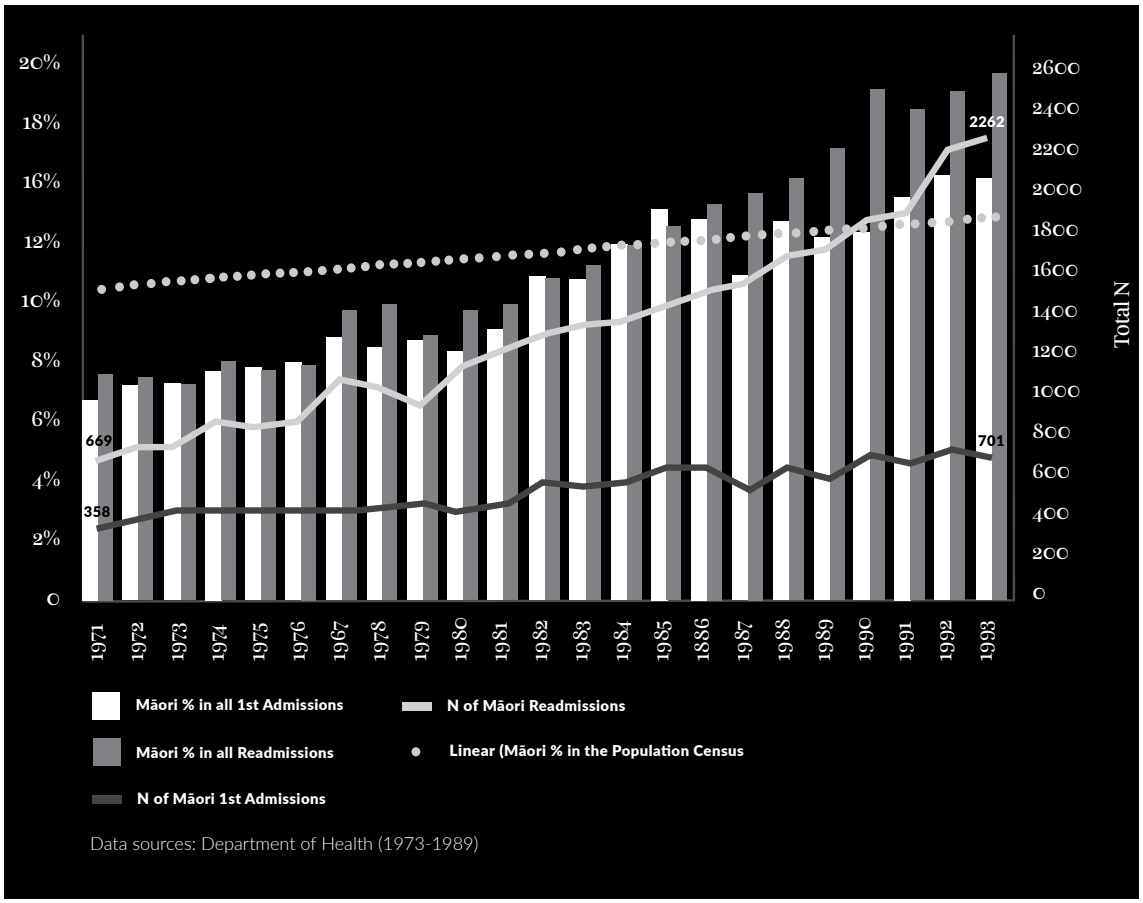
The balance between first admission and readmission was similar among non-Māori inpatients (62%-71%). The data suggests that across 1991-1993, approximately 3 out of every 4 Māori admissions were readmissions of Māori inpatients.

[50] While some pre-1971 data was referenced in the reports we reviewed, we were not able to access the earlier publications.

[51] While 1994 Mental Health Data was available, the statistics for 1994 were not directly comparable with earlier years because of the changes in the definition of "mental disorder" introduced in the Mental Health (Compulsory Assessment and Treatment) Act 1992 and subsequent alternations in the statistical outputs (Department of Health, 1998).

[52] Māori was defined as a person of half Māori ancestry or more in Mental Health Data reports.

Figure 2.8. Māori percentage of all first admissions and readmissions



Overall, Māori admissions appeared to increase along with Māori population increases until the mid-1980's.

In 1971, Māori made up about 8% of all first admissions and 9% of all readmissions in psychiatric institutions (compared with about 10% Māori in the 1971 population Census).

In 1981, Māori contributed 10% to all first admissions and 11% to all readmissions (compared with about 12% Māori in the 1981 population Census).

Overall, Māori admissions appeared to increase in line with the Māori population increases until the mid-1980s. However, from 1983 onwards, analysis indicates Māori are over-represented in psychiatric care based on population percentages. For example, in 1991, Māori made up 15% of all first admissions and 19% of all readmissions (compared to about 13% Māori in the 1991 population Census). The proportion of Māori readmissions reached almost 20% of all readmissions in 1993.[53]

The increase in the proportion of Māori admissions to psychiatric care may be explained by small changes in non-Māori admission numbers (there was a 15% decrease in first admissions and 28% increase in readmissions between 1971 and 1993). Craig and Mills (1987) observed that for the years 1977-1984, the number and rate of total Māori admissions had increased considerably, however non-Māori admission rates showed a stable slightly decreasing trend over the same time period. Similar trends have been observed in other research (Mills, Wallace, & Reedy, 1989).

[53] In 1994, the Māori proportion in first admissions and readmissions dropped to 14% and 18%, respectively. This was due to a sharp increase in total first admissions (4,372 in 1993; 7,045 in 1994) and readmissions (11,281 in 1993; 13,593 in 1994) due to changes in the definitions of "mental disorder" in the legislation.

First admission rates

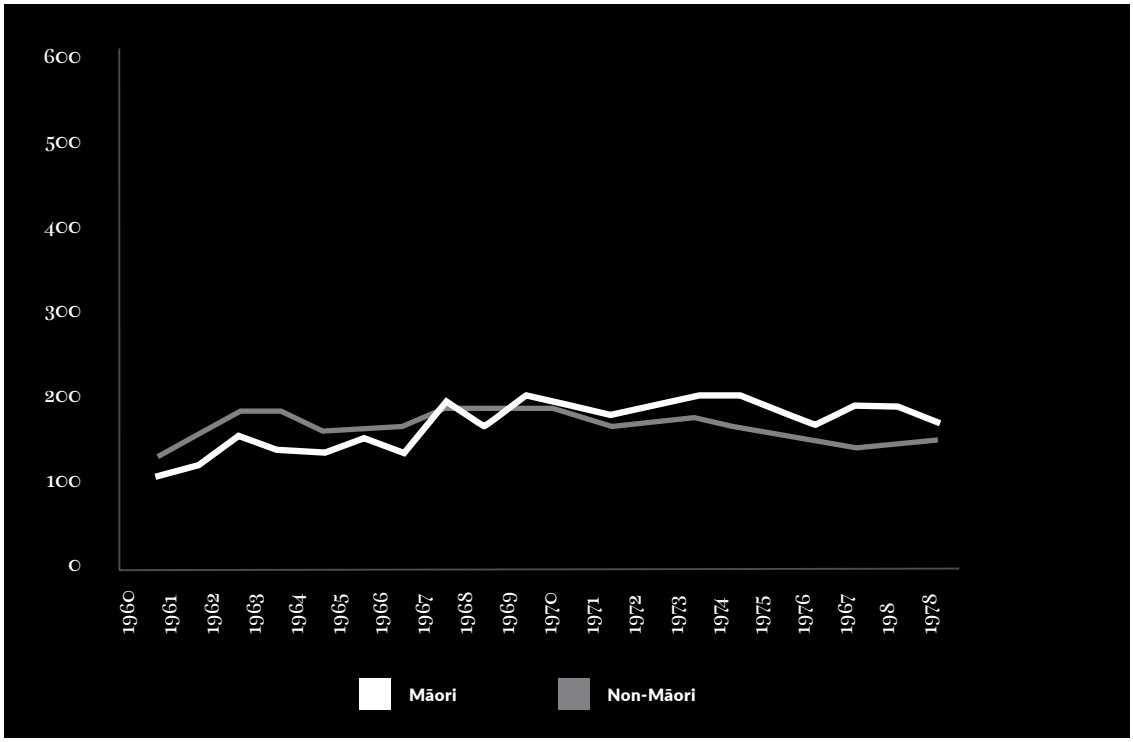
Figure 2.8 demonstrates the extent to which Māori of all age groups combined were represented in admissions to psychiatric care. Rates of mental health have been found to vary between age groups. Younger people are more likely to experience mental distress. Higher fertility rates and decreasing infant mortality led to rapid changes in the age structure of the Māori population during this time (Cook, 2020). Therefore, a greater proportion of the Māori population is younger than other groups.

In 1979, 54.2% of the Māori population in contrast to 36.2% of the non-Māori population were aged under 20 years (Department of Health, 1981). Therefore, valid comparisons between Māori and non-Māori require adjustment for the differing age structure of Māori and non-Māori population. These were made in the standardised rates of first admissions.

Figure 2.9 demonstrates that the standardised rate at which Māori have been admitted as psychiatric inpatients for the first time has increased considerably from 1960 to 1979. In 1960, the standardised rate for Māori first admissions was 88.5 per 100,000 population, which increased to 156.6 by 1979 (77% increase). The non-Māori first admissions standardised rate has also increased over the same 20 years, but at lower proportions – from 119.4 to 141.6 per 100,000 population (16% increase).[54]

While the non-Māori standardised rate was substantially higher than the Māori standardised rate in 1960, the difference between the two gradually decreased in subsequent years. The Māori rate for all age groups was below the non-Māori rate until 1968, but in the following 11 years it was the higher of the two (Department of Health, 1981). As explained in the previous chapter the 1960s was a time of turbulent change for Māori. The challenges of urbanisation, assimilationist policies, systemic racism, increasing socioeconomic disadvantage and greater attention by law enforcement all contributed to the disproportional increase in admission rates.

Figure 2.9. First admissions standardised rates age-adjusted to the 1959 mean non-Māori population



[54] A major increase occurred in 1967 for both ethnic groups (but more so for Māori), mainly due to the inclusion of patients admitted to public hospital psychiatric units for the first time.

Comparative total rates for Māori and non-Māori were not provided from 1980 onwards. However, the rates for specific age groups are available until 1987. Age-specific rates reveal that the most vulnerable populations were young Māori adults aged 20 to 29 (Figure 2.10).

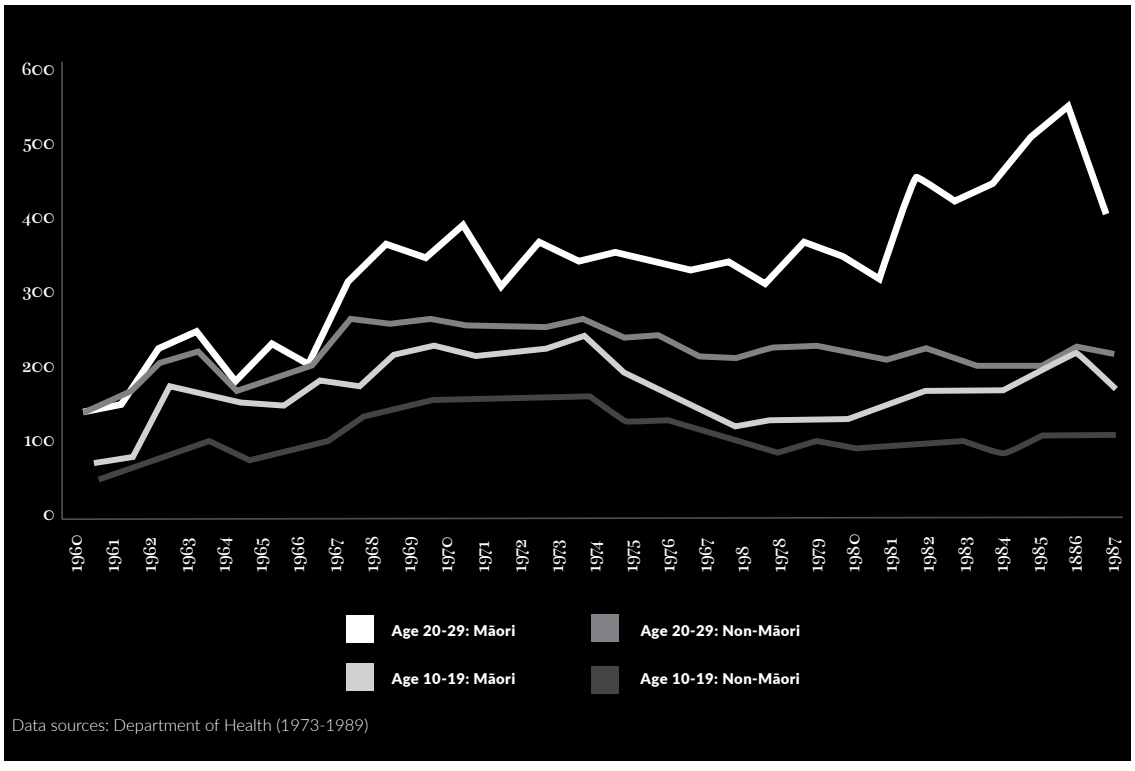
The 20-29 age group demonstrates the highest first admission rates in comparison to other age groups in the Māori population, and the largest discrepancy with non-Māori rates in the same age group. The 1987 Mental Health Data report (Department of Health, 1989) points out that in a 13-year period (1975-1987) the average yearly first admission rate for Māori was 385 per 100,000 population in the 20–29-year age group, in contrast to 220 per 100,000 population for non-Māori in the same age group.

Notable disparities between Māori and non-Māori first admission rates also appeared amongst children aged between 10-19 years. From 1970 to 1987, Māori children (10-19) and young adults (20-29) were admitted to psychiatric care at about 1.5 times higher rate than non-Māori. The difference between Māori and non-Māori increased to about 2 times the rate for the 20 to 29 age group, in the mid-1980s.

Craig and Mills (1987) calculated gender-specific admission rates by combining Mental Health Data 1977-84 and population statistics. They were concerned with the increasing Māori admission rates and ethnic and gender disparities. The authors emphasised, 'the admission rate of Maori women is, for instance, far greater than either the non-Maori male or the non-Maori female rate and is still increasing. The Maori male rate is even greater' (p. 26). Based on their findings, Craig and Mills (1987) suggested racial stereotyping and cultural insensitivity as contributing factors for ethnic disparity in psychiatric admission rates:

> 'Maori people are admitted for much the same types of conditions in similar proportions to non-Maori people, but they are admitted at a far greater rate. Racial stereotyping and cultural insensitivity may be a factor in explaining this difference as may the relatively deprived economic and social conditions in which many Maori people live.' (p. 23)

Figure 2.10. Age-specific rates per 100,000 mean population for Māori and non-Māori first admissions, by 10-19 and 20-29 age groups



Data sources: Department of Health (1973-1989)

Table 2.28. Admission rate by ethnicity

	Māori		Non-Māori		Ethnic Difference	
	Male	Female	Male	Female	Male	Female
First admissions	227	184	133	120	1.7	1.5
Readmissions	586	516	235	215	2.5	2.4

Source: Department of Health (1992, p. xx); Rates per 100,000 Segi's world population

The 1990 Mental Health Data report (Department of Health, 1992) introduced comparative admission rates between Māori and non-Māori females and males (all ages combined). In addition, comparative rates for readmissions were provided for the first time.

Both first admission and readmission rates indicate that female and male rates were considerably higher for Māori than non-Māori, particularly readmission rates. Māori females experienced readmission rates which were 2.4 times (140%) higher than non-Māori females. Māori males had readmission rates 2.5 times (149%) higher than non-Māori males. Analysis of the 1990 data also demonstrated that Māori women were at greater risk and had a higher chance of psychiatric admissions than both non-Māori women and men. This data supports the findings of Craig and Mills (1987) research which was based on the 1977-84 data analysis.

Examining admission rates across different age groups, the 1991 Mental Health Data report (Department of Health, 1993) revealed higher first admission rates for Māori in all age groups for both genders. While those aged 20-24 years showed the highest age-specific rates for Māori first admissions, the disparity with non-Māori rates was greatest amongst younger patients, particularly those aged between 15-19 and 20-24 years. This data demonstrates that Māori children and young persons (15-24) were about twice as likely to be hospitalised for psychiatric care in 1991, when compared with their non-Māori peers.

The 1994 Mental Health Data report (Department of Health, 1998) provided age-standardised rates for the total population and separately for the Māori population, indicating that Māori experienced higher first admissions and readmission rates than the total population.

Referrals by law enforcement to psychiatric care for Māori

Analysis of 1971 to 1992 data, indicates that for Māori (all age groups) the first referral source to psychiatric institution was 'other medical practitioner', including general practitioners. The second largest referral source for Māori for first admissions to psychiatric institutions were Law Enforcement agencies (e.g., Department of Justice, Police).[55]

Analysis of this data revealed a large ethnic disparity in referrals from law enforcement agencies. For Māori, the share of first admission referrals from law enforcement agency ranged from 17% to 24% in contrast to 7%-9% for non-Māori.

[55] With exception that 'non-medical agency (Child Welfare, churches, A.A.) became the second largest referral source of first admissions in 1991, and in 1992 it was the first largest source for Māori first admissions.

The following figure presents trends in law enforcement referrals for Māori and non-Māori from 1971 to 1992. Findings demonstrate that Māori were about 2 to 3 times more likely to receive referrals from law enforcement agencies than non-Māori.

Whilst the results clearly indicate that Māori were more likely to be referred to psychiatric care by law enforcement agencies, no detail is provided about the content of these referrals or mentions of specific agencies (e.g. Department of Justice, Police). It is noted that psychiatric inpatients included remand patients, who were admitted to a psychiatric hospital from the Courts for psychiatric assessment. A further analysis of police bias and institutional racism is discussed in Chapter 3.

It appears this trend in justice entry into psychiatric services has been persistent. Baxter (2007) found 'Māori over-representation in forensic psychiatric services with justice entry points to mental health service being more likely for Māori than via primary care' (p. 136). She identified that this is an issue where significant inequities in service provision are occurring with little research available with which to understand inequities and to address them (Baxter, 2007).

Mental health statistical reports also mention referrals from Child Welfare in first admissions. However, these referrals are collated under 'non-medical agency' along with churches and Alcoholics Anonymous (AA). These results demonstrate variability across the decades rather than a consistent trend.

For example, in the early 1970s, 1980s and 1990s Māori appeared more likely to be referred by non-medical agencies (including Child Welfare, churches and AA). However, this pattern was reversed in late-1970s and late-1980s. The proportion of referrals from these 'non-medical agencies' started to increase from 1990. It is not possible to establish from the collated data whether variations and increase were due to Child Welfare referrals or to other agencies collated within this category.

Figure 2.11. Source of referral for the first admission

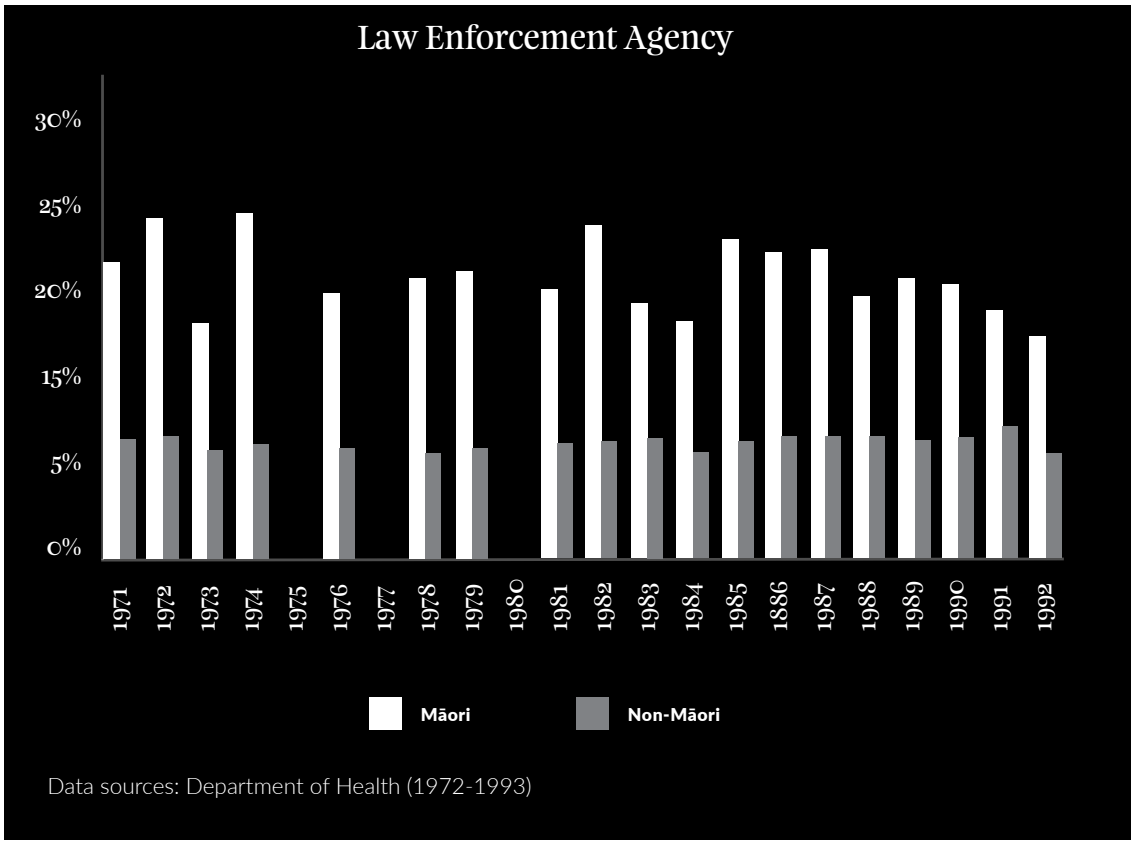
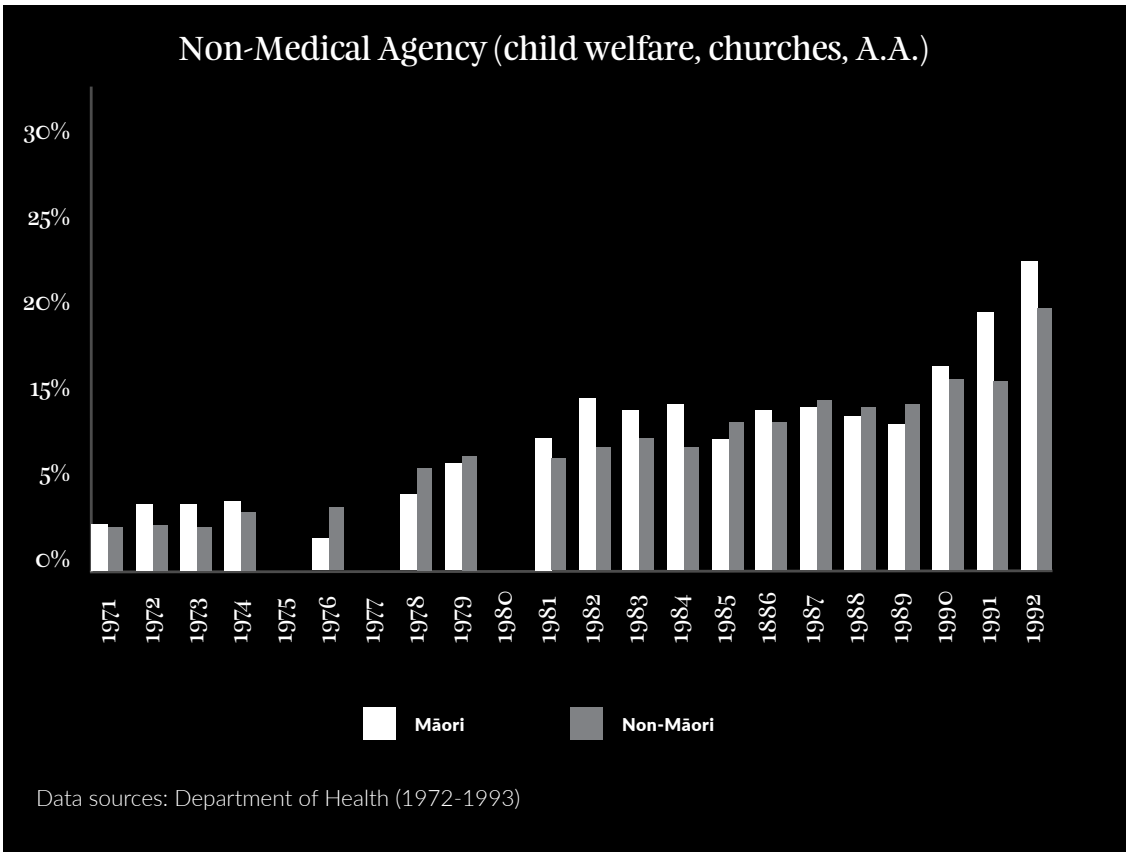


Figure 2.12. Source of referral for the first admission



Gender trends in data

Results support previous findings (Craig & Mills, 1987) that Māori men were more likely to be admitted to psychiatric care than Māori women, especially with regard to first admissions. On average, of all Māori first admissions, the proportion of Māori men was 57% (ranging from 47% to 62%), and 54% out of all Māori readmissions (ranging from 49% to 58%) from 1971 to 1994.

Later data also confirms that Māori men had higher rates of psychiatric care admission than Māori women. In 1994, age-standardised rates for admissions revealed that admissions for Māori men were 24% higher than Māori women (308.3 and 247.4 per 100,000 population). For readmissions this was 28% (779.8 for men and 607.4 for women per 100,000 population) (Department of Health, 1998). While non-Māori men experienced higher admission rates than non-Māori women, the difference was not as profound as for Māori men (11% for admissions, 9% for readmissions).

Table 2.29. Gender differences in admission rates

	Male admission rates higher than female by			
	Māori		Non-Māori	Total Population
	1990	1994	1990	1994
Admission rate	23%	24%	11%	23%
Readmission rate	14%	28%	9%	13%

Source: Department of Health (1992, 1998)

Evidence presented in the previous section indicates that Māori men were more likely to be impacted by the justice system. Data highlights that referrals from the Justice system made up a considerable share of first admissions. This may explain why there was a higher share of Māori men amongst first admissions during this time period. The connection between over-representation in mental health and the justice system, and the confluence of the two systems, has been established previously. Craig and Mills (1987) argued that 'the high rate of apprehension for criminal offending amongst Maori people could, to some extent, be associated with their over-representation in psychiatric institutions' (p. 23).

In summary, analysis of available mental health data provides a broad picture of the extent of Māori admissions into psychiatric institutions from the 1960s to the 1980s. In particular the steep rise in admission and readmission and the persistent referral by justice into the psychiatric system. Unfortunately, the way in which the data has been collected and presented does not allow the identification of further trends in the admission and readmission data. More recent qualitative evidence suggests that there were definite populations among Māori that were discriminated against and persecuted through psychiatric institutionalisation. Recently the Confidential Forum and the Confidential Listening and Assistance Service indicated that:

- Women and girls' admissions appear to have reflected prevailing norms about women's gender roles, mothering, pregnancy, miscarriage, childbirth and marital difficulties. Some were sent following experience inside the social welfare system. Young women admitted to psychiatric hospitals for post-partum depression often stayed for many years.

- Infants and young children were sent to psychiatric hospitals, sometimes in response to abuse within the family.

- Men and boys often experienced involuntary treatment following a trajectory of traumatic experiences through the social welfare system and/or getting into trouble at school or with the law.

- Disabled people and people with physical health conditions were also subject to forced treatment. Gender identity and sexual orientation that did not meet the norm also led to forced treatment. (Henwood, 2015; Mahony, Dowland, Helm, & Greig, 2007).

Psychiatric institutional procedures have been noted as being particularly harmful and abusive. Sir Rodney Gallen's Report on Lake Alice psychiatric hospital

provides clear evidence of the use of unmodified ECT through the 1970s. He documents the use of ECT as punishment, administered on children and young people's body parts. He described these ECT practices as 'a regime of terror' and reported them to the United Nations Committee on the Convention Against Torture (Gallen, 2001).

Mary O'Hagan (2019) in her Statement to the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions at the Contextual Public Hearing stated that:

> 'Much of the abuse (in psychiatric institutions) was not due to the ethical lapses or incompetence of a few but to the routine practices of many. It's important to remember that not everyone experienced abuse within mental health services and some benefited from these services. But it is equally true that abuse has been widespread, especially in institutionalised and coercive services and for Māori, and marginalised populations such as Pacific people, Rainbow people and women' (p. 5).

The data demonstrates a sharp increase in admissions to psychiatric institutions from 1960 for Māori. This increase mirrors patterns in data in the previous two sections demonstrating sharp increases in justice and out-of-home care placements for tamariki Māori during this period. What is unclear is whether State Care has contributed to the sharp increase in Māori psychiatric admissions. There are clear causal links between childhood trauma, addiction and alcohol abuse, and poor mental health (Mock & Arai, 2011; Maté, 2012; Larsen et al., 2017). The extent to which State Care is actually responsible for increased admission for Māori into psychiatric care cannot be determined through the available data but must be considered.

"From the 1960s through to the 1970s there was a huge shift in the psychiatric hospitals. They were almost overflowing with Māori people coming in, which was quite a change from before, and at that time I was working with Māori nurses – and was realising that these people were largely depressed, and they were talking to their ancestors, and the doctors would look at them and say, 'Hallucinations,' and fill them with all these psychotropic drugs, and then they would be zombies and be diagnosed with a mental illness … but it was really grief … grief they carried from colonisation."

Dame Margaret Bazley, non-Māori senior public servant

Part Four: Over-representation in health camps

The first health camp was set up in 1919 by Dr Elizabeth Gunn to address the high incidence of malnutrition in school children (Hancock, 1984). According to Hancock (1984), from the early-1920s temporary health camps started to operate around the country. The first permanent camp was opened at Otaki in 1932 which was administered by the Wellington Children's Health Camp Association. By 1942 health camps were operating or in development in nine locations: Auckland, Port Waikato, Wanganui, Gisborne, Otaki, Nelson, Christchurch Roxburgh, Invercargill. In 1946 an additional permanent camp at Maunu, Whangarei opened. In 1983, the Rotorua camp was opened. Health camps were under the general oversight of the Department of Health.

Whilst the initial purpose was to address the children's physical needs (malnutrition, health issues), the focus was extended to include children with social and emotional needs (Craig & Mills, 1997; Hancock, 1994). Programme activities were intended to increase children's self-confidence and alter negative behavioural patterns (Human Rights Commission, 1992).

Tennant (1994) notes prior to 1950 there were few Māori children in health camps. 'Maori children were not particularly visible in the first camps' as earlier concerns were more focused on 'the Anglo-Saxon race' and 'Maori children were the last to benefit from school medical inspection and from school dentistry' (Tennant, 1994, p.129). According to Tennant (1994), developments in the children's health camp movement changed from the 1950s, when visibility of Māori by the health authorities increased due to urbanisation (described also in Chapter 1). Tennant highlights the lack of ethnicity data as well as the presence of negative stereotypes of Māori.

> Photographs suggest that Maori children were entering the North Island health camps in increasing numbers, though annual reports did not give racial breakdown or even acknowledge the trend. There was probably concern that mention of Maori children would detract from the camp's public image. (Tennant, 1994, p. 243)

The social environment of the health camps reflected socio-political attitudes of the time. Mono-cultural, assimilationist practices were present in health camps as they were in a larger society. Māori children were sent far from their homes and placed in environments where tikanga Māori was disparaged and viewed as inferior to Pākehā values and beliefs related to healthy living. Separate camps for Māori children that were closer to their homes were urged by some medical professionals and parents at the time, however these were not established (Tennant, 1994).

The Gisborne Children's Health Camp appeared to be an exception in terms of its cultural responsiveness. According to Tennant 'Gisborne appears to have been one of the more relaxed of the health camps, its staff making a genuine attempt to create an atmosphere which was, by their rights, comfortable for Maori children' (p.132). The Gisborne Health Camp opened in 1941 and from 1947 transited from a temporary to a permanent camp being open all year round. 'Right from the start, the Gisborne camp took in a relatively high percentage of Maori children, at least 50 percent in most years, usually more' (Tennant, 1994, p. 131).

Available data for tamariki Māori

There is a substantial gap regarding the ethnicity of children, who attended health camps from establishment until the 1980s. Three sources were located that provided statistical information on the ethnicity of children and adults who attended Health Camps since the 1980s (Hancock, 1984; Human Rights Commission, 1992; Tennant, 1994).

The Report of the Committee to Review the Children's Health Camp Movement (Hancock, 1984) noted that in 1983, 2,624 children attended health camps, with an average stay of six weeks. The Review Committee conducted a study including children from all six health camps operating at the

beginning of 1983 with total of 294 children aged 5 to 12. While the average age of children was seven, Māori and Pacific Island children tended to be younger than European children. Health Camps consisted of more boys (56%) than girls (44%). The data indicated the over-representation of Māori and Pacific Island children in health camps compared to their proportion in the general population (Hancock, 1984). The report highlighted, 'in the 1981 census around 12.5% of the age group 5 to 12 years was Māori, whereas in this sample 33% were Māori, 44% were European, 6% Pacific Islander, 17% not known' (p. 22). The proportion of Māori children ranged from 9% in Glenelg (Christchurch) to 73% in Maunu (Whangarei).

Based on the estimated numbers of health camp catchment populations, the report emphasised 'The Review Committee is aware of the heavy over-representation of Māori and Pacific Island children (p.52) and provided five recommendations addressing specifically 'cultural issues' (e.g., increasing Māori staff, Māori involvement in leadership, Māori community engagement).

Table 2.30 demonstrates that tamariki Māori were over-represented in all Health Camps in mid-1980's.

Table 2.30. Estimated health camp catchment populations aged 5-12 year, by ethnicity

Health Camp	Māori children % in the sample	Estimated Māori children % in the catchment area
Maunu	**73**	**27**
Pakuranga	**44**	**12.5**
Rotorua		**19.5**
Gisbourne	**28**	**26.5**
Otaki	**25**	**10**
Glenelg	**9**	**3**
Roxburgh	**17**	**3.4**

Source (Hancock, 1984, p. 22, p. 52)

The 1992 Human Rights Commission (HRC) report noted that there were seven health camps throughout the country in 1992: Maunu (Whangarei), Pakuranga (Auckland), Princess of Wales (Rotorua), Te Kainga Whaiora o Te Tairawhiti (Gisborne), Otaki, Glenelg (Christchurch), and Roxburgh. According to the 1992 HRC report, during the year 1990/91, 4322 children attended health camps. Of the children who attended, 25% were Māori, 61% were Pākehā, and 11% were 'other/not specified. Of the 350 adults who attended camps with their children, 20% were Māori, 48% were Pākehā and 32% were "other/not specified."

Data indicates that the proportion of tamariki Māori in the Health Camps dropped from the mid-1980s to the early 1990s. The Pakuranga Health Camp serving children from the greater Auckland area, had a high proportion of Māori children:

- **In 1990, 42%**
- **In 1991, 36% (HRC, 1992)**

However, the proportion of Māori children in Pakuranga has decreased over the years. The HRC report (1992) refers to the Pakuranga Camp Manager's comments:

> 'The Camp Manager said that there had been an overall drop in the numbers of Maori attending Camp from 60% some years ago to an average of about 33% in recent years. He thought this drop in attendance may have been caused by more Maori children being placed with their extended families rather than at Camp.' (p. 142)

In 1992-93, 4307 children were admitted to Health Camps, of which 60% were identified as Europeans, 31% Māori and 8% as from Pacific Island backgrounds (Tennant, 1994, p. 253).

While the health camps served a large number of children annually, their effects were questionable, especially in terms of long-term benefits (Craig & Mills, 1987). The Committee to Review the Children's Health Camp Movement (Hancock, 1984) identified that the cultural needs of Māori children were not met in the largely monocultural environment of the health camps.

> 'It was urged upon us that modern New Zealand culture had fragmented the whanau. This fragmentation was the result of government economic policies which isolated the whanau from resources which would allow the whanau to work well and smoothly. The Maori speakers believed that the Children's Health Camp Movement had inadvertently contributed to such fragmentation. The fact that large numbers of Maori children were in the camps but that proportionately few Maori staff were involved in running the camps was highly significant. The point was also made that no Maori person shared in the decision-making of the New Zealand Board.' (Hancock, 1984, p. 51)

Unlike many psychiatric institutions and residential schools in New Zealand, not all health camps have been closed but rather repurposed in response to financial viability and public acceptability (Kearns & Collins, 2000). They remain as `curious hybrids' neither state agencies nor private charities (Woods, 1996) which operate despite the fact that institutional environments are increasingly cast as non-therapeutic.

“

“[Statistical disparities were] always happening more to Māori girls and they tend to get forgotten because the numbers were not as great, but they were treated every step along the way, worse than the Māori boys…. [Between 1974-6 of the girls sentenced to prison, borstal or detention centre] 100% of the 15-year-olds were Māori.”

– Don Sorrenson, Māori social worker

Part Five: Over-representation in educational settings

Residential special schools were administered either by the Department (Ministry) of Education or by voluntary agencies who received most of their operational funding from the government (Craig and Mills, 1987). The schools were established for 'children, whose needs (educational, physical or social) were beyond the resource of a regular school, were placed in residential special schools' (Craig & Mills, 1987; Human Rights Commission, 1992).

The following table includes the list of all special residential schools operating in 1984-85.

Table 2.31. Special residential schools in Aotearoa New Zealand (1984/85)

Provider	School	Needs provided for
State	**Kelston School (Auckland)**	**Hearing impairment**
State	**Van Asch College (Christchurch)**	**Hearing impairment**
State	**Hogben School (Christchurch)**	**Learning difficulties**
State	**Salisbury Girls School Nelson**	**Learning difficulties**
State	**Campbell Park School Oamaru**	**Learning difficulties**
State	**Waimokoia School (Auckland)**	**Maladjustment**
State	**McKenzie Residential School (Christchurch)**	**Maladjustment**
State	**Wilson Home (Auckland)**	**Physical disability**
Voluntary agencies	**Homai College (Auckland)**	**Visual Impairment**
Voluntary agencies	**Glenburn School (Auckland)**	**Maladjustment**
Voluntary agencies	**Hohepa School (Clive)**	**Intellectual disability**
Voluntary agencies	**Birchfield Home School (Christchurch)**	**Intellectual disability**
Voluntary agencies	**St Dympna's Special School (Carterton)**	**Physical and Intellectual disability**
Total	Special schools	Roll: 867

Source. Craig and Mills (1987, p. 44). Some descriptions adjusted to contemporary terms.

Placements in residential schools for children with physical disabilities (e.g., Kelston School for the Deaf, Van Asch College for the Deaf, Homai College for the Blind and low vision) were generally based on parental choice and were not considered a state decision (Human Rights Commission, 1992).

Craig and Mills (1987) found there were the limited descriptive statistics regarding children who attended special residential schools. From the available data, the authors surmised that Māori were more likely to attend schools for children with learning and behavioural difficulties, than schools for children with sensory/physical disabilities.

> 'A count of pupils at Homai College, a special residential school for children with visual impairment, showed that the majority of pupils were European with some representation of other ethnic groups including Maori, Asians and Pacific Islanders' (Royal NZ Foundation for the Blind, personal communication, 1985; as cited in Craig and Mills, 1987, p. 45).
>
> 'The proportion of Maori and Pacific Island children in residential special schools for children with learning difficulties is, however, alarmingly high and has risen in recent years. (p. 45)

The Phase One Special Education Report revealed that Māori students were disproportionally over-referred to residential special schools and all Special Education 2000 initiatives (Massey University, 1999). The highest representation of Māori occurred in the Severe Behaviour Initiative. Tamariki Māori represented 37% of students receiving this service. Staff responding to the national evaluation survey were asked to rate the importance of seven specified issues concerning education support for students with severe behaviour difficulties, 'providing culturally appropriate services to Māori children' was considered the least important (Massey University, 1999, p. 118)

The 1987 Draft Review of Special Education stated that 'culturally unfair' tests were the reason why Māori children were over represented in special classes, schools and services.

> 'In the past assessment procedures have discriminated against students from cultures other traditional Europeans. To some extent, this can be seen in the disproportionate numbers of Māori children in residential special schools. It is necessary to ensure that all concerned in the assessment process are aware of the issue of unfair discrimination and of methods of assessment that may contribute to it. (Department of Education, 1987, p. 82).

Bevan-Brown (2002, p. 33) observed that it was surprising that the Draft Review did not specifically recommend 'the development and use of culturally appropriate assessment instrument for assessment to be conducted by people from the learners own culture and for it to take Māori perspectives of special needs into account'.

Residential learning and behaviour schools

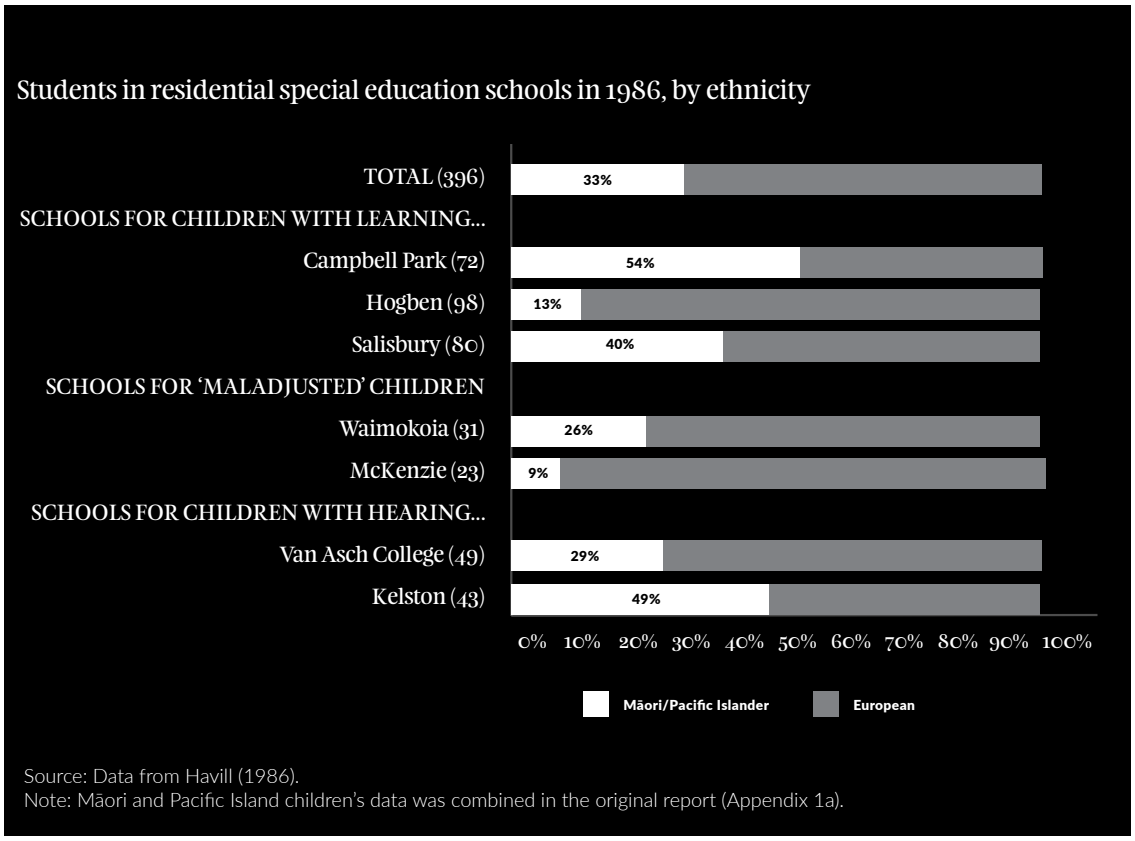
There is very limited data on the numbers of students who were wards of the state who attended special schools. More often than not, this data was included with other groups which makes it difficult to discern exactly how many children who were wards of the state were placed in these institutions. However, the Ministerial review of the special residential schools noted that 30% of the children in special residential school in 1986, were either Wards of the State or under voluntary parent agreements with the Department of Social Welfare (Havill, 1986).

The following section explores the data that was available for residential schools. Most of this data indicates that Māori were over-represented in the most restrictive educational settings.[56]

The data in the following figure was available from the 'Ministerial review: Evaluation of Departmental residential special schools' draft report (Havill, 1986). The data provides a snapshot of enrolments across residential placements in 1986.

Figure 2.13 clearly shows the over-representation of Māori and Pacific Island children in Campbell Park, Salisbury, Waimokoia, Van Asch and Kelston. The ethnic profile of Hogben appears vastly different from Campbell Park and Salisbury, with 13% of Māori children on the roll. This could be attributed to the regional placement of Hogben in Christchurch, however as discussed below this was not a feature of Campbell Park where regional placement should have resulted in very low numbers of Māori. Overall, the data indicates Māori were less represented in schools for children considered 'maladjusted' in 1986.

Figure 2.13. Enrolments by ethnicity across residential placements



Source: Data from Havill (1986).
Note: Māori and Pacific Island children's data was combined in the original report (Appendix 1a).

[56] Least restrictive environment is a foundation special education principle. It means students who have disabilities should have the opportunity to be educated with non-disabled peers to the greatest extent appropriate. More restrictive environments, such as a special schools or special classes, the less opportunity a student has to interact and learn with non-disabled peers, the more the placement is considered to be restrictive.

Nearly half of the students at Kelston School for Deaf were Māori and Pacific Islanders (21/43; 49%). This is a staggeringly high over-representation of Māori and Pacific Islande students. In 1989, A Review Team established to investigate hearing impairment for Māori by the Ministry of Māori Affairs, found.

> 'A strong link exists between social, economic and ethnic factors and the prevalence of hearing impairments … There is a considerable evidence that inadequately treated ear conditions can lead not only to permanent and severe deafness but also to educational under achievement and marginal adaptation to society.' (Ministry of Māori Affairs, 1989, p. 3)

The report identified significant information gaps that contributed to the full extent of the prevalence of Māori hearing impairment remaining uncertain. They identified four factors that contributed to the lack of comprehensive data.

- Ethnic statistics have not been kept by the national Audiology Centre or the Education Department Advisers on Deaf Children.
- Ethnic statistics themselves have been subject to varying interpretations with biological and self-identification method making Māori /non-Māori comparisons difficult.
- A national survey of hearing impairment has not yet been undertaken in New Zealand so the information which is available depends on studies of particular populations or inferences drawn from research.
- Mild hearing loss is often undetected and in any event is not a notifiable disease so that reporting procedures are not mandatory (Ministry of Māori Affairs, 1989, p. 23)

These challenges prevent a comparative study of rates of hearing impairment in the community with admission to residential schools. However, anecdotal data indicates that tamariki Māori were particularly impacted by hearing impairment and that this had an ongoing and profound impact on the lives of many Māori.

The 1992 Human Rights Report into residential schools, provides ethnicity statistics for four residential special schools for July 1991, including Waimokoia, Salisbury, Hogben, McKenzie. Out of 223 young people in the four residential schools 70% were Pakeha, 26% were Māori, and 4% were of Pacific Island descent. The proportion of Māori students ranged from 15% (in Waimokoia)[57] to 32% (Salisbury). There were more boys (68%) than girls (32%) in all residential special schools combined.

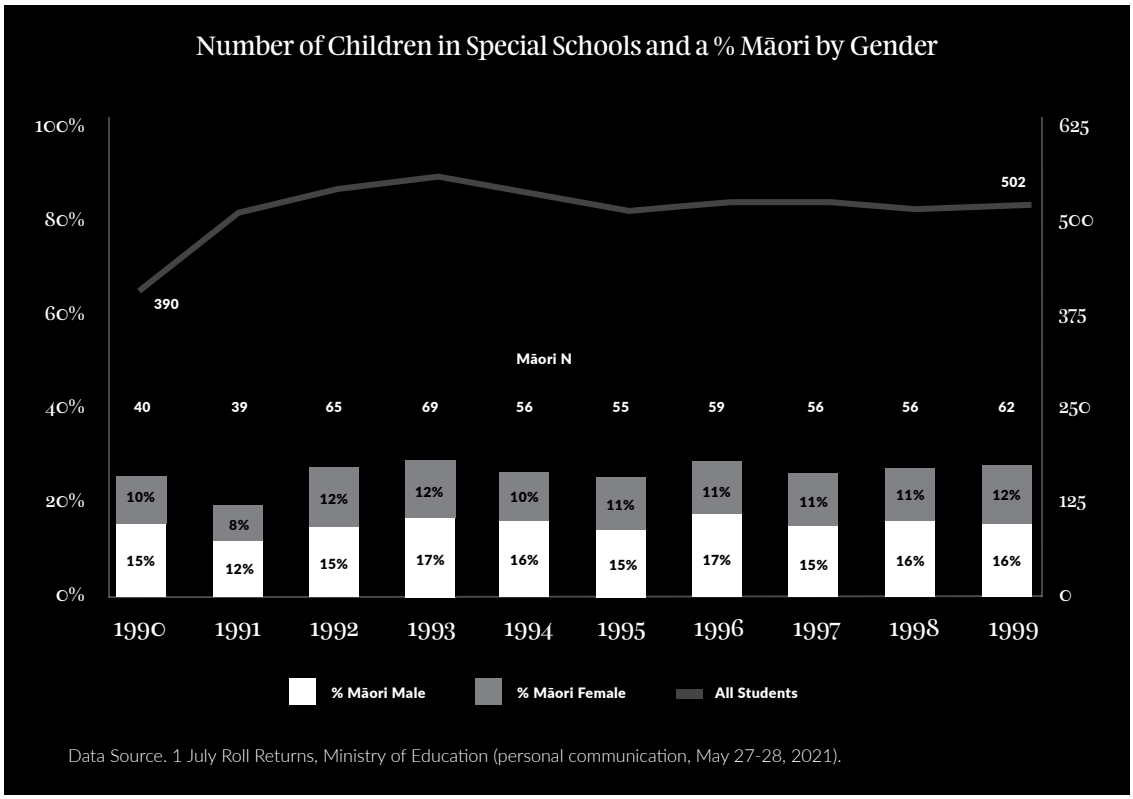
Ethnicity statistics were made available by the Ministry of Education (May 28, 2021) from 1987 to 1999 roll returns data. The data is presented from 1990 onwards; earlier data included a number of discrepancies.

The next graph combines the data for seven residential special schools, including:

- Kelston Deaf Education Centre
- McKenzie Residential School
- Salisbury School (girls)
- Van Asch Deaf Education Centre
- Waimokoia Residential School
- Blind and Low Vision Education Network NZ (previously Homai)
- Halswell Residential College (boys; previously Hogben)

[57] The further analysis of Ministry of the Education data between 1990-1999, shows that in 1991 Waimokoia had the lowest (15%) proportion of Māori students, while for other years it reached 43% (in 1994).

Figure 2.14. Data from seven residential special schools with percentages of Māori by gender



Data Source. 1 July Roll Returns, Ministry of Education (personal communication, May 27-28, 2021).

The total roll of the residential schools combined has increased from 390 in 1990 to 502 in 1999. The total proportion of Māori students ranged from 20% to 29% across the decade. There is a higher proportion of Māori boys than Māori girls in the residential special schools every year.

Figure 2.15 presents the proportion of Māori students for each individual residential special school from 1990 to 1999. Salisbury Girls School is presented with Campbell Park data in Figure 2.16.

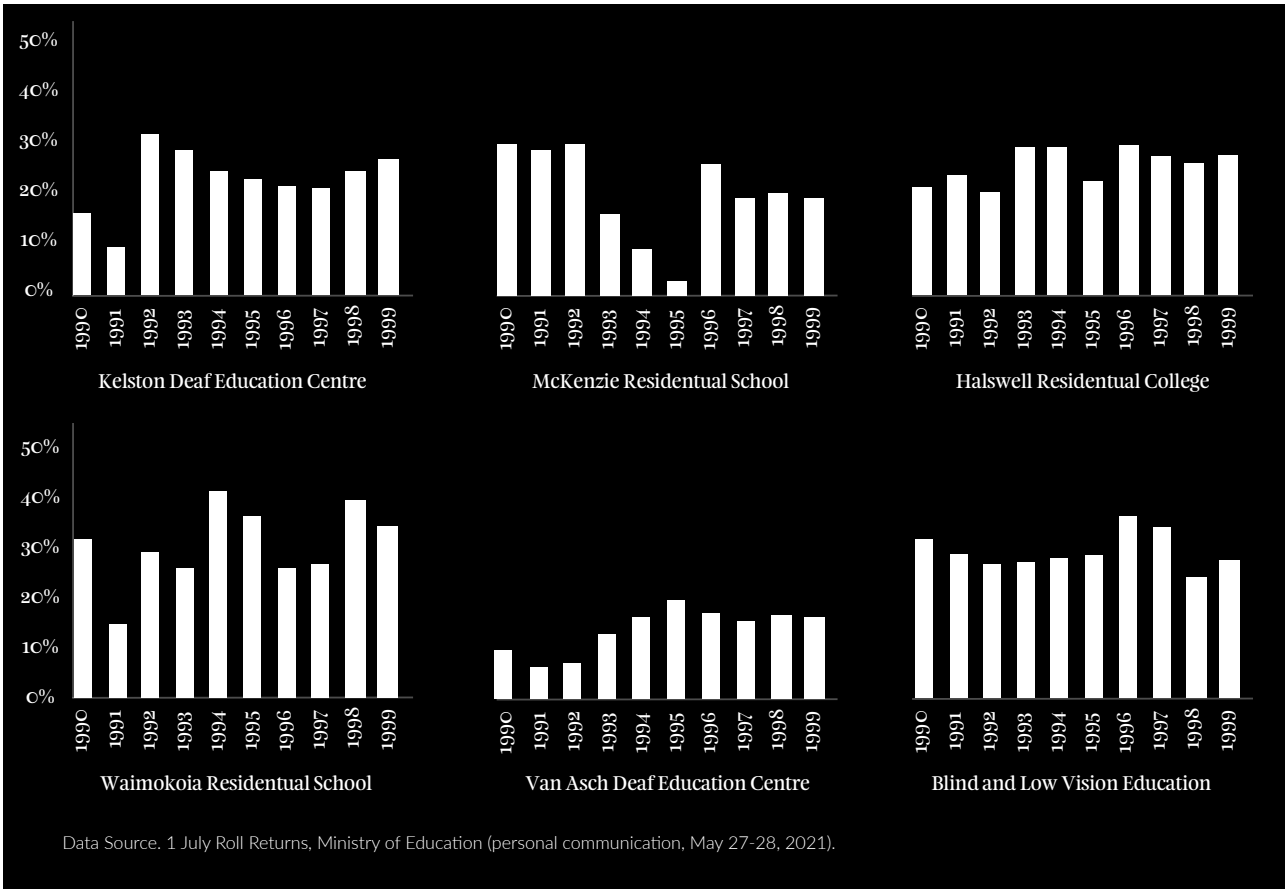
The results indicate considerable variation in Māori representation across the individual schools. Van Asch rates indicate a comparatively smaller proportion of Māori students (6-20%), while in Waimokoia (for 'maladjusted' children) Māori representation reached nearly 40% for several years (15-43%).

The results reveal that for all years combined (1990-1999) tamariki Māori were much more likely (29%) to be in the schools for children with learning and behavioural difficulties than in schools for children with physical disability (24%; significant difference with $p < 0.5$ on the Chi test).

However, this difference appears to be particularly significant for Māori boys. The percentage of Māori girls was similar in both types of schools (11%), however, Māori boys contributed 18% of the total roll in schools with learning and behavioural difficulties as compared to 13% in schools with vision/hearing impairment (Table 2.32).

These results suggest that the over-representation of Māori in schools for children with learning and behavioural difficulties (compared to schools for physical disabilities) may be due to Māori boys being more likely to be assessed as maladjusted or as experiencing learning difficulties.

Figure 2.15. Percentage of Māori of total roll in residential special schools, 1990-1999



Data Source. 1 July Roll Returns, Ministry of Education (personal communication, May 27-28, 2021).

Table 2.32. Māori students in residential special schools 1990-1999

Schools for children with:	% of Māori boys	% of Māori girls	% of all Māori students
Vision/Hearing impairment	**13%**	**11%**	**24%**
Learning and behavioural difficulties	**18%**	**11%**	**29%**

Campbell Park and Salisbury

In 1987 Craig and Mills examined the rolls of residential educational settings. The following table demonstrates the proportion of Māori/Pacific Island students who attended Campbell Park and Salisbury Girls School. Craig and Mills (1987) suggest that this discrepancy may reflect 'selective definitions of educational attainment and ability based upon cultural misunderstanding and racial stereotyping' (p. 45). Certainly, there significant evidence that deficit, negative views of tamariki Māori prevailed in schools and educational settings (Bishop & Glynn, 1999; McKinley & Hoskins, 2011; Shields, Bishop, & Mazawi 2005). The following table demonstrates enrolment distribution of two schools in particular, Campbell Park and Salisbury School.

Campbell Park was a national residential school for boys aged 9-17, who appeared to have difficulties with personal and social problems (Parker, 2006b). The purpose of the school appears to change over the years as children with a broad range of needs and backgrounds were admitted to the school:

> 'In 1956 the aims of the school were primarily educational. By the 1950s when the psychological service began to examine all children recommended for admission to the schools, most of the children admitted were backward with a history of family inadequacy or neglect, and often also of petty delinquency. Children with special education needs were also admitted.' (Parker, 2006b, p. 98)

Admissions based on the Social Welfare referrals reached 85% in 1974, then declined to about 50% in 1982 (Parker, 2006b). High numbers of children and young persons were admitted to Campbell Park despite its remote location in Otekaike (60 kilometres north-west of Oamaru and 16 kilometres from closest town of Kurow).

We analysed the available historical roll returns from Campbell Park, provided by the Ministry of Education. Māori representation in Campbell Park was compared with Salisbury school, which was a similar type of school for girls. These two schools admitted children who were considered to have behavioural and learning difficulties and who were often described at the time as 'backward'. The results are presented in Figure 2.16. The data identifies the total roll for these residential institutions as well as the proportion of Māori children who attended Campbell Park and Salisbury.[58]

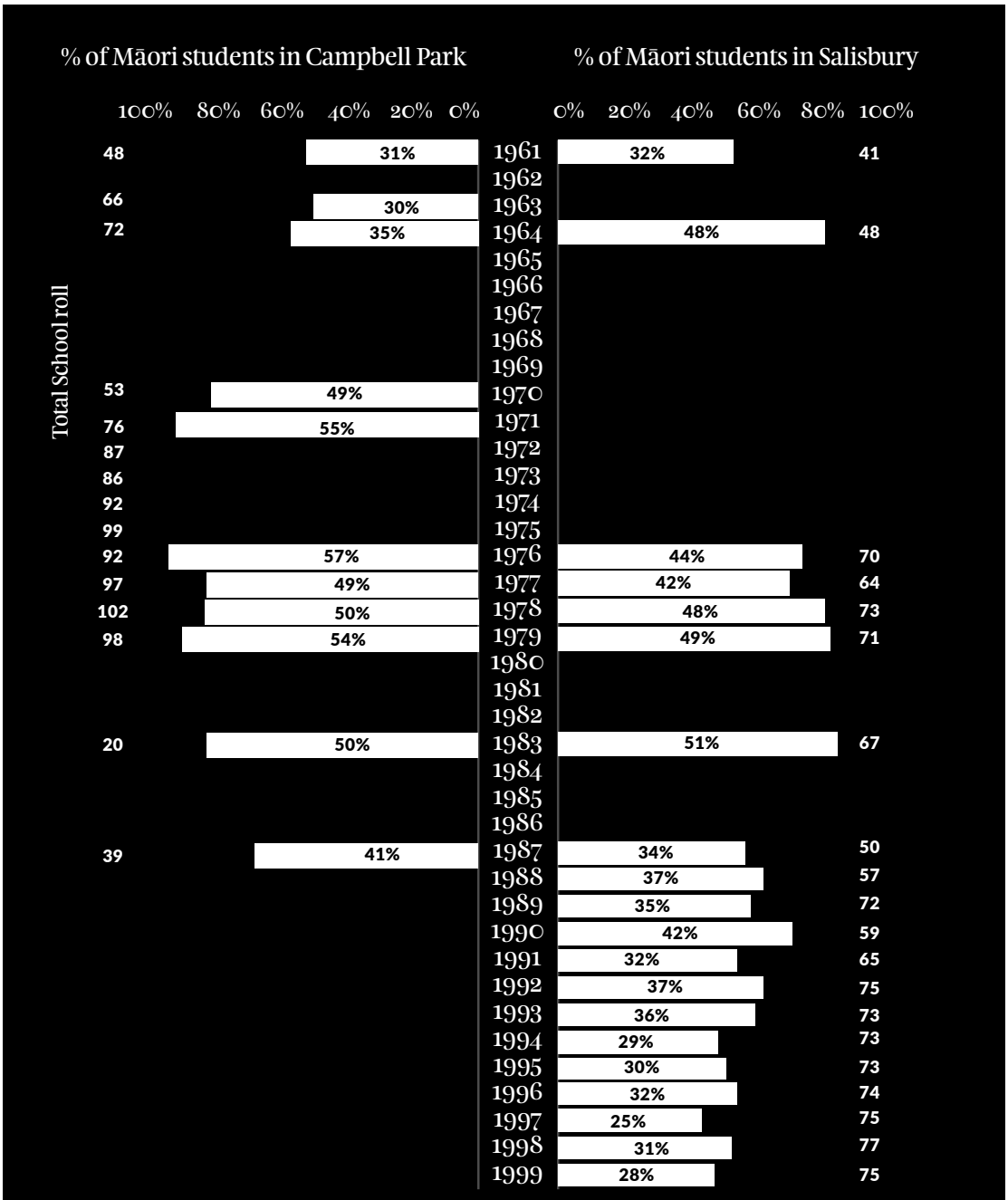
Table 2.33. Ethnic composition of two Department of Education special schools for children with learning difficulties (1984).

	Māori/Pacific Island	Other ethnic groups
Campbell Park School	57%	43%
Salisbury Girls School	51%	49%

Source. Craig and Mills (1987)

[58] Some years had two values; therefore, they were excluded from the analysis as it was not possible to know which one was correct.400

Figure 2.16. Percentage of Māori of total roll in Campbell Park and Salisbury



Data Source. 1 July Roll Returns, Ministry of Education (personal communication, May 27-28, 2021).
Note: Campbell Park was closed by end of 1987. For some years Māori students were not identified, only a whole roll was provided.

The results demonstrate the inconsistent and patchy nature of the records. However, from the available data, it is evident that Māori children were over-represented in these two schools.

The proportion of Māori girls attending Salisbury was highest 51% (in 1983), and lowest 25% (in 1997).

The proportion of Māori boys in Campbell Park ranged from 30% (in 1963) to 57% (in 1976).

Campbell Park had the largest intake of Māori and Pacific Island children even though it was in a remote location in the South Island. A newspaper clipping within a Ministry of Education file (R7244291) on Campbell Park School noted that school's 'prospects were bleak' (Thursday 17th July 1986). The article highlighted the high cost of travel for students noting that the 'most damning factor was that almost all the pupils came from the Auckland area'.

Official correspondence found in file R7244291 (18th July 1986[59]) indicates the concern over the treatment of young people at Campbell Park School, in particular the lack of care and support for Māori boys, racist staff attitudes, Victorian-style punitive discipline and the impact of being dislocated from whānau by distance. The response by the superintendent states there is difficulty in finding appropriate resource people to 'provide Taha Maori' and notes 'it is agreed, is unsatisfactory in this respect'. It is unclear what specific actions were taken by the Superintendent to address the concerns.

A Ministerial review of Department of Education residential special schools in 1986 found a number of problems with Campbell Park and recommended to close the school (Havill, 1986). Campbell Park was closed at the end of 1987.

[59] See Chapter 7 for further discussion regarding Campbell Park and conditions for students and staff.600

Discussion

Parts three to five of this chapter examined available evidence regarding the over-representation of tamariki Māori and vulnerable adults in mental health settings (psychopaedic or psychiatric institutions), health care settings (health camps) and educational care settings (residential special schools).

The analysis of psychiatric care settings demonstrates that Māori were far more likely to be admitted to psychiatric care than non-Māori. Young Māori adults between 20 to 29 and children aged between 10-19 years, were admitted to psychiatric care at 1.5-2 times higher rates than non-Māori between 1970-1987. High admission rates of Māori children and young persons to psychiatric institutions coincided with the period when the Adolescent Unit of the Lake Alice Psychiatric Hospital (1972-1978) had administered electroconvulsive therapy to children and adolescents (Sutherland, 2020).

The available data on health camps demonstrates that in the 1980s Māori children were over-represented on a population basis. Māori tamariki enrolled in the health camps ranged from 25%-33% across all health camps and reached up to 73% in some locations (e.g., Maunu, Whangarei).

Other health settings such as hospital admissions related to physical health were excluded from this overview. However, Craig and Mills (1987) found that Māori were over-represented in public hospitals, whilst they were underrepresented in private hospitals. They emphasised 'Institutional racism is evident in the under-referral of Māori accident victims to private hospital care. Unfortunately, the ACC does not record ethnicity, so biases within the system cannot at present be adequately examined' (p. 84). Nevertheless, at the time of this report recent research indicated that ACC is biased against women, Māori and Pasifika (Bradley, 2021). The scheme's definition of 'injury' favoured the types of injuries suffered by men, and women and minorities were also more likely to face bias from health professionals who filed claims on their behalf (Bradley, 2021).

The results of the available data for residential special schools demonstrates that Māori children were over-represented in most special schools, particularly in Campbell Park and Salisbury (reaching to 40-50% of enrolments across several years). The most recent data (1990-1999) demonstrates that across the seven residential special schools, the total proportion of Māori students ranged from 20% to 29%. There were more Māori boys than Māori girls every year.

Analysis revealed (for all years combined 1990-1999) that Māori boys were more likely to be placed in schools for children with learning and behavioural difficulties (18%) than in schools for children with physical disability (13%). Eleven percent of the roll in these schools were Māori girls. 'In the past assessment procedures have discriminated against students from cultures other traditional Europeans. To some extent, this can be seen in the disproportionate numbers of Māori children in residential special schools. It is necessary to ensure that all concerned in the assessment process are aware of the issue of unfair discrimination and of methods of assessment that may contribute to it. (Department of Education, 1987, p. 82).

Craig and Mills (1987) concluded,

> 'Though definite evidence is not available, it seems that Maori and Pacific Island children are over-represented in special schools catering for children with psychological, social and behavioural problems, but not over-represented in those catering for children with special physical needs. This could suggest that where the definition of special need is imprecise, as is the case with learning difficulties or maladjustment, there is a greater likelihood on the part of professionals to apply these classifications to Maori and Pacific Island children than to children of European origin. These difficulties may in fact be due to general social and economic disadvantage and to monocultural elements present in the education system.' (p. 47)

In 1996 the Ministerial review of the residential special schools noted failures in cultural recognition of the students and questionable benefits for children with social and behavioural problems (Havill, 1986).

> 'With the notable exception of Salisbury, the schools do insufficient to recognise the multi-cultural nature of their clientele and there are very few Maori staff' (p. 12).
>
> 'A follow-up of recent leavers from Waimokoia and McKenzie Schools for maladjusted children revealed a very mixed result. It suggested that there has been little if any perceived benefit from the residential school placement for a significant group of the ex-pupils' (p. 12).

Across all care settings (psychiatric care, health camps, residential special education) there were more Māori boys/men than Māori girls/women. Previous analyses have found that boys are more likely to be in institutions than girls, which Craig and Mills (1987) credited to 'delinquency attributions'; that is boys' behaviour was more likely to be seen as 'delinquent'.

Overall, our analysis supports findings by Craig and Mills (1987) that Māori were over-represented in almost every type of institutions, including public hospitals, psychiatric care, health camps, special residential schools, DSW institutions, detention and remand institutions. However, Māori were not over-represented in private schools and private hospitals, and institutions for elderly people. Craig and Mills (1987) found that the roots of the high admission into State institutions lay in social and economic disadvantage and institutional racism.

> 'In long term, this situation can be improved by major changes in the distribution of social and economic resources…. In the short term, however, attention should be given to ensuring that Maori are given greater control over the resources directed to them as to develop their own programmes of treatment and prevention. It is also important to ensure that adequate consultation occurs with Maori people as users, when new services are developed.' (p. 83)
>
> 'Attention must be given to the way in which the systems' own procedures encourage either the over-representation or the exclusion of Maori people. These institutional biases occur because the systems are designed within one cultural perspective and administrators undervalue, or simply will not recognise, the validity of other cultural viewpoints.' (p. 84)

This review did not include 'voluntary organisations residential care settings for children' due to the limited data and time/resources constraints. It is particularly difficult to source data directly from non-state organisations. Overall, non-voluntary organisations (mainly faith-based institutions) cared predominantly for European children. However, publicly available data indicates that there were Māori children in these care settings.

- In 1975, McDonald (1976) surveyed 927 persons, 711 from state/DSW and 216 non-state, residential childcare institutions, including young persons (above 13 years) and staff. Findings demonstrated differences in the ethnic composition of the staff and children. Sixty-five percent of young people were 'Māori and a mix of Pacific Island origin' in the state group, compared to 40% in the non-state group. Approximately 10% of the staff in the state group identified as Māori or part-Māori, while 100% of the staff in the non-state group identified as Pākehā/European.

- In 1984-84, residents of children's homes run by Salvation Army included 43% of Māori or Pacific Island origin children, 76% of the children were boys (Craig & Mills, 1987). Craig and Mills (1987) wrote that in March 1985, a total of 603 children (of whom 36% were state wards) were cared for by 36 voluntary agencies in a total of 62 residential institutions.

It is evident that non-voluntary agencies cared for a high number of children (state wards and voluntary admissions) between 1950-1999. Future research is needed to understand Māori experiences in the care settings run by non-state agencies as the impacts have endured over generations.

“

“Organisations were set up to look after youth justice teenagers who were usually Māori boys who were troublesome or troubled and difficult. There were a number of organisations that got set up in very isolated areas that a lot of those kids from all over the country went to because no one knew what to do with them … in lots of cases, those organisations got set up with the right intent, but they were never really funded or supported properly, and kids were sent there because there was nowhere else. And some of that stuff ended quite badly.”

– Don Sorrenson, Māori social worker

Chapter Three

Differential Treatment

He harahara wai ngā kanohi.

The eyes overflow with tears [60].

[60] Said in times of great sorrow. Mead, H., & Grove, N. (2001). Ngā Pēpehā o ngā Tīpuna. Victoria University Press: Wellington. (375, p. 68)

Introduction

Differential treatment is a powerful traumatising mechanism linked to structural racism and the enduring colonising environment, resulting in intergenerational harms for whānau. As youth offending statistics presented in the previous section illustrates, from the 1950s onwards there was an increased focus on child delinquency (Dalley, 1998). In particular, 'links between family structure and delinquency were looked for and found' (Dalley, 1998, p. 216). According to the settler state, the structure of whānau child rearing was backward, uncivilised and unsafe for pēpi and tamariki Māori, compared to that of the Pākehā (Labrum, 2002; Mirfin-Veitch & Conder, 2017; Stanley, 2016). Through urbanisation, increasing numbers of whānau moved into towns and cities seeking employment and better living conditions.

Research analysis highlighted the different ways that whānau were discriminated against, experiencing lower educational achievement and higher rates of unemployment, substandard housing, poverty, ill-health and incarceration than their Pākehā peers. Between the late 1960s and early 1970s unemployment rose dramatically, and larger numbers of children came to the attention of Child Welfare (Stanley, 2016). Child Welfare policy and services developed 'a punitive edge', particularly through the late 1970s and into the 1980s, as government policies of 'individual responsibility' took hold (Stanley, 2016, p. 31). Struggling whānau, particularly unmarried wāhine, faced further economic hardship and scrutiny. This in turn had a domino or cascading effect (Reid et al., 2017) as ever-increasing numbers of tamariki Māori became ensnared in the widening 'welfare-justice net' and were institutionalised in State Care facilities (Stanley, 2016, p. 34).

This chapter builds on evidence presented in other chapters that highlight the enduring, traumatising impact of colonisation and structural racism and the extent to which tamariki Māori and vulnerable adults were over-represented in the settler State Care system. In particular, this chapter presents evidence of the differential and racist treatment of the settler State Care system towards tamariki Māori, whānau and communities (1950-1999). The analysis emphasises the extent and interrelatedness of structural, institutional and societal racism with a particular emphasis on the failing state systems of social welfare, adoption, fostering, schooling, youth justice and policing.

Differential treatment: Structural and societal racism and adoption practices

As highlighted in earlier sections, the focus of the Child Welfare Division during the 1950s and 1960s was often related to dealing with child delinquency. The family structure and home life of children was scrutinized, with increased concern for children 'deprived of a normal home life' (Dalley, 1998, p. 216). Deprived children included illegitimate children who were placed for adoption. Unwed mothers in Pākehā society at this time were often viewed as 'fallen women' and unable to provide the right type of moral upbringing (Dalley, 1998).

The proportion of children born to unwed mothers grew throughout the 1960s and 1970s. Dalley (1998) notes that whānau customary marriage influenced the numbers of pēpi Māori the state viewed as illegitimate. Dalley argues that prior to the mid-1960s the Child Welfare Division followed 'a separate policy towards Māori single mothers', considering it 'impractical' to notify 'Māori ex-nuptial births in rural communities' (1998, p. 220). She argues that throughout the 1960s the Child Welfare Division often stressed the 'importance of Maori responsibility for Maori welfare' emphasising that wahine with children 'should look to their whanau networks for support' (p. 220). However, Dalley also notes a disinclination on the part of the Division 'to assist Maori communities' (p. 220), although she does not elaborate further. In urban areas, inquiries into Māori ex-nuptial births were certainly part of the Division's responsibility. Yet state assistance was only available 'if a Maori woman were living 'more or less' as a Pakeha or would receive no other assistance if she registered her child as a Maori (p. 221). There was often reluctance by single women to request state assistance as this meant increased scrutiny, discriminating judgement and removal of

children (Dalley, 1998).

Although the exact figure is unknown, evidence suggests that a significant proportion of closed adoptions involved children who could claim Māori whakapapa through at least one of their birth parents (Else, 1991; Griffith, 1998; Haenga-Collins, 2011; Perkins, 2009). O'Neill (1976) asserts that throughout the 1950s and 1960s the degree of 'Māoriness' exhibited by a child was the only official statistic recorded, regardless of post-marital or pre-marital status.

Structural racism and social attitudes separated tamariki from whānau

It is well documented that unwed mothers from the 1950s onwards faced intense social scrutiny to marry the father or give their baby up for adoption. Nonetheless, Pākehā women pregnant to Māori men faced considerable pressure not to marry the father (Haenga-Collins, 2011). Rather than suffer through the racial and social stigma as an unwed woman with a brown baby, Pākehā mothers increasingly gave their Māori babies up for adoption. Moreover, they often omitted the name of Māori fathers on birth certificates (Else, 1991).

The Common Law considered that an illegitimate child was a child of no one, with neither legal guardians nor parents. This meant that when a child was placed for adoption, the father and his whānau had no recognised legal interest under European law (Haenga-Collins, 2011).

Research indicates that this was not coincidental. As highlighted in Chapter 1, settler state social policies were formulated to assist with assimilating and integrating Māori into Pākehā culture. By extension, the attitudes underpinning adoption practices functioned to racially and structurally exclude Māori from participating in the adoption process.

In essence, the social attitudes and settler state policies operated to prevent whānau from raising their relations as they would have otherwise under tikanga.

Else (1991) records instances of whānau actively pursuing the adoption of related tamariki facing racial prejudice in the form of structural racism (Else, cited in Haenga-Collins 2011). Dalley (1998) also emphasises the differential and complicated treatment of adoptions involving whānau.

> A tangle of restrictions surrounded Maori adoption until 1955: if both parents and the child were Maori, the adoption case would be heard in the Maori Land Court under the 1909 legislation; if the adopting parents were Pakeha and the child Maori, the Infants Act applied; a Maori/Pakeha couple could adopt a Maori child, but the case would be heard in the magistrate's court; Maori parents could not adopt Pakeha children. The sex of the child added further to the complexity: a Pakeha husband and Maori wife could only adopt a male Pakeha child, and a Maori husband and Pakeha wife a female child. A subtext of racially-based anxieties about intermarriage and the inheritance of property loomed large in these regulations (Dalley, 1998, pp 233-234).

Haenga-Collins (2011) states that Māori were severely disadvantaged by the court system, as they were often unable to afford court costs and/or legal representation. Most pertinently however, whānau were discriminated against by the magistrates who viewed Pākehā upbringing as far superior to that of Māori whānau. Applications made by whānau to legally adopt their relations in a legal whāngai capacity were rejected on the basis of wealth and age (Haenga-Collins, 2011). Haenga-Collins cites Durie in support of this claim, stating:

> Social workers put a lot of blocks on grandparents adopting grandchildren . . . it [was] not written into statute at all, just a working policy adopted by social workers . . . not too many [Māori] met the [income] test (cited in Haenga-Collins, 2011; Personal communication, January 20, 2011).

Research into the adoption practices of the 1960s

indicates that social workers treated the adoption of Māori babies and children differently, because non-white children were 'undesirable' and harder to place (Else, 1991; Haenga-Collins, 2011). 'Undesirability' within this context was measured first and foremost by race and appearance, with Māori features, dark skin, and heritage being the most undesirable attributes of a child (Else, 1991). Societal and institutional racism was fuelled by the belief in the superiority of Pākehā nuclear families.

> Social workers also adopted practices of colour matching parents to children to better assist acceptability (Else, 1991). This 'colour matching' created a hierarchy in which pēpi and tamariki Māori who appeared more European were more likely to be adopted than those who possessed darker skin. Else reports that, though they [social workers] saw all mixed-race children as difficult to place, the degree of 'darkness' counted too, because some Pākehā couples said they would accept children who were light enough or whose non-European ancestry did not show (Else, 1991, p. 74).

As time progressed throughout the 1960s social workers found it more and more difficult to find an adoptive home for any child considered slightly 'different' (Else, 2019). Most adopters were of Pākehā descent, and likely to be reluctant to adopt brown children (Else, 2019) due to concerns of social stigma and shame. This created a 'catch 22' situation whereby government agencies and the courts were at an impasse. The courts at the time used legislation to prevent whānau from adopting children because a Māori upbringing was considered inferior compared with a European upbringing. However, Māori babies were harder to place for adoption because Pākehā parents were reluctant to raise a brown child.

Because Māori babies were placed at the lower end of desirability by social workers, they were more often adopted by less desirable applicants (Else, 1991). In essence, agencies cut corners that disproportionately positioned tamariki in Pākehā families that social workers knew were 'less than ideal' (Else, 1991; Haenga-Collins, 2011). According to Haenga-Collins (2011) Pākehā families who may not have readily been accepted as adoptive parents were approved on the grounds that they would take a non-white child, as these children were harder to place. These Pākehā families were known by the department to have issues of concern. Hence, they were placed at the bottom of the list for adoption approval. However, they were more likely to be approved if they agreed to adopt a non-white child.

This practice operated as a traumatising mechanism (Reid et al., 2017), whereby tamariki were forcefully assimilated into Pākehā society and denied the truth of their existence. In addition, assimilative adoptions added to the collective trauma experienced by whānau in being disconnected from tamariki. Moreover, the racial undertones of matching adoption applicants and children functioned to provide double-standards of State Care and protection.

Differential treatment: Foster homes for and by Māori

Research analysis highlights the differing standards that existed for approval and payment for Māori and non-Māori foster homes. Dalley (1998) notes that a significant challenge facing the Child Welfare Division was the 'appropriate' fostering of tamariki Māori. While there were 'frequent' Division complaints about the lack of suitable foster homes for tamariki Māori, Dalley highlights that Child Welfare officers applied differential standards of approval or disapproval.

> In 1957, for example, Lorna Hodder visited Mrs Whakaneke's New Plymouth foster home, where she found the children to be well cared for. Their sleeping arrangements were not up to 'European standards', however, as the children shared beds. She suggested that in future Mrs Whakaneke receive less than the full board rate (Dalley, 1998, p. 238).

Tamariki Māori who were unable to be placed with 'appropriate' adoptive parents or in 'suitable' foster homes were likely committed to a State Care institution (Dalley, 1998). Our analysis has demonstrated that under the guardianship of the Director-General of Social Welfare, tamariki Māori were over-represented in various care settings of the Department. Māori children were especially over-represented in the national institutions administered by the Department that were intended for 'more difficult' children who could not be placed in foster care (Mackay, 1988; Parker 2006b, 2006c). At the same time, when the Intensive Foster Care Scheme (IFCS) was initiated for more 'difficult' children to provide them with an enhanced form of care by better trained foster parents, the conclusion by social workers was that 'this type of fostering was not generally suitable for Māori or Polynesian children, as it was primarily a middle-class Pākehā scheme' (MacKay et al., 1983, p. 132).

Social disadvantage and offending outcomes

The issue of whānau deprivation became more obvious from the findings of a series of research reports from the 1960s – 1980s (Fergusson, Donnell & Slater, 1975; Fergusson, Fifield & Donnell, 1980; Hunn, 1961). While Māori were noted as over-represented in juvenile offending statistics, there were clear links with poverty, educational underachievement and poorer income levels.

For example, the cohort study of boys born in 1957 showed that 72% of all Children's Court appearances in 1973 by the cohort sample were related to theft, burglary or conversion offences (Fergusson et al., 1975). The analysis indicated that the risk of juvenile offending was linked to both

> "…I remember saying to one of the old ones (social worker), 'How did you place kids with all these caregivers?' I was returning them back to family, and he said to me, '…back in the day, we just looked at a home and if it looked beautiful and flash and it was Pākehā we'd go up and say, 'Do you want to have a Māori baby? Do you want to be a caregiver?', I was like 'Oh my God'."
>
> **Māori social worker**

race and socio-economic status (based on the boy's parent occupation). While the risk of non-European children offending remained higher than for children of European descent, it was found that as socio-economic status decreased, the risk of a child offending increased. The highest offending rates were found for Māori in the lowest socio-economic status category (defined by authors as 'most disadvantaged' position) and the lowest incidence of offending was recorded among children of European descent of high socio-economic position (defined as 'most advantaged' position). However, in the highest socio-economic status category defined as 'Professional Workers' (as parent occupation), there were no Māori boys compared with 4.3% of the European boys of European descent. This suggests that Māori offending was associated with their socio-economic position.

Fergusson et al., (1975) recommended policies to improve the socio-economic status of the non-European population to reduce both juvenile offending and the racial differences in official offending statistics (reduction of offending possible by 8-12% with changes in SES in the current findings).

Inspired by previous studies exploring links between the high incidence of offending by Māori and their disadvantaged socio-economic position (e.g. Fergusson et al., 1975; Jensen, 1971), Fifield and Donnell's (1980) research, based on official statistics and trends between Māori and non-Māori groups examined the stability of this association over time searching for evidence to corroborate the commonly held belief at the time that Māori had 'advanced in relative socio-economic standing' (1980, p. 2).

Along with trends in incidence of offending, as discussed in the previous chapter, Fifield and Donnell (1980) examined the trends in socio-economic status indicators for Māori and non-Māori over three census periods: 1966, 1971 and 1976. The wide range of indicators included: educational attainment (including highest form reached and highest qualification by school leavers), educational qualifications of the labour force, incomes, occupational status, unemployment, home ownership (including occupants per dwelling) and health (including infant mortality, and death rates). Their comparisons revealed 'a significant disparity between Māori and non-Māori achievement in terms of all the types of information included' (1980, p. 47) and in some areas, such as educational qualifications, Māori were relatively more disadvantaged in 1976 than they had been in 1966 (10 years before).

The conclusions by Fifield and Donnell (1980) concurred with those of Fergusson et al. (1975) that 'improvements in the relative socio-economic position of Maoris might contribute to a reduction in Maori offending' (p. 51). Furthermore, high ethnic disparity in social statistics and Māori deprivation found in their analysis made the authors argue:

> That improvements in Maori socio-economic status are unlikely to lead to a reduction in crime and other social problems unless they are sufficiently large to advance the relative position of Maoris compared to non-Maoris. If the gap in terms of socio-economic status is to close, not only must Maoris advance in absolute terms, but they must advance more rapidly than non-Maoris (Fifield and Donnell, 1980, p. 52).

Later research supported Fifield and Donnell's conclusions showing clear associations between the socio-economic factors and the incidence of offending by Māori youth (e.g., Fergusson, Horwood & Lynskey, 1993a, 1993b). Mackay (1981) noted the higher overall incidence of guardianship orders for children from lower socio-economic groups and concluded that Māori over-representation amongst children subjected to guardianship orders, may have been partially attributed to their lower socio-economic status in comparison to Pākehā.

According to Williams (2019), since Jack Hunn's (1961) promotion of the 'modern way of life' and his 'integration' policies, which encouraged urban migration, Māori economic disadvantage increased, whilst their cultural connections and capabilities decreased. Williams argued:

> There was a minority of Māori who ended up at the bottom of the heap in urban locations at that time. They became part of the marginalised and disadvantaged urban poor which is the

"Researching the justice statistics … you could see the figures staring you in the face of how disproportionate the number of Māori was."

– Oliver Sutherland, advocate for Māori

> catchment from which almost all of the prison population is drawn (2019, p.43).

The failure of the settler state to address whānau deprivation has continued over time. Socio-economic disparities increased with subsequent neo-liberal policies from the 1980s, exacerbating inter-generational deprivation. Instead of directing efforts to closing socio-economic gaps between Māori and non-Māori, political responses prioritised criminal justice policy changes that favoured more punitive penal outcomes, leading to higher incarceration rates (Williams, 2019). Williams argued:

> More work on a nationwide basis needs to be aimed at ameliorating, or indeed abolishing, the conditions of scarcity and deprivation /…/ Far too many young people, though, travel along the pipeline that leads from child poverty to incarceration as young adults and recidivism thereafter (p. 45).

These recommendations are similar to those of previous researchers dating back several decades. Other empirical studies established a strong link between deprivation and child protection system contact and reiterated the policy advice about initiating interventions to address family poverty (Keddell et al., 2019).

Our analysis has highlighted the failure of the settler state to address economic and educational disparities impacting Māori communities. The negligence on the part of the settler state to uphold compelling research evidence and act as a Treaty of Waitangi partner, has continued to negatively impact tamariki and whānau Māori.

Differential treatment in the justice system

Historic explanations of higher Māori offending rates and imprisonment have consistently blamed Māori, and not the settler state mechanisms that administered European law (ACORD, 1981). Literature and research analysis has highlighted that State Care systems, underpinned by the unrelenting belief in Pākehā supremacy, were racist. Socio-economic explanations aside, the data substantiates that inequitable treatment has been a characteristic of Māori engagement with the courts, police, and welfare.

Within the context of policing and the courts, race was used by Pākehā as an indicator of guilt and grounds for suspicion of an offence (Maxwell & Smith, 1998; Te Whaiti & Roguski, 1998). Indeed, research has uncovered a range of contributing factors to explain why Māori were disadvantaged by the justice system, including culture conflict, low socio-economic standing, urbanisation, and selective processing by state agencies (O'Malley, 1973). Nonetheless, race emerges as an integral component of the treatment of Māori defendants by settler state justice. This injustice fundamentally altered the trajectories of many whānau. Through their involvement with the state, Māori defendants were systematically poised to enter the pipeline into State Care and residential institutions.

Several researchers have demonstrated that Māori, in comparison to Pākehā were treated differently and disadvantaged by the justice system (Jackson, 1988; Jones, 2016; O'Malley, 1973; Sutherland, 2019). Such ethnically inequitable treatment has been identified as having serious consequences (O'Malley, 1973), contributing to Māori over-representation in justice statistics since the 1950s. The previous chapter demonstrated that tamariki and rangatahi Māori were over-represented in penal institutions; either being sentenced to prison, borstal, detention centres, or detained in custody on remand (Department of Justice, 1979; McCreary, 1955; Powles, 1977; Schumacher, 1971; Sutherland, 2019). Māori conviction rates and custodial sentences were disproportionately high, resulting in tamariki and rangatahi Māori being removed from their whānau and placed either in the care of Department of Social Welfare or in penal institutions. The next section highlights how processes and systems influenced adverse outcomes for Māori children.

Differential treatment in legal representation

As previously noted, Hunn (1961) raised concerns about Māori crime in the 1950s. His report acknowledged a discrepancy in terms of the gap between the population statistics (e.g., Māori comprised about 8% of the population in 1961) and other statistics relating to Māori, such as, arrests (15.9%), convictions (17.8%) and imprisonments (23.3%). He explained this 'puzzling circumstance' by stating 'Maoris often come into Court with no idea how to plead or defend themselves' and observing that Māori were less likely to be represented by counsel and more likely to plead guilty (p. 34). Workman (2016) argues the Hunn (1961) report 'failed to develop its insights further and failed to consider the possibility of institutional and personal racism, or the lack of legal representation' (p.90).

Māori were more likely to appear with a frightened appearance which risked misinterpretation by the court as an indication of guilt and were less likely to appeal a guilty verdict (Jones, 2016). O'Malley (1973) argued that higher Māori conviction rates compared to Pākehā (in the 1960s) were directly associated with the lack of legal representation for Māori. He noted that non-Māori defendants (87%) were represented by qualified counsel in Magistrates' Courts twice as often as Māori defendants (44%). Explaining the implications of this discrepancy, the author asserted that defendants who are not represented, are more likely to plead guilty, which 'almost invariably' leads to conviction (1973, p. 52). According to O'Malley 70% of represented defendants in the Magistrates' Courts pleaded guilty, compared to 96% of defendants who appeared without counsel. Furthermore, there were ethnic disparities in the type of plea entered by defendants as 84% Māori defendants entered guilty pleas in Magistrates courts compared with 73% of 'European'. The author concluded that this is 'tangible evidence that ethnic differences in patterns of legal representation have serious consequences for the relevant crime rates' (1973, p. 52).

As O'Malley (1973) demonstrated, Māori defendants appearing in the magistrate's court within this period were more likely to have no legal representation, enter guilty pleas, and be unable to arrange sureties for bail, all of which affected the outcomes of proceedings. According to O'Malley, the right to bail entails two important functions in the administration of justice. Firstly, it gives the bailed defendant the freedom to prepare a defence; and secondly, it reduces likelihood that persons subsequently found not guilty would have been unfairly detained in prison. From the data, we can conclude that Māori appearing before the court were consistently denied those benefits.

Data collected from the Children's Court indicated that tamariki and/or rangatahi did not fare any better than adults, illustrated by their over-representation processed by the justice system (Sutherland, 2019). Tamariki Māori faced institutional racism and inequities within the judicial process as they were treated differently to non-Māori (ACORD, 1981; Sutherland, 2019). The Children's Court discriminated against Māori children and young persons, disproportionately sentencing them to borstals and remanding in prisons and police cells. During its operation, the Children's Court dispensed sentences to children and young person's ranging from admonishing and discharging the child, to an indeterminate borstal sentencing, of up to two years duration (Sutherland, 2019).

> "Our children were treated very different in terms of penalties for offending."
>
> **Te Inupo Farrar, Māori Mātua Whāngai and DSW social worker**

> "You've got Pākehā decision makers, one way or another, discriminating against Māori young people. There's no other way to explain the figures. And the question is why does it happen? How does it happen? I used to challenge the police until they wouldn't talk to me anymore. I challenged the magistrates, they sometimes talked, I challenged the lawyers, … kids just don't understand what a lawyer can do."
>
> **Oliver Sutherland, advocate for Māori**

Sutherland (2019) maintained that lack of access to legal representation for children in courts, especially for Māori children, contributed to the disproportionate number of convictions of Māori children. He reveals the correspondence between himself as the Nelson Māori Committee secretary and the Minister of Justice on the issue of legal representation of children in court, which shows political reluctance to acknowledge the problem and implement change:

> In a letter to the Minister of Justice, Sir Roy Jack, on 20 January 1972, when asked 'if the onus is not on the magistrate to see that a child is properly represented, then who is it upon? The Child Welfare Officer?' The Minister replied '… while there is no direct responsibility on the Magistrate, the police or a Child Welfare officer to obtain legal representation for persons appearing before the Children's Courts, they are all concerned that defendants should have every opportunity to be legally represented if they wish' (Sutherland, 2019, p. 3).

Sutherland (2019) emphasises the deliberate intent within the Minister's reply to blame Māori children for their lack of legal representation: 'it was up to the child to arrange his/her own lawyer' (p. 4). The Nelson Māori Committee continued to advocate for establishment of a national duty solicitor scheme, whilst the Minister continued to endorse the status quo as reported in the media: 'Implications that Maoris appearing before the magistrate's courts in New Zealand are getting less than justice are incorrect … we have the best of British justice for all' (Nelson Evening Mail, 1 August 1972, as cited in Sutherland, 2019, p. 4).

After two and a half years of campaigning for a duty solicitor scheme, a change was implemented in 1974, but this only included providing legal advice to defendants and not representation. ACORD responded that the proposal 'would not remove discrimination from the courts and that it overlooked the particular needs of Māori and other Polynesian children and their parents' (Sutherland, 2019, p. 4). From Ngā Tamatoa's perspective the scheme '[did] nothing to attack the basic problem of the institutionalised racism which continues to exist in the whole of the judicial system, and which ensures that we remain the jail fodder in this society' (as cited in Sutherland, 2019, p. 4).

The deliberate inaction by the Minister to recognise and address Māori disadvantage in the settler state judicial system, is further evidence of an enduring colonising, racist environment. This has resulted in considerable intergenerational harms for many whānau Māori.

Differential treatment: Prejudicial decision-making and cultural ignorance

Research clearly demonstrates that institutional racism within the Department of Social Welfare, the Ministry of Justice, and the New Zealand Police Service has contributed to the over-representation of Māori in State Care. According to the ACORD (1981) report Children in the State Custody, the decision makers during the 1970s and 80s largely represented people of Pākehā descent. In adjudicating Court Processes, magistrates placed significant trust in the opinion of social workers when sentencing children brought before it.

> The decision where to remand a child is ultimately made by the magistrate (judge), who is, with one exception, always Pakeha. But he or she invariably seeks advice from the Social Welfare officer and police. The role of the social welfare officer is crucial; it is effectively they who make the decision . . .[T]hey will have considered the stability of the child's home; who is in charge of the home; is it a 'good' home and family; do the parents' 'care'; is the child likely to re-offend . . . A whole series or value judgements made by Pakeha welfare officers about children of another culture and from a family background which may embrace very different cultural values and lifestyle . . . We believe that these value judgements are totally without validity. Pakeha social welfare officers have no right and no ability to make these judgements on Maori children and their families (ACORD, 1981, p. 7).

The report suggests that Pākehā social workers, as opposed to magistrates, were the main decision-making authority about whether or not to take a child into custody. Other authors have observed that Child Welfare Officers' reports compiled under the provision of Child Welfare Act 1925 were subjective and biased, as discussed by Matthews (2002):

> Child Welfare Officers, who had the function of reporting to the Courts on individuals and their families, did so in secret. Their reports, unseen by the subjects, were uncontested. Frequently they contained unsubstantiated slurs, along the lines of 'Mrs Brown is widely known as a drunkard and of low moral character'. Such evidence was sufficient to remove children from their original homes, place them in State Care, and transport them to remote locations where they would be supposedly free of 'unsavoury' family influences (p. 121).

Dalley (1998) writes that the 1974 legislation, for the first time, made the social workers' reports compiled for Magistrates available to the young person and their parents. Dalley quotes a social worker's comments about the change: 'we could make all sorts of judgements and comments' about families, but once parents and their counsel had access to the reports social workers became more cautious in their statements about the social circumstances of clients' (p. 280).

The 1978 Inquiry into Social Welfare Children's Homes in Auckland organised by ACORD, Ngā Tamatoa, and Arohanui Inc. included witness statements that emphasised the dissatisfaction of parents whose children were sent to DSW institutions on the basis of social workers' reports. Examples of how these were described include: 'the Departmental files are a tissue of lies and fabrication which parents don't get to see or challenge' (ACORD, Ngā Tamatoa & Arohanui Inc., 1979, pp. 6-7); 'these Social Welfare Officers can write anything they like on a file; it doesn't have to be fact, it's what they think themselves … things are put on to that file which are not even true, and I feel that this is wrong' (ACORD, Ngā Tamatoa & Arohanui Inc., 1979, p. 2).

According to Sutherland (2019), social workers were more likely to recommend to the court that tamariki Māori be remanded to prison or police cells, rather than recommending a lesser penalty. As a result, Māori were disproportionately sentenced to prison, borstal, or detention centres. Racism, both interpersonal and institutional, was evident among welfare officers, court officials and court practices during this period (ACORD, 1981).

ACORD (1981) describe decisions made by Pākehā Welfare officers about the likelihood of Māori children reoffending as 'culturally arrogant' and 'completely invalid' as they were based on judgements about home stability, parental control,

and levels of care.

> The effects of their cultural arrogance is clear from the figures. Māori children are much more likely to be taken from their families and denied bail than Pakeha children and are grossly over-represented in remands to adult prisons such as Mt. Eden (1981, p. 7).

> Time and again we see the racist spectacle of Pakeha probation officers making value judgments on children of another culture. Once magistrates add their own prejudices to those of the probation officers it is not surprising that Maori children are twice as likely to be sent to borstal or detention centre than are Pakeha children (1981, p. 8).

Kōtiro Māori were most harshly affected by value judgements and prejudicial decisions. As previously noted, statistics demonstrate higher rates of custodial sentences of Māori girls than Pākehā girls and Māori boys. Racist attitudes were embedded within the justice system:

> All that is wrong with our system of justice is typified by the scene of the middle-aged, middle-class, male, Pakeha magistrate/judge sitting in judgment on a young Maori woman, and deciding that her background, her home and her family are so bad, so worthless, that she should be taken from them and locked up (ACORD, 1981, p. 6).

Racism was also perceptible in the 'pre-release report prognosis' of Waipiata borstal trainees by the borstal superintendent between 1962-65. Only 28% of Māori youth as compared to 51% Pākehā youth received a favourable assessment of not committing offences after the release from borstal (Schumacher, 1971).

Cultural ignorance was also evident within the monocultural (i.e., Pākehā) residential institutions. A former staff member at Owairaka Boys Home in 1969 testified for the Inquiry into Social Welfare Homes about Pākehā cultural dominance by staff members:

> About 80% of the kids [in Owairaka] were Maori and Polynesian. The psychologist was recently arrived from the UK, and made ethnocentric, monocultural judgments in his reports, such as mistaking whakamā for sullenness. These reports of his sent children on to other establishments and institutions. … There was a lot of cultural arrogance, and no other cultural identification or positive pride. Maoris were put down and treated with contempt. There was no effort made to treat those children as human beings (ACORD, Ngā Tamatoa & Arohanui Inc., 1979, p. 13).

Conclusions by the panel of the Inquiry into Social Welfare Homes (ACORD, Ngā Tamatoa & Arohanui Inc., 1979, Appendix p. 2) included:

- The administration of the system is mono-cultural (Pākehā) – only 1-5% of the administrative and managerial staff of the institutions are Māori while in most of the homes, Māori and Pacific Islanders comprise about 70-80% of the inmate population. Institution regulations did not cater for any non-Pākehā concept of family or parents.

- A combination of racism and sexism in these institutions is particularly bad for Māori girls. There was only one female Principal in Social Welfare Reception Centre, and no female Principals in any of the Girls Homes.

Evidence demonstrates that from 1950 – 1999 child welfare decisions were developed through monocultural perspectives that privileged Pākehā communities and discriminated against tamariki and whānau Māori.

Differential treatment: Stereotypical representation of Māori as criminal

The DSW (1973) publication 'Juvenile Crime in New Zealand' made the suggestion the high levels of Māori children's offending was connected to their 'maoriness' (ACORD, 1981, p. 15). Māoriness as a concept was connected to a range of racial

biases attributed to Māori. One such bias relates to the belief that Māori are congenitally criminal, and that causes of the deficiencies experienced lay intrinsically within tamariki Māori and their upbringing, rather than the colonial institutions that shaped their reality (ACORD, 1981).

Since the 1950s, there has been concern about the stereotypical portrayal of Māori as criminal. Thompson (1953, 1954a, 1954b, 1955) analysed articles about Māori printed in the New Zealand Press from October 1949 to September 1950. The analysis, including 6,000 newspapers across 25 daily and weekly papers, found that the most amount of attention was devoted to Māori crime, sport and accidents. Crime received the highest importance in Māori news reporting, with some newspapers (e.g., N.Z. Truth) devoting almost 75% of its Māori news to crime (Thompson, 1953). Thompson (1954a) remarked how the unfavourable themes appeared 'hardened into stereotyped form' (p. 5) and the stories reinforced 'a common mental picture of supposed Maori characteristics and the belief that as a group, the Maoris are radically different from the Europeans' (p. 8).

In Thompson's (1954a) analysis, the overall depicture of Māori affairs in the Press was 'distorted to a very considerable degree' (p. 14). For example, one of the recurring unfavourable themes included 'the Maoris abuse Social Security benefits' (Thompson, 1954a, p. 3). Thompson's analysis, however, found no substantiation of these claims.

> Although the unfortunate influence of Social Security on the Maori people was reiterated through many leading articles and reported statements, no evidence was brought forward in support of this contention, that is, other than appeals to 'independent opinion' or to the fact of it being 'widely recognized'. Occasionally a Hospital Superintendent would be reported on this issue, but only to state that in his experience there was little difference in behaviour between Maoris and Europeans in regard to Social Security benefits (Thompson, 1954a, p. 13).

Thompson (1954b) claimed that if events confirmed the negative stereotypes of Māori, they 'almost certainly' were reported in the newspaper. Race-labelling was a widespread practice of news reporting in relation to Māori communities. There was frequent use of labels related to 'half-caste Maori' and 'quarter-caste Maori'. Race-labels were 'almost exclusively' used for crime reporting, intended to illustrate the prevailing, negative stereotype that Māori were 'criminals'. Race-labelling was, however, objected to by Māori professionals and newspaper readers: When a Maori committed a crime it was blazoned in the newspapers, but not so with people of other Nationalities' (Maori vocational guidance officer for Auckland as cited in Thompson, 1954b, p. 217).

> In New Zealand when a man who is half-Maori and, say, half-Irish commits a crime he is called a half-caste Maori, even if his name happens to be O'Malley. All the blame is on the Maori and the Irish gets off scot-free. There are good and bad Maoris just as there are good and bad Englishmen. Why persist in incriminating the whole race for the action of an individual? (Letter to Auckland Star, as cited in Thompson, 1954b, p. 220).

In his conclusions, Thompson (1955) highlighted, 'the practice of race-labelling Maori crime news was widespread, unjustified, and inasmuch as the practice was virtually limited in its use to the Maori people, discriminatory' (pp. 33-34). Duncan (1972) argued that some twenty years later this bias had not changed as sensational, provocative and emotive headlines and uncritical reporting continued to appear reinforcing negative stereotypes of Polynesian criminality.

Duncan (1972) suggested that a major contributing factor to the disproportionately high crime rate among Polynesians in Aotearoa New Zealand 'is the readiness of others to believe that racial characteristics identify a criminal category' (p. 32). He referred to a cyclic interaction between the public, the press, the police and Polynesians, all influencing Polynesian crime rates. In his explanation, Polynesian crime received adverse media publicity that reinforced negative stereotypes

held by the public and the police. This increased an expectation of Polynesian criminality that resulted in more severe treatment of Polynesians and detection of their 'crime' by police. Duncan emphasised that adverse stereotypes made certain groups more 'suspicious', and their racial features tended to make them more visible, so that 'innocent persons find themselves under constant suspicion, not as a result of their behaviour, but for their racial features and cultural mannerisms' (p. 39). Duncan's analysis demonstrated how the presence of negative stereotyping and adverse publicity contributed to more crime being detected and more arrests being made among Polynesians.

Dalley (1998) also noted the dramatic rise of appearances before the children's court from the mid-1960s. She argued, 'the rise in the number of court appearances may have been a self-fulfilling prophecy: a belief that juvenile delinquency was out of control may have led the Division to adopt a harsher attitude towards youthful behaviour' (1998, p. 194). Jackson (1988) highlighted the links between and implications of the reporting of Māori crime and racial stereotyping. He referred to 'a cyclic process of 'deviancy amplification' in which negative stereotypes and perceptions 'help stimulate policies in a self-fulfilling weave of unfairness' (p. 121).

Differential treatment: Rights of children in custody

The 1981 ACORD report on children in custody found that rights and safeguards for the protection of children against arbitrary detention were absent in Aotearoa New Zealand during the 1970s (ACORD, 1981). The authors expressed the debilitating effects of isolating Māori children from whānau via visiting policies, stating: At Owairaka Boys Home, visits from families and friends are not permitted, only parents are allowed, which particularly affects Māori and other Polynesian children, cutting them off from their extended families (ACORD, 1981, p. 5).

At the discretion of the DSW, any child may be held in close confinement in 'secure', be denied schooling and be subject to an often degrading regime intended to force them into subservience. This regime was not subject to any statutory regulation and denied children their rights. Racial oppression exists 'when one racial group holds power and uses that power to subjugate or persecute another racial group' (ACORD 1981). The mechanisms behind criminal law and justice, during this period, were owned and operated nearly exclusively by Pākehā (ACORD, 1981). From 1950's onwards children brought before the courts, remanded to prison, and locked up in institutions were predominantly Māori. These children were separated from whānau, deprived of their identity, and institutionalised by the system predominantly because they were Māori. These are examples of differential treatment and institutional racism (ACORD, 1981).

Institutional police racism

Research analysis demonstrates the New Zealand Police Service is intertwined with the enduring process of colonisation in Aotearoa. Since its inception the service has acted as the agent of oppressive settler laws and social policies that have marginalised Māori communities. As a society, Aotearoa New Zealand has functioned on a presumption that the police conduct themselves in a 'just' and moral manner when applying the law. We presume the institution treats people equally regardless of race. However, research demonstrates the settler-colonial, and racist ideologies have been an intrinsic component of policing practices used against Māori communities.

This section examines evidence of systemic failures on the part of the settler state system and the New Zealand Police Service which resulted in tamariki and rangatahi Māori becoming over-represented in justice figures and in State Care. Over four successive decades from 1950-1990 there were widespread, systemic failures underpinned by structural racism that resulted in inadequate protection for tamariki interacting with the justice system. Research suggests that the New Zealand Police Service and courts were instrumental in this context as agents of the settler colonial state. Through a combination of deliberate action and inaction, the police service

circumvented legislation enacted for the protection of children and young persons entangled with the justice system (Bromley, 1992; Levine & Wyn, 1991; Morris & Young, 1987).

Institutional racism, which is firmly rooted within Aotearoa's colonial history, has resulted in tamariki Māori receiving harsher treatment compared to Pākehā children involved with the justice and welfare systems. The statistics illustrate the depths of the racism within the institutions and persons who administered the state's drive to assimilate and dominate non-Pākehā. The statistics gathered by ACORD from 1967 to 1971 clearly illustrate the degree of racism which existed within the police, welfare, and justice systems which included the racialisation of the crime problem and blaming of Māori. From 1967-1971 the Department of Justice included all non-Māori polynesians in the Pākehā category (ACORD, 1976). The reasoning and justifications of this are unknown. However, it is highly peculiar given that this artifically diminished the statistical disparities between Pākehā offenders and other ethinic groups.

Viewed within the context of colonisation the reasoning for skewing the figures becomes apparent. Commentators have documented the ongoing nature of colonial power-control dynamics between the state and indigenous peoples. Part of that dynamic is the maintanence of the state's position as the bulwark against the downfall of society. Taken further, crime is framed as a racial problem to which the indigneous community is accountable as are the social inequities manifested by the state. In turn, this is used to cement the position of Pākehā within social, political, and economic hierarchies to which the justice and police are actively involved. Racialising crime forms part of the wider strategy of colonialism because it deprives the targeted group of the ability to mobilize politically against the Pākehā occupation of their lands. Thereby maintaining the status quo and the state's control of resources, territory, and political structures.

Differential Treatment: Policing

The police force wields powerful discretionary abilities that function as a means to oppress Māori within their homes and communities. As an arm of the state, the police have made an inexcusable and substantial contribution to the over-representation of tamariki Māori in State Care. The institution and its culture have been cultivated to perpetuate strong anti-Māori sentiment among police officers and other police service employees. Data from the 1960s to 1990 strongly supports the contention that the police treated tamariki Māori and whānau differently to non-Māori. Research conducted over that time provides a compelling account of the racial prejudice underpinning government department and agency practices tasked with the care of children, young persons, and their families. Systemic failures of the police, in particular, to treat tamariki and rangatahi Māori equitably under the law, are highlighted by the literature.

Tauri (2005) asserts that Māori experience of prejudiced policing has led to their distrust in the New Zealand Police. Maxwell and Smith (1998) found that from their sample of police officers, at least two thirds had heard other police officers use racist language about suspects or offenders who were Māori; a third were more likely to suspect Māori of an offence; and nearly half believed that police officers were more likely to pull over a flash vehicle if the driver was Māori (Maxell & Smith, 1998; cited in Jones, 2016). Citing Maxwell and Smith (1998) Jones (2016) asserts that prejudicial attitudes were not uncommon among the police that they tended to actively profile offenders to resolve crimes.

Research indicates that ethnic stereotyping has the capacity to reinforce perceptions of ethnicity as a characteristic of offending. By extension, this has led to the over-representation of Māori in the justice system. This is not a coincidence when contextualised within colonisation and racialisation of criminality. Latu and Lucas (2008) state:

> Police may be drawn to specific offenders already known to them, producing a cause and effect motion, whereby police become acquainted with particular people and areas by history of offending or offences, which inevitably influences police attentiveness. This may aid in the explanation of why Māori have higher rates of recidivism (Latu & Lucas, 2008, cited in Jones, 2016, p. 15).

Research indicates the police were ill-equipped, inadequately trained, and culturally inept in their practices and this had detrimental impacts for tamariki, whānau, hapū and iwi. ACORD was of the opinion in the 1970s that:

> In view of the type of training police officers receive, in view of the diverse and often serious criminal situations with which they must regularly deal, and in view of their overall image, police officers in general cannot and must not be inolved in child welfare work. They are in no way specialists in this field and yet it is a task demanding such care, sensitivity and dedication that it must only be undertaken by specialists (ACORD, 1974, p. 9).

Differential treatment and prejudical decision-making was evidenced in the 1974 study conducted by Hampton (cited in ACORD, 1981), which showed that police were more likely to prosecute a Māori child than a Pākehā child for a similar offence. This same study identified that the likelihood of prosecution as a result of police biases was increased by socio-economic variables such as poor home backgrounds and broken homes. Applying cross cultural analysis, the study ultimately reasoned the police were more likely to prosecute if the youth came from a poor home environment, without consideration of race as a contributor. However, the inference we have drawn from a wider review of academic writings of the time is that the police were more likely to exercise their discretion in favour of prosecution if the youth was both poor and Māori.

During 1967-1971 the police racially stereotyped tamariki Māori resulting in disproportionately high arrests, prosecutions, and sentences (ACORD, 1974). In 1971, one 15-year-old Māori child per week was sent to borstal. During the same period, Pākehā children were twice as likely to escape with lesser penalties such as fines and admonishments than Māori children. In effect, the police and

“

“A real problem was the lack of Māori police officers and child welfare officers, and the absolute lack of knowledge of the police and social welfare around how to deal with young Māori who were neglected or who offended. The other feature was that within the police there were very good examples of racism and racist attitudes towards Māori and Pacific peoples, at the very top of the system. I recall that in 1950 there was only one Māori police officer in New Zealand. Around that same time period, the Commissioner surveyed the police to see how they felt about recruiting Māori into the police. And the staff were almost unanimously opposed to the idea…the view was that if you employed Māori, the Pākehā would resent being dealt with by Māori and that they might be inclined to let their own people off the hook. So it was decided that Māori were unsuitable for recruitment.”

– Tā Kim Workman, Māori senior public servant

court systems used race as a basis for differential punishments, resulting in harsher sentences imposed on tamariki Māori.

Maxwell et al.'s (2004) analysis of a sample of retrospective cases of youth justice family group conferences (FGCs) from October 1997 to March 1999 suggested police differential treatment of Māori youth (15-year-olds) in relation to decisions about whether or not to charge a young person in the Youth Court. There are two referral pathways to FGCs (a) a Māori youth is referred via the Police Youth Aid Section, or (b) a Māori youth is arrested by police and brought before the Youth Court which in turn relies on FGC recommendations when deciding outcomes. The analysis by Maxwell et al. (2004) found that Māori young people (71%) were more likely than Pākehā (56%) to be referred to the Youth Court than receive Police referrals directly to a FGC. This had implications for Māori in terms of receiving harsher punishments as Youth Court processes had access to more severe outcomes. The authors concluded:

> In practice, this meant that young Māori were more likely to receive outcomes involving orders for supervision either in the community or in a residence. This appeared to be independent of the seriousness of their offences but was consistent with (i) being processed through the Youth Court rather than being directly referred to family group conference, and (ii) entering the youth justice system more frequently due to increased vigilance (Maxwell et al., 2004, pp. 293-294).

These findings support the 'increased vigilance' explanation of the over-representation of Maori among young offenders as discussed in other research (e.g. Fergusson et al., 1993a; Maxwell & Smith, 1998).

Colonisation and policing

Policing practices are invariably influenced by political rhetoric and mainstream Pākehā media opinions that stress the importance of being 'tough on crime' as the answer to social issues. Much of this is rooted within the colonial history of the police service itself. In the early stages of the colonial state the police operated as a coercive service to control and crush the Māori population (Te Whaiti & Roguski, 1998). This often meant using military force to subdue Māori communities. Bull (2001) argues that policing in nineteenth century Aotearoa New Zealand was directed towards 'those who, by class or race, were percieved to threaten, actually or potentially, colonial state-envisioned concepts of order and regularity' (p. 515). Within the context of colonisation, it is the colonised who pose a threat to the status quo. Hence, the coloniser increases police activity to maintain their dominance (Bull, 2001, p. 515). Bull (2001) asserts: 'Official Māori offending profiles can be explained by primary culture conflicts, literal normlessness, over-policing of Māori drinking habits to placate Pākehā, and specific instances of the criminalisation of Māori independence' (p. 517).

Bull (2001) contends the turning point came in 1911 when a 130 percent increase in offending by Māori, was driven by renewed attention to 'law and order' by the authorities, brought about by political strife and exacerbated by racism and the effects of the First World War (p. 517). Bull claimed that the toughening of police attitudes was directed most harshly towards Māori because 'they represent a relatively powerless and readily identifiable group, and their persecution enables socially undesireable characteristics to be located with 'the other' (2001, p. 516).

Racialisation of specific traits associated with educational achievement, social status, employment, and criminality are deeply embedded with Aotearoa New Zealand society. Perspectives of youth delinquency and criminal acts were notably influenced by Pākehā perceptions of Māori rooted in the colonial narrative of civilising the native. Differing explanations have been utilised by the Crown to explain the underachievement of Māori in a range of contexts. Some of these have endured and continue to perpetuate cycles of racism amongst communities, the media, and institutions. For example, the 1970s over-representation of Māori in youth delinquency figures was attributed to Māori being a cognitively impaired race (Zimmerman, 1971). Hence, policing

within Aotearoa New Zealand is likely to have been influenced by racially prejudiced conceptions of Māori. In contrast, the state and the police were portrayed as the guardians of law and order, as the 'thin blue line' that stands between the public and chaos (Hill, 1986, p. 24).

The social hysteria surrounding youth delinquency in the 1950s has been identified as the result of Pākehā resistance to Māori cultural and political resurgence post World War II. The racist undertones across government departments have been well documented including the assimilationist policies across the government departments of education, employment, housing, and economics[61]. The same racist political rhetoric would also have permeated the police and the Department of Justice. Statistics show that tamariki Māori incurred differential, and racially prejudiced treatment from the police. At the heart of the public's concern were reports of rising sexual promiscuity among teens. Dalley (1998) documents that Māori girls in particular were singled out by the authorities as having a lax attitude toward sex considered to be delinquent in nature (Dalley, 1998). Research also stipulates the racialisation of crime had a profound effect on Māori boys during the 1970s-80s, the majority of whom were sentenced to residential institutions for first time, for often trivial offences (ACORD, 1981).

An overwhelming theme emerging from the literature is the impact of racially discriminative policies and practices on Māori communities. Curcic (2019) notes that mass-incarceration of indigenous communities is a by-product of colonisation which the police have an unequivocal responsibility.

State failure to care and protect tamariki Māori

Research indicates the philosophical foundations of the 1974 Children and Young Persons (CYP) Act has contributed to the disproportionate intrusion into the lives of tamariki, whānau, hapū and iwi (Bromley, 1992; Morris & Young, 1987). Under the provisions of the 1974 Act, offending was regarded as a consequence of ineffective parental care or control. Children under the age of 14 fell within court's jurisdiction by way of an action against their parents that the child was in need of care, protection or control (Bromley, 1992). Young persons (those between 14 and 17-years-of-age) could appear before the court either by prosecution of an offence; or a complaint the young person was in need of care, protection or control.

As discussed earlier, the police had two options available under the 1974 Act when interacting with young offenders, to arrest or refer the young person to the Youth Aid section of the police (Bromley, 1992). Review of the literature indicates that both options resulted in tamariki Māori becoming involved with the machinery of the state and taken into custody (as demonstrated by youth offending statistics in the previous section).

Research also indicates the 1974 Act's focus on welfare contributed to disproportionate sentences and over-representations of tamariki Māori in State Care. Levine and Wyn's (1991) research for the Department of Social Welfare criticised the welfare provisions of the 1974 CYP Act. They argue that rather than providing care, protection or control, the instrument resulted in greater intrusions into a young person's life by placing them in residential institutions. Morris and Young (1987) note that often committing an offence itself was not sufficient grounds itself to warrant court action. Rather, criminal proceedings were brought following a complaint that a child was in need of care, protection or control. They explain that the 'number, nature, or magnitude' of apprehensions indicated that the child was 'beyond control' of his or her parents, or that it was 'in the interests of the child's future social training or in the public interest' that such a finding (to be admitted to a residence) be made (Morris & Young, 1987, p. 252).

Hence, the structural implications of the Act resulted in infringement of the rights of young persons

[61] As discussed in Chapter 1.

to due process under the criminal law. Bromley (1992) argues that the actions of the court within this context were often disproportionate to the offending of the child or young person. As stated by the National Director of the CYPF Unit: Previously, putting a young person in an institution because the particular offence defined someone as needing care, meant the sentence was often out of all keeping with the offence (The Dominion, 1992, as cited in in Bromley, 1992.)

Bromley's (1992) analysis of selected youth justice provisions of the 1989 CYPF Act demonstrated that there were few statutory protections for young people caught within the machinery of the justice system. She argues that whatever safeguards existed prior to 1989 lacked the force of law, and therefore provided limited statutory protection for young person's interacting with justice agencies. Viewed cumulatively, the efforts of the state to apprehend, convict and punish children from 1925 to 1989 were made without any concerted effort to protect the civil, legal, and indigenous rights of tamariki Māori under the Treaty of Waitangi. Hence, the over-representation of Māori within State Care is connected to the state failing to protect Māori citizens.

The ACORD (1974) submission on the Children and Young Persons' Bill highlighted that any child 10

years-old and above could be lawfully questioned by police officers for any length of time at a police station without the presence of their parents or a lawyer. During this questioning the child could make and sign a statement admitting guilt without legal advice from a lawyer. Such statements were admissible in court and led to convictions even in the absence of supporting evidence. ACORD contended that this, and other examples of differential treatment of Māori within the children's courts and welfare services, were symptoms of institutional racism across government sectors (1974). They argue that from 1925 the drafting and administration of child welfare legislation was almost exclusively managed by Pākehā practitioners who made decisions based on their assumed cultural superiority. Consequently, Māori were excluded from agreeing the definitions of 'criminal offending', 'wilful neglect', 'proper parental control' or 'vagrancy' and how offences should be dealt with (ACORD, 1974. p.3). Taken into context with colonisation, ACORD argued that:

> White ruling class of New Zealand is completely responsible for the Act and for its enforcement; we set the punishments and meted them out and we must, therefore, accept responsibility for whatever resultant damage has been done to our society (ACORD, 1974. p. 2).

Racialisation of youth crime options that didn't protect tamariki

Racial stereotyping, and the racialisation of crime heavily influenced the willingness of police to adopt and adhere to the youth crime provisions of the 1974 Act. Morris and Young (1987) argue the police were often unwilling to accept diversionary mechanisms, and in the event of youth consultations, officers dominated the proceedings with impunity. They also contend that when police determined prosecution to be desirable, officers intentionally performed an arrest to avoid directing the offender to Youth Aid (Morris & Young, 1984).

Many police perceived Youth Aid consultations as a 'soft path', and a barrier to prosecution and effective policing (NZ Herald, 1992).[62] In fact, increasing both the protective provisions for young persons, and of the restrictions on police questioning powers was not welcomed heavily by senior members of the police force (who criticised the protections conferred by the Act as 'seriously inhibiting' policing and 'the public good' (NZLD, 1992). [63] In the media, the Police Association described the requirements as 'unworkable' 'absurd'[64], and 'too tough' a requirement to inform young persons of their rights (The Dominion, 1991). Recalling policing practices in Auckland during the 1970s, former superintendent Jim Morgan stated: Young people were arrested without any regard for their age. I remember visiting the cells and finding young people in cells who could barely look over the middle bar' (The New Zealand Herald, Auckland, New Zealand, 20 June 1992, Section 1,9).

Discussion

Māori have endured the colonising environment and numerous injustices evidenced in the differential and discriminating treatment, resulting in increasing numbers of tamariki Māori being captured by the State Care system (1950-1999).

Structural and societal racism and adoption practices

Within the context of adoption, evidence demonstrates how pēpi and tamariki Māori and their whānau were subjected to differential and prejudicial treatment from social workers and magistrates (Else, 1991). In accordance with the colonial ideal, adoption was misrepresented by the state as an act of charity imposed on Māori who were unable to care for their whānau. In reality, the literature conveys the opposite. Adoption was

[62] The New Zealand Herald, Auckland, New Zealand, 20 June 1992, Section 1,9.

[63] (1992) NZLD 86.

[64] The Dominion, Wellington, New Zealand, 4 December 1991, 1.

utilised to forcefully assimilate Māori babies into a Pākehā culture. In effect, the state actively altered the trajectories of whānau and individuals who were deprived of fundamental aspects of their identity. Thereby severing their connection to whakapapa and whānau.

Foster homes for and by Māori

Research analysis highlights the differential standards of approval or disapproval of Māori and non-Māori foster homes, as well as different boarding rates for Māori. Limited 'suitable' foster homes for tamariki Māori resulted in their placements in State Care institutions. The Intensive Foster Care Scheme (IFCS) with an enhanced form of care by better trained foster parents was deemed to be more suitable Pākehā children.

Social disadvantage and offending outcomes

A series of research reports have highlighted whānau deprivation and links between poverty, educational underachievement and poorer income levels and juvenile offending statistics. Addressing numerous research recommendations to improve Māori socio-economic status to reduce the racial differences in official offending statistics have been failed by the settler state.

Justice system

Our analysis has demonstrated that whānau and tamariki Māori were subjected to differential treatment by the settler state system, and in particular the Ministry of Justice and the New Zealand Police Service. The Children's Court functioned on a paternalistic model of unfettered discretion which negated the rights of tamariki, whānau and hapū (Watt, 2003). This was evidenced in terms of no requirement to provide legal representation for children and young persons appearing before the court (Watt, 2003; Sutherland, 2019). While the responsibility to obtain a lawyer fell with the child or whānau, due to the ongoing effects of colonisation and racial disadvantage, whānau faced systemic economic and social barriers to engaging a lawyer and defending themselves. In effect, tamariki Māori were less able to defend themselves, and more likely to receive harsher sentences from the system that discriminated against them from arrest, to processing and sentencing (ACORD, 1974).

Justice statistics also clearly show that tamariki were systematically discriminated against by government agencies, departments, and the justice system itself. The evidence demonstrates that the decisions made on behalf of tamariki and their whānau were not in their best interests. Rather, the interventions made for the 'care' and 'protection' of tamariki functioned in ways that contributed to intergenerational trauma. Discrimination and differential treatment in the Children's Courts from the 1950s onwards saw more tamariki and rangatahi Māori being disadvantaged in terms of lack of legal representation, inability to obtain bail and receiving harsher sentencing.

The policing institution of the settler state directly contributed to the over-representation of Māori in State Care. Racialisation of crime and differential treatment towards Māori have been an intrinsic component of policing since the beginning of the settler state. Policing has endured as a colonial tool to coerce Māori into submission by force. This trend of police targeting of tamariki Māori has continued throughout the 1950s, 1960s and beyond. The differential treatment incurred during this period is likely to have directly influenced contemporary rates of Māori imprisonment and offending.

State failure to care and protect tamariki Māori

Structural racism underpinned State Care protection policies and practices[65]. Considering the recent past, the steady rise of rangatahi involved with the state is clear evidence that the system has failed Māori. Retrospective analysis of the timeline reminds us that the state committed war crimes and acts of genocide within living memory of kaumātua. Hence, the institutions, including those within the justice system established in the 1900s by the state carried with them the past, and thus continued to perpetuate their power over Māori by any means. Analysis of the data shows that the courts and European law directly discriminated against Māori.

[65] Refer to Chapter 1.

Chapter Four

The impact of the system on Māori

Ehara i te aurukōwhao, he takerehāia.

It is not a leak at the top-strake lashing but an open rent in the bottom of the canoe [66].

[66] This misfortune is not minor, but a major disaster. Mead, H., & Grove, N. (2001). Ngā Pēpehā o ngā Tīpuna. Victoria University Press: Wellington. (82, p.23).

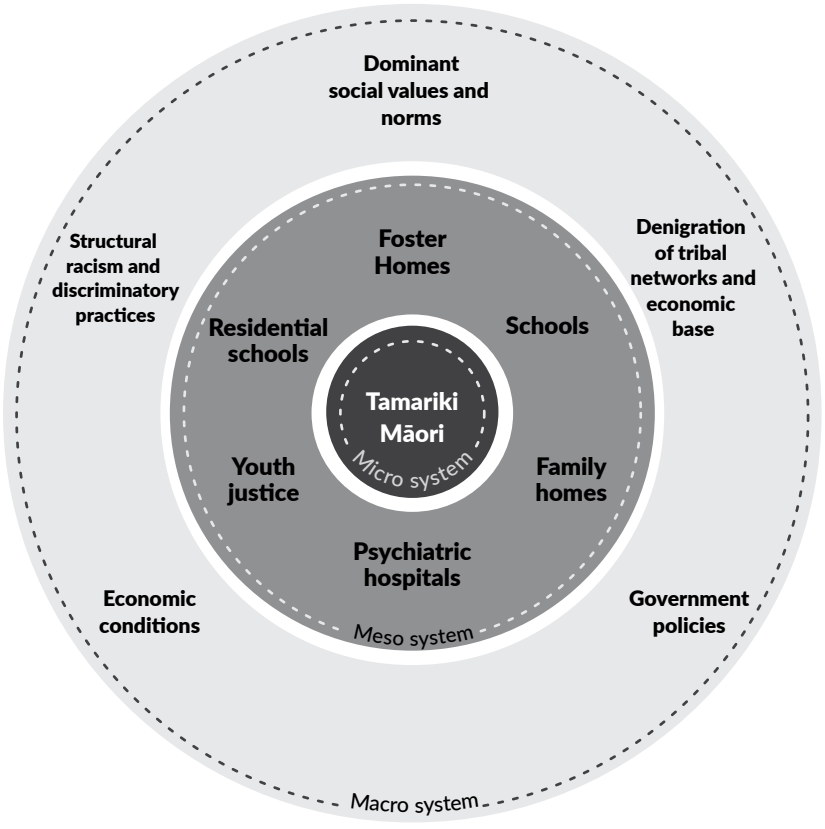
Introduction

This chapter draws together document analysis and research findings that highlight the various and interrelated impacts the settler State Care system has had on Māori as individuals, and as collectives over the period 1950-1999. Placing survivors at the centre, we foreground the impacts experienced according to the life journey; the description of survivors' experiences in State Care as tamariki or rangatahi and the subsequent events, impacts and consequences attributable to that experience across their life course (Katz, Jones, Newton, Reimer, Heintze, Pitts & Rosalky, 2017, p. 192). We also utilise Bronfenbrenner's ecological systems theory (1976) to consider these impacts as they 'circle out' beyond the individual survivor to whānau, hapū, iwi Māori and following generations, and as they are embedded in broader processes and impacts.

Bronfenbrenner's (1976) theory proposes that human development is influenced by a complex system of relationships and proximal processes affected by multiple nested environments. The impacts of various environments and relationships are explained in the following figure.

Bronfenbrenner highlighted the interrelatedness of these nested levels from the micro-system through to the macro-system. These different levels

Figure 4.1. The impact of Micro and Macro environment on tamariki Māori



also highlight various impacts. The micro-system includes the immediate settings of the child within a family, through to other social institutions (such as schools, residential facilities, youth justice facilities, foster homes). The macro-system encompasses society and government policies, including dominant societal values and norms, as well as broader economic conditions that influenced the way families live. For example, the degeneration of tribal networks and economic base – the very things that sustained whānau wellbeing – in the nineteenth century, followed by post-WWII economic changes, assimilationist social policy and urbanisation gave rise to conditions that saw tamariki admitted to State Care in increasing numbers. In addition, structural racism and discriminatory practices across State Care were fuelled by cultural superiority myths, perpetuating negative stereotypes of Māori as lazy, delinquent, criminal and deserving of their marginalised status (as described in the previous chapter).

Results will highlight the various harms inflicted, but this is not a deficit story of whānau. Literature review findings emphasise both variability and resistance. Māori communities are heterogeneous and individual factors mean not everyone is affected in the same way (Reid et al., 2017; McIntosh, 2019). Micro-level contexts and interactions with foster families, social workers, residential staff members and peers influenced tamariki and rangatahi behaviour, goals and expectations of success. They also produced different life journeys and trajectories. Not every child experienced abuse in State Care and for some, their recollections were positive (Stanley, 2016). Acknowledging the significance of intersectionality, we also recognise the differential impacts experienced, based on socially assigned ethnicity/race, gender, dis/ability and class among other factors. Although empirical evidence may not always be available, at the least any impacts at the macro- and micro-system levels must be conceptualised as variable according to how survivors and Māori are positioned structurally (i.e., the intersection of gender, dis/ability, race and class, producing particular effects for wāhine and tāne Māori).

> As tangata whenua, Māori continue to experience marginalisation that shapes both lives and identity. Marginality can be expressed in a number of ways. Some are able to draw on the marginal experience as a site of resistance and use that location to challenge the status quo and to transform the marginal experience. This is usually a highly politicised identity where proponents are able to draw on significant cultural capital and an in-depth knowledge of both Māori and Western traditions. Others may acknowledge a marginal status but seek to redefine it under their own terms to allow them to develop a dynamic, distinctive and authentic fusion identity. For others, marginalisation creates a forced identity. This is characterised by a marked and stigmatised marginalisation where deprivation due to social, economic and political factors is entrenched and far-reaching. This last identity is particularly associated with the activities of the State and the intervention of the State into the lives of individuals and whānau. (McIntosh, 2019, p. 3)

Document analysis and research findings also demonstrate the considerable resistance of Māori collectives. The witnessing of trauma and damage arising from the failure of settler State Care, generated initiatives led by whānau, hapū and iwi. This is covered in further detail in Chapter 7.

A note about sources

Where possible, we have drawn on Aotearoa New Zealand-specific data, although empirical evidence is limited in many respects. Bronwyn Dalley, Elizabeth Stanley and Judge Henwood (the Confidential Listening and Assistance Service) have produced important accounts, although these are only ever 'partial tellings'. Dalley's historical work gives more weight to official accounts of State Care, given her focus on government department archival records. Stanley's work is more comprehensive in terms of incorporating survivors' lived experiences/oral accounts together with historical and other research, however her participants do not fully represent the demographic characteristics of

children in institutional care. Only eight of the 105 contributors were female, and they were largely non-Māori (55/105) despite the disproportionate representation of Māori and Pasifika children in residential facilities from the 1970s onwards (Stanley, 2016, p.4). That this produces a particular version of events in State Care is recognised by Stanley, who recommends further research in order to understand 'how institutional care is differentially experienced on the grounds of gender, ethnicity, age, sexuality and ability' (Stanley, 2016, p. 4; Blake, 2017, p. 224). The report of the Confidential Listening and Assistance Service includes the accounts of a larger number of contributors (n = 1103), representing almost equal numbers of men and women (551 and 552 respectively), but still a minority of Māori and Pasifika survivors (432), and very limited numbers of people with intellectual disabilities (Henwood, 2015, p. 11). We have drawn on Mirfin-Veitch and Conder's (2017) research into State Care abuse experienced by people with learning and other disabilities between 1950 and 1992. There were 17 participants, and only three identified as Māori. To learn more about the diverse experiences of Māori children in residential State Care, we have utilised a Youtube video interview Patrick Wikiriwhi Thompson (Queen Service Medal (QSM)) gave in 2004. Patrick was of Ngāti Paoa/ Ngāti Whanaunga descent and was a rangatira for Māori and Māori Deaf[67]. He boarded at Kelston School for the Deaf in the 1970s. Patrick passed away on 29 March 2014 and his whānau have given us permission to use his interview.

> ***'Āpiti hono tatai hono, te hunga o rā ki te hunga ora, tēnā koutou katoa'.***

Despite the limitations of current evidence, in culmination these sources provide the most detail of the institutional care environment in Aotearoa New Zealand and its impacts upon survivors.

As we trace the impacts out more broadly, we have had to draw on literature that is either less directly focussed on the Aotearoa New Zealand context, or less directly focussed on State Care. Research relating to institutional abuse and Out of Home Care (OOHC) from international contexts is largely supportive of the impacts that have been hypothesised or theorised in the Aotearoa New Zealand context. The broader historic/ intergenerational trauma/colonisation literature is useful in contextualising the societal and structural backdrop to State Care abuse of Māori children, however a reliance on this lens risks 'glossing over' the unique and specific colonising impacts for survivors and their descendants. In this way, the complementary blend of empirical and conceptual literature enables the respective strengths to address the respective limitations.

Impact

The following section examines the main themes associated with impact from the perspectives of survivors, that emerged from the literature review. Psychological, cultural, emotional and physical harms arising within and from State Care were considerable (Mirfin-Veitch & Conder, 2017; Stanley, 2016). The final report (2015) from the Confidential Listening and Assistance Service identified 'common legacies' experienced by State Care and protection survivors:

- Distrust
- Difficulty forming relationships
- Fear of authority
- Loss of culture
- Family breakdown
- Anger and violence
- Depression
- Criminal behaviour
- Poor education and subsequent loss of potential (Henwood, 2015, p. 30).

The following section explores these impacts in more depth as a result of children being removed from their whānau.

[67] We use uppercase 'D' in recognition of Patrick's belonging to the Māori Deaf community, a distinctive linguistic and cultural group in Aotearoa.

Effects on children removed from their whānau

Disconnection from support systems

The State Care system impacted most directly and profoundly on those children who were placed within it. Through removal from their whānau, they lost fundamental attachment relationships. For some children, this granted them relief from abusive or harsh family environments. However, in most other cases, children experienced enduring sadness, guilt and internalised blame (Stanley, 2016, p. 44; Dalley, 1998, p. 138-9). Through admission to care, children were also separated from siblings and friends. Through the loss of these supports and sources of social identity, children became isolated. Some also experienced a profound sense of rejection, surmising that they were not wanted by anyone (Stanley, 2016, p. 45).

Instability and insecurity arising from 'failed' and frequent placements

Children's experiences of multiple placements while in State Care amplified their feelings of unwantedness. In 1988, for example, about 60% of children in state institutions had experienced at least one other placement, and approximately 30% had been in three or more. Children would often be transferred several times along the continuum of foster parents to family homes, church homes, and other community placements before arriving in institutions (Stanley, 2016, p. 46). These frequent transfers were disruptive and compromised children's abilities to forge connections with others. This was particularly upsetting when children experienced loving, supportive home placements and foster families that were temporary (Henwood, 2015, p. 13). Children became wary of forging relationships with others, protecting themselves from the inevitable pain of displacement.

Emotional security and attachment are fundamental to infant and child development (Else, 1991; Fleming, 2018; Field & Pond, 2018). Children's vulnerability towards adverse lifetime outcomes is linked to disordered attachment patterns, whereby the child does not form an emotionally secure attachment to their caregiver (Atwool, 2006). This vulnerability 'increases exponentially with the number of placements' and particularly for children in State Care (Atwool, 2006, p. 325). Even in a more permanent placement, such as that of closed adoption, the effects of initial relinquishment have been shown to impact adoptee relationships throughout their life course. All but one of 15 published studies reviewed by Field and Pond (2018) reported the influence of adoption on attachment style and intimacy across the adoptee's lifespan, associated with enduring fears of abandonment: 'The centrality of this anxiety of being rejected and abandoned, and thus afraid to trust, was reflected in both quantitative and qualitative studies, and for women and men alike' (Field & Pond, 2018, p. 36).

Exposure to harmful environments: neglect, physical, sexual and emotional abuse

The most confronting element of State Care is the extent of abuse that children were and have been subject to. Working under the pretence of children's 'best interests', the state placed children into 'chaotic, insecure and sometimes intensely harmful environments' (Stanley, 2016, p. 50). However, 1959 marked the first time that child abuse was discussed in the Child Welfare Division in any depth (Dalley, 1998, p. 250). Survivors have reported suffering sexual, emotional and physical abuse at the hands of staff, peers, caregivers and their children, as well as relatives in some cases. Although a proportion of children had been admitted to State Care from abusive homes, it was later conceded by officials that the dangers from institutional or non-familial care were often greater than in the family home (Stanley, 2016, p. 50). Research into the experiences of children with learning and other disabilities confirms they experienced all types of abuse and neglect, as well as the trauma of not being believed when it was reported.

> Most people had been physically abused. People who had been physically hurt often said that the physical abuse made them feel angry and powerless. Staff as well as other people living in the institutions and care homes were responsible for the physical and sexual abuse.

> Sexual abuse started when the person was a child and was often kept secret until they were adults. People did not talk about it because they were ashamed and they thought they would not be believed. Those who did report that they had been sexually abused were not supported. (Mirfin-Veitch & Conder, 2017, p. ix)

Children's bodily integrity, autonomy and dignity were compromised right from the outset of admission to State Care facilities. Survivors of institutions report being stripped naked, soaked with benzyl benzoate for treatment of lice or skin conditions, and showered roughly before being confined to secure cells without sufficient clothing or bedding for warmth. Intrusive, unnecessary and sometimes physically damaging examinations for venereal disease were experienced by female residents, for some giving rise to an enduring fear of medical practitioners (Dalley, 1998, p. 299; Stanley, 2016, p. 62). As part of daily life in institutions, verbal abuse, gruelling housework and kitchen tasks and lack of affection were commonplace (Stanley, 2016, p. 50). Furthermore, violence and humiliation administered by untrained, insufficiently experienced and poorly paid staff members could be mood-specific and therefore erratic, the unpredictability of which fuelled the almost constant fear (Stanley, 2016, p. 55).

For Māori (and Pasifika) children, abuse frequently had racist overtones. The Auckland Committee on Racism and Discrimination (ACORD) reported on the basis of a 1979 inquiry that the treatment meted out in institutions was 'brutal, undignified, impersonal and racist' (cited in Dalley, 1998, p. 299). This included generally being treated with contempt, being addressed in pidgin English to insinuate stupidity, as well as racial taunting (Stanley, 2016).

Significant proportions of survivors have reported sexual abuse in State Care; 57% of both men and women made such disclosures in their presentations to the Confidential Listening and Assistance Service (Henwood, 2015, p. 27). Sixteen of Stanley's (2016, p. 48) research participants reported being sexually assaulted within foster care, family homes or religious homes, and many more had been physically abused. Only a small number of children who had been abused appeared to become perpetrators themselves (Henwood, 2015, p. 27). However, there were exceptions.

Peer-to-peer abuse is an aspect of State Care that has only recently begun to receive attention internationally, primarily because the prevalence of sexual abuse in state institutions (specifically residential schools) was not widely acknowledged. Furthermore, it is also more complex as the perpetrators are also likely to be victims, subject to similarly abusive environments and situations (Charles & Lowry, 2017, pp. 2-3). The extreme toxicity of state institutional cultures created the ideal conditions for child-child abuse: firstly, through the de-culturation of individuals and the loss of self (dehumanisation), and secondly through the modelling by staff and other adults of harsh, unpredictable, abusive, and oppressive behaviours (see Charles & Lowry, 2017, pp. 4-5 for a detailed account of how 'survival morality' lays the foundation for peer-peer abuse).

One example of the use of violence to disrupt normal and potentially supportive relationships between residents was the purposeful pitting of residents against each other. Tamariki Māori in residential institutions experienced abuse 'staged' for staff and other adults' entertainment:

> *"Pitting children against one another to entertain drinking adults, like dogs. Boys against girls and brother against brother. Your own siblings were used as leverage to keep you in the ring, especially if like me you were exceptional at getting back up again and not wanting your younger sibling to be pitted.… We were all like brothers and sisters in state care so this forcing us to fight each other added another layer of cruelty. Like some intentional means of keeping us from being close and finding comfort in one another. I usually felt no pain because of the fight or flight response. One time I did feel the pain and heard the 'e tū' call. With a fractured kneecap I stood up and put myself in between my brother and his adult abuser." (Moyle, 2016, p. 4).*

One of the outcomes of these institutionally mandated attacks on 'children's bodies and beings' (Milloy, 1999, p. 295, cited in Charles & Lowry, 2017,

p. 2), is that children internalised the belittlement and abuse, believing it to be a true indictment of their self-worth. Culminating with the stigma of being a state ward, for some survivors, this became a self-fulfilling prophecy (Stanley, 2016, pp. 49, 60).

Cultural disconnection

As part of the removal from whānau, and the stripping away of any sense of who they were in State Care, tamariki and rangatahi Māori lost their access to the aspects of Māori culture that were positive and affirming. In the 1950s, 'kin placements' were paid at a lesser rate by the Child Welfare Division resulting in fewer Māori foster homes being available. Thus, young Māori were often placed with Pākehā foster parents, which proved to be a difficult 'change of lifestyle' (Dalley, 1998, p. 238).

Attachment from a te ao Māori worldview includes relationships and connections that are beyond immediate personal bonds. These include connections to tīpuna, maunga, whenua, awa/moana alongside tribal networks. Such attachments emphasise wairua and the spiritual realm. Fleming (2018, p. 23) states that, 'alongside vital interpersonal relationships, these extra personal connections are substantial to the development of an indigenous Māori self which is well and supported within a holistic framework'. The loss of these cultural attachments for tamariki and whānau Māori have created considerable harms over generations (Fleming, 2018; McIntosh, 2019), as cultural disconnection is often associated with feelings of loss, grief and shame (Fleming, 2018). Whakapapa is hugely important geographically and relationally for Māori to achieve a sense of self, community and home, so the absence of such cultural anchors is foreign to Māori society (McIntosh, 2005, p. 42).

For Māori adoptees, the 'clean break' from birth whānau enforced by closed adoption resulted in a complete loss of connection to and knowledge of their whakapapa. This caused profound feelings of loss which intensified if, as adults, they were unable to trace their whakapapa (Haenga-Collins & Gibbs, 2015; Pitama, 1997). Mead (1994, pp 91-92) described some personal observations of Māori adoptees re-entering the Māori world as adults, as 'traumatic, painful, difficult and terrible to witness' due to their alienation from Māori culture and whānau and their upbringing by Pākehā as Pākehā. It appears that in some contexts, being-adopted was perceived as spoiling Māori identity beyond repair, akin to 'not-being-Māori' (Ahuriri-Driscoll, 2020, pp. 251-2). Many adoptees spend the rest of their lives

> "I will never forget Māori Deaf who have gone to prison, who have died, who have not had what they wanted … they are like my brothers and sisters … I can't leave them … I can't run away from this…. This has been part of my upbringing … I have seen Māori Deaf go to jail – I have seen the problems and abuse – the disadvantages – how they have died because they couldn't access simple things like health care and experiencing everyday problems … so I just can't leave it and go on my way … my heart is there … that's my Māori Deaf whānau … that's who I am connected to…."
>
> **Patrick Thompson, Māori Deaf, QSM, 2004**

working to heal their early disconnection from te ao Māori.

Whakapapa also constitutes the elements of wairua, mana (prestige, status), mauri (life force, the vital essence of being), ihi (energy, essential force within) and wehi (energy force, awe, reverence, respect) (McClintock, Haereroa, Brown & Baker, 2018, p. 12). Loss of connection and belonging, in combination with the effects of abuse, therefore, also fundamentally impact on an individual's wairua, mana and mauri (Bush & Niania, 2012), something keenly felt and reported by survivors (Moyle, 2020; Harawira, 2021). State Care survivors and Māori adoptees who grew up in the first half of the period in question (i.e. 1950 – 1970s), had the shared experience of growing up in contexts in which being Māori was openly disparaged. Without the protective factors of whānau and whakapapa, these children did not have a secure base from which to explore identity issues related to race and culture (Nuttgens 2013, 6). Furthermore, they were more likely to develop a marginal identity, as they were aware of not being fully accepted by the white community, whilst also being isolated from their indigenous community (Australian Human Rights and Equal Opportunity Commission 1997, p. 411; McIntosh, 2005, p. 42). The internalisation and normalisation of negative perceptions form the marginal self-concept, creating the potential for 'alternative forms of collectivity and identity' such as gang membership and identification, to develop (McIntosh, 2005, p. 49; McIntosh, 2019, p. 3). For some, their experiences of being in abusive State Care residences created kaupapa whānau and a lifetime of service to that whānau.

Educational underachievement

In earlier chapters, we highlighted the failure of the state and its culpability in ensuring educational underachievement for tamariki Māori, particularly for those in State Care. Our analysis has highlighted the micro impacts of educational underachievement (within institutions) and also the macro impacts, caused by the failure of the state to deliver quality education for tamariki Māori in terms of the State Care and prison pipeline. We were unable to locate achievement and qualification records obtained by tamariki and rangatahi Māori within State Care residential schools for the period 1950-1999, however, recent educational qualifications of mokopuna Māori in care published by the Office of the Children's Commissioner (2015) are damning:

> As might be expected, the number of school leavers with at least NCEA Level 2 was lower for those from lower quintile schools, but even in the lowest quintile, more than 50 percent of school leavers achieved at least NCEA Level 2, and the national average was over 70 percent. By contrast, only around 20 percent of children in care left school with at least NCEA Level 2 in 2012. The result was even worse for mokopuna Māori: just 15 percent of Māori children in care left school with NCEA Level 2 in 2012. (Office of the Children's Commissioner, 2015, p. 50)

Document analysis highlighted State officials' low expectations of tamariki Māori (Henwood, 2015, p. 27) and the prominence of a 'practical education' in State Care institutions. The curriculum in State Care residential facilities typically focussed on 'carefully graded work within the capacity of the individual' (Clerk of the House of Representatives, 1949, p. 4). There were clear gendered, cultural and social class differences in the ways in which children in residential facilities were educated (Stanley, 2016). Boys were encouraged to learn skills that would enable them to become farm hands, factory hands, shop assistants and labourers whilst girls were encouraged to learn skills that would enable them to be employed as domestics, factory hands, shop assistants, clerical workers and nurses (Clerk of the House of Representatives, 1949; Stanley, 2016). Concern about Māori educational underachievement was raised by Beaglehole (1957), noting that the concentration of Māori in unskilled occupations was 'a continuing challenge to Māori leaders' (pp. 109-110).

The failure of residential institutions to provide children and young people with adequate education is well-established. In theory, the Department of Social Welfare expected all children to be adequately schooled, 'unless they had serious mental health problems' (Stanley, 2016, p. 68). However, in practice education was discouraged,

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“We always need to know where we’re from, otherwise, we’re forever lost.”

– Norm Dewes, Te Rūnanga o Ngā Maata Waka

as tamariki Māori and other children were expected to undertake chores and tasks as directed by residential staff. Thus, the attendance of state wards at local schools was variable (Stanley, 2016). Furthermore, most Māori children who did attend school, experienced stigmatisation, low teacher expectations, monocultural teaching practices, bullying, and a lack of quality teaching (Bishop & Glynn, 1999; Stanley, 2016).

The fact that very few adults saw potential in them invariably led to children internalising these low expectations, believing they were unintelligent and lacked ability.

Māori Deaf people experienced discrimination and marginalisation in complex and interrelated ways (Smiler & McKee, 2007). Pākehā-dominated schooling systems perpetuated negative stereotypes of Māori tamariki and rangatahi as underachievers (Shields, Bishop, & Mazawi, 2005). In addition, the medicalisation of deafness coupled with a disability label associated with medical diagnosis, created deficit/impaired identities (Obasi, 2008; Smiler & McKee, 2007). Furthermore, access to te ao Māori was severely limited for Māori Deaf tamariki and rangatahi, due to the severe shortage of trained, trilingual interpreters and teachers fluent in te reo Māori, New Zealand Sign Language and English (Hynds, Faircloth, Green & Jacob, 2014).

Patrick Thompson (2004) explains how Māori Deaf children in Deaf residential schools experienced 'double oppression':

> *"I grew up when people looked at you from a medical perspective … I know for Mum to send me off to Kelston was a way to try and make me normal … it was a real shock … it was the first time my parents had ever said goodbye to me…. And there must have been about 90% Māori students here … most of our education was speech therapy, teaching us how to speak properly … trying to make us become hearing … Sign language was banned…. And a whole lot of us … were all signers … if we were ever caught, we were hit, with something like a ruler… all the teachers did … I would say all the children in the school were victimised in a way … we weren't allowed to talk to each other … a lot of our Māori Deaf are adults now … unemployed … very low education, very low income, probably doing very basic manual work – cleaning or road works, very simple basic jobs, most of them are isolated – they didn't go home to their families once they left school – and so a lot of them are still not aware of what it means to be Māori, … Māori Deaf are worse off than non-Māori … it's that dual oppression … we are doubly disadvantaged … Deaf education is led by Pākehā Deaf … it's a Pākehā education system…."*
> *(Patrick Thompson, Māori Deaf, QSM, 2004).*

As discussed in previous sections, deficit explanations for Māori educational underachievement have endured for decades, typically locating the 'problem' of underachievement with Māori tamariki and their whānau, rather than the racist beliefs, low expectations, monocultural, and ineffective practices, of teachers and school leaders (Bishop & Glynn, 1999; McKinley & Hoskins, 2011). Māori social and cultural factors including low socio-economic status,

> "Being Māori, female and a 'State Care kid', even other Māori kids at school gave you shit because you didn't belong to anyone, bottom of the barrel. Why would you even try to be smart?"
>
> **Moyle, P. personal communication, 27th April 2021**

a deprived home, community environment, as well as cultural and language deficits were blamed (Harker, 1971, p. 3, cited in McKinley & Hoskins, 2011).

Many educational theorists have noted that education and schooling in Aotearoa New Zealand was underpinned by racist, assimilation policies that intentionally forced Māori to adopt Pākehā values and practices, finding no place or value for te reo me ōna tikanga (Bishop & Glynn, 1999; McKinley & Hoskins, 2011; Walker, 2016). Educational research undertaken in the 1980s and 1990s in Aotearoa, demonstrated historical and structural influences as well as unequal power relationships between Pākehā and Māori students, as explanations for disparities in educational outcomes (Jones, 1989; Bishop & Glynn, 1999; McKinley & Hoskins, 2011). The schooling system in Aotearoa New Zealand pushed Māori into unskilled work, predisposing whānau to the effects of poverty during economic recessions (Tolmie & Brookbanks, 2007). In addition, the underachievement of Māori has negatively impacted the involvement of Māori in higher education, skilled work, and executive roles in law making and procedure (McKinley & Hoskins, 2011; Tolmie & Brookbanks, 2007).

Although state educational reforms were attempted from the 1970s through to the early 2000s, they were inadequate for tackling Māori educational inequities as they failed to address the structural racism responsible for marginalising generations of tamariki Māori. The Puao-te-Ata-Tū report noted previous reports that had highlighted over-representation of Māori in educational and economic underachievement:

> In 1975, the Joint Committee on Young Offenders found that the Māori were over-represented in lower socio-economic groups. Other Government and non-government reports in the last decade have demonstrated that the relative socio-economic status between Māori and non-Māori has remained unchanged for many decades. Educational and economic underachievement by Māori people has been reflected in increased crime rates, poor infant and life expectancy rates, high unemployment rates and low incomes. (Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare, 1988, p. 15)

Despite the 'crisis' warnings of the Puao-te-Ata-Tū report, little changed between 1988 and 2000. Becroft (2009, p. 14) lamented how many serious offenders before the Youth Court were not meaningfully engaged in any form of education programme: 'The size of this group can only be estimated, but from the perspective of the Youth Court, it ranges from 1,000 to 3,000 young people.'

Lack of trust and resentment towards state authorities

Many survivors have highlighted how their experience in State Care has resulted in an enduring lack of trust and resentment towards state authorities. The following quotes are extracts from the ACORD, Ngā Tamatoa & Arohanui Inc 1979 report on social welfare children's homes. Reflecting on their experience of State Care residential homes, participants attributed their defiance of the law and institutional authority to their poor treatment:

> *"I am sure my progression of crimes came from the way I was treated – at first I only ran away from home … I really turned against authority – assaulting cops and things like that." (Owairaka resident 1964-65) (1979 p. 11).*

> *"The whole experience was traumatic for me – it sticks in my mind. I was perpetually in punishment, for example for swearing. The worst part was being stripped of your privacy. I felt resentment, and increased hatred of authority." (Bollard resident 1974) (1979, p. 15).*

> *"I began by being picked up for trespassing, and I wasn't a bad kid, and nor were the ones I was in with. It taught me how to use the system, and how to fight back. It doesn't teach you respect for society, or for adults. You see how adults treat children." (Allendale resident 1960s) (1979, p. 17)*

> *"I ran away. I hated her [the woman in charge at Welfare home] and the Welfare and the Police.*

> *After wandering around the streets, I came across a Police Station. I picked up some large stones, smashed the windows and took off." (Resident in several Child Welfare homes) (1979, p. 17)*

> *"I feel that if only the Social Welfare had listened to me, I would not have spent my years from 14 to 21 years old, in institutions." (p. 18)*

According to these survivors, the injustice of receiving excessive and degrading punishment, as well as loss of autonomy, provoked their mistrust of and opposition to authority. This had effects beyond their time in State Care, laying the foundations for future criminal behaviour.

Criminalisation & incarceration

There is clear evidence that once in the State Care system many Māori young people are on a pathway to prison (Boulton et al., 2018), described as the 'hard pipeline' (McIntosh, 2019, p. 7). This was emphasised in participant interviews.

It has been estimated that approximately 40% of prisoners grew up in State Care (Henwood, 2015, p. 12). Children with a Child, Youth and Family notification are fifteen times more likely to have a conviction as a young adult resulting in a corrections-managed sentence than those without (Children's Commissioner, 2015, p. 51). Offending patterns among youth with a history of out-of-home-care are more likely to be chronic and persistent into adulthood (Gluckman 2018:17). Similar outcomes have been found in other jurisdictions, including Australia, the United Kingdom and the United States (McGrath, Gerard & Colvin, 2020). Stanley's research (2017) with 105 contributors who had been in State Care between 1950 and the 1990s showed a 'criminalising trajectory' associated with five key factors. First, a history of abuse and neglect; second, placement instability and disruption of education, social relationships and (mental) health; third, the criminalisation of children's behaviour while in care; fourth, limited support given to care leavers; and lastly, differential treatment by the criminal justice system in relation to bail and sentencing.

These factors somewhat combine two prevailing explanations for the link between care and crime; the risk factor approach, and the adverse environment approach (Staines, 2016, cited in McGrath, Gerard & Colvin, 2020). In the first explanation, offending is deemed the result of pre-existing risk factors such as a history of trauma or victimisation, whilst in the second, the care environment itself is deemed criminogenic. Research supports a complex configuration of both explanations working in tandem.

Māori are also more likely to follow a 'soft pipeline' to prison, which refers to the phenomenon of people who are poor, marginalised and members of racial minorities being significantly over-represented in the incarcerated population (McIntosh, 2019, p. 6). As mentioned in the previous chapter, this issue has been a long time in the making, through various historical and structural processes of dispossession (Curcic, 2019, p. 4). However, the higher rate of imprisonment for Māori (700 per 100,000) must be carefully interpreted; the rate of imprisonment does not correspond simply or directly to the rate of crime, but measures instead 'the consumption of punishment' (Workman, 2012, p. 4). Māori are apprehended, charged and convicted at higher rates than non-Māori, seven and a half times more likely to receive a custodial sentence than Pākehā, and eleven times more likely to be remanded in custody while waiting for trial (Workman & McIntosh, 2013, p. 126). For Māori women, the rates are higher still; Māori women constitute approximately two-thirds of women prisoners (McIntosh & Workman, 2017, p. 725). These statistics reflect the phenomenon of hyper-incarceration, the politically targeted and selective incarceration of Māori within Aotearoa New Zealand society (Curcic, 2019, p. 5).

Incarceration has a significant effect on life trajectory. There is considerable stigma associated with having served time, which limits future opportunities and reinforces an already marginalised status (McIntosh & Radojkovic, 2012, p. 43). Furthermore, there may be significant impacts upon physical and mental health from the trauma of the prison experience. Beyond this, the effects upon whānau and communities are also profound. Absent fathers and

mothers are unable to fulfil their roles as parents, the impact of which is particularly pronounced for mothers more likely to be actively parenting at the time of their arrest (Gordon & McGibbon, 2011). Given the disproportionate representation of Māori among the prison population, it is highly likely that the majority of the 20,000 children who have a parent in prison, are Māori (Gordon, 2009; National Health Committee, 2010). The impact on children is immediate and devastating, and in too many cases will see them put into State Care themselves (Gordon, 2009). Families go on to suffer the economic and social effects of parental absence due to imprisonment (Gordon & McGibbon, 2011).

A cycle of imprisonment has also been observed in some Māori communities, where children of imprisoned family members are 66% more likely to be imprisoned themselves (Gordon & McGibbon, 2011, p. 3). Factors such as the normalisation of imprisonment due to hyper-incarceration (Hemopo, 2015, cited in Dowden, 2019, p. 95), and limited family support may, in combination with truancy, problems with school, substance abuse, as well as limited skills and employment prospects lead rangatahi to become involved in activities that culminate in incarceration (McIntosh & Radojkovic, 2012, p. 44). At a community level, high imprisonment rates can erode stability and cohesion, and perpetuate stereotypes of Māori as inherently criminal. The fact that these are patterns are observed in other settler nations (Curcic, 2019) tells us something important about the colonial and structural processes at play.

Recruitment to gangs

A critical factor in the criminalisation of young people in State Care is the influence of and recruitment to gangs. A gang presence was intermittent in the 1960s but became increasingly apparent in State Care institutions in the 1970s. In 1981, for example, youths with gang affiliations accounted for more than 80 percent of admissions to Auckland's Owairaka Boys' Home (Dalley, 1998, p. 271). More recently, foster homes have become a key site for gang recruitment (Curcic, 2019, p. 92). The appeal of gang membership lies in the promise of protection

> "The cohort of children that we took into care between 1970 and 1988 had very high imprisonment rates for the rest of their lives. The cohort of their children, basically born between the mid-late '70s, right through to 1990, early 1990s, had quite similar imprisonment rates. However, the cohort of Māori males born since 1990, typically the grandchildren of the cohort which experienced high rates of State Care and youth imprisonment are imprisoned as youths at rates similar to males who were teenagers during the 1950s".
>
> **Len Cook, public servant researcher**

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“It made sense to me that those gangs started in institutions, and that gang members who had come from them said 'We formed gangs for protection, for security, for love, for belonging. And it was great. Initially we felt safe. We knew we could protect ourselves against the authorities'.”

– Tā Kim Workman, Māori senior public servant

> "…Those places destroyed our fuckin-heads, man. [So, we said] fuck the system. If that is the way they are going to treat us, then we will treat them the same way. We are going to give them what they gave us – and [via the Mongrel Mob] they got it alright."
>
> **Gerbes quoted in Gilbert, 2013, p. 42; Henwood, 2015, p. 31**

or power within a threatening environment, as well as a potential future source of support and income (Stanley, 2016, p. 104; Henwood, 2015, p. 31).

State Care survivors who are or have been gang members have also talked about the role of violence perpetrated by staff members in homes and institutions in teaching them that violence was acceptable (Smale, 2017). As an amplification of the resentment and mistrust of 'the system' and authority, gangs represent violent resistance.

Institutionalisation and confinement are enduring impacts common to both the experience of State Care and prison. The 'cage' that survivors exist in is one constructed by their institutionalisation, which persists, becomes embedded and manifests in 'trapped lifestyles' and 'blunted' trajectories characterised by risk, marginalisation, offending, poor health and the notion of 'no escape' (Durie, 2003, p. 62; Stanley, 2016; McIntosh & Coster, 2017).

Understanding how the role of State Care contributes to criminalisation, hyper-incarceration and gang membership is critical if we are to understand the true origins of 'once were warriors' (Stanley, 2016, p. 11). On a societal scale, the surveillance and racism that led a disproportionate number of Māori to be admitted to, and abused in, State Care, laid the foundations for generations of marginalised and traumatised tamariki and mokopuna.

Mental distress and behavioural challenges

Social deprivation, trauma and exclusion have been very clearly linked to increasing levels of mental distress (Government Inquiry into Mental Health & Addiction, 2018, Chapter 3). As highlighted throughout this chapter, such factors are central to the experiences of State Care survivors, often occurring within and subsequent to State Care. Behavioural and mental health problems are the most common adverse impacts reported by over 80 percent of survivors of institutional child abuse and sexual abuse (Sheridan & Carr, 2020; Katz et al., 2017). Depression, anxiety and post-traumatic stress disorder are most prevalent, but survivors have also reported the internalisation of trauma, self-harm, suicidal ideation and mood disorders (Henwood, 2015, p. 31). For some, these mental health issues become entrenched, affecting functioning in many areas of their lives over an extended period of time (Blakemore, Herbert, Arney & Parkinson, 2017). Interpersonal relationships suffer considerably,

affected adversely by a reduced ability to trust, profound anger and feelings of shame, guilt, self-blame and low self-worth (Blakemore et al., 2017; Katz et al., 2017; Tarren-Sweeney, 2008; Tarren-Sweeney, 2018). The distinct features of institutional abuse, including prolonged traumatisation, institutional powerlessness, and normalisation, are compounded by a significant lack of supportive family or social systems. (Sheridan & Carr, 2020).

Survivors' strategies for coping with their pain and suffering can also produce secondary impacts. Alcohol and drug use is a relatively common disconnecting/avoidance mechanism, and will often develop into dependence (Katz et al., 2017; Henwood, 2015, p. 31). Anger and aggression represent another survival strategy, reported predominantly by males as serving a self-protective function immediately following the abuse and into early adulthood (Katz et al., 2017; Stanley, 2016; McIntosh, 2019, p. 14; Kendall-Tackett, 2003). Excessive substance intake and reckless behaviour can also lead to physical illness, injury and ongoing medical difficulties, adding to the significant and long-term physical effects of neglect and abuse (Katz et al., 2017; Henwood, 2015, p. 31). Furthermore, poor physical and mental health have significant bearing on future life prospects – for example, being able to enjoy the benefits of employment and social inclusion. Survivors have talked about some of these negative life trajectories as diminished lives, of turmoil and struggle (Katz et al., 2017).

Despite these 'pathologies' resulting from their State Care experiences, the 'survivorship' of survivors must be acknowledged, their ability to endure and resist in the face of considerable and ongoing adversity. 'Post-traumatic growth' (Sheridan & Carr, 2020) is possible, and so too redemptive life trajectories (Katz et al., 2017). However, the features of institutional abuse noted above make this far less likely, and survivors' accounts are no less valuable for not being positively oriented. Instead, these accounts instruct us to maintain our focus on the pathological social power relations that underpinned and enabled such institutional violence towards children (Blake, 2017, p. 223; Stanley, 2016).

Impacts on whānau

The impacts on whānau have been relatively under-researched in accounts of State Care abuse (Bombay, Matheson & Anisman, 2014, p. 321). The difficulties for whānau in challenging their children's admission to State Care feature briefly in Dalley's historical archival research: 'Some families protested vehemently when their children were committed. At times the [Child Welfare] Branch failed to disclose the intention to admit a child to an institution so as to avoid 'disagreeable scenes' with parents' (Dalley, 1998, p. 140).

Legal and institutional processes and bureaucracy constituted a key barrier for whānau in fighting to retain their tamariki, and the following quote conveys the relative powerlessness of whānau in this regard:

> Māori parents and families attending courts with their children were often particularly disadvantaged. 'What chance of making any satisfactory plea had a frightened Māori woman

> "Being involved in child welfare or the prison service is one of the biggest sources of creating poverty in New Zealand, because we leave people in a very disparate, poorly-off situation."
>
> **Len Cook, public servant researcher**

> when confronted by a magistrate, lawyer, Child Welfare Officer, police and social workers?' one Māori group wondered (Dalley, 1998, p. 106).

Individual cases of grandparents seeking to adopt their mokopuna were heard in the courts, but their applications were frequently discounted based on age, socio-economic circumstances, and in the following example, not meeting the Adoption Act 1955 criteria:

> As recently as 1989 the Family Court denied a paternal grandmother standing to apply for the revocation of an interim adoption order in respect of her grandchild, Inglis DCJ finding that she did not fairly come within the category of 'any person' in section 12 of the Act (Mikaere, 2003, p. 141).

When children were removed, whānau often experienced difficulty and sadness over the severed relationship. The Department of Child Welfare would receive correspondence from parents asking for the return of their children, for photographs and messages to be passed on to them, or queries about their wellbeing (Dalley, 1998, p. 240, see also Chapter 7). Officials could easily dismiss such requests.

The 'uplift' of tamariki continues today, and so too the devastating impacts on whānau. Fathers and other male whānau members have often found themselves unsupported and excluded from Oranga Tamariki processes. Mothers have described the removal of their pēpi as 'unforgettable' and 'carried forever', leading to multiple harms: severe depression, suicidal thoughts and self-medication via substance abuse, relationship problems with partners and whānau, and even homelessness. Losing babies to the State Care system is best described as a life sentence (Moyle, personal communication, 13th May, 2021). In fact, North American research found that the mental health outcomes of mothers whose children are placed in care are worse than mothers who experienced the death of an infant (Wall-Wieler, quoted in Plantinga Byle, 2019, p. 23). Whānau may have further children to replace those they have lost, and then have to deal with those children also being removed (Office of the Children's Commissioner, 2020, pp. 33, 37, 39).

Impacts on the capacities of whānau

Whānau are the carriers and transmitters of ira tangata, the human element or life principle, the basic biological essence of humanness (Jackson, 2010, personal communication). Whānau are also the embodiment of whakapapa, in terms of constituting the immediate relationships and genealogical connections that build out from or upon the biological base (Ahuriri-Driscoll, 2016). Thus, whānau serve several critical purposes in te ao Māori, not least that of caring for and nurturing the next generation. The removal of pēpi, tamariki and rangatahi to State Care and the severing of whakapapa connections decimates whānau, undermining their key capacities and their essential purpose.

> The capacity to care, manaakitia, is a critical role for whānau. Unless a whānau can care for the young and the old, for those who are sick or disabled, and for those who are temporarily out of pocket, then a fundamental purpose of that whānau has been lost (Durie, 2003).

There is clear evidence that state custody of Māori pēpi is intergenerational: 48 percent of pregnant women whose babies were taken into state custody before birth had been in state custody themselves

(Office of the Children's Commissioner, 2020, p. 24). Furthermore, if a 'history of state care' was identified as a risk factor by Oranga Tamariki social workers, this gave added impetus for the removal of pēpi (p. 38). Some people coming to the attention of the state are the fourth generation of their whānau who have experienced State Care (Boulton et al., 2018, p. 4). This suggests that being in State Care fails whānau significantly and does little to empower whānau to develop their own capabilities. Thus, there are complex layers and generations of trauma, disconnection and marginalisation to address.

Impacts on parenting

At the individual level, it has been established that a history of being in State Care can affect the capacity and capability to care for others (Stanley, 2016; Dalley, 1998, p. 253). After all, how parents were parented themselves is one of the most enduring predictors of parenting behaviour in published studies. Because survivors of State Care abuse were taught neglectful and abusive disciplinary practices through observation and direct experience, it could be expected that this would have a profound and negative impact on parenting (Chief Moon-Riley, Copeland, Metz & Currie, 2019, p. 2). Contemporary research confirms the adverse impacts of maltreatment and Out Of Home Care (OOHC) to parenting difficulties; for example, poor mental health (specifically PTSD and depression), young parental age, lack of knowledge about child development, parenting stress, fewer social supports, low social functioning, negative coping strategies, insecure attachment and likelihood of living with a violent adult (Ussher, 2021, pp. 19-20). It is estimated that 25-33 percent of children who have been maltreated will go on to abuse their children (De Bellis, 2001, cited in Ussher, 2021, p. 27). That the majority of survivors do not perpetuate the abuse they experienced, is a positive indicator of 'survivorship', given that they enter the parenting role with significant disadvantages: 'On leaving care, these young people frequently bore poor educational advancement, unemployment and underemployment, welfare dependency, inadequate housing, homelessness, mental health problems, socio-cultural disconnection and poverty' (Stanley, 2016, p. 187).

Intergenerational trauma

As outlined earlier in this chapter, individual outcomes of State Care feed into much larger social problems, transmitting the effects of trauma across generations. The mechanisms are biological and social. Maltreatment affects a child's neurobiological systems, influencing developmental and regulatory structures (e.g., fronto-thalamic system and hypothalamic structures), brain systems and stress responses, as well as affecting how genes interact with life experiences. These effects may predispose an individual to mental illness, physical health problems, or particular 'maladaptive' behaviours, which influence their interactions with others and the world. In terms of social learning theory, exposure to abuse increases the likelihood that children will go on to model that behaviour (Ussher, 2021, p. 28).

When the effects of trauma are not resolved in one generation, or when trauma is ignored and there is no support for dealing with it, the trauma will be passed from one generation to the next. The concept of intergenerational trauma has been utilised to account not only for the consequences of State Care abuse, but also for the consequences of colonisation. Historic trauma is an accumulation of traumatic events at scale, that impact indigenous communities in colonised countries over time.

Unresolved grief can be passed from generation to generation, alongside maladaptive social and behavioural patterns (such as learned helplessness, external locus of control, interpersonal maladjustment, domestic violence, and sexual abuse). Walters, Mohammad, Evans-Campbell, Beltrain, Chae & Duran (2011) state that current indigenous health disparities reflect, in part, the embodiment of historical trauma. Wesley-Esquimaux and Smolewski (2004) describe the intergenerational process and effect:

> In short, historic trauma causes deep breakdowns

> in social functioning that may last for many years, decades or even generations. The clusters of symptoms associated with specific disorders that manifest themselves as a result of historic trauma may be passed to next generations in a form of socially learned behavioural patterns. In a sense, symptoms that parents exhibit (family violence, sexual abuse) act as a trauma and disrupt adaptive social adjustments in their children. In turn, these children internalize these symptoms and, not to trivialize, catch a 'trauma virus' and fall ill to one of the social disorders. In the next generation, the process perpetuates itself. (2004, p. 71)

The biological impacts of residential school attendance on the children of survivors have been confirmed in recent research (Chief Moon-Riley et al., 2019). Maternal residential school attendance was associated with a moderate increase in allostatic load among adult children, a finding that was not explained by adverse childhood experiences. Allostatic load is a marker of 'cumulative, multisystem strain on the body produced through the elevated activity of physiologic systems under challenge, and the changes in functioning it can predispose' (Chief Moon-Riley et al., 2019, p. 2). This finding affirms that at the very least, trauma experienced in residential schools becomes 'biologically embedded' and passed to subsequent generations.

Within Aotearoa New Zealand, intergenerational harms experienced by Māori communities are referred to as whakapapa trauma (Kaiwai, Allport, Herd, Mane, Ford, Leahy, Varona & Kipa, 2020; Moyle, 2017). The settler State Care system inflicted whakapapa trauma, the destruction of mātauranga Māori, and whānau child rearing practices on whānau. It continues to impact wāhine Māori (Kaiwai et al., 2020).

Impacts on wāhine Māori according to an intersectional lens

An intersectional lens is essential for understanding the factors and actors that caused Māori over-representation to happen and continue over time.

> Intersectionality holds that the classical models of oppression within society, such as those based on race/ethnicity, gender, religion, nationality, sexual orientation, class, disability do not act independently of one another: instead, these forms of oppression interrelate creating a system of oppression that reflects the intersection of multiple forms of discrimination. (Ritzer, 2009, as cited by Grant & Zweir, 2011, p. 182)

The impacts of State Care abuse were certainly gendered, with there being different outcomes for Māori men and women. In the case of wāhine Māori, the colonial and patriarchal orientation of the settler State Care system saw them differentially affected based on their gender as well as their race. As highlighted in an earlier chapter, prior to the white settler invasion, wāhine Māori held special status and leadership roles within whānau and hapū. They experienced autonomy equal to that of males (Mikaere, 1994). Neither conception nor sexuality were viewed as sinful. However, this status of wāhine Māori quickly changed because of colonial law, whereby they were viewed as subordinate to men (Mikaere, 1994; Moyle, 2017). Colonial, patriarchal attitudes embedded within the settler state often interpreted wāhine Māori behaviour as immoral and lacking male discipline. Kōtiro and wāhine Māori behaviour could easily upset Pākehā gendered norms. The 'moral panic' of the 1950s discussed in a previous chapter (refer to Chapter 1) fuelled state and societal anxieties to control and contain juvenile delinquency, particularly of females. Wāhine Māori and kōtiro who were seen as troublesome, skipping school or perceived as sexually promiscuous, could 'find themselves inspected by State Care authorities who readily legitimised institutionalisation as a means to domesticate, civilise or control them' (Stanley, 2016, p. 38).

Wāhine Māori survivors

For young kōtiro entering State Care institutions they often experienced compulsory vaginal inspections to test for sexually transmitted diseases, whether or not they were sexually active (Dalley, 1998; Stanley, 2016). If they refused, they faced 'repercussions', such as removal of privileges, being denied home leave or being placed in 'secure' (Stanley, 2016, p. 63). Girls labelled as difficult could find themselves being identified as mentally ill and were often given medication to calm them, leading to drug dependencies. Stanley (2016) notes that from the late 1960s 'between 20% and 30%' of girls at Fareham House 'graduated' to mental health hospitals (p. 67). Stanley highlights that just as many female Māori children were abused as male Māori, yet wāhine Māori feeling whakamā were less likely to report abuse. ACORD (1979) noted that Pākehā girls in State Care institutions were better treated than Māori girls, who were seen as troublemakers, reflecting negative stereotypes.

Kōtiro and wāhine Māori who experienced State Care, often emerged with psycho-social harms (Stanley, 2016). Many left State Care feeling whakamā, worthless, being labelled troublemakers if they spoke out or tried to escape abusive situations (Moyle, 2017). Many were told falsely that they were in State Care, because their parents had deliberately abandoned them (Stanley, 2016).

Wāhine who later partnered with gang members after leaving State Care, often did so in an attempt to re-recreate the sense of whānau and belonging that had been deliberately denied them (Wilson, Mikahere-Hall, Sherwood, Cootes & Jackson, 2019).

Wāhine faced a 'damned if you do and damned if you don't scenario'. 'If you stay, you risk your children being uplifted. If you leave the violence increases and then there are increased chances that CYF will get involved. So you stay to try and keep it on the down low' (Moyle, 2020). Thus, it was difficult for wāhine and their tamariki to leave harmful relationships characterised by domestic violence and move on (Wilson et al., 2019).

> For those wāhine with partners with gang associations, they had added layers of complexity making it difficult to leave or stop the violence – these wāhine were not just leaving their partner but their gang whānau. They had very little support from other wāhine in gangs because they were in similar positions, and because of the gang association they were often further marginalised by agencies and services (Wilson et al., 2019, p. 30).

Wāhine Māori and whakapapa trauma

Whakapapa trauma has enduring consequences, altering the DNA of colonised, indigenous communities (Kaiwai et al., 2020; Moyle, 2017). Stripped of their revered status, their cultural identity and childhood, wāhine Māori and their pēpi are most at risk of whakapapa trauma.

> Trauma happens when there is a physical injury where blood ceases to flow, such as with the severing of a limb. Papatūānuku herself experiences the trauma because we are not separate from her and the memory of it is passed on through our DNA. Trauma can be passed on through the grief of loss, of land, belief systems, language, self-determination, and stolen children; it is passed onto the babies, who are then genetically pre-disposed to the effects of colonisation. We have historical trauma responses showing up in our whakapapa (Moyle, 2017, p. 2).

Indicators of whakapapa trauma are evident, among wāhine Māori and other whānau members suffer from deteriorating health, higher rates of incarceration, domestic abuse, unemployment, homelessness, mental illness, drug and alcohol addiction and reduced educational opportunities. All of these factors impact on wāhine ability to care for whānau (Kaiwai et al., 2020). Māori concepts such as 'patu ngākau' (a strike or assault to the heart/source of the emotions), 'pouri' and 'mamae' (physical and/or emotional pain) speak to the experiences of abuse and trauma (Pihama, Cameron & Te Nana, 2019; Smith, 2019).

Wāhine Māori are over-represented in the lowest socio-economic group, when compared with tāne Māori and both male and female non-Māori (New Zealand Law Commission, 1999). The following graphs demonstrate that wāhine through the 1990s had lower incomes than Māori males, and non-Māori females, were mostly likely to be unemployed, leave school with no formal school qualification and were more likely to receive a benefit; increasing dependence on a state system they didn't trust. Each and all of these statistics highlight the failure of the colonial, patriarchal State Care system that has entrapped wāhine Māori and their children.

Figure 4.2. Proportions of the labour force unemployed in each age group (source Statistics New Zealand, Census of Population and Dwellings 1996, (New Zealand Law Commission Report 1999, p. 53)

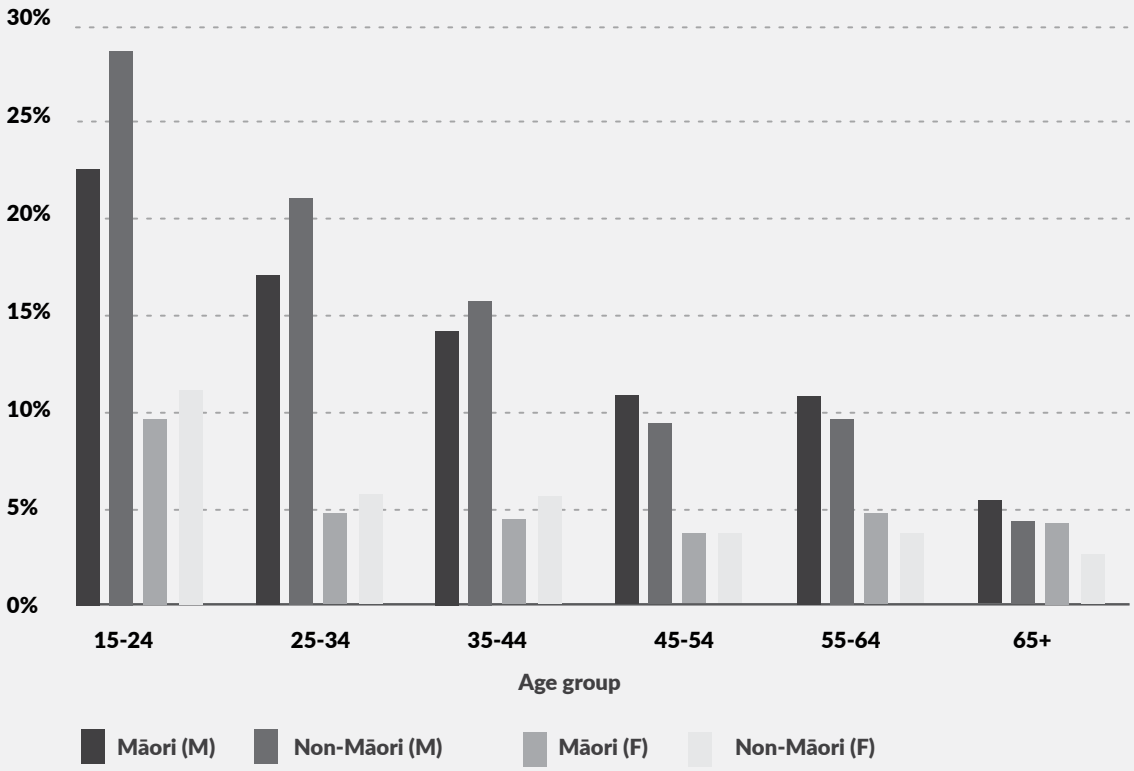
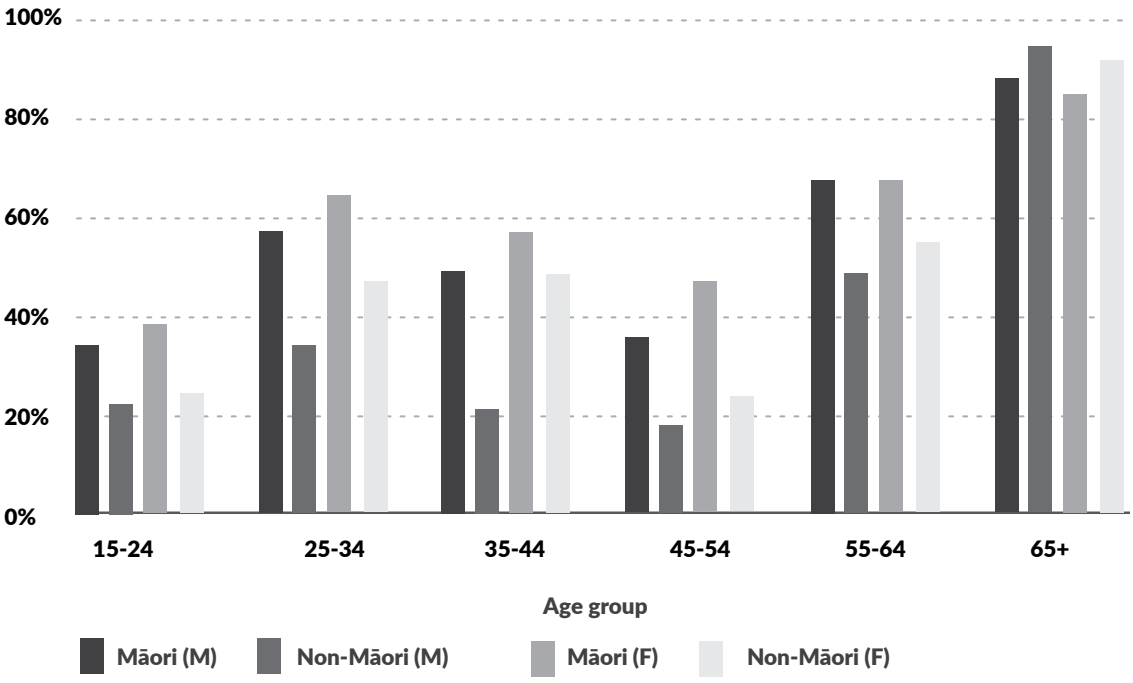


Table 4.1. Māori and non-Māori post-school qualifications by gender, 1996 (cited in New Zealand Law Commission Report 1999, p. 52).

	Māori		Non Māori	
	Males	Females	Males	Females
No qualification	82.6	84.2	65.5	72.7
Basic or skilled vocational	9.9	7.3	14.1	7.5
Intermediate or advanced vocational	4.3	5.8	8.9	11.4
Bachelor's degree	2.3	2.1	7.5	5.7
Higher degree	0.9	0.7	4	2.6
Total	100	100	100	100

Figure 4.3. Source Statistics New Zealand, Census of Population and Dwellings 1996 (New Zealand Law Commission Report 1999, p. 55).



Research in the 1990s also demonstrated that wāhine Māori had a higher risk of being victims of crime and of domestic violence than non-Māori women (National Survey of Crime Victims 1996, and National Collective of Independent Women's Refuges, cited in New Zealand Law Commission, 1999). This remains the case today, which is of particular concern because violence in the family is a key reason for the uplift of pēpi Māori (Kaiwai et al., 2020).

> Violence within families and whānau is a global problem, particularly for Indigenous wāhine (Berry, Harrison, & Ryan, 2009; Garc a-Moreno, Jansen, Ellsberg, Heise, & Watts, 2005). Compared to other women living in Aotearoa, wāhine Māori bear the greatest burden of family violence as victims of assault and homicide. While partner violence is estimated to affect one in three women in Aotearoa during their lifetimes (Fanslow & Robinson, 2011), prevalence rates of 57% and 80% have been found for lifetime violence for wāhine Māori (Koziol-McLain et al., 2004; Koziol-McLain, Rameka, Giddings, Fyfe, & Gardiner, 2007). Wāhine Māori are three times and tamariki are four times more likely to be victims of family violence-related homicide (NZ Family Violence Death Review Committee, 2017). This is cause for national shame especially given the disparities between Māori and other populations groups living in Aotearoa (Wilson et al., 2019, p. 4).

The following table demonstrates that Māori females experienced a much higher rate (42.7 percent) of all Māori hospitalisations for injuries inflicted by others. Over-representation was highest in the 25-34 and 35-44 age groups with 52.1 and 46.5 percent respectively. This is the age that Māori females are most likely to be mothers and suggests a significant number of Māori children are also affected.

Table 4.2. Māori hospitalisations for injuries inflicted by others. Percent of all hospitalisations in age group 1995/1996 (cited in New Zealand Law Commission, 1999, p.56).

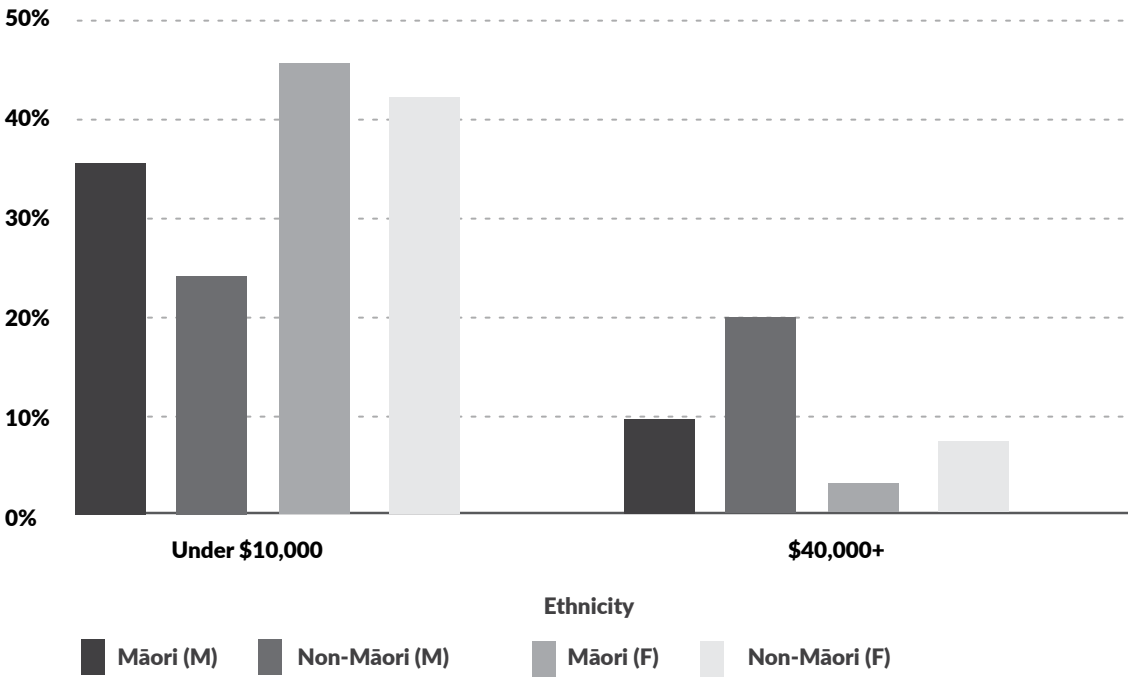
	Māori % of all hospitalisations		Māori % total NZ population	
Age group	Males	Females	Males	Females
0-14	27.5	32.1	23.5	23.7
15-24	24.3	40.0	18.1	18.9
25-34	26.5	52.1	14.6	15.4
35-44	21	46.5	11.7	12.2
45-54	12.6	40.5	8.8	9.1
55-64	18.9	7.7	8.1	8.3
65+	34.3	9.1	3.9	3.6
Total	24.1	42.7	14.5	14.4

While family violence occurs in all communities in Aotearoa, it is exacerbated by certain factors that create stress. These factors include hardship, social disadvantage and cultural marginalisation as well as differential scrutiny by the system (Stanley, 2016, p. 13). Cook (2020) notes that having their first child at a young age and having a prior history in State Care means that young wāhine Māori are most likely to be screened and scrutinised by State Care departments. Moreover, where children have been exposed to family violence, the responsibility for protecting their children is aimed squarely and solely at the young mother rather than the perpetrator of the abuse. This has led to the removal of children from their mother's care, in spite of the perpetrator having caused the harm (Moyle, 2020). The resulting mistrust in and fear of State Care institutions, coupled with prior experiences of racism, can lead wāhine Māori to avoid contact with any services, even those potentially beneficial in providing health care, security and safety from harm (Cook, 2020, p. 370; New Zealand Law Commission, 1999; Office of the Children's Commissioner, 2020, pp. 32, 36).

Other statistics provided by the New Zealand Law Commission (1999) demonstrated that because wāhine Māori have lower incomes, than non-Māori females and Māori men, they are less likely to be able to access legal services. This is demonstrated in figure 4.4.

Healing must take place on both individual and collective levels to prevent the intergenerational transmission of trauma, however our literature review demonstrates the state's deliberate negligence in this area. The State Care system has concentrated its focus on the perceived deficits and needs of wāhine Māori, who have lived with violence in their whānau (Wilson et al., 2019). This deficit focus has done nothing to address the systemic structural racism, sexism and deprivation that wāhine face in protecting themselves and their tamariki, and, as well as ensuring whānau wellbeing.

Figure 4.4. Proportions of Māori and non-Māori with high and low personal income by gender 1996 (Source: Statistics New Zealand, Census of Population and Dwellings 1996 (New Zealand Law Commission 1999, p. 51).



Effects on hapū, iwi and Māori communities

The loss of power

The effect of colonisation on Māori communities is undisputed and well established (see previous chapters). At every stage, Māori have sought to resist and persist. In the post-World War II period, Māori maintained their collectivist perspectives and tribal/sub-tribal identification in various forms, such as the tribal committee system and Māori Women's Welfare League. Thus, Māori continued to express their rangatiratanga in relation to the state, in spite of Crown assimilation policies and mass urban migration. However, the Crown responded by attempting to control Māori organisational forms for the second half of the twentieth century (Hill, 2009).

One of the enduring impacts of colonisation was the decline of the political and economic power of hapū and whānau. Since the 1990s, iwi leadership has been favoured, which, while advantageous for some aspects of iwi development, it has limited the direct benefits to hapū and whānau (Reid et al., 2017, p. 46). In terms of State Care, there has been a lack of genuine partnership with, and appropriate funding for whānau, hapū, iwi and Māori organisations. However, following the publication of Puao-te-Ata-Tū in 1988, the Department of Social Welfare took important steps towards adopting a bicultural perspective, sometimes with guidance from the Māori community (Dalley, 1998, p. 310). Iwi representatives who had visited residences in the 1980s and were 'very disturbed by what they saw', responded with their intention to become more involved in the Mātua Whāngai programme. The closure of residences saw increased emphasis on community care. However, without the time or adequate resources to care for former residents, Māori communities bore the considerable burden:

> One Māori who made a submission to the 1992 review stated that 'we have some quite dangerous young people in our community, who have been placed back here by the Department, who are wandering around destroying whānau after whānau. And now the Department won't help us with them. They say they have empowered us (Dalley, 1998, p. 318).

Despite the establishment and proliferation of Māori health providers in and since the 1990s, it remains the case today that iwi and Māori organisations lack the necessary funding and resources to support the significant needs of whānau resulting from intergenerational disadvantage and trauma. Genuine and sustainable partnerships between Oranga Tamariki and iwi and Māori organisations are needed, but these are contingent on a 'major power shift' to support the necessary delegations, funding, resources and infrastructure (Office of the Children's Commissioner, 2020, p. 41).

The loss of children from Māori communities

The large-scale removal of tamariki from whānau and communities has had a considerable impact. Tens of thousands of Māori children were either admitted to State Care or adopted into non-kin families between 1950 and 1999. This removal of children from their cultural communities in such number constitutes a significant loss of human capital, described by some as 'legalised cultural genocide' (Bradley, 1997, p. 41). In the case of closed adoption, the assimilationist goals were somewhat achieved; the majority of Māori children available for adoption were adopted by Pākehā families, thus enculturated in the Pākehā world and worldview, without connections, experiences or understandings to facilitate their identification or orientation as Māori (Ahuriri-Driscoll, 2020, p. 26). As has been described at length in this chapter, the tamariki admitted to State Care, also lost to their communities, were returned as damaged and traumatised adults, 'assimilated' in the most abhorrent way. For a community attempting to regroup and regenerate from over a century of depopulation and destabilisation, these further losses were a substantial setback.

The loss of cultural institutions: whāngai

The colonisation of Aotearoa was as much ideological and cultural as it was, or is, economic and political. Breaking down 'the beastly communism of the tribe', perceived to stand in the way of the assimilation of Māori, was deliberate and calculated (Sorrenson, 1975, p. 107). Subjugating and controlling the population could be achieved through child welfare policy (Armitage, 1995, pp. 5-6), beginning in the

Native Land Court. It was here that the practice of whāngai was progressively undermined. Whāngai was a relatively common practice in which children were given to someone other than their birth parents to be raised. Such an arrangement was not necessarily permanent, and it was openly acknowledged; this meant that whāngai children remained children of their birth whānau, and they retained the right to know their whakapapa (Mikaere, 1994, p. 136). Practised in this way, whāngai served to strengthen whānau and kin connections (Bradley, 1997, p. 38). However, examples of children being brought up in conditions of disease, ignorance and poverty were used to justify the eventual prohibition of whāngai (Williams, 2001, p. 238), in favour of its imposed colonial substitutes: removal to State Care or closed adoption. Ultimately, the responsibilities and rights of whānau, hapū and iwi with respect to their children have been deliberately undermined, resulting in the 'near-destruction of the Māori social fabric' (Mikaere, 1994, p. 140).

Discussion and summary

In this chapter, we presented evidence of the cascading and interrelated impacts of the settler State Care system on tamariki and rangatahi Māori, their whānau, hapū and iwi as well as other Māori communities. Using Bronfenbrenner's ecological systems theory (1976) we examined impacts as they 'circle out' beyond the individual survivor to whānau, hapū, iwi Māori as well as following generations. Because there has been a dearth of research on the experiences of diverse Māori communities engaged in the settler State Care system 1950-1999, it is likely that these impacts are just 'the tip of the iceberg'. Further research is needed that speaks to the diversity of whānau and the multiple, layered impacts of being 'cared for' by the settler State Care system, particularly for tamariki with disabilities in foster care (Mirfin-Veitch & Conder, 2017) and in residential schooling situations (such as Schools for the Deaf, Schools for the Blind).

Our analysis clearly demonstrates that the settler State Care system remains a key mechanism for, and an enduring part of the colonising environment. A raft of evidence shows experiencing this environment has had compounding negative impacts, resulting in intergenerational trauma and harm for Māori individuals, whānau, hapū, iwi, and other communities. In the interests of social justice, equity and human decency, tamariki, rangatahi and whānau Māori deserve more.

Chapter Five

Te Tiriti o Waitangi

Tapahia tō arero pēnei me tō te kōkō.

Cut your tongue like that of the tūī[68].

[68] This is a rebuke to someone who is believed to have told an untruth. The tongue of the tūī was once cut so that it might be trained to repeat human speech. Mead, H., & Grove, N. (2001). Ngā Pēpehā o ngā Tīpuna. Victoria University Press: Wellington. (2229, p. 360)

Introduction

This review draws attention to numerous legislative, policy, and research documents regarding the Māori and Crown relationship, particularly Te Tiriti o Waitangi. The previous chapters speak of the differential treatment of Māori versus non-Māori carried out by various government agencies. They also provide statistical data and information that illustrate the cumulative impacts of policies and practices across multiple settings that have intruded into all aspects of whānau and community life. Intrusions that Māori assert, collectively entrenched economic, health and social disparities, including the disproportionate representation of tamariki Māori and vulnerable adults, placed in State Care and government institutions.

A scan of successive governments' policies and reports, alongside academic research and social policy literature, presents an account of agencies' interactions with Māori that are primarily punitive and paternalistic – whether this be in relation to their lands and resources (acquisition and/or management), health, education, justice, or child welfare. The literature draws attention to an 'absence of te Tiriti/the Treaty' within governments' economic and social policies, an indifference or more pertinently, an explicit resistance to its application. This is acknowledged by Sir Geoffrey Palmer, that if the,

> '… remedying of injustice under the Treaty could only be done by Parliament under [the] existing constitutional structure, then the big obstacle was [what was called] majority tyranny. If the legislation addressed the grievances, then majority tyranny would kick in and the likelihood of the issues being addressed in a principled fashion would be reduced' (Palmer, 2013, the Treaty section, para. 7).

Events and developments in the 1970s and 1980s, included the adoption of the Treaty of Waitangi Act 1975 and the establishment of the Waitangi Tribunal. Developments that changed the political landscape of Aotearoa New Zealand specifically, the Māori and Crown relationship, but did not necessarily change historically deficit attitudes embedded in state agencies' practices. Attitudes many commentators argue were ingrained in government policy from the outset of the crown's governance in Aotearoa New Zealand. Commentators assert that agencies' interactions with Māori have consistently been underscored by fundamentally racist and deficit assumptions, to address what was largely viewed as 'the Māori problem' (Orange, 1987; Morris, 2004; Dalley, 1998; Parata, 1994; Kaiwai, et al., 2020). A prevailing view that failed to acknowledge the role the state played in contributing to increasingly disparate social, health and economic inequities between Māori and non-Māori (Parata, 1994; Workman, 2017; O'Regan & Mahuika, 1993). This role has been examined and debated in academic and social justice arenas and 'brought to bear' in te Tiriti/the Treaty discourse.

It is not the intent of this section to revisit the impacts of agencies' activities, but whether and to what extent (if any), agencies considered and applied te Tiriti/the Treaty in their relations with Māori; and to what extent this contributed to the removal of tamariki Māori, and vulnerable adults, from their whānau and communities. What is apparent in the literature reviewed, is an entrenched resistance to the partnership implied in te Tiriti/the Treaty, especially regarding its relevance to social policy (Barrett & Connolly-Stone, 1998; Culpitt, 1994). Additionally, the ramifications of racial intolerance, discrimination, and public pressure on the state's policies and practices in respect to the welfare of whānau Māori (Dalley, 1998; Kaiwai, et al., 2020; O'Regan & Mahuika, 1993).

Current Context

It would be remiss to not reference the timing of this Historic Abuse inquiry alongside the recent Māori-led inquiry into Oranga Tamariki; the Office of the Children's Commissioner review of Oranga Tamariki policies and practices; and the Waitangi Tribunal's Urgent Inquiry into Oranga Tamariki.

The subsequent reports of these inquiries, 'Ko Te Wā Whakawhiti: It's Time for Change 2020', 'Te Kuku O Te Manawa 2020, Reports 1 and 2', and 'He

“

“Its (child protection) a Treaty of Waitangi responsibility to Māori, especially the active protection, because the goal of stemming the flow of children into institutions ... let's be really clear about that ... that is a breach of active protection...”

– Māori social worker

Pa Harakeke, He Rito Whakakīkinga Whakaruarua 2021', draw attention to deeply ingrained structural issues. Issues that the literature asserts are rooted in discriminatory assumptions, attitudes, and practices that have contributed to the entrenched disparities we see today. The tribunal's report (2021) specifically notes breaches underscored by more than 'just a failure to honour or uphold, [te Tiriti/the Treaty, but more pertinently] ...a breach born of hostility to the promise itself' (Judge Michael Doogan, 2021, p. xiii). Furthermore, 'the need for change and the process of transformation ... has nothing to do with separatism and everything to do with realising the Treaty promise, that two peoples may coexist harmoniously' (Judge Michael Doogan, 2021 p. xv). Grainne Moss, Chief Executive of Oranga Tamariki (at the time of these inquiries) conceded on behalf of the Crown, the presence of entrenched structural issues, and the enduring consequences and ongoing impacts to whānau Māori despite previous advice provided in Puao-te-Ata-Tū 1986 (outlined in Chapter 6):

> 'The Crown has failed to fully implement the recommendations of Puao-te-Ata-Tū in a comprehensive and sustained manner. This implementation failure has impacted outcomes for tamariki Māori, whānau, hapū and iwi. Further than this, it has undermined Māori trust and confidence in the Crown, as well the belief in the Crown's willingness and ability to address disparities. Structural racism is a feature of the care and protection system which has adverse effects for tamariki Māori, whānau, hapū and iwi. This structural racism has resulted from a series of legislative, policy and systems settings over time and has degraded the relationship between Māori and the Crown (Moss, 2020 as cited in Waitangi Tribunal, 2021, p. 5).

These concessions are a step forward but do little to alleviate the ongoing effects and impacts on generations of whānau or instil confidence that a relationship based on reciprocity and trust, as implied in te Tiriti/the Treaty, is within reach. This is emphasised further by the Māori-led inquiry that there 'has been a consistent belief expressed by Māori over most of the last century that participation in the state system of child welfare has the potential to cause more harm than good for Māori children and whānau' (Kaiwai et al., 2020, p. 22).

Historical Context

The 'hostility' asserted by the tribunal is unmistakeably candid in the initial decades after the signing of te Tiriti/the Treaty; a history that is wrought with conflict between Māori, early settler communities and the Crown, as Māori resisted the wholesale loss of their lands and resources. The introduction of the Native Lands Act 1862, and its amendment in 1865, the New Zealand Settlements Act 1863, the Native Schools Act 1867, and the Tohunga Suppression Act 1907 combined, entrenched significant inequalities across all social determinants of Māori health and wellbeing. State sanctioned policies and practices that enforced these Acts, not only dispossessed Māori from their lands and resources, but intruded into all aspects of their lives, and demanded from them a 'conformity in dress and behaviour, language and personal spiritual beliefs, [that were] explicit and unremitting' (Parata, 1994, The Fundamental Policy Flaw section, para. 3).

Futhermore the Māori-led inquiry draws attention to:

> The Neglected and Criminal Children Act 1867, which created State industrial schools where courts could place children, [as] an early recognition that the colonial State needed to take responsibility for some children. The industrial school system dominated child welfare provision until the early twentieth century (Kaiwai et al., 2020, p. 22).

Dalley's (1998) examination of child welfare policies 1925 – 1972 highlights burgeoning numbers of tamariki Māori coming to the attention of welfare and justice authorities and institutions in the 1960s and 1970s based on assumptions of perceived neglect, abuse, and/or delinquency. This suggests that resource was directed to control and/or incarcerate children, with little to no resource dedicated towards addressing the contributing stressors. Although there was an 'absence of te Tiriti/te Treaty' in social

policy there was a 'particular mid-century focus on Māori welfare [as] illustrated in a series of reports on Māori education, social and economic conditions' (p. 192), a focus that was grounded in deficit and paternalistic assumptions. This focus was a deviation from child welfare policy that considered the child's home life as 'the most precious heritage of every child, and [that] no effort should be spared to keep the home together' (Superintendent John Beck, 1927, as cited in Dalley, 1998, p. 192). A deviation emphasised further by the Māori-led inquiry that 'colonial attitudes towards the role of the family and the place of children within it, attitudes towards the care of Māori children and whānau were deeply entwined with colonial criticisms of Māori socio-economic structures' (Kaiwai et al., 2020, p. 23).

Chapters two to four of this review, links racial intolerance, public pressure, and targeted policing, to the incarceration of tamariki Māori within the state's youth justice and psychiatric institutions. The historic and intergenerational harm perpetuated by the state's agencies and institutions was also highlighted by the Safe and Effective Justice Advisory Group (2019) who were told of the harm done to Māori children, families and whānau by the criminal justice system (Te Uepu i te Ora Safe and Effective Justice Advisory Group, 2019, p. 25).

> '…that institutional, structural, and personal racism contributed to Māori over-representation in the system, tearing apart Māori families and whānau, and creating damaging stereotypes of Māori as offenders; and that the justice and child welfare agencies [combined] excluded families and whānau from decision-making, denying them opportunities to address harm and ensure accountability within their communities' (Te Uepu i te Ora Safe and Effective Justice Advisory Group, 2019, p. 25).

The impact of racial intolerance and deficit assumptions of staff attitudes and practices in these contexts cannot be underestimated. The use of terms such as maladjusted family circumstances and juvenile delinquency; 'a vague and ill-defined term which encompassed youthful behaviours and lifestyles ranging from criminal conduct to 'misbehaviour' and being 'uncontrollable'' (Dalley, 1998, p. 194), became more entrenched in child welfare policy in the 1940's. Narratives of child welfare officers during this period are quite telling. For example, Uttley (1964) wrote:

> I don't doubt that many of the children will … become reasonable citizens if left alone, [but] it is worse than useless trying to explain this to an eager beaver social worker, an irate headmaster or a policeman who wants peace at any price in his area. Our policy of leaving children in their homes … is regarded as laziness and weakness. (Uttley, 1964, as cited in Dalley, 1998, p. 199).

Although inconsistent in application, the ability of child welfare officers to enact 'family and community-based' policies, and to maintain kinship ties, without dedicated resource, was at times, in the face of significant public criticism and pressure.

"I don't really believe there's been the power sharing (State Care organisations and whānau) that there could have been and should have been."

Don Sorrenson, Māori social worker

A simple nullity

Māori increasingly expressed discontent with state's policies aimed at assimilating Māori into mainstream society (Parata, 1994; Poata-Smith, 2008; Tauri & Webb, 2011). '…Māori have long contested the ways in which the Crown and the New Zealand Government have developed policies that directly impact on them and their communities, particularly in relation to land confiscation and breaches …' (Tauri & Webb, 2011, p. 23). Māori utilised multiple settings to keep te Tiriti/the Treaty discourse in the public arena. This has included taking grievances through the courts, on marae, in community development, in social and academic dialogue, in political forums, and from within national and international human rights, and indigenous rights forums (Orange, 1987; Palmer, 2013; Tauri & Webb, 2011; Workman, 2017). Overall, the efforts for redress via the courts were repudiated. Recognition and application of te Tiriti/the Treaty in Aotearoa New Zealand was dependant on it being incorporated into law which did not eventuate, aside from the second Article's right of pre-emption that is contained within the Lands Claim Ordinance 1841, and the Constitution Act 1852, until the introduction of the Treaty of Waitangi Act 1975.

This is most apparent in the ruling of Chief Justice Prendergast (1877) in the case of Wi Parata v Bishop of Wellington that the 'instrument purported to cede the sovereignty … must be regarded as a simple nullity. No body politic existed capable of making cession of sovereignty, nor could the thing itself exist' (1877, p.78). A highly contentious ruling with far reaching consequences that set a precedent for future cases that held Māori claims outside of court jurisdiction and decreed the Crown, as Prendergast stated, the 'sole arbiter of its own justice' on these matters (Morris, 2004; Palmer, 2013).

In the decades that followed, te Tiriti/the Treaty was rarely mentioned or considered by the state or society in general. It was largely viewed as a historic document with no applicable relevance in the development and emergence of a new society.

'Government statements seldom praised the treaty; they disparaged it; or insisted that the contract bound Maori to obey the law. For the Maori people, … the treaty became more relevant than ever… Maori grievances, diverse and sometimes confused, found kotahitanga (unity) in the treaty' (Orange, 1987, p. 185).

> "[the treaty] wasn't talked about. Don't forget, we didn't yet have Matiu Rata as Minister of Māori Affairs. We had Pākehā Ministers of Māori Affairs."
>
> **Oliver Sutherland, advocate for Māori**

Te Tiriti o Waitangi/The Treaty of Waitangi 1840

A summary overview of te Tiriti/the Treaty is necessary to understand the context and evolving status of te Tiriti/the Treaty in Aotearoa New Zealand statute, and its relationship to agencies' economic and social policies. Signed by the Crown's representative, William Hobson, and northern chiefs in Waitangi on 6th of February 1840, it sets out mutually agreed obligations and expectations between Māori and the Crown. It was then signed in multiple locations across Aotearoa New Zealand with the final recorded Māori signatory in Kāwhia in September of the same year (Boyle, 2014). There are two versions 'Māori and English' of te Tiriti/the Treaty with fundamental differences in meaning and interpretation between the two. An incongruity that is the basis of much controversy and dispute in Aotearoa New Zealand's political arena (Jackson, 2013; Waitangi Tribunal, 1983). More than 500 chiefs signed the Māori version, and 39 chiefs signed the English version – an important detail that had bearing in future te Tiriti/the Treaty debates.

For the Crown, the Treaty confirmed Māori cessation of sovereignty in Aotearoa New Zealand, established Crown governance, and provided exclusive right of pre-emption to purchase lands as agreed with Māori. Activities that further supported the migration and settlement of British subjects in the establishment of a new Commonwealth colony. For Māori, te Tiriti embodies an enduring and implicit expectation of reciprocity and partnership – an exchange of the right to govern whilst retaining their sovereignty (tino rangatiratanga) over their lands, resources, and treasures (taonga), including rights as equal citizens, that would be upheld and protected. Te Tiriti/the Treaty articles provided by Parata (1994) in Mainstreaming: A Māori Affairs Policy, are attached as an appendage to this chapter for reference.

Political upheaval – the Treaty of Waitangi Act 1975

Developments in the 1970s and 1980s are the result of a groundswell of collective action and Māori activism in what Workman (2017) describes 'as a period of considerable political upheaval in the mid-1970s', including resistance and 'protest at the relentless alienation of Māori land and to maintain control of the [remaining] 1.2 million hectares still in Māori control' (p. 165). Protest that culminated into the 'hīkoi' (1975) that began in the Far North with 50 people and climaxed at parliament in Wellington with approximately 5000 people. Upheaval and activism during that period also included the occupation of Bastion Point and the Raglan golf course alongside other major causes including protest of the Vietnam War, and the women's rights and anti-apartheid movements (Workman, 2017; Tauri & Webb, 2011). Prominent Māori leadership at that time, were also instrumental in mobilising Māori and (increasingly supportive) Pākehā communities, towards discussion and debate regarding the constitutional status of te Tiriti/the Treaty; the interpretation of tino rangatiratanga outlined in the Māori version; ongoing breaches, citizenship rights, and a promise that implied reciprocity and partnership (Walker, 1990; Tauri & Webb, 2011; Workman, 2017; Jackson, 2013).

> The policy assimilation that characterised New Zealand politics and society acted as a constraint to the definition of Māori socio-economic problems as connected to Crown injustices committed under the Treaty… [therefore]… the New Zealand politico-institutional context… conditioned the way in which Māori sought to draw attention to their problems – protest activism – that was eventually the most successful factor in achieving the desired recognition (Catalanic, 2004, as cited in Tauri & Webb, 2011, p. 24).

These activities informed the formulation and adoption of The Treaty of Waitangi Act 1975, a ground-breaking development in Aotearoa New Zealand's political and public arena. It was the first recognition of te Tiriti/the Treaty in law; it introduced the principles of te Tiriti/the Treaty (that will be discussed further in this chapter); and established the Waitangi Tribunal to investigate Tiriti/Treaty breaches of the Crown and/or state agencies that occurred after 1975. An amendment to the Act 1985, following further debate in the political arena, extended the tribunal's ability to investigate claims dating back to 1840 (Palmer, 2013). Following a precedent set almost 100-years prior, that te Tiriti/ the Treaty was a simple nullity, the Act 1975 signalled to Māori – a tacit recognition of the constitutional nature of te Tiriti/the Treaty in statute.

It is pertinent to note, that the parameters given to the Waitangi Tribunal are not binding. In other words, the tribunal can make recommendations to the courts, but do not have the power to enforce them. This has attracted criticism from numerous commentators in that the Act 1975, 'gave power to take grievances to the Tribunal but not have the Treaty litigated in the courts' (Palmer, 2013; Tauri & Webb, 2011). A criticism also asserted by the United Nations (UN) Committee on Social, Cultural and Economic Rights in 2018 (4th periodic report). More than 40 years following the adoption of the Act 1975, te Tiriti/the Treaty 'is still not legally enforceable nor referred to in the Constitution Act, ...and the Waitangi Tribunal's findings are frequently ignored by the New Zealand government' (United Nations, 2018, p. 2). UN recommendations to the New Zealand government included taking 'immediate steps, in partnership with Māori representative institutions, to implement the recommendations of the Constitutional Advisory Panel regarding the role of the Treaty of Waitangi within its constitutional arrangements...' (United Nations, 2018, p. 2).

Tauri and Webb (2011) contend that the parameters of the Waitangi Tribunal are intentionally 'informal' in which the implicit intent was to 'encourage the incorporation of Māori political and social activism into a controlled government forum' (p. 21). A position that 'can be understood as a state-centred informal justice forum that assisted the state in regulating the potential hegemonic impact of Māori Treaty activism' (Tauri & Webb, 2011, p. 22). This is consistent with Ramsden's assertion that it is 'not normal for any group in control to relinquish power and resources to the less powerful simply on the grounds of good will' (Ramsden, 1994, para. 30). Irrespective of potentially conflicting intentions, the Treaty of Waitangi Act 1975 was a game changer in te Tiriti/the Treaty discourse. Tauri and Webb's (2011)

contention has merit that does not detract from the fact this was a pivotal development in Aotearoa New Zealand politics. Rather, it distinguishes further, the substantial commitment and resulting gains of those leading and contributing to recognition of te Tiriti/ the Treaty rights.

What is not disputed today, is the constitutional significance of te Tiriti/the Treaty to Aotearoa New Zealand. Te Tiriti/the Treaty

> 'has taken on in fact a vitality and potency of its own. For Māori, its mana has always been high… Some [Pākehā] see it as a threat, and political capital is made out of that point of view; but in truth theirs is a tacit tribute to the Treaty, a reluctant recognition that has become part of the essence of national life. Even its critics have to accept that it is a foundation document' (Cooke, 1990, as cited in Culpitt,1994, p. 48).

Waitangi Tribunal influence and recognition

The Waitangi Tribunal has established a significant body of historic and contemporary research literature, and influence, in respect to both the recognition and application of te Tiriti/the Treaty. Their reports offer valuable insights of relevance to the evolving significance of te Tiriti/the Treaty in Aotearoa New Zealand statute, and its application in policy. The initial decades following the establishment of the tribunal focussed mainly on recognition and redress for land and resource breaches. The tribunal has also provided a platform for constructive legal, social, and political debate regarding citizenship rights and obligations, the role of the state, and its social policies and associated issues of implementation, access, and equitable re-distribution (Palmer, 2013; Workman, 2017; Jackson, 2013; O'Regan & Mahuika, 1993).

For example, the tribunal's deliberations in the Wānanga Capital Establishment report (Waitangi Tribunal, 1999) examined how 'past legislative action played a significant role in disadvantaging Māori within the state's education system, leading to their under-representation in the statistics by which educational success is usually measured' (Waitangi Tribunal, 1999, p. 5). Dr Simon's submission to the tribunal drew attention to an explicit intent ingrained within educational policy to assimilate Māori; to 'restrict Māori to working-class employment'. Simon highlighted Māori objections to a technical curriculum with the claim [Hogben, Inspector-General of Education] that it was necessary 'to make Māori recognise the dignity of manual labour' and quoted the Inspector of Native Schools [W W Bird], '… that the purpose of Māori education was to prepare Māori for life amongst Māori, not to encourage them to mingle with Europeans in trade and commerce'. (Simon, undated, Waitangi Tribunal, 1999, p. 7). These types of attitudes persisted for decades, and it is contended that they are so deeply ingrained that they have continued to influence the quality of education of tamariki Māori in which 'educational aspirations have been lowered [and] … teacher expectations of Māori achievement have been lowered' (Waitangi Tribunal, 1999, p. 9).

Debates in the social policy arena during the 1980s appear to be mainly related to the interpretation and application of the second article in which Māori are guaranteed the 'full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties' (Treaty of Waitangi, as cited in Jackson, 2013, p. 4). In the Māori version the second article reads 'te tino rangatiratanga o ō rātou wenua ō rātou kāinga me ō rātou taonga katoa' (Te Tiriti o Waitangi, 1840 as cited in Jackson 2013, p. 5), of which the meaning or meanings, are a source of ongoing discussion. For example, Parata (1994) cites the Waitangi Project's interpretation 'the full chieftainship (rangatiratanga) of their lands, their villages and all their possessions (taonga: everything that is held precious) (see appendix to this chapter). Similarly, Kawharu (1989) translates the second article as 'the unqualified exercise of the chieftainship over their lands, villages and all their treasures' (as cited in Jackson 2013, p. 5), and Mutu (2010) translates the second article as 'their paramount and ultimate power and authority over their lands, their villages and all their treasured possessions' (as cited in Jackson 2013, p. 5).

A notable development in respect to these debates

are the tribunal's deliberations and conclusions in Motunui-Waitara report (1983).

> 'The Te Atiawa people of Taranaki [submitted a grievance that they were] prejudicially affected by the discharge of sewage and industrial waste onto or near certain traditional fishing grounds and reefs and that the pollution of the fishing grounds is inconsistent with the principles of the Treaty of Waitangi' (Waitangi Tribunal, 1983, p. 1).

As set out by the Treaty of Waitangi Act 1975, the expectation is for the tribunal to 'have regard to the two texts of the Treaty set out in the First Schedule (to the Treaty of Waitangi Act) but the text in Māori as printed in the First Schedule contains in Article the Second glaring errors and omissions' (p. 47). To examine the claim, the tribunal needed to firstly examine and reconcile the different interpretations in each of te Tiriti/the Treaty texts. In examining the application of treaties in international jurisdictions (United Kingdom and the United States) the tribunal concluded that

> 'no argument has been adduced to question the existence of the Treaty or to deny the moral obligations it imposed. Nonetheless the approach of the New Zealand Courts, and of successive Governments, [did not] compare favourably with that taken by other Courts and Governments in their consideration of indigenous minorities' (p. 46).

A salient point in their deliberations is that from a Māori perspective the 'spirit of the Treaty transcends the sum total of its component written words and puts narrow or literal interpretations out of place' (p. 47). The tribunal also noted that 'there are several similarities between the Māori approach to the meaning of things, and the 'European' legal approach to the interpretation of treaties' (p. 48).

The Tribunal cited the Department of Māori Affairs submission in respect to the Vienna Convention on the Law of Treaties 1969 (of which New Zealand became a party in 1971), that the rule of contra proferentem in contract law applies, 'in the event of ambiguity a provision should be construed against the party which drafted or proposed that provision' (p. 49). The Tribunal concluded that,

> 'should any question arise of which text should prevail the Māori text should be treated as the prime reference. This view is also based on the predominant role the Māori text played in securing the signatures of the various Chiefs' (p. 49).

The tribunal contends that Article two extends beyond literal interpretations of tangible assets. This is a significant outcome for Māori in respect to te Tiriti/the Treaty.

> 'For years Maori have struggled to secure public recognition of rights based on their understanding of the treaty – rights to land, fisheries, and taonga or prized possessions – as well as a degree of genuine autonomy within the mainstream of New Zealand life' (Orange, 1987, p. 2).

The Māori Language Claim's report (1986) brought the relevance of this conclusion and therefore, applicability of the Māori version to the fore. In its deliberations, the tribunal confirmed the role of native schools and ensuing education settings in undermining Māori language and culture; drawing attention to a system that perpetuated, in the words of Ramsden (1994), a 'reconstructed version of history utterly deprived of the vigorous truth of colonial and subsequent Māori, Pākehā,

and Crown interaction' (para. 11). An issue that is being remedied by the current government via the national education curriculum to ensure Aotearoa New Zealand history will be taught in all schools by 2022. Te reo Māori was recognised by the tribunal as a taonga (treasure, or valued possession) under the second article of te Tiriti/the Treaty, and its recommendations influenced the adoption of the Māori Language Act 1987, which elevated te reo Māori as an official language in Aotearoa New Zealand and established the Māori Language Commission.

The Principles of te Tiriti/the Treaty

The relationship between the state's economic and social agendas, the alienation of Māori from their land and resources, alongside the imposition of a dominant culture, language, and authority, is well-established (Dalley, 1998; Jackson, 2013; Orange, 1987; Walker, 1990). Such agendas, Māori contend, are direct breaches of their fundamental human rights and te Tiriti/Treaty rights, and so, the source of multiple historic and contemporary inquiries heard by the Tribunal since its inception in 1975. It is in this discourse that the Tribunal's conclusions in the Motunui-Waitara report 1983, and Māori Language Claim report 1986, are relevant to the state's formulation of social policy.

The 'State-Owned Enterprises Act 1986 produced the most dramatic case on Māori issues decided by a New Zealand court up to that time' (Palmer, 2013, in [the] courts thunder into the Treaty section, para. 1: the case of the New Zealand Māori Council v Attorney-General 1987). The fourth Labour government had commenced significant social and economic reforms that would include the privatisation and therefore, sale and transfer of state-owned assets. The Māori Council was concerned the Crown would transfer Crown land without establishing whether claims or potential claims to the Waitangi Tribunal would be unlawful and inconsistent with the principles of te Tiriti/the Treaty. The court ruled in favour of the Māori Council in which the Crown was required to safeguard Māori interests to avoid prejudice to Māori claims - to not do so would be considered unlawful under provisions of the Act 1986. The decision is viewed as:

> 'one of the crucial measures that helped facilitate Māori development and identity through propelling extensive social and political change in New Zealand. [The decision gave] the Treaty of Waitangi an explicit place in New Zealand jurisprudence for the first time' (Glazebrook, 2010, p. 343).

Developments that flowed from the court's ruling included the Treaty of Waitangi (State Enterprises) Act 1988; a commitment from Cabinet to review all future legislation against potential te Tiriti/ Treaty implications; the ability of the Tribunal to make binding decisions in this context; and the development of the Treaty of Waitangi – Principles for Crown Action, adopted by Cabinet 1989 (Palmer, 2013; Glazebrook, 2010; Jackson, 2013). References to the principles can be sourced in multiple documents including the tribunal and courts' reports and social policy literature.

A key factor in the courts deliberations was that the principles are not fixed, but to be viewed and applied appropriate to the circumstances. For example, they noted the use of the phrase 'treaty principles' in the State-Owned Enterprises Act 1986, rather than terms of the Treaty. In essence, treating te Tiriti/the Treaty as a 'living document capable of adapting to new circumstances and [ensuring] … that the principles underlying the Treaty were of greater importance than its actual words' (Barrett & Connolly-Stone, 1998, [the] status of the Treaty in law section, para. 6). There are key themes encapsulated in The Principles for Crown Action that generally apply. Namely, 'the principle of government or kāwanatanga; the principle of self-management or rangatiratanga; the principle of equality; the principles of reasonable co-operation; and the principle of redress' (Palmer, 1989 as cited in Jackson, 2013, p. 6).

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“The period in ’83 or ’84 onward, there was legislative change, I think in ’84. There were two things that happened, as I recall. One was that the Waitangi Tribunal got additional powers to look at historical breaches and expanded their role quite heavily.

The second thing that happened was that government agencies had to apply treaty analysis to any of their policies. They were expected, when they reported on issues and legislation, to do an analysis around what is the impact on Māori. That was quite powerful.”

– Tā Kim Workman, Māori senior public servant

Te Tiriti/the Treaty and social policy

The developments in the 1970s and 1980s did not occur without resistance or backlash. Sir Geoffrey Palmer acknowledges that at the outset of these activities it was difficult to rally support from within the public sector. Although ministers in government considered te Tiriti/the Treaty as important to Aotearoa New Zealand's legislative and policy activities 'the bureaucracy on the whole did not. They gave little weight to it… [and] there was no source of good advice within the public service about it' (Palmer, 2013, [the] Treaty within the Executive section, para. 1). It was difficult gaining buy-in from the state's agencies. As the Tribunal progressed claims that appeared to favour Māori claimants, dis-ease was increasing in mainstream Aotearoa New Zealand culminating into what Sir Geoffrey Palmer referred to as 'a white backlash of substantial proportions [that included calls] for the Treaty to be scrapped and another agreement made' (Palmer, 2013, [the] Treaty within the Executive section, para. 1). This backlash initiated the establishment and development of the Treaty of Waitangi Policy Unit within the Ministry of Justice (1988), enabling the Crown to bypass the Tribunal in respect to receiving policy advice regarding Māori claims (Palmer, 1987). A development that reinforces Poata-Smith's contention that the government's activities in the period between 1984 to 1999, were to pacify and depoliticise what were perceived as increasing Māori demands during a period of significant neo-liberal reforms 'without disrupting the economic, social, and political conditions most conducive to profitable capital accumulation' (Poata-Smith, 2008, p. 102).

> '[From 1975 to 1998] 41 statutes [were enacted incorporating] references to the Treaty and its principles, and many others refer to Māori interests. Among these, only the Māori Language Act, the Education Act, the Children, Young Persons and their Families Act, and the Health and Disability Services Act could be characterised as social policy legislation.' (Barrett & Connolly-Stone, 1998, para. 1).

In a context where Māori disproportionately feature in the deficit across all social determinants, the discussions are primarily concerned with equity, and access, and re-distribution of resources and opportunities. Agencies have focussed primarily on the relationship between ethnic and social disparities with an explicit focus on 'the Māori problem' and resulting inequalities. A focal point of 'controversial public debates about strategies implemented to address these inequalities' (Poata-Smith, 2008, p. 101).

An emergent debate has been in respect to needs-based policies versus rights-based policies, and for Māori, the relevance of te Tiriti/the Treaty in determining when, where, how and for whom policies should be enacted (Parata, 1994; O'Regan & Mahuika, 1993; Barrett & Connolly-Stone, 1998). Article three guarantees equal citizenship rights implying Māori would have unhindered access to the same opportunities and outcomes as Pākehā. On the other hand, it is asserted by Māori that 'the emphasis on the rights of equal citizenship under the auspices of article three of the treaty has effectively deflected the more politicised themes of tino rangatiratanga under article two' (Poata-Smith, 2008, p. 103).

The argument about the role of the state as a determinant to individual and collective wellbeing or 'dis-ease' (specifically Māori), has increased, and is compelling. For example, the Royal Commission on Social Policy (1988) contended that wellbeing should be:

> 'concerned not so much with the treatment of problems or problem people, as with identifying their causes in institutions and social structures, and with attacking the problems at their presumed source: [asserting the view that this] is associated with both social planning and community action' (Richardson et al., 1988, p. 7).

This is reinforced further by the Commission on the Social Determinants of Health (CSDH) that 'poor and unequal living conditions are the consequence of poor social policies and programmes, unfair economic arrangements, and bad politics' (CSDH, 2008, p. 1). Alongside these debates, a new discourse

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“The things (barriers in State Care) that got in the way, was the ability to be able to go to the table and say, well actually the resources that you're providing need to be consistent, and need to be targeted in this area, and we decide where, how that's best to be dispersed, and we decide on the amount. We want to challenge (them) and put some of our things that we've been telling you all these years … the articles one, two and three of our founding documents. I think the barrier (was) that they still were not acknowledging the relationship, the partnership.”

– Daniel Mataki, Māori family home parent

has emerged 'that supports the rights of indigenous people to be protected from overt intervention by professional and sometimes paternalistic groups' (Culpitt, 1994, para. 4).

Debates in respect to incorporating te Tiriti/the Treaty into social policy legislation became more frequent in the 1980s and 1990s (Parata, 1994; O'Regan & Mahuika, 1993; Barrett & Connolly-Stone, 1998). Māori contend government agencies have consistently failed to take responsibility for their role in perpetuating Māori inequalities, and that incorporating te Tiriti/the Treaty will provide a more balanced and holistic approach to social policy and practice. This approach begins with recognition of the real causes in the first instance, and then ensuring Māori have a mechanism to hold the public sector accountable (Parata, 1994; O'Regan & Mahuika, 1993). Further promoting a Māori perspective that considers 'the definition of good government referred to in Article [one] of the Treaty requires a sensible balance between Articles [two and three], rather than an undue emphasis on one or the other' (Parata, 1994, Introduction, para. 2). Furthermore, Parata contends that a rights-driven policy would require the State to recognise, in concert with its international commitments, the status of indigenous people, plus domestic obligations…' (Parata,1994, para. 5).

Māori commentators also contend that agencies' overt focus on the formulation of needs-driven policies that primarily deal with income distribution are ineffective. They maintain the economic challenges Māori experience will not be 'eliminated (although [they] may be alleviated) simply by addressing income issues' (Parata, 1994, Policy Basis section, para. 6), because the public sector does not operate in a value-free marketplace. In other words, the formulation of economic and social policies and decisions are informed by a predominantly prejudiced perspective. This is emphasised more strongly by O'Regan and Mahuika, (1993) that 'the device used to deny Māori property rights is distributive equity … [in that the] economy has been built on taking and dispossessing of Māori assets, and after dispossession you are telling what the problem of the dispossessed is' (O'Regan & Mahuika, 1993, para. 13).

In the late 1990s government did not recognise and had not 'accepted the Article 2 to social policy and Māori demands for self-determination [had] been rejected' (Barrett & Connolly-Stone, 1998, Application of the Treaty in Social Policy section, para. 2). Therefore, social policy legislation introduced in the 1980s and 1990s often expresses a commitment to consult and involve Māori in decisions that impact them alongside other minority communities, and/or makes references Māori interests. For example, within Whaia Te Ora Mo Te Iwi 1992: Government's key statement on te Tiriti/the Treaty in Health policy it the Crown contends that:

> 'The claim that the protection of the health of Maori has (through Article 2) a special claim on New Zealanders as a whole, over and above the responsibility of the Crown to secure the health of all citizens is, however, not one the Government accepts' (cited by Barrett & Connolly-Stone, 1998, Health Sector section, para. 3).

"We are over-represented because of the Treaty, because of all the stuff that was taken away from us."

Raewyn Nordstrom, Māori social worker

The literature reviewed suggests this rebuttal is not so much about ensuring there is emphasis on Māori within social policy but in determining what a right-based relationship with Māori entails in social policy and incorporating a positive emphasis on Māori - as it draws attention to an explicitly antagonistic emphasis on Māori within successive governments' social policies. An emphasis that has significantly informed agencies' policies, procedures, and workforce practices, with detrimental impact on generations of Māori. For example, the Children, Young Persons and their Families Act 1989, provides a strong provides a strong example of how the legislation required agencies to work with families and whānau, hapū and iwi and family groups, in deciding the best ways to address care and protection needs - it did not translate positively in application or practice. That in 'respect of Māori, the Public Service and its managers are responsible and accountable for long-term professional negligence. So far, responsiveness to the needs of Māori has been largely a myth' (Parata, 1994, Professional performance section, p. 7).

'Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements' (Article 37: United Nations General Assembly, 2007).

"I did some research for, I think the police, in 1998, which actually had a pretty good crack at defining what it was that the police had to do, in terms of (treaty/cultural) responsiveness … I mused, when I started the process, that I was wasting my time. I could see that most of those organisations had leaders that were champions for change, but the second tier was just hopeless. They were full of people that were resisting change.".

Tā Kim Workman, Māori senior public servant

Chapter Six

Puao-te-Ata-Tū

Kia whakatōmuri te haere whakamua.

I walk backwards into the future with my eyes fixed on my past[69].

[69] In Western perspectives the past is behind you and you walk forward into the future. This whakataukī speaks to the ao Māori view that you look to the past and learn from your tupuna and the work and wisdom of others as you walk into a future you cannot see. Although you cannot see where you are going you will be safe because your tupuna are with you.

Rameka, L. (2016). Kia whakatōmuri te haere whakamua: 'I walk backwards into the future with my eyes fixed on my past'. Contemporary Issues in Early Childhood. Vol. 17(4) 387–398. Sage. Downloaded from https://journals.sagepub.com/doi/pdf/10.1177/1463949116677923.

Introduction and Background to the Puao-te-Ata-Tū

Prior to the 1980s, there were increased debates and concerns raised, particularly by Māori, about the plight of Māori children in State Care (Doolan, 2005; Kaiwai et al., 2020). Māori resistance and rejection of state policies of racial integration, coupled with the call for Māori self-determination generated protests regarding the failure of the settler state system for Māori (Kaiwai et al., 2020). Official inquiries during the 1970s-1980s emphasised the 'high numbers of Māori children who were in State Care; there was a high rate of placement breakdown and instability; tamariki Māori were frequently placed with non-Māori families; and Department of Social Welfare institutions were abusive and were not meeting the cultural needs of children in care' (Ernst, 1999, p. 117).

In 1984, a Māori Advisory Unit was created in the Department's Regional Office in Auckland (Department of Social Welfare, 1985a). Problems were quickly identified by three Māori staff tasked with providing advice on policy and programmes to meet the special requirements of Māori people. They released a report in 1985, concluding that, 'the Department of Social Welfare has not given due consideration to the Maori[70] people in the delivery of its services' (p. 18). The Department was a typical hierarchical bureaucracy with rules which reflected the values of the dominant Pakeha society and there was evidence of institutional racism (Department of Social Welfare, 1985b, p. 8). For example, they found 'Maori input' and 'participation in policy and decision making' was 'almost non-existent' (Department of Social Welfare, 1985b, p. 11). The insistence on professional qualifications for social work and policy staff frequently disadvantaged Māori applicants (Department of Social Welfare, 1985b, p. 11).

Around the same time (1984), a report entitled 'Institutional Racism in the Department of Social Welfare' was released by nine Auckland social workers (the Women's Anti-racism Action Group, WARAG). Following the release Garlick (2012) notes within the department 'there was internal disagreement and debate over the legitimacy of the allegations' (p. 114). Dame Ann Hercus, the Minister of Social Welfare at the time, requested John Rangihau to lead a review. The review was tasked with finding the 'most appropriate means to achieve the goal of an approach which would meet the needs of Maori in policy, planning and service delivery in the Department of Social Welfare' (Ministerial Advisory Committee on a Maori Perspective for the Department of Social Welfare, 1988, p. 5).

Puao-te-Ata-Tū (the final report) was presented to the Minister, Dame Ann Hercus on the 1st of July 1986. The review found evidence of negative treatment towards tamariki Māori and their whānau within the settler State Care system, institutional racism, and highlighted that the relationship between Māori and the state was 'one of crisis proportions', (Ministerial Advisory Committee on a Maori Perspective for the Department of Social Welfare, 1988, known as Puao-Te-Ata-Tu, 1988, p. 8). Although the report did not specify the numbers of Māori engaged within the system, it did note that users of the social welfare organisations and the courts were 'predominantly Maori' (Puao-Te-Ata-Tu, 1988, p. 7). The release of the Puao-te-Ata-Tū report was intended to herald a new dawn, a transformation of a state system that had never met the aspirations or needs of Māori in policy, planning and service delivery.

Although the Puao-te-Ata-Tū report focussed on the Department of Social Welfare, there were 'equally grave concerns about the operations of the other Government departments' (Puao-Te-Ata-Tu, 1988, p. 7). The report emphasised that tamariki and rangatahi Māori 'who come to the attention of the Police and the Department of Social Welfare invariably bring with them histories of substandard housing, health deficiencies, abysmal education records, and an inability to break out of the ranks of the unemployed' (Puao-Te-Ata-Tu, p. 8). Urgent and drastic changes to the State Care system, including policies, planning and service delivery were needed to change the status quo (Boulton, Levy & Cvitanovic, 2020).

Thirteen recommendations came out of the 1998 Puao-te-Ata-Tū report (pp. 9 – 13). These are identified in the following table.

[70] We have copied quotes accurately from the original sources. In many historical documents, macrons were not used.

Table 6.1. Recommendations from the 1988 Puao-te-Ata-Tū report.

Recommendation 1 Guiding Principles and Objectives	We recommend that the following social policy objective be endorsed for the development of Social Welfare policy in New Zealand: "Objective - To attack all forms of cultural racism in New Zealand that result in the values and lifestyle of the dominat group being regarded as superior to those of other groups, espically Maori by: a) Providing leadership and programmes which help develop a society in which the values of all groups are of central importance to its enhancement; and b) Incorporating the values, cultures and beliefs of the Maori people in all policies developed for the future of New Zealand." (p. 9)
Recommendation 2	We recommend that the following operational objective be endorsed: "To attack and eliminate deprivation and alienation by: a) Allocating an equitable share of resources. b) Sharing power and authority over the use of resources. c) Ensuring legislation which recognises social, cultural and economic values of all cultural groups and especially Maori people. d) Developing strategies and initiatives which harness the potential of all of its people, and especially Maori people, to advance." (p. 9)
Recommendation 3 Accountability	We recommend that: a) The Social Security Commission be abolished and be replaced by a Social Welfare Commission. The new Commission shall consist of four principal officers of the department, two persons nominated by the Minister of Maori Affairs after consultation with the tribal authorities, and two persons nominated by the Minister of Women's Affairs. The Minister of Social Welfare may wish to consult the Minister of Pacific Island Affairs on the desirability of a ninth appointee. b) The Social Welfare Commission, either at the request of the Minister or on its own motion shall: i) advise the Minister on the development and changes in policy and scope relating to social security, child and family welfare, community welfare of disabled persons and other functions of the Department of Social Welfare; ii) advise the Minister on the co-operation and co-ordination of social welfare activities among any organisations, including Departments of State and other agencies of the Crown or by any other organisations of tribal authority; and

Recommendation 3 Accountability	iii) consult at least once a year with representatives of tribal authorities in a national hui; iv) recommend to the Minister the appointment of and oversee the work of District Executive Committees for each Social Welfare District Office, and Management Committees for each Social Welfare Institution, and allocate appropriate budgets according to priorities set by these Committees. c) District Executive Committees should be formed in each Social Welfare department district. Each Committee shall consist of up to 9 persons appointed from the community on the nomination of the Maori tribal authorities and the nominations of other community interests. The Director of Social Welfare (in person) and the Director of Maori Affairs are to be members. The Chairperson shall be one of the non-public service members. Members are to be paid in the normal way. d) The District Executive Committees shall be appointed by the Minister of Social Welfare under S13 of the Department of Social Welfare Act 1971, and shall report to the Social Welfare Commission and be responsible for assessing and setting priorities in consultation with the various tribal authorities for the funding of specific family and community welfare projects and initiatives in their areas; for preparing draft budgets for these projects for final approval by the Social Welfare Commission; and for monitoring and reviewing the effectiveness of such projects and initiatives and the appropriateness and quality of the Department's range of services to the district it serves (pp. 9 – 10).
Recommendation 4 Deficiencies in Law and Practice	We recommend the following amendments to legislation: a) The Social Welfare Act 1971 be amended to provide for the establishment of the Social Welfare Commission. b) The Social Security Act 1964 be amended to provide for the following: i) Abolition of the Social Security Commission. ii) Clarify the law so that there is no impediment to verification of age and martial status being established from Marae or tribal records and that a Maori custom marriage is recognised for the purposes of the Social Security Act. iii) Restructuring of the unemployment benefit so that it can provide greater incentive to work, whether part time or full time, training or entrepeneurial initiative and to provide the flexibility through discretion for the Social Welfare Commission to develop variations of or alternatives to the unemployment benefit that are tailored to the needs of the individual. iv) Social Security benefit child supplements be made more readily available where the care of Maori children is transferred from natural parents to the grandparents or other relatives. v) Eligibility to orphans benefit provisions be extended to include the claims of unsupported children, so that payment can be made to whanau members who are looking after these children.

Recommendation 4 Deficiencies in Law and Practice	c) The Children and Young Persons Act 1974 be reviewed having regard to the following principles: i) That in the consideration of the welfare of a Maori child, regard must be had to the desirability of maintaining the child within the child's hapu; ii) That the whanau/hapu/iwi must be consulted and may be heard in Court of appropriate jurisdiction on the placement of a Maori child; iii) That Court officers, social workers, or any person dealing with a Maori child should be required to make inquiries as to the child's heritage and family links; iv) That the process of law must enable the kinds of skills and experience required for dealing with Maori children and young persons hapu members to be demonstrated, understood and constantly applied. The approach in recommendation (iv) will require appropriate training mechanisms for all people involved with regard to customary cultural preferences and current Maori circumstances and aspirations; v) That prior to any sentence or determination of a placement the Court of appropriate jurisdiction should where practicable consult, and be seen to be consulting with, members of the child's hapu or with persons active in tribal affairs with a sound knowledge of the hapu concerned; vi) That the child or the child's family should be empowered to select Kai tiaki or members of the hapu with a right to speak for them; vii) That authority should be given for the diversion of negative forms of expenditure towards programmes for positive Maori development through tribal authorities; these programmes to be aimed at improving Maori community service to the care and the relief of parents under stress (pp. 10-11).
Recommendation 5	We recommend that the Social Security Act be reviewed by the Social Welfare Commission with a view to removing complexity of conditions of eligibility and achieving rationalisation of benefit rates (p. 11).
Recommendation 6	We recommend that: a) Management Committees drawn from local communities be established for each Social Welfare institution; b) The Committees shall be appointed by the Minister of Social Welfare under S13 Department of Social Welfare Act 1971 and shall be responsible to the Social Welfare Commission for the direction of policy governing individual institutions, allocating resources, making recommendations on the selection of staff and for ensuring that programmes are related to needs of children and young persons and are culturally appropriate; c) Each Committee shall consist of up to 9 persons appointed to represent the community on the nomination of the Maori tribal authorities and on the nomination of other community interests and with one member to represent the Director-General of Social Welfare and one to represent the Secretary of Maori Affairs. The Chairperson will be a non-public servant member. Members are to be paid in the normal way;

Recommendation 6	d) As a priority the Committees shall address the question of alternative community care utilising the extended family; e) The Committees shall have the right to report to the Social Welfare Commission on matters of departmental policy affecting the institutions. f) Funds be provided to enable children from institutions to be taken back to their tribal areas for short periods of time to give them knowledge of the history and nature of the areas and to teach them Maori language and culture g) Provision be made to enable young people to be discharged to home or community care and to continue to attend schools attached to Social Welfare institutions (pp.11-12).
Recommendation 7 Maatua Whangai	We recommend that: a) The Maatua Whangai programme in respect of children return to its original focus of nurturing children within the family group; b) Additional funding be allocated by the Department to the programme for board payments and grants to tribal trusts for tribal authorities to strenghten whanau/hapu/iwi development; c) The funding mechanism be through the tribal authorities and be governed by the principle that board payments should follow the child and be paid directly to the family of placement, quickly and accurately and accounted for to the Department in respect of each child. The programmes should be monitored for suitability of placement and quality of care; d) The level of the reimbursement grant for volunteers be increased to a realistic level (p. 12).
Recommendation 8 Funding Initiatives	We recommend that: a) The Department of Social Welfare, Education, Labour and Maori Affairs in consultation with tribal authorities promote and develop initiatives aimed at improving the skill and work experience of the young long term unemployed; b) The proposed Social Welfare Commission meet with Maori authorities to consider areas of needed investment in urban and rural districts to promote the social and cultural skills of young people and to promote training and employment opportunities for them (p. 12).
Recommendation 9 Recruitment and Staffing	We recommend that: a) Job descriptions for all staff acknowledge where appropriate the requirements necessary for the officer to relate to the community including the needs of Maori and the Maori community; b) Interview panels should include a person or persons knowledgeable in Maoritanga; c) The Department provide additional training programmes to develop understanding and awareness of Maori and cultural issues among departmental staff; d) Additional training positions be established for training in Maoritanga' e) Provision be made for the employment of staff to provide temporary relief while other staff attend training; f) Assistance be provided to local Maori groups offering Maoritanga programmes for staff, and g) The Department accredit appropriate Maori people to assist in field and reception work (pp. 12-13).

Recommendation 10 Training	We recommend that: a) The Department take urgent steps to improve its training performance in all aspects of its work; b) The State Services Commission undertake an analysis of training needs of all departments which deliver social services; c) The State Services Commission assess the extent to which tertiary social work courses are meeting cultural needs for those publc servant seconded as students to the courses; d) The Department in consultation with the Department of Maori Affairs identify suitable people to institute training programmes to provide a Maori perspective for training courses more directly related to the needs of the Maori people; e) i) additional training positions be established for training in Maoritanga at the district level; ii) provision be made for the employment of staff to provide temporary relief while other staff attend training; iii) assistance be provided to local Maori groups offering Maoritanga programmes (p. 13).
Recommendation 11 Communication	a) The Department ensure appropriate advice to its information staff on the specific public relations and information needs of particular ethnic groups, and to assist with interpretation and translation into Maori; b) Immediate steps be taken to continue to improve the design and function of public reception areas; c) An immediate review be undertaken by an appropriate firm of consultants of the range of all application forms to reduce their complexity; d) The funds be allocated to Social Welfare district offices with a high Maori population to provide some remuneration to Maori people who provide assistance to Social Welfare staff in dealing with Maori clients; e) A toll free calling service to Social Welfare district offices be installed to enable all Social Welfare clients living outside toll-free calling areas to ring the Department free-of-charge (rural areas); f) A general funding programme be established which could be drawn on by rural areas for community self-help projects. These funds could be used for example, to employ a community worker, or to provide back-up funds for voluntary work (p. 13).
Recommendation 12 Interdepartmental Co-ordination	We recommend that: a) The Terms of Reference for the intended Royal Commission on Social Policy take account of the issues raised in their Committee's report; b) The State Services Commission take immediate action to ensure that more effective co-ordination of the State Social Services agencies occurs (p. 14).

Recommendation 13 Comprehensive Approach	We recommend that: a) Immediate action be taken to address in a comprehensive manner across a broad front of central Government, local Government, Maori tribal authorites and the community at large, the cultural, economic and social problems that are creating serious tensions in our major cities and in certain outlying areas; b) The aim of this approach be to create the opportunity for community effort to: i) plan, direct, control and co-ordinate the effort of central Government. Local Government, tribal authorities and structures, other cultural structures, business community and Maoridom; ii) harness the initiatives of the Maori people and the community at large to help address the problems; c) The Cabinet Committee on Social Equity and their Permanent Heads be responsible for planning and directing the co-ordination of resources, knowledge and experience required to promote and sustain community responses and invite representatives of commerce, business, Maoridom, local Government and community leaders to share in this task (p. 14).

Moyle (2013) emphasises it was imperative for the state to commit to achieving the first two recommendations, as without radical change in these areas, there could be no partnership and advancement for Māori. The report emphasised the need for a coordinated approach with the Government working in collaboration with local Māori communities as well as other government departments and business communities/private sector (Puao-Te-Ata-Tu, 1988, p. 44-45).

> 'We need the co-ordinated approach that has been used to deal with civil emergencies because we are under no illusions that New Zealand Society is facing a major social crisis' (Puao-Te-Ata-Tu, 1988, 1988, p. 44).

In addition, much of the strength of the report lay in the appendices of Puao-te-Ata-Tū which framed the journey of Māori from the signing of the Treaty of Waitangi to the issues of the time (Brooking, 2018). They provide an astute and comprehensive history of New Zealand dating from 1840 to the situation in 1986 which resulted in the institutional racism within the Department of Social Welfare (Brooking, 2018, p. 23).

Discussion

Clearly, Puao-te-Ata-Tū was ground-breaking in creating a blue-print for systemic transformation – in particular in its aim to 'attack all forms of cultural racism' and to 'attack and eliminate deprivation and alienation' facing Māori communities (Puao-Te-Ata-Tu, 1988, p. 9). Liu and Pratto (2018) utilise Critical Junctures Theory intersected with Power Base Theory in the context of colonisation countries and decolonising processes[71]. They state that there are 'critical junctures in history' that provide opportunities for change and transformation (p.262). Liu and Pratto, (2018) explain it like this:

> Critical Junctures Theory identifies four conceptually different, if not strictly distinctive, forms of temporal organization for societies: (1) continuity, in which the patterns of behavior, social structure, and shared beliefs are largely contiguous with the immediate past (see Durkheim, 1912); (2) rupture, which refers to substantial changes in sociopolitical organization occurring in relatively short periods of time, including chaos (Liu, Fisher Onar, et al., 2014); (3) anchoring, sets of intra/interpersonal and institutional processes that maintain continuity

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“The appendices, including the legal ones … I used to say to John Rangihau I wrote some of my best words in those appendices.”

– Tā Tipene O’Regan, Editorial Team Puao-te-Ata-Tū

> amid change (see Abric, 1993; Moscovici, 1961/2008); and (4) re-anchoring (restabilizing a system after rupture). Whereas continuity and (re-)anchoring concern societal stability, rupture entails disorganizing and perhaps reorganizing significant aspects of society (p. 263).

In the following section, we examine Puao-te-Ata-Tū as a 'critical juncture'; 'moments of potential for substantive change' that emerged through crises facing many Māori communities (Liu & Pratto, 2018, p. 262). We examine the extent to which services and systems for Māori have changed since the release of the Puao-te-Ata-Tū report and the subsequent 1989 Children, Young Persons, and Their Families Act (CYPF Act). This includes the extent to which changes reinforced preventative measures and eliminated structural racism and deprivation by:

- Allocating an equitable share of resources.
- Sharing power and authority over the use of resources.
- Ensuring legislation which recognises social, cultural and economic values of all cultural groups and especially Maori people.
- Developing strategies and initiatives which harness the potential of all of its people, and especially Maori people, to advance (Puao-Te-Ata-Tu, 1988, p. 26)

Our research analysis related to the impact of the Puao-te-Ata-Tū report and the introduction of the CYPF Act highlighted specific themes that emerged from the data. These included state 'awareness' of the crisis situation facing many Māori communities and the dire situation of tamariki Māori in State Care. Analysis also revealed 'initial' or 'partial' change, as well as a 'reversal' of change over time. This demonstrates a 're-anchoring', that restabilised the settler State Care system after the initial rupture caused through release of the Puao-te-Ata-Tū report. This 're-anchoring' ensured structural racism remained intact (Liu & Pratto, 2018, p. 263).

Puao-te-Ata-Tū was an opportunity for transformation. Our research demonstrates that the state's inability to fully implement the recommendations of the Puao-te-Ata-Tū report has had devastating impacts on pēpi/tamariki/rangatahi Māori, their whānau, hapū and iwi (Waitangi Tribunal, 2020), as well as on Māori staff working in State Care (Moyle, 2013). Initial optimism amongst Māori communities following the release of the report quickly dissipated resulting in increased mistrust of the state and scepticism that partnership could be achieved.

Furthermore, our research analysis noted the continued resistance by Māori communities, including Māori staff working in the Department of Social Welfare, against the lack of action and inadequacy of the settler State Care system during this time. The following section explores evidence related to the changes and challenges encountered.

Initial rupture: State acknowledgement of racism and need for change

Noting several changes Garlick (2012) argued that Puao-te-Ata-Tū initially had 'a pervasive impact' across the Department of Social Welfare (p. 117). For many Māori, the department's acknowledgement that it was racist was a significant change.

There were several policy and service delivery changes, including the establishment of a Komiti Whakahaere, comprising Māori community members who had previously taken part in the consultation process and national hui for Puao-te-Ata-Tū (Garlick, 2012). Komiti Whakahaere members were tasked with establishing a Cultural Development Unit to 'implement the spirit and recommendations' of the Puao-te-Ata-Tū report. The unit organised nationwide staff training in cross cultural communication skills and reported back on progress during the Komiti Whakahaere hui. Other changes included a more focussed recruitment of Māori staff, a new bi-cultural emphasis within the Department's

[71] This theory is explored in more depth in Chapter 7.

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“There was a great deal of nervousness amongst quite a lot of the Cabinet about going down the track that Puao-te-Ata-Tū was proposing and it’s interesting that in the sort of overnight massacre of the 1991 Budget legislation, all the structures were abolished.”

– Sir Michael Cullen, Minister of Social Welfare, 1987

social services, as well as more visible references to Māori iconography; panels and carvings in reception areas and inclusion of signs in te reo Māori (Garlick, 2012, p. 117). Garlick reported:

> Several offices set up 'culture clubs' and encouraged employees to take 'time out for cultural things', express more emotion in the office, and reflect on their own cultural background. Staff reported improved relationships with local communities and a greater sense of cultural awareness and responsibility (Garlick, 2012, p. 117).

Changes in the Benefits and Pensions Division of the DSW, included a redesign of application forms for major benefits and a toll-free benefit reporting for rural areas (Garlick, 2012, p. 117). 'A New Direction' in relation to partnership with iwi was seen through a re-engineering and shift in focus of the existing Mātua Whāngai policy. The policy had initially been launched in 1983, with the aim of preventing Māori entry into State Care. However, it had been criticised for 'being little more than Māori fostering' (Garlick, 2012, p. 120). In 1989, the policy was updated with an emphasis on iwi development and partnership. Garlick observed that funding was made available for new whānau, hapū or iwi development programmes, so they could be better prepared to care for tamariki/pēpi Māori. Approximately $500,000 a year was awarded to iwi to bolster tribal networks alongside additional funding for koha placements of children within whānau and for social workers to assist small-scale, preventive community projects, such as 'self-help' initiatives for Māori in isolated rural areas (Garlick, 2012, p. 120).

The introduction of a new service delivery model based around community services was characterised as 'radical change' by the Department's Principal Social Worker. This emphasised 'partnership of decision-making and resource sharing with the community and in particular with Māori whānau, hapū and iwi' (Garlick, 2012, p. 120).

Other changes arising from Puao-te-Ata-Tū included a move away from residential institutions and the reallocation of funding towards Mātua Whāngai and community-based alternatives to State Care. Garlick argues that principles of decentralisation, devolution and greater community participation viewed as 'more culturally appropriate' (Garlick, 2012, p. 120) were reflected in initial policy and service changes. Garlick argued:

> Accusations of institutional racism intersected with wider dissatisfaction with the Department's organisational dynamics to trigger a flurry of developments across the organisation that were linked by general themes such as 'community involvement' and 'local responsiveness'.... Processes of 'decentralisation' occurred in

"Puao-te-Ata-Tū came along … I think what was really great about it was, for the first time a government department acknowledged that it was racist. It came out with the definitions of racism, I think that was important…. The believers in Puao-te-Ata-Tū were basically Māori people … because they were seeing it … it is truly a document of the people … people still talk about it. Thirty bloody years on."

Harry Walker, Māori public servant

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“We rushed around, and we put carvings in every office, to make it look like we were bicultural, because bicultural was the in thing then, and we put Māori names for Pākehā managers. We didn’t change the faces behind the door.”

– Māori social worker

> tandem with mechanisms for 'devolution', which transferred control from the state to community groups and organisations. In addition, 'de-institutionalisation', which aimed to give individuals, families and communities more control over their own circumstances, intersected with a desire for 'community development' which attempted to strengthen communities and reduce the need for remedial casework. (Garlick, 2012, p. 121).

For example, the Neighbourhood Services programme (1984) that aimed to strengthen community networks was renamed the Neighbourhood Family Support Services Programme: Kaupapa Tuhonohono (Garlick, 2012), with funding being redirected to neighbourhood and whānau-based services (p. 121).

Brooking (2018) conducted kaupapa Māori research to investigate the impact of Puao-te-Ata-Tū through in-depth interviews with participants who had been involved in the development of the report (members of the Ministerial Advisory Committee). Her research explored what had changed and/or been achieved as a result of the report, both intentionally and unintentionally. She found that whilst the report was accepted in its entirety, the 13 recommendations were not progressed as intended. Intentional changes included giving a pathway and direction on how to effect change for Māori service delivery and setting out foundational principles to guide effective practices for Māori. However, she also asserted the report unintentionally provided an effective framework to conduct an authentic consultation process, particularly when working with Māori communities; 'the approach taken by John Rangihau was unique yet successful in giving Aotearoa, New Zealand its own voice' (p. 119).

Changes in legislation following Puao-te-Ata-Tū included:

- In 1987 - amendments to the Social Security Act (1964) and Social Welfare Act (1971)
- In 1989 - amendment to the Children, Young Persons, and Their Families Act (1974)

Research has demonstrated that Puao-te-Ata-Tū had an impact within the Department of Social Welfare (DSW) (Brooking, 2018; Department of Social Welfare, 1994; Garlick, 2012; Keenan, 1995; Te Amokura Consultants, 2020). For example, in 1987 the DSW presented a working party report, 'Review of the Children and Young Persons Bill' (Renouf, 1987). The review was requested by Dr Michael Cullen, the then Minister of Social Welfare, with the aim of potentially redrafting the Bill (later became the Children, Young Persons, and Their Families Act (the CYPF Act). The review acknowledged some 'contentious areas of the Bill' (Renouf, 1987, p. 1) and noted a need 'to reflect in legislation the principles and spirit of the Treaty of Waitangi' (Renouf, 1987, p. 3).

Māori community and Tauiwi criticisms of the Bill echoed concerns previously raised, particularly the mono-cultural, paternalistic assumptions made by the state in drafting the Bill. The most serious and strongly articulated criticism was 'its monocultural nature and associated failure to take account of the recommendations of Puao-te-Ata-Tū' (Renouf, 1987, p. 8). Criticisms also emphasised that more needed to be done in terms of prevention and whānau support; and that procedures and organisational structures mooted in the Bill serve to undermine the integrity of whānau, hapū, and iwi, leaving whānau in a position of powerlessness and dependency (Renouf, 1987, p. 9). The report highlighted the central importance of the child's place in its whānau, hapū, iwi and family group, and the need for the state to protect the Māori way of life as a taonga (treasure) and to give status and a place to Māoritanga (Renouf, 1987, p. 9). It also noted concerns amongst social workers that the welfare of children was 'inseparable' from the welfare of the family (Renouf, 1987, p. 11). The resultant 1989 Act heralded another tinkering of the settler state system to contain Māori concerns, yet did little to ensure the welfare of tamariki Māori within the context of their own whānau.

The implementation of the CYPF Act was the state's main response to Puao-te-Ata-Tū regarding state obligations to Māori (Garlick, 2012). Although the CYPF Act highlighted the importance of preserving tamariki and pēpi Māori within the hapū and involving whānau, hapū and iwi in decision-making,

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“A Pākehā system can’t act in place of Māori parents.”

– Oliver Sutherland, advocate for Māori

in practice this rarely happened (Love, 2002; Moyle, 2013). The lack of appropriate funding to address whānau deprivation (which is addressed in later sections) continued despite the theoretical allocation of funding for tribal authorities, to create positive change for whānau at more local levels.

In theory the 1989 Act was designed to introduce a more culturally appropriate, accessible and more whānau-based approach to promote wellbeing of tamariki Māori. An approved Iwi Authority (or Cultural Authority) could exercise specific duties or powers, including guardianship or custody (Garlick, 2012; Love, 2002). Additionally, the 1989 Act introduced government initiatives such as an increase in frontline Māori workers (Office of the Children's Commissioner, 1991; Garlick, 2012).

The 1989 Act made a distinction between 'care and protection' and 'youth justice'. The rights and responsibilities of families were to be ensured by new practices, such as the Family Group Conferences (FGCs). The idea was that FGCs would be facilitated by department professionals whose main responsibility was as a resource to the family. This created a new role for mainly non-Māori professionals as they were expected to present official information at the conferences, leaving families to review and discuss before returning to help develop a plan of action and resolution. Furthermore, a new Youth Court was set up to deal with youth offending (Garlick, 2012).

The 1989 Act was viewed by officials as having 'three innovative features' (Office of the Children's Commissioner, 1991, p. 1). These were:

1. 'Families are central to all the decision-making processes involving children and young people, for both care and protection and youth justice issues'.

2. 'The rights and needs of indigenous peoples have been taken into account in drafting the legislation, which emphasises the importance of culturally appropriate processes and provides for the use of Māori structures and institutions in decision-making and service provision'.

3. 'Victims are given a role in negotiations about possible penalties for juvenile offenders'. (Office of the Children's Commissioner, 1991, p. 1).

Family Group Conferences (FGC) were supposed to be a solution-focussed strategy within child welfare and youth justice practices (Connolly, 2006, p. 523). They were viewed by the state as the 'main mechanism' for family-based decision-making, culturally appropriate processes for Māori and victim involvement in negotiations (Office of the Children's Commissioner, 1991, p. 2).

However, the implementation of the 1989 Act including the FGCs was criticised as being nothing more than tokenism; a grafting of Māori faces and processes onto the same monocultural welfare system that did not fundamentally change anything for Māori (Love 2002; Moyle, 2013; Moyle & Tauri, 2016). Indeed, the over-representation of Māori in State Care and other negative statistics has remained excessive (Came, McCreanor, Manson & Nuku, 2019; Love, 2002; Moyle, 2013; Waitangi

> "There was nothing in the (CYP & F Act) that promoted taking kids into care … that it happened with such regularity was the ultimate abuse."
>
> **Rahera Ohia, Māori senior public servant**

“

“I remember that when they appointed the (FGC) coordinators back then, they weren't really looking outside of who was already in place in the department. They didn't look for people who had real connections in the Māori community or in the community generally. They just appointed people who were already in the department and working how they'd already worked really.”

– Don Sorrenson, Māori social worker

Tribunal, 2020; Waitangi Tribunal, 2021). Ernst (1999) emphasised that the implementation of the CYPF Act relied on the expertise of NZCYPF staff and that there was a lack of Māori-led research on the experiences, process and outcomes for tamariki Māori, whānau, hapū and iwi involved in FGCs and kinship care. Furthermore, several changes made following the release of the Puao-te-Ata-Tū report were later reversed over time. For example, the 1989 shift in focus for the Mātua Whāngai policy was short-lived as it was disestablished in 1992 (Te Amokura Consultants, 2020).

Re-stabilising: Inadequate action and deliberate inaction on the part of the settler State Care system

Although literature emphasises the significance of Puao-te-Ata-Tū and its findings (Brown, 2000; Department of Social Welfare, 1994; Garlick, 2012; Brooking, 2018; Keenan,1995; Moyle, 2013; Waitangi Tribunal, 1998; Walker, 1995), our analysis highlights 'inadequate action' (including State Care practice failings) and 'deliberate inaction' on the part of the state to fully implement the recommendations of Puao-te-Ata-Tū.

Brown (2000) emphasised 'the failure' to achieve the vision and opportunities embedded within Puao-te-Ata-Tū, noting 'delay, dilution' and distortion (p. 82). Even the Department of Social Welfare (1994) reluctantly acknowledged shortcomings by admitting some 'structural changes did not endure … [through a] waning of commitment to Puao-te-Ata-Tū ' (pp. 13-16).

Document evidence highlights the concerns of many Māori staff members working at the time in the Department of Social Welfare Head Office. These concerns are revealed in a letter signed by 18 head office staff members which was sent to The Executive Management Group (EMG) on the 28th March 1989 (Personal Correspondence of Letters supplied by H. Walker). The signatories included the National Director of the Māori Development Unit. The letter expressed concerns about the 'organisational environment' and that Puao-te-Ata-Tū had become 'a secondary consideration'. The

> "Legislation put whānau at the center of decision making and potentially communities at the center of decision making through the family group conference process. But right from the start … the Department of Social Welfare at that time captured that position, made the family group conference process something at the end of an investigation process and at the end of a statutory process, instead of having it early on so that people could make a plan and people, kids could be supported by their wider whānau and their hapū and their iwi. The department had made that family group conference process appear … a punitive process, a punishment really."
>
> **Don Sorrenson, Māori social worker**

following issues were raised:

1. The partnership envisaged under the Treaty of Waitangi is not being adequately demonstrated in this department.

2. Puao-te-Ata-Tū is on the backburner and has been for some time.

3. Recommendation 2[72] of Puao-te-Ata-Tū is being ignored.

4. EMG have yet to define what they perceive a bicultural agency to be.

5. EMG needs to clearly identify for themselves their progress in creating a bicultural agency.

6. No comprehensive training package has been developed within the department which incorporates Māori skills for Māori staff, e.g., social work, benefits and pensions

7. The imbalance of numbers of Māori and Pākehā staff in head office, regional and district offices needs to be addressed.

8. A number of Māori managers in the department, seeking promotion, have been unsuccessful.

Two specific recommendations were made at the end of the letter:

- EMG, as a corporate team, should analyse these concerns as they relate to each member's area of responsibility.

- EMG provides the authors with a response to the particular issues and concerns they have identified.

The Chief Executive, Department of Social Welfare (29th March 1989) responded by letter to the National Director of the Māori Development Unit acknowledging the Head Office Māori Staff hui – Tiromoana (2nd March 1989) but expressing he was saddened by the challenges set out. He did not reply to or acknowledge any of the issues raised in the letter, instead he wrote,

> "I am not going to fight with Māori staff whose eyes should be with mine on the horizon and not at our feet" (Personal Correspondence of Letters supplied by H.Walker from the Chief Executive, Department of Social Welfare, 29th March, 1989).

This total lack of regard for Māori staff members' concerns epitomises the waning of senior leader support for Puao-te-Ata-Tū. Eventually, it was replaced with another strategy, following a change of government. In 1994, the DSW released its new bicultural strategy – 'Te Punga' (Department of Social Welfare,1994). The report acknowledged Puao-te-Ata-Tū, describing evidence within the appendices as 'colourful' even though they are related to 'the roots of dependency' and 'the many faces of racism' (Department of Social Welfare, 1994, p. 13). The release of Te Punga was supposed to recommit the DSW towards a partnership with iwi, hapū and whānau under its Treaty of Waitangi obligations (Department of Social Welfare, 1994, p. 1). These expectations are outlined below.

> 'Accepting our obligations to the Treaty involves a shift in attitudes and a revision of the cultural assumptions which underpin social policy and planning of service delivery. It is not simply a matter of adding a tangata whenua flavour to existing assumptions. The challenge of the Treaty and of Puao-te-Ata-Tū is to ensure that our advice to government, and our service delivery planning, addresses tangata whenua needs in tangata whenua terms.

[72] Although not specified in the letter, recommedation two is; To attach and eliminate deprivation and alienation by:
a) Allocating an equitable share of resources.
b) Sharing power and authority over the use of resources.
c) Ensuring legislation which recognises social, cultural and economic values of all cultural groups and especially Māori people.
d) Developing strategies and initiatives which harness the potential of all of its people, and especially Māori people, to advance.
(Puao-te-Ata-Tū 1988, p. 26)

Key Results Areas

- Develop an effective partnership with Māori.
- Develop relevant information and research.
- Identify the economic and social development issues for Māori at the policy development stage.
- Identify the effects of policy proposals for Māori economic and social development.
- Communicate the findings to our clients (Government/Minister).
- Monitor the implementation of policy and service delivery planning decisions to check whether they are achieving the desired outcome for Māori.
- Monitor the outcomes for Māori of existing policy and the suitability of existing service delivery modes.
- Advise clients (Government/Minister) of the means to address shortfalls or build on successes'. (Department of Social Welfare, 1994, p. 16)

However, despite the rhetoric of partnership, there remained considerable departmental failures (Becroft, 2009; Garlick, 2012; Te Amokura Consultants, 2020). Reflecting back on progress made since the introduction of the CYPF Act 1989 Act, Becroft (2009) chronicled the continuing failure of the state system for Māori..

State failure has also been acknowledged by Oranga Tamariki (The Ministry for Children). Te Amokura Consultants (2020) undertook a review of key documents supplied by Oranga Tamariki and interviewed two former social workers/staff members who had worked within the Department of Social Welfare during this time and had experience of the Puao-te-Ata-Tū report (either in development and/or implementation). They analysed the effectiveness of the response of the state to recommendations made through the Puao-te-Ata-Tū report as well as identifying and assessing the impact of the key legislative and policy changes made from 1986-2006. Their analysis highlighted that 'The Crown's response to the Report recommendations has been inconsistent' and that the Crown had 'failed to implement and deliver on the intent of the Report' (Te Amokura Consultants, 2020, p. 6). Our own analysis demonstrates that the state has been intentionally neglectful over decades.

The failure of the settler state to implement the Puao-te-Ata-Tū recommendations was perhaps most notably highlighted on 25th November 2020 by Gráinne Moss, Chief Executive of Oranga Tamariki who presented a short-written statement to the Waitangi Tribunal as part of the urgent inquiry into Oranga Tamariki and its practices towards Māori pēpi and tamariki (Opening statement by Gráinne Moss, Waitangi Tribunal, 2020, November 24).

> On behalf of the Crown, I acknowledge the Crown's failure to fully implement the recommendations of Puao-te-Ata-Tū in a comprehensive and sustained manner. This failure has impacted outcomes for tamariki Māori, whānau, hapū and iwi. It has undermined Māori trust and confidence in the Crown and undermined confidence in its willingness and ability to address disparities (Opening statement by Gráinne Moss, Waitangi Tribunal, 2020, November 24, pp. 1-2).

Moss went on to acknowledge the presence of structural racism across the State Care system and how this had contributed to differential treatment and the over-representation of tamariki Māori. State failure to implement a key recommendation of Puao-te-Ata-Tū, to 'attack all forms of cultural racism' (Puao-Te-Ata-Tu, 1988, p. 9) has meant that structural racism is an enduring feature of the settler State Care system; a system imbued with inherited racist beliefs, characteristics and structures that privilege Pākehātanga (Brooking, 2018; Came et al., 2019; Penetito, 2010; Love, 2002; Moyle, 2013). State failure to fully acknowledge or address the devastating impact of structural racism has resulted in enduring, intergenerational harms for tamariki Māori and their whānau, hapū and iwi.

“

“How do you bring a whānau view into State Care when the state are the parent and they have no legislative foot to stand on to allow whānau to come in and try and identify and retain some kind of decision-making in the future, with tamariki, mokopuna? Undoable, no matter what they did.”

– Shane Graham, Māori social worker

Brooking (2018) found that whilst some of the recommendations of the Puao-te-Ata-Tū report were initially implemented, they had a limited tenure. Consequently, the enactment of the CYPF 1989 Act did not fulfil the true intent behind its role for shared decision-making with whānau, hapū and iwi in the care and protection of tamariki Māori, nor in the youth justice space.

For example, Judge Andrew Becroft (2009) reflected on progress made since the introduction of the CYPF 1989 Act, considering improvements as well as enduring challenges for youth justice. He argued that when the Act was introduced it aimed to tackle 'significant perceived problems' within the existing approach, including:

- 'too many young people being brought before the courts;
- too much reliance on an institutionalised, residential approach (often criminalising behaviour which was really the result of care and protection deficits); and
- insufficient opportunity for family and cultural input' (Becroft, 2009, p. 9).

Whilst the Act had enabled some positive changes to youth justice practices, Becroft (2009) emphasised the continuing failure of the State Care system, including education, to address issues of rangatahi disengagement and alienation that contributed to the over-representation of Māori in Youth Courts. His criticisms revealed the inadequacy, yet entanglement of State Care services and systems that resulted in rangatahi entering Youth Courts.

> To be involved in the Youth Court is to daily confront the tragically disproportionate involvement of young Māori within the system. Māori comprise approximately 17% of the Youth Court age range, yet account for nearly 50% of total apprehensions (Chong, 2007). Alarmingly, Māori figure even more disproportionately in custodial remands, where the figure approaches 60%. Indeed, in areas of relatively higher Māori population it has been observed that the appearance of Māori in the Youth Court approaches 92% in Kaikohe and 86% in Rotorua (Ministry of Justice, 2002, p. 24). Regrettably, this issue is all too easily avoided. In my view, it is the single most important issue facing our youth justice system. (Becroft, 2009, p. 14)

As noted earlier, a key recommendation of Puao-te-Ata-Tū was the urgent need for preventive measures, a sharing of power and resources with Māori communities and the need to eliminate structural racism. However, our analysis demonstrates this was not achieved. Systemic racism can only be addressed by acknowledging te Tiriti obligations of partnership and power-sharing, to resolve issues through a systems approach in ways that are coordinated and sustained over time (Came et al., 2019).

Inadequate action: Tokenistic and superficial changes

Brooking (2018) argued that as the principles of Puao-te-Ata-Tū started to gain traction many Pākehā people became fearful of the direction of that change and accordingly hurdles were developed to slow this progression (2018, p. 116). Likewise, Garlick (2012) noted that Department of Social Welfare staff, at the time of the report's release, were divided over the recommendations. Some Pākehā staff found the report and its findings difficult to understand or explain, whilst some Māori staff complained of 'rent a powhiri' and 'window-dressing' (Garlick, 2012, p. 117). Garlick notes that in 1987 an external inquiry was ordered by the Director General into the death of a two-year-old who had been under the Department of Social Welfare's supervision (2012, P. 130). The inquiry found the child's death could be partly attributed to 'a system in disarray' (Garlick, 2012, p. 130). Garlick noted some inquiry findings, that while there was acceptance for 'a more culturally appropriate service' there was 'a lack of training programmes' for front line staff, staffing shortages as well as 'inadequate monitoring' of front-line decision-making (Garlick, 2012, p. 131).

The implementation of the Children Young Persons and their Families Act and the Family Group

Conference have been severely criticised as being inadequate for ensuring the wellbeing of tamariki Māori as well as for introducing tokenistic changes. These include such things as the introduction of karakia and inclusion of kai, but not ensuring tino rangatiratanga (self-determination) and/or sufficient resources to ensure whānau-centred solutions (Love, 2002; Moyle, 2013; Moyle & Tauri, 2016; Pakura, 2005; Tauri, 1998; Tauri 1999). The cultural appropriateness of the process of the FGC has been 'contested and debated by Māori' since its introduction (Moyle, 2013, p. 11).

Building on Moyle's earlier research (2013; 2014), which explored the experiences of seven Māori social workers who were engaged in the FGC process, Moyle and Tauri (2016) examined whānau and Māori community members' experiences and perceptions of the FGC particularly, 'the ability of the forum to enable them to have significant input into decisions made about child care, child protection, and youth justice issues' (p. 88). The previous research on Māori practitioners' experiences, coupled with the initial analysis of interviews with whānau and Māori community members, revealed three interconnected themes. These were: a lack of cultural responsiveness and capability; the mystical origins of the family group conferencing forum; and a forum for removing Māori children. Overall, the findings show an emphasis on 'enforcement-based' rather than 'strengths-based' (Moyle & Tauri, 2016, p. 99).

The first theme, 'a lack of cultural responsiveness and capability', was related to standardised risk assessment tools used in FGCs that were monocultural and Eurocentric in nature and/or imported from other countries that were not appropriate for engagement with whānau and Māori communities. This 'importation' approach further

disempowers whānau, perpetuating damaging myths that Māori communities lack the expertise and knowledge to develop appropriate programmes for their own. This theme also relates to non-Māori practitioners' lack of understanding of whakapapa and its importance to cultural identity which inhibits whānau involvement in FGCs. It also refers to the fact that ethnicity data was not recorded accurately as the ethnicity of tamariki and rangatahi Māori was often left up to the social worker's discretion to determine.

> Where a child's ethnicity may not be clear, it becomes a matter of practitioner discretion and may not be recorded or is often miscoded. This has certainly been the case in previous years where non-Māori practitioners have consistently failed to record whānau, hapū (sub-tribe), and iwi (tribe) details of Māori children coming to the attention of the state because it was "too difficult", even though the Act they are obligated to uphold requires them to do so (Moyle, 2014 cited in Moyle & Tauri, 2016, p. 96).

This lack of accurate information has seriously impacted ongoing research and evaluations to determine the cultural responsiveness and effectiveness of FGCs involving Māori children and whānau.

The second theme to emerge from the research related to 'the mystical origins of the FGC forum'. The FGC was often described by professionals as 'culturally responsive', appropriate and effective for tamariki and rangatahi Māori and whānau without any actual evidence of outcomes. This theme also relates to the co-option of Māori cultural practices used in tokenistic ways to 'Māorify' the FGC process. Moyle and Tauri (2016) highlight the exclusion of appropriate expertise by the exclusion of a kaumātua from attending an FCG on the grounds this person was not considered whānau, even though they had been asked to attend by the whānau involved, as part of a tikanga Māori process. The kaumātua was subsequently invited to attend a different FCG on behalf of the Social Workers, a process described as 'dial a kaumātua' (p. 97).

The third theme, 'A forum for removing Māori children' highlights the high numbers of pēpi Māori being placed into non-Māori environments as a result of the FGC process. This practice mirrors the actions of the settler state during earlier periods, when pēpi and tamariki Māori were taken into State Care severing their connections to whānau and whenua. Young wāhine research participants often described how they were 'assessed by child protection and found to be a risk to their own children because of their inability to protect them from witnessing family violence at home' (Moyle & Tauri, 2016, p. 98). Rather than working with wāhine Māori to strengthen their ability to keep themselves and their tamariki safe, child protection assessments and the FGC process positioned wāhine Māori as the 'problem population', with a focus on enforcement that was not in the child's best interests.

As Moyle and Tauri (2016) emphasise, 'Simply put, for the FGC forum to work as a culturally responsive, empowering, and whānau-inclusive process for Māori participants, it must be delivered by (or at the very least reflect the needs and cultural contexts of) the communities within which it is practiced. For any intervention to be effective for whānau (i.e., the FGC), Māori need to be involved in its development and delivery—from identification of community needs to designing and directly delivering those programmes themselves. They also need to be involved at all stages of programme development, change, and local programme evaluation' (Moyle & Tauri, 2016, p. 101).

The inadequacy of FGC to empower whānau was emphasised by interview participants we spoke to. Although initially the FGCs appeared to hold a lot of promise, over time problems emerged. These included variability in terms of departmental support, funding cuts and inadequate resourcing, as well as a variability in staff expertise to ensure the FCGs followed appropriate tikanga Māori protocols.

“

“We were told that the Family Group Conference was based around Māori concepts, and that hui would be resourced. Simple concepts like manaaki, for example the sharing of kai when you came together, and you're told you're going to have all these things. For those of us who were raised in Māori tikanga, we knew what we had to do. Well, it didn't happen. We didn't get kai. I used to go and buy my own food and do my own thing. Or if it was an early morning hui … we're dealing with whānau who are hungry and the children are hungry, I'd go and get kai to feed them…. And we'd have to do those sorts of things. So those things that might seem nothing to the department, meant heaps to us as Māori. Just the way we started our hui and just the way we greeted people. Simple things like that were just dismissed (by the Department). It's nothing, dismissed. But it makes a big difference to relationships and working with people.”

– Te Inupo Farrar, Māori Mātua Whāngai and DSW social worker

"For us, (Family Group Conferences) it was this new way of working within the Department and recognising that families had the ability to make decisions and keep children safe…. If the social worker was of a mind, then they would let it (whānau decision making) happen, eh? But you have to be of a mind…. Because it is about power."

Harry Walker, Māori public servant

Deliberate inaction to confront structural racism and address whānau deprivation

Our analysis has highlighted deliberate inaction on the part of the state, to confront the structural racism and address whānau deprivation that was emphasised within the Puao-te-Ata-Tū report. This has been emphasised by other authors.

> Rather than make major change to departmental practices in reaction to Māori claims of systemic racism, they instead concentrated on co-opting Māori their bicultural ideology and cultural practices within institutional frameworks in order to transform the face of state service delivery. (Tauri, 1999, p. 2)

Changes in State Care systems and services have been described as little more than 'ventilation spaces' enabling Māori to express their views and aspirations (Love, 2002, p. 24). Love noted how the state appropriated knowledge that Māori communities shared with them and then re-used and re-defined that knowledge in ways that marginalised Māori experiences. In addition, Love (2002) disclosed the limitations of the 1989 CYPF Act as it related to Iwi Social Services/Iwi Authority and the ability to ensure tino rangatiratanga:

> Under the terms of the Act, an 'Iwi Social Service' is a body approved by the Director General in accordance with the terms of the Act. The rangatiratanga or authority of iwi is thus subsumed beneath the authority of the Director General of Social Welfare, an arm of the state. (Love, 2002, p. 28)

Our independent examination of the CYPF Act confirms Love's (2002) concerns. According to the legislation (Oranga Tamariki Act 1989), the constitution of an Iwi Social Service was contingent on the chief executive providing his or her approval of the overall suitability and capability of the body or organisation to act or exercise the powers, duties, and functions conferred or imposed on an iwi social service. Observing the language utilised in the provisions, the presence of 'may' imputes that this is an exercise of discretion as to the overall fitness of the prospective service provider, and the necessity of imposing additional conditions. Where a child or young person is placed within the care, custody, or guardianship of an Iwi Social Service, the convener of the social service possesses and may exercise on behalf of the service, all of the rights, powers and duties in respect of the child or young person that are conferred or imposed on the Iwi Social Service by the CYPF Act.

The wording of the sections requires the express approval of the chief executive, and therefore the Crown, for legal recognition of the existence and capability of an iwi body or organisation for the care and protection of tamariki Māori. Love (2002) is correct in reasoning that iwi rangatiratanga is subsumed by the provisions of the Act, chief executive, and DSW arm of the state. The criteria and processes preceding acceptance as a service provider coincides with the acceptance of Pākehā processes and bureaucratic processes that run contrary to an indigenous model. For example, service providers are required to attend Child Harm trainings, include a Child Harm policy and be police vetted without equally ensuring there are adequate cultural safety mechanisms in place for tamariki Māori and their whānau. In turn, this can be cited as a further attempt to colonise indigenous welfare providers by installing a Eurocentric regime and monitoring oversight, with little attempt at genuine partnership.

More information is required to provide analysis of the overall effect of the application and acceptance process on indigenous service providers to act in accordance with an āo Māori worldview. However, the language of the Act illustrates this was not parliament's intent in forming the provision. Iwi social service mechanisms appear to afford Māori a measured amount of cultural autonomy whilst maintaining the supremacy of the sovereign. As indicated by the conditional acceptance mechanism, it may have been the Crown's intention to create a 'brown arm' under the DSW model, rather than provide Iwi Mana Motuhake. This assertion may be supported with reference to the wording of Section 402 (Oranga Tamariki Act 1989). No reference is made to the goals or aspirations of the Iwi Authority in its role as representative of the iwi, and therefore

whānau.

The exercise of powers under Section 402 (Oranga Tamariki Act 1989) does not make an express or implied link to exercising the functions of guardianship in accordance with the Act's cultural objectives directly relating to Māori. Therefore, the Act did not guarantee shared power with and/or authority with iwi to ensure culturally sustaining and appropriate social services for whānau as recommended by the Puao-te-Ata-Tū report.

Garlick (2012) notes slow development on the part of the state in the approval and resourcing of Iwi Social Services. There were delays in addressing iwi concerns that the legislation 'empowered' the state to define what counted as a recognised Iwi Authority (2012, p. 184). Although Cabinet agreed to alter the Act, this was deferred as Minister Jenny Shipley expressed concerns over 'a separatist provision' for Māori and whether iwi should 'act as sole guardians under a Family Court Order' (Garlick, 2012, p. 184. Vigorous opposition from iwi and a change in minister, saw these restrictions on guardianship reversed. In 1994 an amendment to the Act was made replacing the terms 'Iwi Authority' and 'Cultural Authority' with 'Iwi Social Service' and 'Cultural Social Service' – to receive such as status, a service needed approval from iwi (Garlick, 2012, p. 184).

As discussed earlier, the release of a new bicultural strategy 'Te Punga', was supposed to develop effective partnerships with iwi and hapū (Department of Social Welfare, 1994; Garlick, 2012). Te Punga was supposed to ensure the approval and resourcing of Iwi Social Services by 2000, but there were continued delays by the state.

> The development of Iwi Social Services was a challenge for the Department. The strategy involved a significant transfer of resources from CYPFS to iwi, and there was a tension between the 'partnership' approach and the highly specified nature of contracting, which limited an Iwi Social Service's ability to 'deliver its services in its own unique way'7. A 1999 review of progress found that in spite of 'an expectation that an iwi driven Social Service would exhibit different and specifically Māori dimensions … the requirements of CYPFA outputs, CYPFA accountabilities, and CYPFA deliverables dictate the structure of iwi service patterns'. For this reason, iwi viewed the rhetoric around 'partnership' with some scepticism: one iwi representative described their role as little more than putting 'a brown face on a CYPFA service' (Garlick, 2012, p. 185).

The continued failure by the state to ensure more robust partnership processes with whānau, hapū and iwi, and fully support Māori-led services, is further evidence of structural racism.

Reid et al. (2017) are highly critical of the Crown's approach to te Tiriti as iwi are privileged over hapū, resulting in ongoing divisions amongst Māori communities. State actions have devastated the political and economic power of hapū and whānau. Prior to the arrival of the European settlers, hapū 'were the traditional unit of power' (p. 46). This privileging has created enduring divisions within Māori communities, through 'divide' and 'rule' policies (Reid et al., 2017).

Other Māori criticisms of the Act argued that it privileged kin-based groups, leaving non-kinship Māori groups with no services. Since the Crown had destroyed traditional tribal groups through colonisation and urbanisation, there was a duty of care on the part of the state to recognise both kin and non-kin groups in the provision of Iwi Social Services. Garlick (2012) relays how 'Te Whānau o Waipareira Trust' applied to the Waitangi Tribunal, arguing that the state had failed to protect the rights of non-kin groups under te Tiriti. In 1998, the Tribunal agreed and stated that Te Whānau o Waipareira should be granted status as a Treaty partner. In May 1999, the state agreed to alter the Act and create a Māori Social Services approach that would recognise both non-kin and kin-based groups (2012, p. 185).

Iwi Social Services as they pertained to the Act were also examined by Brown (2000) in The Ministerial Review of the Department of Child, Youth and Family Services. Brown emphasises the importance of adhering to Te Tiriti o Waitangi commitments and

a focus on partnership work between the State Care system and Iwi Social Services.

> In the course of this review, I spent some time with two of those established Iwi Social Services; one at Hauraki and the other Ngāti Ranginui in Tauranga. Both were extremely well focussed and seemed to be providing an excellent standard of service with dedicated staff. Ngāti Ranginui in particular, has a clear vision of moving from the present collaborative role with Child, Youth and Family ultimately to one of autonomy. Both, I note, spoke highly of their Area Manager and the value of his support, encouragement and shared vision. The point I am making may be more to do with the Department and their local iwi organisation getting on with providing services to children as opposed to constant rewriting of strategy papers and interminable recitations of revisionist mantra. (Brown, 2000, p. 82)

Brown (2000) also acknowledged the immense value and impact of networked Māori communities in the care and protection of children and young people.

> The classic irony is that anyone who has worked in the children and young person's sector would be aware of the large number of Māori men and women who have over the years, given selfless and usually unpaid service to children and their causes. The great strength that those people have made to the advancement of this country is the incredible network that they can call upon and their profound knowledge of the Māori community, all of which qualities will be required in the inevitable development of this sector involving a greater involvement by and with the community. Certainly, in my own experience in both West Auckland and Auckland Central Courts, I saw those strengths exhibited almost on a daily basis (Brown, 2000, p. 83).

Inaction/inadequate action to ensure equitable sharing of resources, power and authority

Structural racism as evidenced through 'inaction' and 'inadequate action' by the state, resulting in little meaningful change became apparent through literature analysis. Change, as recommended by the Puao-te-Ata-Tū report, was to eliminate racism and deprivation through:

- Allocation of equitable resourcing
- Shared power and authority over the use of resources
- Legislation that recognised the social, cultural and economic values of Māori groups
- Strategies and initiatives that harnessed the potential of Māori people to advance.

A particular focus was to be the empowerment of whānau, hapū and iwi in the care and protection of tamariki Māori. However, our research analysis found a lack of comprehensive action by the state to ensure strategies and initiatives harnessed the potential of whānau, hapū and iwi.

Inadequate and inequitable resourcing inhibited whānau engagement following the implementation of the CYPF Act (1989). For example, an appraisal of the first year of the Act undertaken by the Office of the Children's Commissioner (1991) highlighted some positive changes as well as several problems that inhibited progress. An identified barrier was state inaction for ensuring adequate resourcing for kin-based authorities and community-based services for Māori. The report also emphasised the deprivation affecting many whānau which was not being adequately addressed:

> The reality of family empowerment depends on resources and support services. Many families are living in very poor circumstances; without adequate incomes, in poor quality housing and without the support of others in caring for their children and acquiring skills in managing their families. The rhetoric of family responsibility can readily lead to the reduction of the support of the state sector which is essential to the wellbeing of many families. (Office of the Children's Commissioner Report, 1991, p. 12)

Superficial reforms further entrenched disparities and deprivation for whānau who were denied appropriate resources to implement their FGC plans (Love, 2002). This included resources for whānau to travel to FGCs, which impacted upon whānau levels of attendance (Pakura, 2005). Whānau, hapū and iwi were being asked to resolve problems within whānau but were not receiving the funding or resources to ensure capability development (Love, 2002).

Family Group Conferences were intended to address Māori over-representation in the care and protection system (Tauri, 1999; Love, 2002; Connolly, 2005; Libesman, 2004; Doolan, 2004). However, in their review of progress made following the CYPF Act (1989), Te Amokura Consultants found that over time 'FGC's became under-resourced and more of a formality. FGC plans were sometimes not followed up or reviewed' (2020, p. 7). Under-resourcing of FGCs was emphasised in participant interviews.

Literature often refers to the 'potential' of the FGC to be 'empowering' or 'responsive' to Māori (Ernst, 1999; Connolly, 2006). However, Tauri (1998) asserts that while the FGC model successfully demonstrates the co-option of Māori cultural practices, the way these are practiced in Aotearoa New Zealand disempowers Māori cultural experts. Furthermore, FGC studies undertaken by Māori researchers shows the FGC process as it is implemented, does not ensure the empowerment of Māori whānau (Love, 2002; Moyle, 2013; Tauri, 1998).

In addition, Keenan (1995) noted that while whānau preferred working with Māori social and community workers, Māori social workers were often caught between 'a rock and a hard place', with conflicting demands, expectations and little support. This was emphasised in our interviews (Refer to Chapter 7).

Likewise, Love (2002) observed that Māori social workers, employed for their knowledge of tikanga, were pressured into conforming to institutional norms that were in conflict with tikanga Māori. This was particularly problematic for Māori community workers, whereby the trust of their communities was pivotal to the success of their work.

Despite this, the concept of FGC empowerment for families is quoted across various government websites such as MSD, CYF and MoJ – these organisations have promoted the FGC as empowering with the potential to be culturally responsive. However, there is no mention of empowerment being subject to appropriate resourcing, cultural competence and the self-determination of Māori. What is being promoted is the potential but not the actuality of the FGC to be empowering (Moyle, 2013, p. 24).

Moyle (2013) cites Rimene (1994) who found that although the Act provided whānau, hapū and iwi with a means of participating in decision-making related to tamariki Māori, practitioners who implement the Act were not doing so because:

- Discretionary powers were being used by practitioners to vet whānau decisions.
- Insufficient information was provided to whānau rendering them uninformed and unable to make decisions.
- FGC's and informal meetings were poorly arranged because practitioners were unable to network with whānau.
- Although whānau were involved in the process, they had no control over decision-making.
- Practitioners manipulated the process and the outcome to what they thought was in the best interest of the child (Moyle, 2013, p. 25).

Becroft (2009) warned 'the vision of the 1989 Act has been allowed to wither' and that there were

significant State Care practice failings in relation to enabling community agency expertise and experience to develop. He stated that government agencies often found it easier to retain 'a control and monitoring role over a young person's course through the youth justice system, rather than relinquishing that control to the community' (2009, p. 13).

This failure by the state to ensure partnership with, and empowerment of whānau, hapū and iwi, has contributed to the ongoing intergenerational harms and effect of the enduring colonising environment.

"(Over time) that funding got capped. And then it started to get wound back in. And all of the other agencies were having their money wound back in. And as a result, everybody pulled back. Then it became really a cost cutting exercise, the Family Group Conferences moved more into an exercise where you were trying to manage costs. You were trying to get the best outcomes, but often that was just transferring care from one member of the family to another member of the family and the state not being involved…. Whānau who were in fiscally restrained circumstances … they were the ones who put their hands up. And … they didn't think money. It was about aroha. And I think the state started to take advantage of that myself, from where I was sitting."

Non-Māori senior social worker

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“When Puao-te-Ata-Tū came out, Rangatira our esteemed to ao Māori presented that stuff. It was like they gifted it over and they (the state) got all of it and they looked in and they picked their way through when they heard it was convenient … I feel robbed, you give someone something from deep down – our kaumātua gifted that. They don’t, because it hurts so much, want to go back and experience the whole thing again. Why would you do that?”

– Daniel Mataki, Māori family home parent

Constant restructuring and tinkering with the settler State Care system

Since the release of Puao-te-Ata-Tū the State Care system has experienced constant restructuring with no significant changes for whānau (Boulton et al., 2020). Many of the system changes that had been introduced as a result of the Puao-te-Ata-Tū report were disestablished over time (Garlick, 2012). As a backdrop, The State Sector Act 1988 and the Public Finance Act 1989 created fundamental changes to public management, such as the development of new information systems to improve state service efficacies and measure performance (Garlick, 2012). The State Sector Act 1988 'set out, amongst other things, the requirements for government departments to introduce measures to improve the delivery of government programmes and services to Māori communities' (Department of Social Welfare, 1994, p. 6).

However, the Department of Social Welfare experienced difficulties in measuring performance, partly due to the processes of decentralisation and regionalisation (Garlick, 2012). Regional offices were criticised for a lack of monitoring and accountability in a review by the State Services Commission (1990). Garlick conveyed that the 'dual accountability committee mechanisms resulting from Puao-te-Ata-Tū were also disestablished' (2012, p. 125). Garlick noted dual accountability and shared decision-making with iwi 'did not sit easily within the legislative framework of the state sector's new emphasis on efficiency and transparent monitoring of outputs. Accountability to community representatives was replaced with consultation and between 1987 and 1991, many of the introduced changes were 'slowly rolled back' (Garlick, 2012, p. 125).

The new state sector environment was focussed on managerial objectives, commercial branding and 'efficiencies', fuelled by a concern to reduce state expenditure. In 1992 the department of Social Welfare (DSW) restructured into five focussed 'business' groups including the New Zealand Child and Young Person's Service (NZCYPS). The creation of the NZCYPS coincided with findings from the 'Mason Review' (a Ministerial Review of the 1989 Act). Garlick notes the review found 'the Act itself was largely sound' but there were considerable criticisms of department practices, in particular the 'training and competence of social work staff' (2012, p. 153). Of particular concern were the management of FGCs and inadequate follow-up and review of plans (2012, p. 153). Garlick refers to 'competency-based learning' which assessed staff against predefined criteria but makes no mention about how these criteria ensured culturally appropriate and safe practices, nor the cultural expertise of senior staff undertaking practice evaluations (2012, p. 154).

Additionally, Garlick (2012) describes the many changes to the State Care system that occurred from the 1980s-2000. Neo-liberal economic policies were introduced by the fourth Labour Government in the 1980s and this 'reform' was continued by the National Government in the 1990s. This had devastating impacts for many Māori communities. Reid et al. (2017) show how over decades, Māori were pushed into low-skilled jobs in sectors that were later decimated by government improvements. Whānau have been over-represented in lower socio-economic statistics and ethnic wage gaps for decades (Cram, 2011; Reid et al., 2017). The Ministry of Women's Affairs (2001) noted the adverse effects of both ethnic and gender gaps which were particularly experienced by Māori wāhine.

The lack of support for young mothers during this time was also emphasised in interviews.

Research undertaken by Fletcher and Dwyer (2008) has emphasised the relationship between poverty and risks to children's health.

> From the start, poverty undermines children's entitlement to a good quality of life. It increases the likelihood they will have poor health and do less well at school. In the longer term, childhood poverty is associated with poor adult health, less employment and lower earnings, and a high risk of anti-social or criminal behaviour. There are large costs for the taxpayer too, in additional health, education and social expenditure now, and in a continuing tax burden as the children grow older and become disadvantaged adults

> "1984 I think was the Mātua Whāngai thing … in 1984 I think there was the introduction of the Public Finance Act. And that was part of the Rogernomics, so that changed a lot of things. And, in 1984, with the cry of the Māori people to have their iwi out of institutions, it fitted the philosophical approach of the government, Rogernomics. To actually have the state less involved in the care of people. Māori people were saying the same thing, but for different reasons."
>
> **Harry Walker, Māori public servant**

(Fletcher & Dwyer, 2008, p. 11).

Others have highlighted issues of cultural competency of department staff and a lack of in-depth training (Brown, 2000; Te Amokura Consultants, 2020). For example, in reviewing policy documents and other literature Te Amokura Consultants (2020) found that the training provided by the Cultural Development Unit was 'introductory' and lacked depth (p. 10). The unit was underfunded, required more staffing and was not well supported by senior leadership. Findings from The Ministerial Review of the Department of Child, Youth and Family Services emphasised these issues. Brown (2000) noted the performance bonuses paid to public service managers for underspending their budgets. Brown (2000) makes several observations relating to problems with the cultural competency of staff:

> How do we build a culturally competent workforce? There is a real need to build – in both Child, Youth and Family and Māori social service providers – a strong and culturally appropriate social work workforce that can provide better services to Māori (Brown, 2000, p. 80).
>
> The majority of social workers – both in our organisation and in voluntary sector agencies – lack professional qualifications. There is a clear tension in the professionalism debate between life experience, cultural competence and professional qualifications. This is particularly pronounced within the Māori social work workforce and for Māori social service providers. The proposed legislation to register social workers will present real challenges to the partnership between Child, Youth and Family and Māori (Brown, 2000, p. 80).
>
> Social work tools such as the Risk Estimation System (RES) have gained a certain measure of credibility due to an exhaustive process of consultation and testing with Māori. These tools should be able to translate to Māori service providers. However, other social work processes, such as investigative interviewing, family group conferencing, and placement processes have not been through a process of cultural ratification. To build effective partnerships with iwi and Māori in the delivery of statutory social work services, it is vital that work to develop Māori models of statutory practice proceeds. The absence of clearly articulated Māori social work practice models will hold back the transfer of functions to Māori providers (Brown, 2000, p. 80).

Apart from the obvious over-representation of Māori in every social statistic there is no 'actual' research that evidences care and protection as a result of FGCs, working for whānau (Love, 2002; Moyle, 2013). The gap between the potential and actuality is an important issue (Moyle, 2013, p. 24). Brown (2000) noted the absence of longitudinal

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“Young mothers at this time were really impacted … we're talking back in the '80s, in the early '90s. Income. A lot of the women were in relationships, but they were on domestic purposes benefit, which put them in a position that when you showed up from the welfare, they weren't very open. They were often in pretty abusive relationships … they couldn't be open because of their relationships. Work and Income was pretty tough. I can remember being told by a Work and Income worker that when I went into houses I should be looking for whether the toilet seat was up or down, because there might be a man living in the house. And that kind of thing, when it was supposed to be the sole parent, but they might have had a son too. But I can remember Work and Income telling us that kind of thing. So it was surveillance … it was there. Women were at the bottom of the heap…. And the women were the only ones who were looking out for the kids. But they often didn't have a lot to look out with.”

– Non-Māori senior social worker

research into the impacts and outcomes of the State Care system, foster and kinship care.

Garlick (2012) acknowledges the growing tensions in the NZCYPS, as budgets were tightened, alongside firmly prescribed service objectives that led to 'front-line staff exposed to community needs' whilst unable to provide the quality, wraparound services needed. Changes within the NZCYPS resulted in a 'reduced commitment to community activities and preventive work with families' alongside 'an alarming increase' in reported cases of child abuse (2012, p. 154).

In their review of progress as a result of Puao-te-Ata-Tū, Te Amokura Consultants (2020) identify considerable structural barriers and competing government agendas as reasons why improvements did not occur. They note the Public Finance Act 1989, the change of government and loss of political will to implement and sustain change over time. The reassessment of the role of the state with a move towards individual responsibility and neo-liberal economics, re-centralised state power. State failure was acknowledged, 'the department did not meet its Iwi Social Service targets and reviews found that Iwi Social Services had not achieved better partnerships with communities' (Te Amokura Consultants, 2020, p. 8). The focus on measuring 'outputs' rather than 'outcomes', meant discrimination and disparities for Māori across the State Care system remained unaddressed (Garlick, 2012; Te Amokura Consultants, 2020).

In addition, there has been a failure to understand the importance of attachment theory and its link to culture identity and resilience in the State Care of tamariki Māori:

> [That] cultural dislocation continues to be imposed on already vulnerable children and young people, undermining their identity in a nation where negative stereotypes of Māori prevail, demonstrates our failure to grasp the link between culture and resilience (Atwool, 2006, p. 327).

Stanley (2016) identified the multiple state failings to properly monitor and improve care and protection practices for tamariki Māori, from the 1960s through to the 1990s. She highlights the problems with Moerangi Treks (1993-98) a '90-day residential programme [based in Te Urewera] for about 16 to 24 boys who had offended or were at risk of doing so' (2016, p. 219). The programme was considered culturally responsive, with staff who were identified as 'skilled' in te reo me ona tikanga and who 'led boys through basic life and survival skill such as farming, hunting, fishing, food-gathering and home-keeping' (Stanley, 2016, p. 220). Stanley notes the programme ran on a 'shoe-string budget' with 'very little department support or involvement' (p. 220). Several complaints about the programme emerged with allegations of physical abuse by staff, coupled with medical neglect. Whilst the department suspended Moerangi Treks as a 'registered provider in June 1998' the Director of the programme then went on to run 'Eastland Youth Rescue Trust' receiving departmental approval and funding from 1998-1999 (Stanley, 2016, p. 220). 'Ongoing allegations of assaults and extreme punishments' finally resulted in funding being stopped (Stanley, 2016, p. 220).

Discussion and summary

Research analysis demonstrates that successive governments and state agencies between 1980-1999 did not heed Puao-te-Ata-Tū's warnings, nor did they fully implement its recommendations. In addition, the 1989 CYPF Act failed to eliminate structural racism, ensure partnership with whānau, hāpu and iwi and address whānau deprivation. This demonstrates a serious, yet continuous breach of the state's responsibilities under Te Tiriti o Waitangi. It is also evidence of the enduring and cascading nature of colonisation that remains very much alive and well today (Reid et al., 2017).

Structural and institutional racism have been defined as 'inaction in the face of need' (Waitangi Tribunal Report, 2019. p. 21). Such 'inaction can be conscious or unconscious; it can manifest through the deliberate actions of individuals' or 'from the routine administration of public institutions that produce inequitable social outcomes' (Waitangi

Tribunal Report, 2019, p. 21). Our analysis shows that despite the 'rupture' and opportunity of Puao-te-Ata-Tū, the settler state 're-anchored' itself to maintain the status quo (Liu & Pratto, 2018, pp. 1-3). From the early 1960s the state became aware of significant disparities between Māori and Pākehā groups (Hunn, 1961). Research highlighted the links between over-representation of Māori in offending statistics with lower educational achievement and poorer socio-economic status (Fifield & Donnell, 1980). Evidence presented to the state highlighted the crises facing many Māori communities (Puao-Te-Ata-Tu, 1988, p. 44).

As stated earlier, the release of Puao-te-Ata-Tū was part of a series of published reports that exposed structural racism within the public sector. In 1988, the Royal Commission on Social Policy released 'the April report' which leveraged the findings from Puao-te-Ata-Tū and signalled the need for a national and system wide approach to address racism (Barnes & Harris, 2011). In 1998, the Waitangi Tribunal released the 'Whānau o Waipareira report' which reviewed the government's response to Puao-te-Ata-Tū (The Waitangi Tribunal, 1998). Finally, in 1999, Labour used the phrase 'closing the gaps' which then became policy in 2000 following an analysis of the social and economic outcomes for Māori compared to other New Zealanders. The need to close the gaps through whānau capacity building was emphasised in a speech on 7th June 2000 given by Dame Tariana Turia.

> The gaps between Māori and non-Māori are especially apparent in areas such as housing conditions and home ownership, educational achievement, rates and periods of unemployment, health status, numbers of prison inmates and children and young persons in need of care, protection and control. (Turia, 2000).

Despite various reports of structural racism and monocultural practices by the settler state, these have endured resulting in compounded intergenerational trauma for whānau, hapū and iwi. In particular, this is due to the failure of successive governments to fully implement the 1975 Treaty of Waitangi Act and the 1988 Puao-te-Ata-Tū report recommendations. 'Inadequate action' and 'deliberate inaction' on the part of the state have emerged as significant themes through our research. Findings emphasise that state inaction has contributed to the enduring over-representation of tamariki Māori in the State Care system, corresponding with the decline of the cultural, spiritual, physical health, wellbeing capabilities of many whānau. As noted in other chapters, we argue that the State Care system for tamariki Māori encompasses many Crown agencies, including, but not limited to, the Ministries of Social Welfare/Social Development, Education, Health, Youth Justice, Te Puni Kōkiri, Police as well as organisations funded by the state to provide care and protection (foster homes and residential faculties).

This interconnected failure was emphasised in 1988 when the report Puao-te-Ata-Tū was presented to the then Minister of Social Welfare, Ann Hercus.

> Although we invited the people to talk to us about the operations of the Department of Social Welfare, discussions invariably brought out equally grave concerns about the operations of the other government departments, particularly those working in the social area. There is no doubt that the young people who come to the attention of the Police and the Department of Social Welfare invariably bring with them histories of substandard housing, health deficiencies, abysmal education records, and an inability to break out of the ranks of the unemployed. It is no exaggeration to say, as we do in our report, that in many ways the picture we have received is one of crisis proportions. (Puao-Te-Ata-Tu, 1988, pp. 7-8).

However, the crisis of State Care failure has not been addressed as noted in more recent reports (Office of the Children's Commissioner, 2020).

> Māori are not well served by the systems of government intended to support New Zealand society. While our topic in this report is pēpi being removed from whānau in the statutory care and protection system, the impacts of colonisation, socio-economic disadvantage and racism also appear across the many branches of government, including but not limited to justice,

> health, education and social welfare. All of these systems have significant disparities for Māori and are struggling to address these issues in different ways. Despite investment in state driven Māori responsiveness programmes, major disparities between Māori and non-Māori remain (Office of the Children's Commissioner, 2020, p. 99).

Citing the crisis impacting Māori communities the Puao-te-Ata-Tū report noted: 'At the heart of this issue is a profound misunderstanding or ignorance of the place of the child in Maori society and its relationship with whanau, hapu, iwi structures' (Puao-Te-Ata-Tu, 1988, p. 7).

This 'misunderstanding' and 'ignorance' on the part of the settler state has continued despite the release of the Puao-te-Ata-Tū report and the implementation of the 1989 Children's Young Persons and their Families Act (Moyle, 2013; Waitangi Tribunal 2021). Structural and institutional racism has continued to be a feature of State Care as emphasised below.

> Structural racism is a feature of the care and protection system which has had adverse effects for tamariki Māori, whānau, hapū and iwi. This has resulted from a series of legislative, policy and systems settings over time and has detrimentally impacted the relationship between Māori and the Crown. The structural racism that exists in the care and protection system reflects broader society and has also meant more tamariki Māori being reported to it (Opening Statement of Gr inne Moss, Waitangi Tribunal, 2020, November 24, p. 2).
>
> Oranga Tamariki staff talked about instances of institutional racism, for example recruitment panellists preferencing graduates from traditional universities over those qualified at wānanga (Māori tertiary education institutions), and structural racism resulting from policies that impact disproportionately on Māori. Caregiver assessment processes, which require Police and CYRAS checks, were described by many staff as unfair, given that whānau Māori are much more likely than non-Māori to have suffered negative impacts from agencies such as Police and Oranga Tamariki (Office of the Children's Commissioner, 2020, p. 44).

The failure of the state to address institutional racism and whānau deprivation has had devastating impacts across decades. Pihama, Cameron and Te Nana (2019) cite estimates from the Public Health Advisory Committee, 'that upwards of 20,000 primarily Māori children may be intergenerational victims of incarceration' (p. 259). Came et al. (2019) warn that structural racism can only be addressed through a transformative systems-change strategy developed in true partnership with whānau, hapū and iwi.

Chapter Seven

Māori staff working in the State Care system

Te korokoro o Te Parata[73]

[73] During the voyage of the Arawa waka, Kearoa, the wife of Ngātoro-i-rangi, had been insulted by Tama-te-kapua. So, Ngātoro-i-rangi called upon a storm to drive the Arawa into Te Korokoro o Te Parata (The throat of Te Parata), a mid-ocean whirlpool. It was only when the shrieks of the women and children moved his heart with pity that he Ngātoro-i-rangi relented, and let the canoe emerge safely. https://www.wikiwand.com/en/Ng%C4%81toro-i-rangi

Introduction

This chapter reviews research and literature concerning the experiences of Māori staff working within the State Care sector. As outlined in previous chapters, the abuse that occurred within State Care is the responsibility of the whole settler state rather than a single department within the government.

For the purpose of this chapter, the metaphor of the 'state as a machine' will be used to understand how different aspects of the state worked together to create a working environment for Māori staff frequently labelled as 'institutionally racist, marginalising and tokenistic' during the 1950-1990 period. Eighteenth century philosopher, Kant, argued that one could only imagine the state 'symbolically' since it was beyond direct perception. He gave an example of the state referred to 'as a mere machine' (as cited in Guyer, 2000). The interpretation of the state as a machine, associated with nineteenth century sociologist Max Weber, has proved to be an enduring political theory recognising the state as 'active and mechanistic'.

The vernacular is well established within New Zealand Government. For example, the Public Service Commission describes the 'machinery of government' as 'the structures of government and how they work.' 'It includes the changing set of organisations within government, their functions and governance arrangements, and how they work together to deliver results for Ministers and the public' (Public Service Commission, 2021). Using the metaphor of a machine enables the reader to view the state as active and productive and consider how the 'machinery of government' influenced those who worked within the State Care system during the research period 1950-1999.

This section explores the experiences of Māori staff within the State Care sector and therefore working within state created contexts, the features of which are often taken for granted as part of the 'machinery of government', however, they have significant implications for Māori staff.

It is important to note that Māori staff members may be implicated for condoning and/or conducting abuse that occurred within the system. Māori and non-Māori staff alike may have been abusers of tamariki Māori and vulnerable adults whilst they worked within the State Care sector. There is evidence of Māori staff bullying and physically assaulting children and youth in residences (Ministry of Social Development, 2009; Dalley, 1998a).

This chapter describes the impact of the sector on, and the marginalisation of Māori staff, as well as their experience working for the settler state in departments designed to assimilate and colonise Māori. Document analysis demonstrated the inadequate action and deliberate inaction by the settler State Care system to address issues impacting on Māori staff and their ability to influence the machinery of government, for the best interests of whānau. Despite this, evidence also highlights the agency and resistance of Māori staff, including the development of kaupapa Māori approaches to better meet the needs of tamariki Māori and their whānau.

State ambivalence towards Māori staff working within the State Care sector

Workforce research relating to Māori employees' perceptions of their workplace is scarce (Kuntz, Naswall, Beckingsale, & Macfarlane, 2014). This is unsurprising given the sparsity of research focussing on the values of indigenous people in workplaces and organisations internationally (Haar & Brougham, 2013). Analysis of Māori staff experiences within the state sector indicates that many Māori are drawn into service positions with the public service, where they work directly with whānau. Across government data demonstrates that most Māori were employed in service delivery ministries during the period of 1950-1999 (State Services Commission, 1999).

A survey of public servants in the late 1990s demonstrated that Māori staff were disproportionately spread across the five large service delivery departments. These departments employed 58% of all public service staff. Excluding Te Puni Kōkiri, the policy ministries employed 11% of all public service staff and only 5% of Māori.

Māori made up 7% of the senior management group. Social Workers made up 18% of the skill shortage vacancies in the year June 1998-1999 (State Services Commission, 1999). However, Māori ethnicity data was only reported for approximately 80% of staff across the public service and there was a wide variation in the representation of Māori staff across departments.

In 1998, Wira Gardiner and Hekia Parata undertook a 'Māori Recruitment and Retention Project' commissioned by the Chief Executives Forum to examine Māori recruitment and retention in the public service. They noted:

> There is no clear central database of Māori public servants; there is no agreed policy to identify Māori public servants, and consequently no consistent definition or means of collecting or storing this information. The process for community with Māori public servants is unwieldy, time consuming and haphazard (Gardiner & Parata, 1998, p. 8).

The challenges of quantifying Māori staff in the state sector

Determining the number of Māori staff and how it changes over time is difficult. Prior to 2000, staff data, particularly ethnicity, within the Children and Young Persons Service (CYPS), is irregular and unreliable. From 1930-1987 staff details were recorded on 30,000 cards, much like library cards (very few of which have been digitised), currently held at Archives NZ. The information is often incomplete with few demographics and no ethnicity details. It is possible to inspect the cards, but the time and resources required is prohibitive. The National Library holds the 'List of persons employed by the Public Service', commonly referred to as the 'stud books', however, although they provide total numbers in occupations and locations, they do not contain ethnicity. Between 2000-2005, staff data is more comprehensive, and between 2006-2017 it accurately identifies, ethnicity, position, gender and region.

In September 1978, a joint State Service Commission (SSC), Māori Affairs and Public Service Association working party on race relations was convened to develop positive measures to eliminate discrimination in the public service. The recommendations focussed on improving the effectiveness of services to Māori and Pasifika peoples. At that time, there was no reliable information about the ethnic composition of government departments; different cultural values and needs had not been given due weight, and the public service did not adequately reflect the diverse composition of society (Workman, 2017, p. 167).

In 1988 Puao-te-Ata-Tū reported on staff within the Department of Social Welfare (DSW) for the year ending 1986:

> There is a network of 73 Social Welfare offices throughout the country, staffed by over 6,000 people. The Department is currently paying over one million social security benefits each fortnight. Each year it processes over 300,000 new applications for benefits, as well as reviewing many of the existing benefits… The Department provides a social work service for individuals and families under stress, with particular emphasis on the care and control of children. There are currently about 10,000 children either under guardianship or supervision by the Department. It also operates a wide variety of social work programmes, ranging from full-time residential care to preventive work with families and community groups (Ministerial Advisory Committee, 1986).

Puao-te-Ata-Tū did not identify what proportion of the 6,000 staff were Māori. It is likely they would have not been able to do this at the time as the DSW did not collect ethnicity data. In 1983, the Women Against Racism Action Group (WARAG) 1984 report noted the State Services Commission had recommended that government departments gather ethnicity data of their staff, but that this had not yet been undertaken.

The machinery of institutional racism

In Aotearoa New Zealand the term 'institutional racism' first entered public discourse in the 1970s and most notably found expression in several government reports produced during the 1980s including; the WARAG, 1984, The Māori Advisory Report (MAU, 1985), Puao-te-Ata-Tū (Ministerial Advisory Committee, 1986) and Jackson's (1987, 1988) seminal work on Māori in the criminal justice system. Institutional racism has been defined as 'the structural ways in which ethnic-minority citizens were systematically disadvantaged by social institutions', such as the State Care system (Spoonley, 1993).

During the 1980s, increasing concerns about the treatment of Māori within the care sector initiated internal investigations by the DSW. In November 1984, 'Institutional Racism in the Department of Social Welfare, Tamaki Makaurau' was released. Compiled by a group of nine women employed within the DSW, called the Women Against Racism Action Group (WARAG), the report provided evidence of racism in the department.

Around this time (1985), the Māori Advisory Unit (MAU) from the DSW, was commissioned by the Director General to report on Māori perceptions of the DSW and its capacity to meet the needs of the Māori people via service delivery. Three advisers were seconded from the Auckland District Māori Council, chaired by Dr Ranginui Walker, to the Māori Advisory Unit in the DSW: Malcolm Peri, Moana Herewini, and Rangitinia Wilson. Their roles were to advise on Māori needs and the concerns affecting Māori. In addition, to introduce another dimension to the DSW, that of caring and sharing (manaaki me to aroha) (MAU, 1985, p. 3). The MAU report evidence was based on views and comments expressed by the wider Māori community including Māori voluntary organisations, voluntary workers, Māori consumers, as well as Māori DSW clients and staff from the Auckland Region. The report concluded the DSW was institutionally racist, 'it was a typical, hierarchical bureaucracy, the rules of which reflected the values of the dominant Pākehā society' (MAU, 1985 p. 11).

Both of these reports, which served as precursors to Puao-te-Ata-Tū, described practices within the department that marginalised Māori staff and clients as institutionally racist and concluded that institutional racism existed throughout the DSW in Tamaki Makaurau/Auckland. The MAU report maintained: 'the institutional framework of the Department, staffing, training, legislation and policies reflects a relentlessly Pākehā view of society which oppressively and systemically discriminates against the interest of consumers and staff who are Māori and Pacific people' (1985, p. 1). While the WARAG review focussed on the DSW of Tamaki Makaurau/Auckland, the findings had implications for the DSW as a whole.

WARAG (1984) evidenced institutional racism in the DSW in four areas.

> "You had child health professionals who had an enormous self-confidence in their ability to tell when children are being abused, and their answer to that – in all instances - is to take children out of their family context … child protection teams dominated by Pakeha professionals who were going to make the key decisions."
>
> **Sir Michael Cullen, Minister of Social Welfare 1987**

1. The ethnic composition of staff is dominated by Pākehā.

2. The recruitment, selection and promotion of staff is culturally biased in favour of Pākehā appointments.

3. Staff training is monocultural and ignores the issue of personal and institutional racism.

4. The physical environment is monocultural and alienating to Māori consumers (1984, p. 38).

Additionally, the report chronicled how the DSW practiced institutional racism in its staffing by:

- employing an overwhelming majority of Pākehā staff, and

- allowing Pākehā to dominate decision-making positions. Furthermore, in continuing such practices, the DSW perpetuated a racist service to consumers (1984, p. 18).

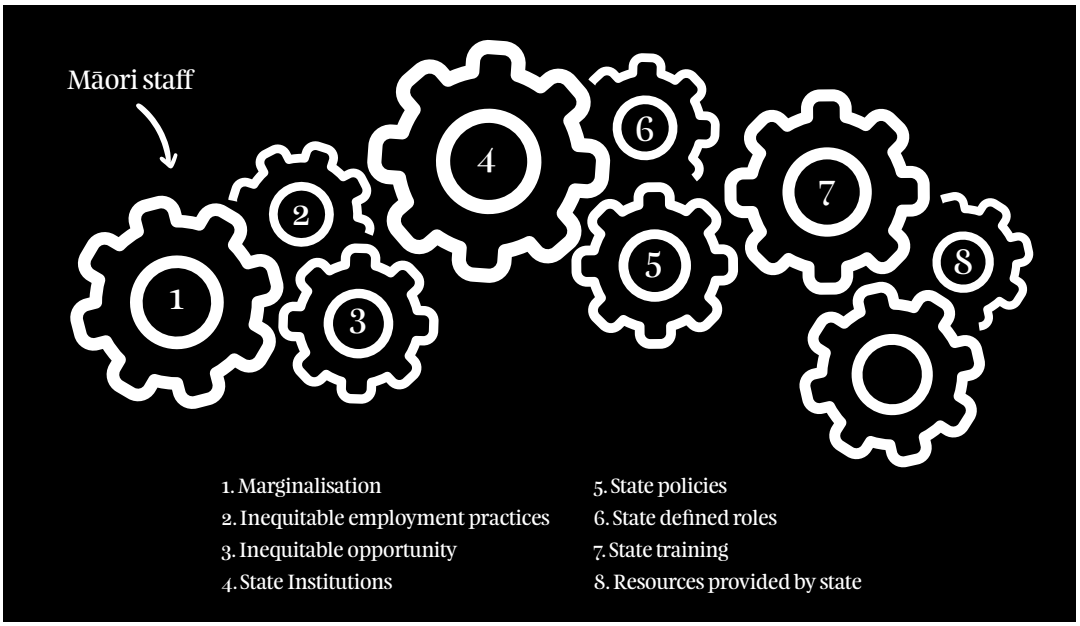
Puao-te-Ata-Tū described racism as an intentional form of discrimination, defining institutional racism as: 'the outcome of monocultural institutions which simply ignore and freeze out the cultures who do not belong to the majority. National structures are evolved which are rooted in the values, systems and viewpoints of one culture only' (Ministerial Advisory Committee, 1986, p. 19). Whether done consciously or unconsciously, institutional racism and the privileging of Pākehā had become normalised Crown practice. This making of racism 'ordinary' has been so successful it renders it almost invisible for those working within or in close quarters to Crown agencies (Came, 2012, p. 254). Recently, Gráinne Moss acknowledged that Oranga Tamariki was institutionally racist in her statement to the Royal Commission (Waitangi Tribunal, 2020, November 24).

The state machine which serves to marginalise Māori and maintain Pākehā power is institutionally racist.

Being viewed through the lens of institutional racism enables Māori staff experiences to be fully understood. The following section describes aspects of 'institutional racism' clearly identified in the literature that contributes to the systemic racism across the State Care system.

The purpose of the following section is to recognise the embedded systemic racism and bias within public institutions and how this has shaped the experience of Māori staff working with the sector. The following figure demonstrates the drivers of institutional racism as identified in the literature.

Figure 7.1. The State as a machine: Institutional racism and how this manifests in the State Care sector



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“I was so naïve at my pōwhiri my kaumātua said, ‘We're giving her to you to learn your ways and come back to the iwi and help us’. I believed it ... yeah, and that was just naivety, though, because I didn't know about bureaucracy. I didn't know about institutionalised racism.”

– Raewyn Nordstrom, Māori social worker

Marginalisation of the Māori workforce

The shortage of skilled staff, particularly of Māori staff, in the State Care sector has been reported in various public documents since the 1950's (Garlick, 2012; Dalley, 1998a; Hill, 2009). Puao-te-Ata-Tū clearly identifies 'a racial imbalance in staffing' stating that a lack of Māori staff compromised the service of the department at the time:

> We were told that the absence of brown faces inhibits Maori clients of the Department and we accept this. However, we are not convinced that the answer to such problems lies in the wholesale recruitment of Maori staff. Nevertheless, a racial imbalance exists in staffing and the Department should monitor this carefully whilst working consistently to redress the imbalance (Ministerial Advisory Committee, 1986, p. 38).

The DSW was criticised for the lack of Māori employed. Furthermore, the Māori staff who were employed, complained that they were 'used as window dressing and expected to share the knowledge of their culture whenever required without having this knowledge recognised as a work-related skill' (MAC, 1986, p. 22).

The marginalisation of Māori staff within the State Care sector creates additional challenges for Māori, particularly when they are isolated within departments and institutions. Limited access to or exclusion from 'like' networks means marginalised employees have difficulty gaining beneficial support (Ibarra, 1993). In addition, the dominating group are generally 'unaware of their power' and go about their daily activities without any substantial knowledge about, or meaningful interactions with, people who are different from them (Howard, 1999, p. 58).

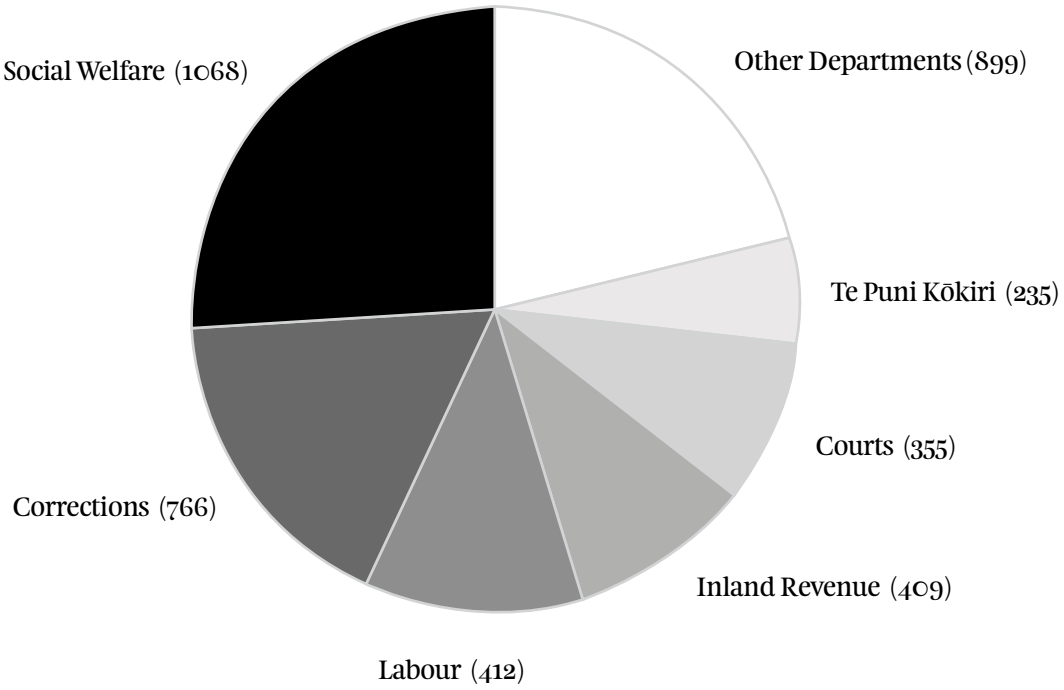
Public service staff ethnic composition data, although very patchy, demonstrates how Māori staff have been marginalised across the sector. Highlighting the imbalance in ethnic composition of staff and the client group, the WARAG report cited the ethnic composition of the staff as evidence of institutional racism. Staff comprised 71% Pākehā, 22% Māori, and 5% Pacific Islanders. Despite the children/youth in residential institutions comprising 22% Pākehā, 62% Māori and 16% of Pacific Island origin (WARAG, 1984).

Statistics on Māori public servants was published for the first time in the 1988 Census which yielded information on 65% of all public servants (Māori made up 9.9%). In 1997/1998, government departments were required to report their Equal Employment Opportunities (EEO) data using ethnicity classification for the time. In 1999 the State Services Commission (SSC) published 'Māori in the Public Service: A statistical profile 1993-1998' based on this data.

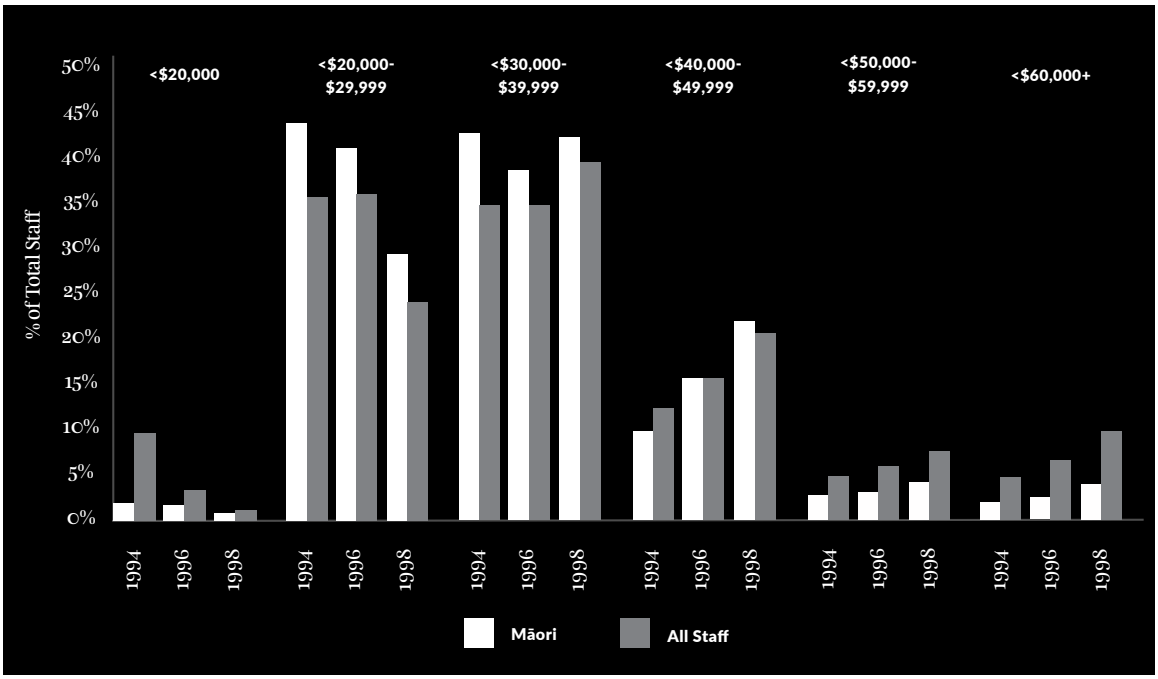
Historically, Māori were more likely to work in service delivery positions within the State Care sector, which are more likely to be marginalised within the overall public sector workforce. The majority of Māori public servants were employed by six departments: Department of Corrections, Department of Courts, Department of Labour, Department of Social Welfare, Inland Revenue and Te Puni Kōkiri. The graph below demonstrates that the departments of welfare, justice and labour employed over 54% of all Māori staff in public service. Many of the departments were reported as having high levels of interaction directly with Māori in the community, either in groups or individually, and had a client base that was disproportionately Māori (SSC, 1999, p. 13).

The MAU report noted low wages in the clerical system where Māori staff were predominantly employed. There was also high staff turnover in parts of the DSW's operations, a feeling of powerlessness and an inability, or lack of encouragement to contribute ideas or provide feedback on departmental policies and procedures (MAU, 1985, p. 12). The salary distribution graph (Graph 7.2) from the SSC's Māori statistical profile demonstrates that most Māori public servants sat in the middle range of salary bands. The report suggested 'that there may be some sort of 'glass ceiling' for Māori at around the $50,000 mark' (SSC, 1999, p. 14).

Graph 7.1. Location of Māori staff in the Public Service (1998)



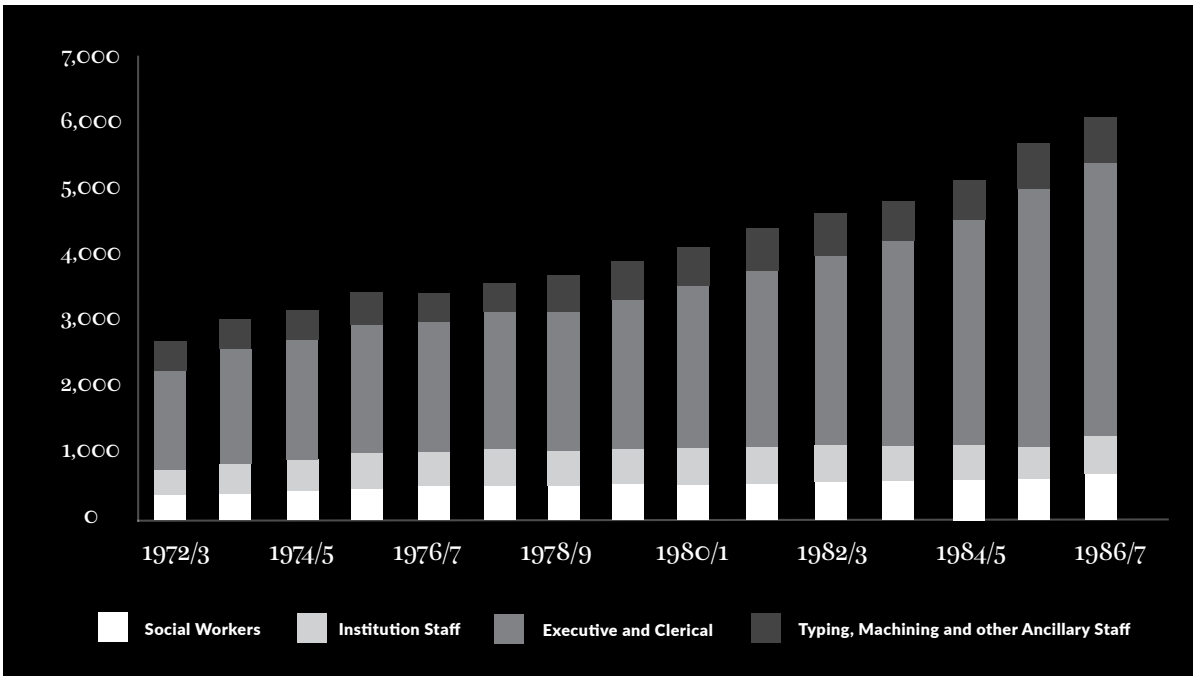
Graph 7.2. Comparative distribution of salary band



During the 1990s, through fiscal constraints and the drive for efficiency gains, there was a significant downsizing of the public service sector (SSC, 1999). Increasingly, public service staff were employed on individual contracts. In 1993, over 40% of staff were on individual contracts compared with 17% of other staff, staff turnover in departments was at the lowest level for four years and resignations averaged 10% (SSC, 1999). Service delivery roles tend to be under-resourced and yet are often the focus of 'rationalisations'. The following graph sourced from Garlick (2012, p. 102) demonstrates the increase in staff over a 15-year period from 1972 to 1987. The graph shows a significant increase over time in executive and clerical staff, with social workers and institutional staff remaining relatively static over the period.

Research literature demonstrates how Māori staff, employed predominantly in service delivery roles rather than in managerial positions, were marginalised across the public State Care service sector throughout the 1950-1999 period.

Graph 7.3. Department of Social Welfare Staff, 1972-87



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“There were only about 30 (Māori staff) of us in the whole of Social Welfare. Most of us were in admin and typing, and I was the most senior Māori, and the Cultural Development Unit was basically the Māori Unit.”

– Doug Hauraki, Māori senior public servant

Inequitable employment opportunities and conditions

Inequitable employment practices and conditions within the state sector have adversely impacted Māori workers.

Inequitable employment practices

The WARAG report found cultural bias existed through employment selection procedures and processes (1984). The criteria applied to DSW recruitment decisions were Pākehā defined and privileging. Although educational qualifications were only one aspect of the selection criteria, they appeared to be given additional emphasis in employment (WARAG, 1984, p. 24). A series of recommendations were made by WARAG to address inequity in employment for Māori including:

- Establishing an affirmative action promotion programme.
- Resources to be made available for the training and support of Māori staff.
- Māori staff to be deployed in positions involving direct contact with Māori consumers.
- Māori staff to be free to work in ways aligned with their culture.
- Employment procedures and processes be reviewed to achieve equity with ethnic composition of the consumer groups.

(WARAG, 1984, p. 19).

Similarly, the MAU report noted staff inequities driven through privileging of educational qualifications. 'The crunch has been that due to their lack of academic qualifications they cannot enjoy the same privileges and authority to make decisions accorded their counterparts' (MAU, 1985, p. 18). It is clear that for most of the 50-year period (1950-2000) Māori cultural experience, knowledge, community networks and lived experience were not valued by the public service. and had a client base that was disproportionately Māori (SSC, 1999, p. 13).

Puao-te-Ata-Tū also noted the lack of Māori in decision-making roles, acknowledging the insistence on academic qualifications for many positions in the DSW effectively 'locked the gate' against Māori applicants (MAC, 1986). Thus, Puao-te-Ata-Tū recommended that all recruitment processes should reflect the needs of Māori and the Māori community, that appointment processes should include persons knowledgeable in Māoritanga. The staffing recommendations focussed on additional training programmes to develop understanding and awareness of Māori and cultural issues among departmental staff, with appropriately experienced, ideally local, instructors, as well as relief provided to enable staff to attend.

Gardiner and Parata (1998), in their investigation into Māori staff recruitment and retention, found that little had changed across the public service. While there was a commitment to recruiting Māori staff, they noted recruitment tended to focus on junior entry level and less consideration had been given to senior staff lateral entry (p. 5). Further, they found the policies and procedures were not in place across the public service to build strategic Māori capability.

> On the whole, with some few exceptions, HR practitioners seemed not to have a policy in place or process options directed at Māori recruitment and retention, and there were no examples reported of systemic provision for dealing with the portfolio of matters Māori. This was in spite of the majority of HR practitioners

“

“Māori staff marginalised and accused of collusion. We were passed over in promotion, it was near on impossible to rise to team supervisor. I worked in sites in Waikato where able Māori practitioners were passed over for practice leader roles. I sat in many a room with tearful Māori practitioners who were traumatised by how Māori were treated.”

– Pauline Tucker/Raewyn Bhana, non-Māori social workers

recognising the importance of the Treaty and Māori staff to the work of their organisations (Gardiner & Parata, 1998, p. 8).

Inequitable Māori leadership opportunities

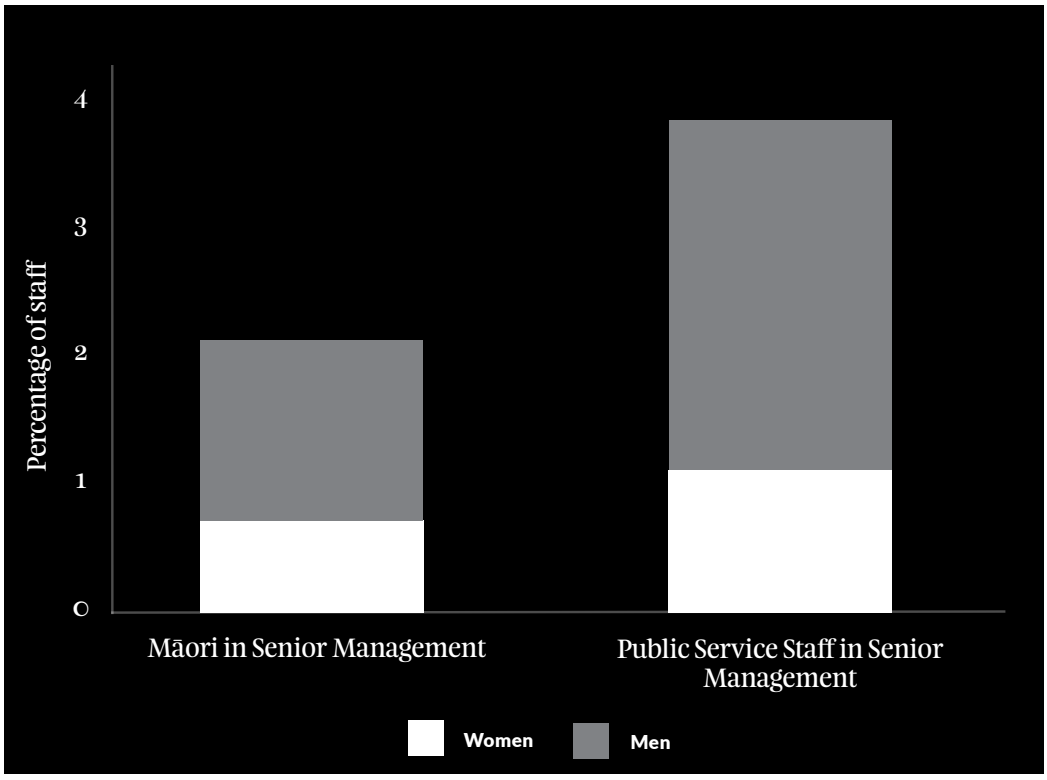
While social, economic, and demographic indicators show Māori populations are in greatest need of public services, the positioning of Māori leadership inside the public service, as part of the solution, is not visible as a system-level priority (Bean, 2018, p. 53). There was no systematic approach; nor was there a recognised Māori approach to developing Māori leadership and career pathways for Māori public servants during the period. The dearth of public sector research in the field means critical Māori elements appear not to be well understood, with no clear descriptions or practice guidelines (Bean, 2018).

Additionally, Bean (2018), notes a continued ambivalent attitude to kaupapa Māori perspectives of leadership and how those perspectives differ from equally contested conceptions of Western leadership. This reinforces an awkward lack of 'substantive engagement by the public sector in developing Māori leadership' (Bean, 2018. P. 54).

Statistics on Māori in senior management positions were collected for the first time in 1998. The State Services Commission found that for Māori only 2.1% held senior management positions whereas the figure was 3.7% for total staff (SSC, 1998). There were 85 senior managers (56 men and 29 women) who identified as Māori in 1998. Graph 7.4 demonstrates the proportion of Māori in senior management positions in 1998.

Although 80% of all Māori staff were employed in six departments, this was not reflected in the senior management profile. Apart from Te Puni Kōkiri, only two departments reported having five or more Māori in senior management (Department of Commerce and Department of Courts), and two having more than 10% of their senior managers who were Māori (Department of Commerce and Ministry of Women's Affairs) (SSC, 1999, p. 16).

Graph 7.4. Proportion of Māori in Senior Management compared to proportion of Public Service Staff in Senior Management (1998)



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“I remember Shirley, as a Māori, we all pushed for her to be the first Māori … in fucking West Auckland, the first Māori supervisor, and we fought for it. Then we fought for Donna to be the first Māori manager … back then, Māori weren't the bosses. We were never in charge.”

– Raewyn Nordstrom, Māori social worker

Gardiner and Parata (1998) found 'Māori considered the senior executives of the public service to exhibit attributes of a monocultural style of leadership that is unappealing' (p. 34). In addition, the 'lack of Māori in top positions, other than the head of the Māori agency, is received as a signal that career pathways in the public service are limited and typecast for Māori' (p. 34).

Leadership opportunities specifically within social work for Māori staff were infrequent prior to the 1980s. With the drive to increase Māori staff post Puao-te-Ata-Tū, Māori were increasingly recruited into leadership positions. In 1996, the professional social work body Aotearoa New Zealand Association of Social Workers (ANZASW) first initiated two caucuses: Tauiwi, and Māori, to govern the organisation side by side, as well as provide leadership in the profession (O'Donoghue, 2003)

It is common in public agencies for the government to assume positions of leadership on behalf of indigenous peoples. However, not only does this approach foster both dependency and assimilation, it also undermines indigenous leadership (Durie, 2004, p. 14). Sorrenson (1996) found that Children, Young Persons and their Families Service (CYPS) management (predominately Tauiwi), while espousing the philosophy of Puao-te-Ata-Tū and later Te Punga, resisted the implementation of many pro-Māori initiatives because they feared loss of power.

Sorrenson (1996) found that managerial attitudes were a significant factor regarding the responsiveness of CYPS to Māori. It was not only the lack of Māori in State Care leadership positions that was concerning, but also the inability and inappropriate management of leadership within Crown agencies involved in State Care. The Human Rights Commission (HRC) (1992) cited a hui where one Māori representative commented:

> Inappropriate people are in control of the Crown agencies, they're people who have no real knowledge or understanding of The Treaty of Waitangi. They lack any understanding of tikanga Māori and Māori people. These agencies have ultimate control, yet they're run by people who have no real commitment to the Treaty (HRC, 1992, p. 105).

There is evidence in the interview data of Pākehā workers in the Department of Social Welfare who were deeply sympathetic to the plight of Māori and saw the racism within the department. One interviewee describes such a situation.

The literature demonstrates that Māori staff have been marginalised through inequitable employment practices, and lack of opportunities to develop Māori leadership within the State Care sector.

> "There were two of them (Pākehā staff), they were senior social workers, and they gave up their jobs naively, saying that Maori people should be appointed into their positions. But, of course they didn't have the power to make the appointment. So, it didn't happen. They gave up the job, but Māori weren't appointed. Those were the sort of people that they were."
>
> **– Harry Walker, Māori public servant**

“

“I worry for Māori who have gone into the department, I would hate for them to be set up because quite often that is what happens. They say to Māori, ‘You are Māori, you can do this, and you can do that’. And then if something doesn't work, ‘Oh yes, you've had that chance. You can't do it’.”

– Te Inupo Farrar, Māori Mātua Whāngai and DSW social worker

Working within the constantly changing state machine

The State Care sector has been plagued with almost continuous changes involving mergers, restructuring and redundancy since its inception. During the 1970s the move to merge the administrative and welfare functions of the state under the Department of Social Welfare caused a significant upheaval. The report 'Social Welfare at the Crossroads' was released by The New Zealand Association of Social Workers in 1971 (NZASW, 1971). The report described concerns over the fragmented services, barriers to service and areas of unmet and under met needs. In addition, concerns were expressed relating to administrative focus for promotion, changes in staff, loss of quality service, and disruption of service to clients (NZASW, 1971).

In the 1970s the DSW was coming under increasing external scrutiny over the appropriateness of residential care and its 'centralised, bureaucratised social service provision' (Garlick, 2012, p. 74). A 'community development' approach was introduced to strengthen formal and informal support systems within communities. However, this approach, as evidenced in previous chapters, was never resourced appropriately so led to a crisis of capability and capacity through the subsequent decades in the 1980s and 1990s, public sector management went through another profound reorganisation. This involved the corporatisation and privatisation of many state assets, with the separation of the roles of funder, purchaser, and provider. Non-commercial or 'core' public functions of the state were separated from commercial functions to enable the latter to be contracted out to private organisations, in the pursuit of efficiency and effectiveness (Boston, 1996, p. 104).

A feature of the 'new contractualism' was the creation of a competitive system of service provision. The intention was to incorporate the market into the welfare state, with the state retaining its role as funder, but transferring its task as provider to a variety of independent providers in the third sector (which included private, profit-making businesses as well as community and voluntary not-for-profit organisations) and state agencies (Crampton, Woodward & Dowell, 2001). The devolution by the state during the 1980s and 1990s, caused a rapid expansion in the number and size of not-for-profit organisations. The increasing reliance on contracting was welcomed by many Māori since it provided opportunities for iwi and other Māori-based organisations to compete for tenders to supply various services (e.g., health care, social services) (Boston, 1996, p. 105).

During this period, social services were encouraged to be 'effective' and 'efficient', both in terms of interaction with clients and with regards to paperwork and time management. Non-governmental organisations (NGOs) had the dual challenge of meeting these demands in relation to working with people, in addition to fulfilling the other requirements of their funding contracts including the constant funding re-applications (Connolly, 2001). Sorrenson (1996) found that the structures put in place post Puao-te-Ata-Tū were not built on consultation with Māori at any meaningful level. Further, ongoing restructuring had a detrimental effect on the relationship with Māori and the ability to respond (Sorrenson, 1996, p. 114). The State Service Commission report (1998) on Māori in the public service, noted there 'is a disproportionate loss of Māori staff when restructuring of a department includes the closing down of regional offices that have a high percentage of employees who are Māori' (p. 2).

The constant changes by government to address inconsistencies relating to iwi and cultural practices had adverse impacts on Māori practitioners as they obstructed Māori social worker practice. Māori designated positions were often disestablished as part of ongoing restructuring resulting in Māori social workers frequently having to change jobs (Doolan, 2006; Hollis, 2006; Hollis-English 2012, 2015; Love, 2000; Moyle, 2013).

The literature indicates the constantly changing State Care context adversely impacted Māori staff resulting in redundancy, constant job changing and insecurity of employment.

“

“In 1999. I left the Department, I was like, ‘This is bullshit.’ You keep on adapting; I'd worked in the Comms team with Breaking the Cycle. I was particularly proud of that. I thought that was a good piece of work, only to find out that we had a national campaign, so you're raising awareness, but there was no infrastructure to deal with that.”

– Māori social worker

Working in institutions designed by the state

Research has shown that the context in which staff work has a significant impact on their experience, the way in which they work and how they operate (Braithwaite et al., 2016). The nature and purpose of social work in particular is determined by the organisational context, as workers usually have a position of limited power, influence and authority (Jones & May, 1992).

In their review of Māori working in the public service, Gardiner and Parata (1998) found that significant numbers of Māori reported the public service in general, as culturally unsafe or compromising environments. Both Chief Executives and Māori staff reported concern about cultural harassment and wondered whether it needed to assume the same profile as sexual harassment before it could be confronted and dealt with (Gardiner & Parata, 1998. p. 36).

Throughout the period of 1950-1999 Māori staff worked within institutions that were developed under colonial structures and systems inherited from Britain which were recognised as being institutionally racist.

The Department of Social Welfare, CYPS

The Department of Social Welfare was for the majority of the period (1950-1999) the state service provider, however it morphed into various formations within the 50-year period. The Child Welfare Act 1925 established the Child Welfare Branch within the Department of Education in 1926. This Branch became a Division in 1948. Child Welfare Officers, which included Māori Welfare Officers were referred to as field staff until the early 1950s. A lack of training was seen as a major obstacle, and most field staff learned on the job (Garlick, 2012). In 1971, the Social Welfare Act resulted in the merger of the Child Welfare Division with the Department of Social Security in 1972 to form the Department of Social Welfare (DSW).

In 1985, the Māori Advisory Unit concluded that the DSW was institutionally racist, 'it was a typical, hierarchical bureaucracy, the rules of which reflected the values of the dominant Pākehā society' (MAU, 1985 p. 11). This and other reports led to the subsequent Puao-te-Ata-Tū inquiry and report (1988) in which widespread changes were recommended. Following Puao-te-Ata-Tū, the Human Rights Commission Inquiry in 1992 noted that the service continues 'to disempower whānau, hapū, and iwi from being able to look after their own' (Human Rights Commission, 1992 p. 78). In addition, the research report noted 'Puao-te-Ata-Tū is being ignored and there is a contradiction between the policies of the Department and the spirit of the Act' which created a dilemma for Māori people working for the DSW and other Crown agencies (Human Rights Commission, 1992, p. 170).

The workload pressures of the 1970s saw casework decisions delegated to district offices. Increasingly, the DSW became reliant on volunteer schemes and by 1994 nearly 1500 volunteers were engaged.

> "So they put them all in there, so we had babies right up to bloody 17 years old. Sexual abuse, domestic violence, suicide, all in the one whare. But they didn't think to look at their needs - that we might need to have some extra support or something, resources in place."
>
> **Daniel Mataki, Māori family home parent**

> "The people most concerned about it (the CYPF Act) were those people who had been in total control of the system until then. There were practitioners (in DSW) who did not think their practices were disempowering so they were resisting the need to change. There was outright racism as well … and that resistance that came from thinking they knew better… the organisation had to show leadership in spite of the racism and the resistance." Rahera Ohia, former senior Māori public servant."
>
> **Rahera Ohia, Māori senior public servant**

The Children, Young Persons, and their Families Act in 1989 brought about restructuring and reorganisations creating the Ministry of Social Development, and the establishment of the New Zealand Children and Young Persons Service (CYPS). Sorrenson's (1996) research examining the responsiveness of CYPS management to Māori, found that while a consistent philosophy of inclusion and participation was espoused by managers, there was a lack of effective structures to ensure effective participation with Māori. Management participants in Sorrenson's study claimed they had an inclusive or participatory management philosophy. However, when examined closely, Sorrenson found this did not extend to Māori staff participating actively in policy or practice decision-making, nor did it translate to working with Māori individuals or organisations outside of CYPS or have a close working relationship with iwi Māori.

1989: There were practitioners (in DSW / CYFS) who did not think their practices were disempowering so they were resisting the need to change. There was outright racism as well … but that resistance … the organisation had to show leadership in spite of the racism.

Sorrenson's (1996) study noted that although Māori staff and cultural behaviours were accommodated within the framework of mainstream institutions, Māori remained dependent and subservient to Pākehā managers and power brokers. The reluctance to share power during this period was evident 'because of Pākehā reluctance to share or entrust significant control over resources and decision-making with Māori colleagues and 'clients' any gains made are, with very few exceptions still within a framework of Pākehā control' (Harre-Hindmarsh, 1993, p. 7). Sorrenson (1996) contends the notion of biculturalism was interpreted by management within CYPS and had very little to do with the 'notions of power sharing implicit in understandings of biculturalism that include the Treaty of Waitangi and the concept of tino rangatiratanga' (p. 177). Several researchers asserted at the time, the department was practicing ongoing colonisation through the promotion of a tokenistic and diluted form of biculturalism (Harre-Hindmarsh, 1993; Kelsey, 1990; Sorrenson, 1996). Kelsey (1990) noted that many public sector officials took on board the rhetoric of biculturalism, however they used it as a tool of assimilation (Kelsey, 1990, p. 267). Thus, the likelihood is high that Māori staff working for the state sector during the 1980s and 1990's experienced tokenism.

Residential institutions

There were 17 government institutions in 1948, rising to 20 by 1972, and to 26 by the early 1980s. In 1959 a Superintendent of Registered Children's Homes and Child Care Centres was established.

During the 1960s the steadily increasing numbers of state wards had a significant impact on the residential institutions. They were increasingly used as a remand facility to keep young people in the city while they waited to appear in court. To cope with demand, family homes and new residential homes run by religious and voluntary organisations, were supported by the state.

The conditions across residential institutions were highly variable. Literature analysis shows evidence of both; abuse perpetrated by staff, and supportive and caring staff (Sutherland, 2020; Dalley, 1998a; Stanley, 2016). Stanley (2016) believes the increased institutionalisation and harsh environments were a product of the highly punitive political climate at the time when 'there was a real moral panic about youth delinquents' (p. 51). Residences were hierarchical, based heavily on punitive models of custody, and while policies and procedures were manualised, staff were inadequately trained, and senior staff supervision was insufficient (Stanley, 2016). The institutional settings, especially Kingslea and Fareham House, were described in 1973 as 'outdated facilities, inadequate grounds and inappropriately designed buildings in some cases described as deplorable conditions' (Stanley, 2016, p. 52).

There was a general lack of trained staff within residences and often critical staffing shortages. 'The system allowed staff with extremely limited experience to look after children with the most severe personal and social problems' (Colton, 2002 cited Stanley, 2016). Poor pay and conditions for staff, low morale and staff shortages and critical understaffing were commonplace (Stanley, 2016).

A review of the Social Work Division in 1982 found variable staffing levels across the institutions, with some being critically understaffed. Separate staffing of secure units of four or more beds was recommended, and it was noted that even though secure work was the most sensitive and difficult work it was often undertaken by the most junior staff (DSW, 1982; Parker, 2006). There were problems providing adequate formal supervision due to a lack of trained staff (DSW, Social Work Manual, 1984) which led to shambolic administration and night staffing levels inadequate to manage an emergency (Sutherland, 2020, p. 101).

Sir Kim Workman (2019) in his submission to the Royal Commission noted only a few residential staff at Kohitere were 'adequately trained for the task of rehabilitating young men'. Workman notes, while officially the principal could administer punishment, the farming and forestry instructors regularly punished boys, with the intention to instil good work habits. The night staff were untrained, and some were genuinely fearful for their safety and not without cause (Workman, 2019).

In 1969, Ian Kahurangi Mitchell, who had been an assistant housemaster at Owairaka Boys' Home was asked to describe the effort made to recognise the culture of the Māori and Pacific Island Boys. At the time, he reported that while 80% of the boys were Māori, only two staff were Māori and there was 'no evidence of staff training … in fact there was virtual illiteracy, staff had no training in cultural differences. It was absolute monoculturalism … there was a lot of cultural arrogance and no other cultural identification or cultural pride. Māori were … put down and treated with contempt' (Mitchell's testimony at ACORD/Ngā Tamatoa/Arohanui public inquiry as cited in Sutherland, 2020 p. 98).

The 1979, Auckland Committee on Racism and Discrimination (ACORD), Ngā Tamatoa, Arohanui Inc inquiry report into residential care concluded 'the administration of the system is mono-racial; and if these institutions are ever going to deal with Māori and Pacific Island children, they are first and foremost going to have to implement an immediate programme of affirmative action for Māori women and Māori men in these institutions. This would be the first measure necessary to help eradicate the inherent racism within the homes' (Sutherland, 2020, p. 102). State Care staff reported problems with overcrowding and difficulties managing the increasing number of residents who were violent, disturbed, linked to gangs, or had problems with drugs or alcohol (Parker, 2006). Stanley (2016) describes the jobs as intensely stressful with staff required to work long hours. Overly authoritarian attitudes has been attributed to overcrowding and inadequately trained staff (Stanley, 2016).

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“We hear (racist comments) today still, but to hear it from qualified social workers and people who should have known better … it’s a stark memory.”

– Shane Graham, Māori social worker

Sutherland (2020) provided examples where boys in residential homes, such as Owairaka, preferred being in Mount Eden prison as the conditions were better (p. 97).

Documentation highlights that Māori staff were most likely to be in lower paid positions, employed to do building and maintenance, or domestic duties such as running the kitchens (Sutherland, 2020, Workman, 2019; MSD, n.d.). However, they were expected to supervise residences while employed in these domestic roles. Generally, most Māori working in the State Care system were not in professional roles, did not have training and would have been answering to Pākehā as trained clinicians/social workers (MSD, n.d).

There was a lack of state monitoring of residential institutions. Between 1978-1987 'Visiting Committees' were established with the purpose of visiting and examining standards at residential institutions. They were limited in their objectivity, most being made up of ex-department staff and did little to monitor resident's welfare, and failed to report inappropriate conduct by staff (Sutherland, 2020, Dalley, 1998a). In 1982, the DSW employed two officers and an administrator to provide oversight for 21 institutions and 162 family homes. Further, institutional carers were able to give the impression of adequate care when inspections were carried out (Dalley, 1998a). This 'faking of care', during official inspections was common practice (Stanley, 2016).

The problems with residential facilities received widespread attention in 1978 through a series of well-publicised inquiries and investigations, beginning with allegations of cruel and inhuman punishment in Auckland residences by the Auckland Committee on Racism and Discrimination (ACORD, 1978). An ACORD report into residential care noted staff were at the root of problems, given the employment of people totally unsuited to the job of caring for the most vulnerable of those entrusted to the care of the state (Sutherland, 2020).

There was no ethnicity data relating to residential staff in the literature (Sandford, 1973; Stanley, 2016; Simcock, 1972; Parker, 2006). This indicates that leadership and residential management did not treat the ethnicity of staff as a relevant factor in employment. However, staff with a military, teaching or sporting backgrounds were highly valued (Stanley, 2016). In terms of the hiring, training, and the ongoing development of staff, competency to work with Māori was not a factor for consideration. The 1982, The Human Rights Commission report into residential care, noted the 'employment of people totally unsuited to the job', and recommended that 'bicultural rather than military background should be sought' and 'flexibility, adaptability, and sensitivity should have precedence over administrative or authoritative skills'(Sutherland 2020, p. 123). The commission urged all 'staff to be trained, including

> "I guess from that (my experience as a child in State Care), many of the homes I went into gave me a sense that there's got to be a better way, ... and who better than the people that lived through and gone through the system to be the ones that could facilitate (change)...."
>
> **Shane Graham, Māori social worker**

multicultural studies as a strand through all staff training programmes' (Sutherland, 2020, p. 123).

Research has overwhelmingly shown that residential State Care institutions were institutionally racist.

Psychiatric institutions

Early Western models of psychiatric care were marked by large institutions with a limited range of treatments. Most institutions were opened before 1900 including, Sunnyside in Christchurch (1863), Oakley in Auckland, (1867 with the addition of Carrington in 1972), Porirua (1872), Seacliff in Dunedin (1884), Wakari in Dunedin (1887). Several others opened in the first part of the twentieth century, including: Seaview in Hokitika (1912), Tokanui in Te Awamutu (1915) Ngawhatu in Nelson (1922) and Kingseat in Karaka (1932). Lake Alice was opened in 1950 with Cherry Farm in 1952. Additionally, there were four psychopaedic institutions, Braemar in Nelson (1876), Templeton in Christchurch (1929), Kimberly in Levin, (1945) and Mangere in Auckland (1966). Throughout the 1950s and 1960s most mentally ill people were treated at specialist hospitals. In 1969, the 11 psychiatric hospitals and four psychopaedic hospital represented 43% of public hospital beds.

While the push for deinstitutionalisation began in the late 1950s, it wasn't until the 1970s that community care through NGO's became widespread as an alternative to institutional care. During the 1970s, a number of high-profile cases revealing the appalling treatment of many in psychiatric institutions eventually led to deinstitutionalisation. For example, the treatment of children in State Care who were placed in Lake Alice under the care of Dr Leeks was publicised widely by ACORD in 1976-1978. They reported electric shock treatment administered as punishment to children as young as eight-years-old, solitary confinement in concrete cells, and injections used as threats or punishment, without authority given by their family or by Social Welfare Officers (Sutherland, 2020. p. 135). The Mitchell inquiry into these events in 1977 exonerated Lake Alice stating, 'the hospital was entitled to imply in all the circumstance that the treatment should continue if the need arose for it' (Sutherland, 2020, p. 141). Finally, as a result of numerous letters, protests and complaints by ACORD, children's families, psychologists, teachers and health board staff, about the ongoing treatment of children in Lake Alice, the unit finally closed in 1978. Almost all psychiatric hospitals were repurposed or closed by the 1990s.

Those that remained open were subject to a government inquiry led by Judge Ken Mason in response to a number of high-profile cases within the community, and a death in psychiatric care as a result of electro-convulsive therapy (ECT). The Mason Psychiatric report (1988) identified various themes including: the absence of a Māori perspective during assessment, the gatekeeping of services by Pākehā, and inadequately trained staff. The gatekeepers of psychiatric services, medical staff such as doctors, nurses and psychiatrists, were described as monocultural.

Whānau interviewed for the inquiry noted that 'illnesses and signs of distress which could be in the context of a patient's Māoriness were misidentified and treated in terms of Western psychiatry'. The impacts on Māori patients of inadequately trained staff, and the lack of Māori staff was evidenced: 'If a person under stress was seen to be speaking to his or her tipuna, this was thought to be a hallucination. Because this was interpreted as evidence of psychosis, the diagnosis may be made accordingly, and treatment carried out with anti-psychotic medication' (Mason et al., 1988, p. 168).

The Mason Report concluded with a series of recommendations indicating that capability within the psychiatric system was of significant concern. They called for the appointment of a Māori health coordinator to the forensic team, representatives of the Māori community to be included in all major appointments to Area Boards and the Hospital Board, and for all senior appointments to be conditional on the appointee having knowledge and appreciation of Māori culture, tikanga and taha wairua.

The evidence from the report showed Māori staff were not in leadership or clinical positions, the environment was hierarchical, clinical and 'gatekept'

by Pākehā staff. Thus, psychiatric residences were institutionally racist.

Special schools

The special education division was created within the Department of Education in 1908. The Education Amendment Act of 1910 made it compulsory for children with disabilities to be educated. However, the first school for the deaf was founded in 1880. Health Camps were instituted in the mid-1930s.

The native school system ran parallel to the state system until 1969. Native schools were expected to teach only in English, and te reo Māori was actively discouraged. The Department of Education Director General claimed the natural abandonment of the native tongue involved no loss to the Māori (Simon & Smith, 2001). Between 1900 and 1960 the proportion of Māori fluent in te reo decreased from 95% to 25% (Simon & Smith, 2001).

In 1966, the Department of Education Psychological Service was involved in helping approximately 10,000 children, about one in every 65 of the total school population. Alongside institutions, there was an expansion of school facilities to help maladjusted children with 45 teachers working in classes which contained, almost exclusively, children described as maladjusted. During 1966, 8,700 children were enrolled in the various special schools, classes and clinics provided to help students whose educational needs could not be reasonably met in ordinary classrooms. The largest number of special classes were for backward children. There were also special primary school classes for the physically handicapped, for the partially sighted and the partially deaf, for children in hospital, and for emotionally disturbed children.

The records held by the Ministry of Education on residential schools are patchy. Campbell Park in Otago has the most comprehensive records therefore we have chosen to draw on those archival reports to demonstrate the challenges faced by Māori staff working in residential schools.

Records from Campbell Park

Campbell Park School was a residential school for male children who were considered 'backward' and/or who had behavioural problems. It was previously known as Otekaike (Otekaieke) Special School for Boys. In 1972, approximately 60% of the boys at Campbell Park were state wards, most of who had social difficulties. The remainder were admitted at the request of their parents following a recommendation from the Department of Social Welfare or the Department of Education's Pyschological Service. About 60% of the pupils were Māori or Pacific Island boys and this percentage was noted as being fairly stable for some years. The school received about 85% of its pupils from the North Island (Briefing paper on Campbell Park School, 1972).

The archival data on Campbell Park indicates that staffing, in terms of unsuitable staff, lack of training, and difficulties in recruitment due to lack of applicants, was a significant and enduring issue. Official correspondence reveals: violence by some of the boys, inadequate supervision, and the Principal expressing concern about keeping other boys safe.

In 1972, staff threatened to strike unless they had six more staff, or unless the number of boys was reduced to give the same pupil/staff ratio (Campbell Park archival records). There were frequent staff changes, frustration over lack of professional training, staff complaints/staff assessments, staff not complying with orders and concern that 'the standard of childcare may suffer from less than adequate staff' (letter from the Principal of Campbell Park to Director General of Education, 4th July 1979).

In 1986, there was a letter noted from a representative from ACORD – Expressing concern over 'the treatment of young people at Campbell Park School'. The concerns included:

1. Over 50% of the boys are Maori and Polynesian and yet the school is entirely monocultural in its approaches and procedures. Most of the boys are outside their own tribal areas and have little or

no access to local Maori people. They are too far from home for their family to visit them. Thus even though some of them are as young as eight-years-old, they have no role models, no-one to identify with and no support group.

2. The attitudes of some staff are blantantly racist. There is no attempt to provide taha Maori, and the excuse given is that there is a lack of dedicated Maori staff. No responsibility is taken by Pākehā staff for racism, or for encouraging cultural differences.

3. There are almost no women on the staff, thus reinforcing the link between maleness and dominance in the minds of the boys, and ensuring a dearth of nurturing skills and real motherly care. Boys must call everyone 'Sir' or 'Miss' – no names.

4. Both the Principal and the second in command bemoan the impending legislating out of corporal punishment. Discipline is Victorian, rigid and punitive; boys walking in silent grey-uniformed lines between the dining hall and their houses, and being sent back if they make a noise; a Maori boy being singled out in assembly and publicly shamed in front of the whole school by having his misdemeanour and his punishment described at length; mail is censored both in and out of the school.

We believe that any one of these issues would warrant a full inspection into the running of the school – in fact into the justification of its existence. Taken together, the picture is horrendous. We hope that you, as Regional Superindentant, can initiate some substantial changes. The present visiting commitee consists entirely of outside professionals – a new committee involving strong Māori and Pacific Island people, and young people to whom the boys can talk with confidence, could well be a desirable beginning. We wonder too about the nature of conditions at Salisbury House and whether it has been possible for the Education Department to exercise a benign influence there? (Pourtney, 1986).

On the 27th May 1986 the Regional Superintendant of Education, Southern Region responded to Charmaine Pourtney from ACORD. The letter appears largely dismissive of her concerns about racism and of the treatment of boys and asks for more detailed descriptions of incidents. In response to her criticisms the letter stated;

> It is well established that a high proportion of boys at Campbell Park come from the upper part of the North Island and a great many of them are Māoris and Pacific Islanders. It is difficult to say to what extent this is the result of the force of circumstances (letter, Regional Superintendant of Education, Southern Region, 1986).
>
> The Superintendent agrees there are difficulties in finding appropriate resource people to 'provide Taha Maori... [and] it is agreed, it is unsatisfactory in this respect' (Regional Superintendant of Education, Southern Region, 1986).

A 1992 study of children and young people in out-of-family care investigated a variety of residential placements for children and young people including: the DSW residences, special schools, faith-based residences, health camps, corrective training centres, and youth prisons. Māori researchers found that.

- Institutions saw themselves as 'places of last resort for desperate families and their children' which created the potential abuses of power to occur (HRC, 1992, p. 155).

- Institution staff and placement agency staff (DSW) are in a position of power in relation to whānau Māori, and that this position is potentially abusive (HRC, 1992, p. 123; HRC, 1992).

- Placements in special schools took some children and young people miles away from their family and severely limited the ability of whānau to spend time with their child (HRC, 1992, p. 157).

The report noted the lack of culturally appropriate programmes for Māori children and the need for guidelines to be set which outline culturally appropriate programmes for Māori children in care. The report noted all institutions and care agencies needed formal and informal grievance procedures for Māori children and their whānau who are in 'out of family care'. They should also be told at the beginning of their placement, and regularly reminded, that they can formally complain (HRC, 1992, p. 159).

Special schools were institutionally racist.

> "(There were) None (referring to Māori programmes). Not in the institutions, not at all. They were still, post settlement, post everything. This was way before there was even a concept of what an iwi was, from their point of view."
>
> **Shane Graham, Māori social worker**

Māori staff working in roles defined by the state

The roles occupied by Māori in the State Care sector were designed through Western perspectives of care. Very early on they were described in regularly updated manuals, and included:

- The Field Officers Manual (Child Welfare Division) 1958 - 1969
- The Social Workers Manual (Child Welfare Division), 1970
- The Residential Workers Manual (Department of Social Welfare), around 1975/1976
- The Social Work Manuals (Department of Social Welfare) Volumes 1 and 2 around 1984

The manuals covered both district and national institutions and were supplemented by codes of practice, setting out desired standards of professional care, as well as individual policies and procedures. Among topics covered by the manuals were: admissions and discharge; privacy; contact with family, communities and social workers; discipline, rewards and recreation; health and medication; schooling; and secure care. Garlick, (2012) contends the in-house training, conducted using a combination of staff manuals and face-to-face training, was largely ineffectual. The Human Rights Commission (1992) found the DSW rules and regulations could be obstructive to the work of Māori working with families (HRC, 1992). Documenting staff practices and roles within the Department, with little consideration for Māori and those working with Māori whānau, is institutional racism.

Māori welfare officers

In his 1944 annual report, the Minister of the Department of Native Affairs, Rex Mason, proposed a system of welfare officers in his department. The new welfare branch was set up in September 1944, beginning with a chief welfare officer and by March 1945 there were welfare officers in Ruatoria, Gisborne and a lady officer at head office in Wellington (Dalley, 1998b,). 'Maori welfare officers' remains a little-studied area of state welfare provision (Bryder & Tennant, 1998).

The definitions and patterns of work used by Pākehā welfare officers proved impractical and meaningless in a Māori context. Māori families (and Māori welfare officers) had a unique relationship to the state and defined their needs, and therefore 'welfare', in quite different ways to Pākehā (Labrum, 2002, p. 167). Māori welfare officers were meant to be, and were in practice, proactive in distinguishing where assistance was required and acting as they saw fit (Labrum, 2002). Their way of working went far beyond the regulatory and surveillance duties required of child welfare officers. It was noted by officials with regard to housing, but the assertion applied to all their work, that the Maori Affairs Department was 'probably unique ... in that it combines the functions of seeking out families ... awakening them ... to a realisation of their need and a willingness to cooperate in measures to meet it' (Draft memo from Maori welfare officer to Minister of Maori Affairs, 3 December 1956).

Māori welfare officers and the Māori Affairs Department as a whole, were directly and self-consciously concerned with 'race up-lift'. A key role of the of the Māori welfare officers was 'stirring up the desire for advancement and development' (Labrum, 2002 p. 165). These roles reflected

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“When you get into the practice area you start getting individual human decision-making. Then, they'll rationalise it by terms of policy and managerial-driven stuff. The legislation which they will bullshit about, but I'm always interested in the practice area. I think that's where it's either make or break. Racism is deeply ingrained in the DNA of a lot of New Zealanders. The better educated you are, the better you are at rationalising your behaviour.”

– Harry Walker, Māori public servant

the needs of the Māori population. As a result of colonisation and urbanisation, Māori were living in marked disadvantage in material terms and in conditions of life (life expectancy, health statistics, and mortality).

Māori welfare services covered a wide range of needs and desires. The 'malleable nature of need' was absolutely central for Māori (Labrum, 2002, p. 170). Whānau needs encompassed jobs and vocational training, as well as money, food and other more conventional aspects of 'welfare'. Moreover, officers had a key role to ensure Māori received all the benefits they were entitled to, and to help individuals in their interactions with government departments that had previously declined to deal with them. Fundamentally, Māori welfare officers dealt with every facet of their clients' lives (Labrum, 2002).

Māori welfare officers were mediators and frequently acted as 'go-betweens' in relation to other state departments and to the larger Pākehā society, at both an individual and group level (Labrum, 2002). Māori welfare officers intervened in ways that made their work both acceptable and extremely useful to Māori families, however it invited greater scrutiny of those families (Dalley, 1998b). Interviews with kaumātua who described their role of the Māori welfare officer indicated that the role was like the modern day Whānau Ora Navigator:

Labrum (2002) notes that Pākehā perceptions of 'need' were different from those of Māori welfare officers, who whilst having the flexibility to respond to whānau need, still had to work within the structures of the state. Māori lived in a culture that was different to the one embodied by the welfare state, which was predicated on Pākehā familial models (Labrum, 2020). Individual Māori welfare officers had to battle continually to establish entitlement and legitimate need. They felt protectiveness intersected by a sense of responsibility for Māori as a group and the need to defend them (Labrum, 2002; Dalley, 1998b). The different articulation of needs by Māori and their varying ability and desire to live up to Pākehā norms and standards required Māori welfare officers to mount public relations exercises on behalf of their clients in the face of mounting Pākehā criticism of Māori (Labrum, 2002).

Social workers

Social service practitioners, such as child welfare officers, became social workers in the early 1950s. Parallel to the rise of the modern Police Force, the social work profession is a foundational component to the creation, expansion, and adaptation of the settler state (Fortier & Wong, 2019). Eurocentrism dominates the profession of social work and therefore social work practices (Waterfall, 2002). While there are many paradigms for helping and

> "My experience in the early days of Māori welfare around the district was quite interesting. People have started talking about, "Oh, let's have all this navigating," you know ... they start talking about engaging with health, education, housing, voluntary sector, justice. We did all that while we were in Māori welfare. I was thinking, "They've got this new thing. They've got a new name and they're reverting to something that was done before, which, then got discredited. See, Māori welfare got disestablished."
>
> **Harry Walker, Māori public servant**

offering social assistance among various cultures, Eurocentrism operates by centring Euro-Western theories and practices as the dominant social work paradigm. deMontigny (1995) asserts the activities of social work are about engaging in the socially organised practices of power from the standpoint of ruling relations.

Henwood (2015) reflecting on the Aotearoa New Zealand State Care system during the research period, noted; 'Social work focussed on making placements, and then the state involvement was often withdrawn or absent. Locking up children in institutions had a huge effect, not only on their individual lives but on our whole society. There was a significant knock-on effect with many of the incarcerated children ending up in prison in later life' (Henwood, 2015, p. 9). The act of social work as a profession in maintaining settler state power is evident across the reviewed literature. Fortier and Wong (2019) argue:

> The social work profession remains circumscribed by three core responsibilities in the settler colonial process:
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> 1. aiding in the dispossession and extraction of indigenous peoples from their territories and communities.
>
> 2. supporting the (re)production of the settler state; and
>
> 3. acting as a buffer zone to contain and pacify indigenous communities that are either engaged in direct confrontation with the settler state or are facing crises due to state and corporate practices of resource extraction and dispossession (2019, p. 442).

The literature indicates there was little to no accountability in the State Care services during the research period. Henwood (2015) highlights the lack of clarity around the core business of the Department of Social Welfare and what they were trying to deliver, and seemingly, no high-level overview of the department or of the children in its care. Further, Henwood reflects on the lack of expertise and skill, and the many social work failures. Furthermore, a participant in Moyle's research (2013) notes:

> CYF social workers are administrative and investigative social workers and lack life experience or the depth of knowledge to understand the gravity and impact of decisions on whānau. It's like giving a very powerful tool to a child where it can quickly out of control (Whā interview, Moyle, 2013, p. 72).

Regulatory and auditing bodies such as the Social Workers Registration Board (SWRB), and Aotearoa New Zealand Association of Social Workers (ANZASW) are well established, however, deMontigny contends these associations are created 'to ensure that the dominant paradigm is carried out in social work systems' (deMontigny, 1995, p. 210). The struggle to find a place for Māori social work within a Eurocentric paradigm is evidenced throughout the literature. For example, in a 2002 paper, Leland Ruwhiu, the kaiwhakahaere of the Māori Caucus of the ANZASW at the time, discussed attending the national hui at Turangawaewae a Ngaruawahia in 1986 when the Tangata Whenua Caucus was first established.

> The goal was then to move towards a state of autonomy as a Māori group of professional social work practitioners so as to mirror the realness of Te Tiriti o Waitangi for the social work profession in Aotearoa. Currently as the kaiwhakahaere of that Māori Caucus of ANZASW, that vision, although unachieved to date has never waned nor been far from the lips and hearts of Māori social workers with vision and foresight (Ruwhiu, 2002, p. 2).

Although Māori social workers were practising before the 1989 CYP&F Act, they were a scarce resource. Hollis (2006) argues that the visible face of Māori social work in Aotearoa New Zealand did not exist until after the new Act in 1989 which resulted in increased recruitment of Māori community workers and Mātua Whāngai workers who moved into Family Group Conference Coordinator positions. Many were never formally trained. In the Human Rights Commission report of 1992, it was noted that many social workers 'have no idea about working with whānau' (HRC, 1992, p. 97). The report like many

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“Some Māori social workers played the game because it was a job, so they actually did what they had to do. Not all of us did (conform to) the rules, if you go back and see those of us that didn't, we didn't stay there long. We were out.”

– Māori Mātua Whāngai staff

> "I used to look at the staff in the site that I worked in, and I'd say, 'Now, if my grandchild were coming through here, who would I want to work with my grandchild?' I could never find maybe more than one or two … some I would never want to work with my whānau, so, what does that tell you?"
>
> **Pauline Tucker/Raewyn Bhana, non-Māori social workers**

others in the 1970s-1990s noted the lack of Māori in social work and clinical positions (Mason et al., 1988; HRC, 1992; MAU, 1985).

Hierarchies within professional structures

The review of literature indicates the settler State Care sector was hierarchical and riddled with power dynamics that inhibited care. The literature describes power relationships within residential institutions in which DSW social workers shut Māori community workers out of cases, even when it was the community workers looking after the child (HRC, 1992). Sutherland (2020) gave an example of a psychologist from the United Kingdom in Owairaka Boys home in 1977, who made ethnocentric judgements in his reports such as mistaking whakamā for sullenness (p. 101). Māori staff in care positions could not challenge the assumptions made by more qualified staff. If staff including those in senior clinical positions spoke out about conditions within the residences, they were reprimanded by their Department (Sutherland, 2020, p. 107).

Being a Māori Social Worker in the research period was likely to have been very challenging given the Eurocentric structures and the power dynamics within the Department of Social Welfare.

Māori positions

The Children and Young Persons Act (1989) fundamentally required social workers to consider the needs, values and beliefs of all ethnic groups, not only the majority (Bradley, 1995). With the introduction of the Act, more Māori staff were employed by CYPS in a drive to indigenise the Department (Tauri, 1999). Paid positions for Mātua Whāngai workers and for Māori advisory officers were created in some districts to provide a range of consultative services from translations to cultural training for staff (Baretta-Herman, 1990, p. 237). The spread of Māori staff in the DSW was described by the Māori Advisory Unit, as 'pepper potting', leaving Māori social work staff alone and unsupported (MAU, 1985, p27). MAU (1985) found the introduction of Mātua Whāngai left many Māori staff feeling as though 'they are largely out on a limb from the rest of their colleagues' (p. 11). The Advisory Unit recommend that Māori staff should be able to get together with other Māori staff, to support them in being Māori in the workplace (MAU, 1985, p. 17).

Māori teams

Multidisciplinary child protection teams were created so Police, social workers, doctors and lawyers could provide advice to case workers. By the late 1980s, the department of social work was assisting more than 30 teams. Roopū Teams were introduced at CYPS with the specific goal of supporting Māori social workers and improving services for Māori

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“Our biggest challenge when we were in Social Welfare was to just be Māori.”

– Doug Hauraki, Māori senior public servant

children and their whānau. Māori social workers, within mainstream social service organisations, developed as a subgroup and supported the enhancement of each other's methods (Hollis, 2006, p. 71). Cultural knowledge of tikanga (customs) Māori, te reo (the Māori language) and especially knowledge of Māori whānau, hapū and iwi in the geographical area they were working in was valued within these teams. Many Māori social workers in the early 1990s were employed because of these skills, and later obtained the appropriate social work qualification (Hollis, 2006).

According to Hollis (2006), Māori social workers described Roopū teams as an ideal structure for the use of Māori processes within CYFS. It allowed Māori social workers an environment where tikanga Māori was the norm, support from colleagues, and in many cases from a Māori manager, in accordance with the principles of te ao Māori (Hollis, 2006). Other benefits for Māori social workers included, not having to explain basic practices and methods used (to those who were unfamiliar with Māori processes), avoiding being the 'token' Māori, and dealing with organisational issues (such as institutional racism) as a group rather than on their own (Hollis, 2006, pp. 73-77). Māori Roopū, or units, were also at risk of being labelled 'separatist or racist' by the public and media (see Raea, 1990).

There was criticism of the management of Roopū teams, Rich (2003) noted they were overworked and under-resourced. Unsurprisingly, these criticisms were met by a government statement saying: 'Roopū teams are well resourced and when there are high numbers of Māori children and families, caseloads are shared throughout the organisation' (Rich, 2003, p. 1, cited in Hollis, 2006). There were little to no resources provided for Māori leadership supervision to keep Roopū teams supported and thriving (Love, 2002; O'Donoghue, 2003).

However, the issue of whether Roopū teams have been adequately resourced and managed is perhaps better answered by Māori social workers themselves. One participant in Hollis' research described how there was a move in 2005 within CYFS to move some members of a Roopū team to a different location. The aim was to strengthen the Māori services within another branch of CYFS, but from the view of this participant, it would only weaken Māori services and deplete support for Māori staff through the Roopū team (Hollis, 2006 p. 36).

Voluntary Māori staff

Throughout the decades there has been a reliance on volunteer staff to fill holes in the state machinery. MAU (1985) reported the volunteers, mainly Māori women who desired to help alleviate the plight of the Māori families, and who were relied on by DSW, had been 'exploited by the Department of Social Welfare and other government agencies', requiring them to assist paid staff (e.g., assisting in court, Mātua Whāngai, working with at risk children). They noted how the volunteers were not given the resources they urgently needed at times to effectively carry out these extra responsibilities. In many instances the volunteers had to use their own limited resources to give immediate relief to families in dire need. Consequently, volunteers found themselves financially, physically and mentally

> "There was a time, if you saw two Māori people in an office, 'Oh, it's a Māori unit'. And, if you saw two in a street, 'well it's a gang' It was that type of thinking."
>
> **Harry Walker, Māori public servant**

drained (MAU, 1985, p. 18).

The Mason report (1988) cites a hui at Rehua Marae, where Māori expressed concern that cultural knowledge, skills and experience were not valued.

> There needs to be a change in the prerequisite for working with people. There is no way you can convince me that a 19-year-old nurse has any more clues than these two (refers to kuia) who have raised their families and grandchildren and worked on a limited budget. There must be ways we should be looking at in facilitating their access and working there. These kingdoms they are hierarchically structured, and they are made to block people out. Our people for years have been working with our people and doing a great job, but of course they come under stress because they are under resourced, and they are doing it for nothing. I am sure with people like this there must be ways we can make them feel more welcome in Sunnyside (Mason, Ryan & Bennett, 1988, Speaker at hui Rehua Marae, p. 166).

The literature indicates that while the State Care sector was heavily reliant on voluntary staff, the sector also marginalised, exploited and undervalued the work of volunteers. It is apparent that many volunteers within local communities were Māori who wanted to make a difference for Māori children.

Training to work for the state

Appropriate training of staff working within the welfare sector has been identified as an issue since the first social workers were employed in the 1950's. The first recognised social work training programme began in 1949-1950 with the introduction of the Post Graduate Diploma in Social Science offered through Victoria University in Wellington. In 1976, Massey University and University of Canterbury also established social work programmes.

The 1960s-1970s was a time of rapid growth for the profession of social work (Garlick, 2012). The New Zealand Association of Social Workers was founded in 1964 and joined the International Federation of Social Workers in the same year (Beddoe & Randal, 1994). At the time statutory and non-government workers were starting to identify themselves as social workers (e.g., child welfare officers, visiting teachers and probation officers), however, it was clear very few had formal training in the field (Nash, 2001). The development of professional social work practice was bolstered by an unprecedented emphasis on training, particularly following the creation of the Social Work Training Council (SWTC) in 1973.

In the 1960s and 70s, Tiromoana and Taranaki House social work residential training institutions were established by the Education Department, Child Welfare Division to meet a gap in social work training in the country. Mr Austin, Director at Tiromoana, gathered statistics in his position as director, as a member of the SWTC, and as Chief Advisory Social Worker of the Department of Health. According to his 1965 report: 'Recruitment and Retention of Social Welfare Staff', the statutory departments employed 291 field officers, and had 40 vacancies. Only 26 staff had a certificate of Qualification in Social Work, with or without a degree (Austin, 1965).

In 1967, McGregor, estimated that 16% of social workers employed by government agencies had a Dip. Soc. Sci. (VUW) or equivalent while 24% would probably have been through the course at Tiromoana (McGregor, 1967, p. 21). Austin & Buxton (1969)

reported that, including those holding administrative appointments, there were about 700 social workers in statutory services and local bodies (hospitals and education boards). Of those approximately 15% held a professional qualification. Possibly a further 45% had attended professional courses at Tiromoana or other short courses, additionally, others held university degrees, not always in social sciences (Austin & Buxton, 1969 p. 5).

In 1975, the DSW extended its in-house training: in addition to the residential training centre at Kohitere, they assumed control of the Tiromoana Social Work Training Centre from the State Services Commission. While between 1972 and 1975, the number of social workers increased by nearly one-third, the additional staff were primarily directed towards areas of understaffing, or to manage core statutory responsibilities under the new Act (Nash, 2001, p. 93).

It appears that while Māori may have been recruited into the service, they were not able to access the training at the same levels of Pākehā. While the literature suggests Māori were targeted for recruitment, they were often underqualified (Hollis, 2006). Given qualifications were used to recruit into leadership positions within the sector, limited access to training served to further marginalise Māori within the system. Māori were over-represented in clerical, voluntary and caregiver positions ensuring they had little to no authority or ability to influence from within the system.

Cultural training for non-Māori professionals in the sector

In their review of training, WARAG (1984) noted none of the internal courses related specifically to racism and none of the course outlines mentioned racism. In external formal training centres like Taranaki House, around half the course descriptions noted the issue of racism (WARAG, 1984). The regional supervisor training had only recently been amended to include modules on social work and racism, as well as communication and cultural systems. The WARAG report noted the institutional racism evident in training:

- All staff trainers in training institutions are Pākehā.
- The venues for staff training reflect Pākehā values (seating, food, environment).
- Programmes of training are formulated and conducted by Pākehā.
- Focus is often on a student/teacher relationship rather than collective sharing.
- Māori and Pacific staff are expected to conform to Pākehā styles of teaching and learning e.g., Māori participants at a course on Community Development at Tiromoana were not welcomed in Māori, there was little or no reference to issues of racism, and they were not included in the process of planning the course (WARAG, 1984, p. 32).

Puao-te-Ata-Tū made two specific recommendations dedicated to staff and training not only for Māori staff, but also front-line non-Māori staff who lacked 'awareness of Maori culture and New Zealand history' (MAC and Rangihau, 1986, p. 22). The tenth recommendation of Puao-te-Ata-Tū, concerned staff training, acknowledging that the DSW needed to take urgent steps to improve training performance in all areas of work. The committee recommended the DSW, in consultation with the Department of Māori Affairs, should identify suitable people to institute training programmes to provide a Māori perspective for training directly related to the needs of the Māori people (MAC and Rangihau, 1986, p. 40). Further, they recommended a review of tertiary social work courses which they found did not meet the cultural needs of the DSW.

A comprehensive report 'Training for newly appointed social workers in residential care' (July 1982) addressed the selection and training of new residential social workers (Parker, 2006). However, the recommendations made to DSW Head Office did not include the issue of racism. Furthermore, the 'cross cultural issue' is referred to in only one of the 10 proposed training modules. Indeed, the

> "We would be the cultural trainers. The Māori staff, you carry your own job and then you were the ones that were asked to do this on top of our job. It wasn't formal cultural training. We were just sitting in training where we might be and then we end up giving advice from a cultural perspective … often our colleagues would come along and come and ask us something. We go to give an answer, but they never actually stopped to listen to the whole answer, they think they've got it in the first few words and off they go."
>
> **Te Inupo Farrar, Māori Mātua Whāngai and DSW social worker**

training research literature, not only overlooks the importance of training Māori, but also omits references to Māori social worker training and to Māori as trainers for non-Māori professionals.

The lack of training for non-Māori staff within the sector not only placed the onerous task of upskilling colleagues on to existing Māori staff, but it also ensured that institutional racism, as noted in the 1980s reviews, continued unchecked and unchallenged. Additionally, the HRC (1992) reported that DSW staff had not received any training relating to the issues raised in the Puao-te-Ata-Tū report (p. 168).

Marginalisation of Māori within training programmes

There are varying accounts regarding the nature of the cultural content within training programmes (Staniforth, 2015; Nash, 1999). However, at best, it is apparent that the curriculum post Puao-te-Ata-Tū was designed to expose Pākehā to Te Tiriti and te ao Māori, rather than support and extend the professional learning and development of Māori Welfare Officers/Social Workers. Staniforth (2015) investigated historical and participant recollections of the training experiences at Tiromoana and Taranaki House and found the content related to te ao Māori or a Māori worldview was limited, particularly in the early years. Her findings reiterated Nash's PhD thesis (1999). In an interview with Tom Austin, the Director of Tirimoana, Nash asked about Māori content in the early years of Tiromoana. Austin recounted, 'that they always tried to have at least one or two Māori Welfare Officers in each course, but it was very much a Pākehā oriented programme' (Nash, 1999 p. 223).

Staniforth (2015) reported that in the late 1970s, training programmes began to explore racism and started to develop bicultural awareness. Māori trainers were recruited to run these sessions. In her analysis Stainforth reflects that 'for many of the Pākehā participants, this appeared to be both a confronting and sometimes painful experience, but also a very valuable one' (p. 224). Staniforth's focus was on the Pākehā experience of learning about the Treaty with no mention of how marginalised Māori might have felt being part of these training programmes, particularly when some of the Pākehā staff took offence to the content and walked out of the room (p. 224).

In the mid-1980s, Nicola Atwool became the Director of Tiromoana House until it closed in 1988. This was around the time of Puao-te-Ata-Tū. She notes how the report had an impact on the training programmes, shifting to include bicultural content, establishing a Māori caucus and the inclusion of kaumātua, such as, Titewhai Harawira (Staniforth, 2015).

Judge Brown's Ministerial Review of the DSW (2000) expressed concerns about the professionalism of social workers in terms of the issues of training, qualification, and supervision. He noted that in 1988 the Government responded to the Mason Review and made the statement that 'by the year 2000, 90% of social work staff (would) have a professional [CQSW or level B] qualification, with an endorsement to indicate competence in CYP Service social work practice'.[74] Jenny Shipley, as Minister of Social Welfare, stated in the introduction: 'The total upskilling of the New Zealand Children and Young Persons Service to be undertaken over the next few years will provide the impetus for higher quality service' (Brown, 2000).

Brown (2000) noted the fact that only 44% of front line staff and only 55% of new recruits have a B level social work qualification was 'a sad indictment of the 1990s'. In its submission, CYF openly acknowledges the difficulties of recruitment, especially to outlying sites due to the low pay scales, and the complex and stressful nature of the work (Brown, 2000). Concern about this state of affairs was expressed in many of the submissions, as shown in this example:

> "An inadequately trained professional is if anything worse than an amateur, because of the power invested in their professional status" (Quote from a stakeholder in the Brown Report, 2000).

For decades Māori community and stakeholders in the system have asked for qualifications to be interpreted broadly. Life experience, fluency in te reo Māori and ability to relate to another cultural group should be accepted as qualifications for certain positions and be recognised in classification, salary and pay grading. However, the lack of recognition of cultural and community capability resulted in Māori skills being used by the system without remuneration. In addition, the preference to train Pākehā and exclude Māori as well as failing to provide training for non-Māori to raise awareness of racism, biculturalism, and Māori preferences and practices, meant that DSW training perpetuated racism within the system for at least 40 years. Furthermore, this continues to be an issue. The Grassroots Voices report highlighted the challenges for Māori practitioners to be resourced for training towards qualifications and professional registration (NZCCSS, 2009).

There is evidence of under-provision of appropriate training for Māori across the State Care sector. The Mason Report identified the lack of trained Māori professionals in the psychiatric sector as a concern, as was the absence of any significant Māori input into training programmes or other issues which clearly warranted a Māori perspective (Mason et al., 1988, p. 165). In addition, ongoing appropriate in-service training was lacking for Māori, and in 1985, it was noted that appropriate cultural supervision was not a reality for Māori social workers (Mataira, 1985). Even with the later establishment of Māori for Māori (Roopū) teams within CYPS, there were little, or no resources provided for Māori supervision or leadership to keep these Roopū teams supported and thriving (Love, 2002, & O'Donoghue, 2003). This lack of kaupapa Māori supervision and leadership is a continuing deficiency in social services (O'Donoghue, 2003), that limits the development of Māori social work and critical Māori programmes in care and protection (Hollis-English, 2012).

> "Where we thought we could (help) people was in the enlightened people, the 70% odd of the staff, who went according to which way the wind blew, and so we built all of our cultural capability into them, but the moment Ann Hercus resigned, they just flipped back to their default position."
>
> **Doug Hauraki, Māori senior public servant**

[74] The government's response to the Report of the Ministerial Review Team 1992

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“I had to learn these concepts; you know this person-centered counseling. I said ‘well how the hell you do that if his family is over there’ … And they said, ‘we won’t have that tone in here thank you very much’.”

– Daniel Mataki, Māori family home parent

> "For Māori staff … I think it was pretty tough … the department had run its own training, it started to pull back on that. I think the impact on them (Māori staff) was burn out. It was exhausting. They had to deal with this huge mass of people who needed support. People got very tired. I think for Māori staff, it's worse because they've got a double accountability, especially if they're working in their own rohe."
>
> **Non-Māori senior social worker**

Working within the resources distributed by the state

There is significant literature documenting the under resourcing of the State Care sector by the Crown throughout the research period (Garlick, 2012; Mason et al., 1988). In particular, there are a range of inquiries into psychiatric care between the 1970s and 1990s that identify 'critical short-staffing' as having a significant impact on the level of care provided to patients within institutions (Mason et al., 1988; Diesfeld, 2012). Within an under-resourced sector, the lack of bicultural capability and capacity is a serious issue that has been demonstrated in multiple studies over several decades (Garlick, 2012; Mason et al., 1988; Brown, 2000; HRC, 1992; Sutherland, 2020).

The 1990 Public Finance Act triggered an era of significant fiscal constraints for the DSW. From 1991 to 1994, there was a 50% increase in child abuse notifications which was astoundingly accompanied by a 10% reduction in the DSW budget (Garlick, 2012). The first General Manager of CYPS, Robyn Wilson, was noted as saying:

> Funding is so tied to the Act. I'll say this, and I don't know that anyone will believe it, but I swear to you it's true; that the Treasury actually suggested to us, because we couldn't manage our budget, that we should actually do fewer child abuse investigations … that's just unbelievable (Dalley, 1998a, p. 361).

The lack of Māori capacity within the system has meant Māori staff have often had unrealistic expectations placed upon them. An example was described in the 1988 Mason report into psychiatric services. The Wellington Hospital board has appointed a Māori Health Coordinator. One of her duties is to develop bicultural service in the region administered by the board, this is an enormous task which, without further support, appears impossible (Mason et al., 1998, p. 168). These constraints fed by under-resourcing within the care sector, has resulted in a serious detrimental impact for Māori staff rippling through the sector.

Judge Brown (2000) led The Ministerial Review of the Department of Child, Youth and Family and found that staff workload and capacity had been a continuous issue for the sector for three decades. Brown noted that complaints by staff most commonly concerned:

- A perception of a service seriously under resourced.
- A demoralised workforce.
- Variation in skill levels.
- Disproportionately inexperienced staff.
- Inadequately supervised and supported staff.
- Serious difficulties with both recruitment and retention of social workers.
  (Brown, 2000, p. 24)

> "I survived because I loved young people, loved children and loved people. I just treated them as if they were mine. I believed in who I was as a Māori woman and where I came from, it was my strength. I walked in both worlds."
>
> **Te Inupo Farrar, Māori Mātua Whāngai and DSW social worker**

Further, Brown (2000) mentioned that staff, from many regions, reported they were incapable of handling the workloads in a professional manner and resulting in reactive crisis driven social work and a frontline staff which may at times be exposed to elements of 'professional dangerousness' (Brown, 2000, p. 25). High workload, stress and under-resourcing resulted in high staff turnover in the State Care sector.

The Human Rights Commission study into children and young people in out of family care (1992) found that underfunding was the single biggest issue; often funding was insufficient to run the children's home or vehicles. The funding was confirmed as being 'inadequate for meeting the needs of the supervisors for the children to be fed and clothed and to finance programmes' (p. 96). Furthermore, Māori interviewed for the report spoke of a funding discrepancy between Māori and Pākehā groups.

"If you're Pākehā and a Christian you'll get funding, anything that is Māori will get nothing" (Māori participant cited in HRC, 1992, p. 89).

While Māori and iwi providers saw Puao-te-Ata-Tū as a potential pathway to actualisation of Tino-rangatiratanga aspirations, the new system was subsumed by managerialism, and international welfare developments and trends (Tauri, 2009). Moyle (2013) found the lack of Māori practitioners in social services limited the growth of essential Māori initiatives, programmes and culturally progressive working environments (Moyle, 2013 p. 20). In addition, the economic reforms of the late 1980s and 1990s led to the budget for care and protection being significantly decreased (Levine, 2000; Waldergrave & Coy, 2005; Connolly, 2006).

The economic reforms, and resistance to pro-Māori initiatives, starved iwi social services, Māori social workers and family group conferencing of the potential to fully develop (Sorrenson, 1996; Love, 2002 & Pakura, 2003). The consequential failure of Māori initiatives shifted the financial burden for care of children from the state to whānau, magnifying the distress experienced by already depleted whānau (Cram, 2011; Stanley & de Froideville, 2020).

Working in policies and programmes designed by the state

Policy development in Aotearoa New Zealand as discussed in previous sections of this report, has been based on the drive to assimilate Māori, thus, increasing Māori dependency on the system (Hill, 2009). This top-down approach evident between 1950 and 1999, has had significant impacts on the Māori staff who worked in the public sector. Acknowledging the lack of latitude provided for Māori staff to influence policy, hearing their voice in policy development and implementation, is paramount to understanding their experience of working in the public sector during this time period.

In 1977, Duncan MacIntyre, the Minister of Māori Affairs, authorised the State Services Commission (SSC) to conduct a survey of the Department of Māori Affairs. The survey, conducted by Deputy State Services Commissioner, Kara Puketapu, found the department's Welfare Division embodied a 'paternalistic centralised bureaucracy' removed from its clients' 'cultural and developmental needs'. He recommended the development of policies promoting 'greater community participation and autonomy' (Hill, 2009, p. 198). Even after Puketapu was appointed as Secretary of Māori Affairs in 1977, the SSC struggled to grapple with the movement from assimilationist policies toward tino rangatiratanga (Workman, 2017).

MAU (1986) reported that the DSW had deliberately excluded Māori from participating in policy development and decision-making by privileging educational qualifications. They stated, 'Māori participation in policy and decision-making has been almost non-existent, another bureaucratic characteristic being the emphasis on technical qualification as a criterion for entry level into the organisation, this disqualifying most Māori people' (p. 11). This was exemplified by the selection panel requirements for the working group reviewing the Children and Young Persons Act. Māori were not selected as working party members but were invited as consultants, despite the fact that the major group affected by the Act comprised of Māori young people. MAU proclaimed that this must not continue. 'Maori input has been non-existent as Māori have had to conform and fit into the system' (MAU, 1986, p. 16).

Although some mechanisms to consult with Māori staff and practitioners were in place, they did not include the sign off of policy development (WARAG, 1985). Historically, the political discourse resulted in confusion amongst Māori and government agencies, inferring that policy-making, for and on behalf of Māori, was assumed by the crown (Bean, 2018).

Perhaps this is best evidenced in Te Punga (1994), the DSW's response to Puao-te-Ata-Tū. Te Punga intended to operationalise Puao-te-Ata-Tū, however for many it was confirmation that the 'light of dawn in terms of what had been envisaged by Māori would never really reach whānau, hapū and iwi' (Taki, 1996; Bradley, 1995). The Human Rights Commission (1992) found that while 'it was the intention of the Act to empower whānau, hapū and iwi, Department policies worked instead to disempower them' (p. 167). Further, there was a concern that every DSW office had autonomous power to use or ignore Puao-te-Ata-Tū, so each office was left to decide the extent to which the recommendations would inform office practice (HRC, 1992, p. 168). Sorrenson (1996) found that structural reform and policy confusion within the CYPF were pivotal to disadvantaging Māori.

Since the release of Puao-te-Ata-Tū , policies and practice have not addressed the dynamics of power, rather the attempts of change in the name of partnership or biculturalism appear to have preserved the ultimate power of Pākehā (Sorrenson, 1996, p. 114). Top-down policy development permits state appropriation of Māori cultural practice to support Eurocentric policy construction (Moyle, n.d.a). It also empowers policymakers and academics to absolve themselves of responsibility for ineffective and inappropriate policies and interventions (Moyle & Tauri, 2016). Indeed, research indicates that the lack of consultation with Māori social workers continues on proposed policy or legislation changes and how these might specifically impact upon practice and outcomes for whānau (Moyle, 2013).

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“I actually think that I prefer policy being formed as a result of practice.”

– Harry Walker, Māori public servant

> "We ran anti-racism workshops. We got banned from the Department of Social Welfare office in Christchurch. Some of the staff down there invited us, so we went down to the Christchurch office. Spent a week training down there. And, on the Friday when we're leaving the guy who actually banned us was in the lift. He didn't know we were in his office for a week."
>
> **Harry Walker, Māori public servant**

The Family Group Conference

The Family Group Conference (FGC) was formalised as an official and legal process in the 1989 CYPF Act. It was inspired by the whānau hui, a traditional problem-solving method, family decision-making, for Māori (Love, 2000). The practice that informed the design of the FGC emerged in 1986 from the Lower Hutt District Office, working with the Māori Development Unit of the Head Office, alongside other regionally Māori whānau based models (Walker, 2021).

> For the very offices that had introduced whānau/family decision-making into their practice from 1986, the transition in 1989 was reasonably seamless and welcome, as the paradigm shift had already happened. However, for the majority of offices where the paradigm shift had not occurred, they were starting from a paradigm that was pathologically focussed (Walker, 2021).

The original 'family decision-making model' morphed considerably into what was adopted as the Family Group Conference. The vision for the FGC process was that 'the state would stand aside, and family, whānau, and where invited, hapū, iwi and family groups, would be given responsibility and power to make decisions' (in the first instance), supported by professional advice (Becroft, 2017). FGCs were an attempt to be culturally appropriate for Māori in emulating a whānau hui (extended family meeting) model in which whānau meet collectively to hear the concerns of the state. However, most often whānau felt forced, rather than invited, to the hui as they feared their children would be taken (Moyle, n.d.b).

Becroft (2017) found that FGC practices were inconsistent, resourcing was generally inadequate, there was insufficient whānau and wider family present and insufficient consideration to identifying and inviting hapū and iwi to attend. In addition, Moyle found the FGC was being used to forward the social workers' agenda, as social workers often cultivated a predetermined outcome for whānau (Moyle, 2013). Several Māori researchers found the FGC process to be an attempt by the state to Indigenise childcare and protection and youth justice through the co-option of Māori cultural practices (Love, 2002; Moyle, 2013; Tauri, 1998; Walker, 2000). The issues included:

- A lack of cultural responsiveness and capability, by non-Māori professionals which created barriers for whānau to attain positive outcomes (Moyle, 2014; Rimene, 1994).
- Discretionary powers were being used by practitioners to vet whānau decisions (Rimene, 1994).
- FGCs were poorly arranged because practitioners were unable to network with whānau (Rimene, 1994).
- Although whānau were involved, they had no

control over the process (Rimene, 1994).

- Non-Māori practitioners manipulated the process and the outcome to reflect their perceptions of the best interests of the child (Rimene, 1994; Moyle, 2014).
- Māori were referred to FGC without first exploring lesser interventions (Moyle, 2013).
- The FGC process was used as a way to formalise an ongoing role for the state in monitoring whānau (Moyle, 2014).
- The FGC was culturally inappropriate and disempowering as 'enforcement based' rather than strengths- based' (Moyle, 2014).

The issues for whānau around FGCs largely stem from insufficient resourcing, as well as lack of culturally competent practice and self-determination for Māori (Moyle, 2013). Further, assessment and intervention programmes stemming from FGCs were often imported and inappropriate for Māori. Risk assessment tools, such as the Manitoba Risk Estimation System, were introduced to assess potential risk not actual risk and were used as justification for uplifting Māori children (Moyle n.d.a). Several researchers describe instances where tools/programmes were renamed with a Māori name to the make the tool more culturally marketable to Māori practitioners and participants (Moyle, 2013).

Marginalisation of kaupapa Māori research and programmes

Māori social work practices were further constrained by the lack of investment in Māori specific research and the privileging of Eurocentric 'evidenced-based' practice and policy development. Moyle (2013) found the most concerning challenge Māori practitioners experience in care and protection was the lack of research on the topic (Moyle, 2013). Recently, Came and colleagues (2019) claimed there is a distrust of Māori and Pacific evidence and expertise which is kind of how the cultural racism plays out. Racism arises from the privileging of biomedical Western evidence over Indigenous knowledge. There are numerous examples in research literature which describe Māori responses within the State Care sector as insufficiently funded to build an evidence base to support sustainability and continued practice (Carr & Peters, 1997; Love, 2002; Libesman, 2004; HRC, 1992).

This omission in research extends to policy formation and development. Moewaka Barnes (2009) asserts that government institutions (including science as an epistemological practice) are not culturally neutral in their appraisal of evidence in the formation of policy. There is substantial evidence that demonstrates Māori research was excluded from policy making decisions within the sector for the period of 1950-1999 (MAU, 1988; WARAG, 1985). The experiences of many of the world's Indigenous peoples can attest to the devastating and dehumanising impact

> "There were attempts to influence the FGC, we were reasonably successful, one of the important parts of the legislation was that private family time, we got that in it. But, what we didn't want was the power of veto to be left with the social worker. That's what's still with the state. So, while the private family time was a part where people could exercise their own power ... the power of veto rested with the social worker."
>
> **Harry Walker, Māori public servant**

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“For us, it was this new way of working was recognising that families had the ability to make decisions and keep children safe.”

– Harry Walker, Māori public servant

seemingly 'objective' researchers have had on their traditional cultures (see Bishop & Glynn, 2003; Cram, 2001; Smith, 1999; Spoonley, 1993).

It is evident that when whānau were engaged in research, they were very suspicious of research by the state. The Human Rights Commission (1992) found that whānau were highly critical of ongoing research without seeing any changes in the Department of Social Welfare. Further, their report noted that many of the 'programmes or therapies' that Māori children in out of family care placements experienced were not Māori, rather it was assumed that they would be appropriate, there were no guidelines or expectations about what was considered culturally appropriate (HRC 1992).

The lack of support to build research evidence in the State Care sector 'by Māori for Māori' has had detrimental impacts in terms of the opportunities for Māori staff and the experiences of Māori in the system.

The experiences of Māori staff working in the State Care sector

Analysis of staff data for the research period indicates that Māori wanted to work in the State Care sector with whānau, in their own communities (SSC, 1989). The HRC (1992) reported that many Māori went to work with DSW because they wanted to try to help make it work better for Māori people, however, jobs and policies were set up to entice Māori away from their original goal of helping their people (p. 169). Recent research into Māori working in the State Care sector demonstrates that Māori continue to work in the sector to try to make a difference for Māori in their communities. Haar (2019) gives examples of this through quotes from two Māori working in the State Care sector:

> "There is a thing for Māori and Pacific peoples here in the sector – we are here to do and make change for our communities. Many of our communities are dependent on these departments and people want to help their people" (2019, p. 18).

> "[The reason I like working here is] that I can affect great change for Māori within the public sector. I know what I am good at and enjoy the public-people interface. I really enjoy the challenge! I enjoy delivering for Māori and New Zealand as a whole. [This enjoyment has increased] because New Zealand has moved from 'grievance mode' to 'growth mode' for Māori" (2019, p. 18).

The most significant empirical research in the area of Māori staff experiences in the sector is found in research conducted by Māori practitioners and academics. Notably, Sorrenson, (1996), Hollis (2006), Hollis-English (2012) and Moyle, (2013) who investigated Māori social workers' and managers' experiences working in NGOs and government departments concerned with State Care. While much of this research was conducted outside the time frame within this review, the Māori social workers who were interviewed all referenced their experiences of the changes in the system with the introduction of Puao-te-Ata-Tū and the CYPF Act. The fact there is so little evidence about how Māori staff experienced the care sector prior to 1999 reflects the low value placed on Māori staff in the sector by the government, as well as the lack of empowerment of Māori to research and publish during this period. The Māori Advisory Unit report into DSW Māori staff in 1985 was one of the very few exceptions.

This section examined the evidence relating to the experiences of Māori social workers working in the State Care sector.

The impact of marginalisation of Māori in the workforce

Evidence in the previous sections demonstrated how Māori have been marginalised in the State Care sector workforce since its establishment.

An example of how marginalisation plays out and impacts staff is presented in a communication

between Māori staff in senior management positions and J. W. Grant, the Chief Executive of the DSW, in 1989. Māori staff at the head office wrote to the Executive Management Group expressing their concerns over the lack of progress implementing Puao-te-Ata-Tū. Eighteen senior Māori staff signed the letter which stated:

> The organisational environment has been such that Māori perspective has had only a limited part to play in the political organisational and structural agenda of the department. The ease with which Māori opinion can be ignored is a particular source of dissatisfaction for Māori staff (Letter to Executive Management Group, 28 March 1989).

They noted eight specific concerns which included:

- imbalance of numbers of Māori and Pākehā staff in Head Office, Regional District Office that needed to be addressed and;
- the knowledge that a number of Māori managers in the department who had sought promotion had been unsuccessful (Letter to Executive Management Group, 28 March 1989).

The letter suggested two recommendations for the Executive Management Group, which included specific responses to the eight issues identified. The Chief Executive Officer, responded the day after with a letter, expressing his disappointment stating, 'I for sure shall not be discouraged by your challenge, and that … I am not going to fight Māori staff whose eyes should be with mine on the horizon and not at our feet (Letter from J. W. Grant, 29 March 1989).

This written interaction is one of many cited by researchers, and described in interviews with Māori staff, demonstrating how Māori staff have raised concerns over the years only to be dismissed by senior management. The impact of such marginalisation within the DSW was the near impossibility to drive change from within.

> "I was very, very isolated (as a social worker) except for the fact that I had this beautiful kaumātua group around me. People often said, 'Oh, why did you stay in the department for 37 years?' Well, when kaumātua tell you that this is my upbringing, you have to stay there, and that's actually what happened."
>
> **Te Inupo Farrar, Māori Mātua Whāngai and DSW social worker**

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“We called a Māori staff meeting and we invited the Director General to come, he came, did his thing and then went. After he went, a lot of our thoughts started to crystallize, and we wrote a letter to him, thanking him for taking the time, but just pointing out that in that short visit, these four, five things were what we wanted to raise, this is the challenge about Puao-te-Ata-Tū. There were only about three or four of us who signed that letter. The rest of the Māori staff wouldn't. So, for me, that was bullshit.”

– Doug Hauraki, Māori senior public servant

Lower Hutt Māori units 1990

The othering of Māori staff during this period is further highlighted in a high-profile media interaction between the Social Welfare Minister, Dr Cullen; the Chief Executive, J.W. Grant; and senior Māori staff. In July 1990, a draft report which suggested a separate Māori social work unit and job tagging for Māori staff in the Lower Hutt Office was leaked to media. The Dominion Sunday Times printed the text of the draft report about 'tagging' Māori vacancies for Māori people to rectify the clear imbalance between the staff composition and the client population (Raea, 1990). Subsequently, 14 newspapers across Aotearoa New Zealand printed stories describing the units as privileging treatment, operating a colour bar, and separatist racial policies (Department of Psychology, University of Waikato, 1990, p. 4). In newspaper articles Dr Cullen is quoted stating,

> Racial favouritism for social worker positions within the Social Welfare Department would not be tolerated and I do not agree with separate units of that sort. A social work unit directed towards culturalism which is not the same thing as a liberal version of apartheid, which is what things will amount to if we continue down this separatist path.

(Cited in Department of Psychology, 1990, p. 14).

In an analysis of the media representation, at a departmental seminar at Waikato University, the psychology department noted the use of separation. They describe this as casting an uneccessary and destructive challenge to the standard reading of racial history, a Pākehā understanding, that we are all (uniformally and primarily) citizens of one country, (and this) minimised the importance of cultural differences. They note the editorial comments about divisiveness and how the Dominion and other papers exemplified the process of separatism and compared this with their analysis that,

> There is a great deal of evidence that our colonial processes are not working, especially not for Māori. The inadequancy of subsuming such diverse skills as language, cultural competence, commitment to Māoritanga etc. under the wishy-washy nation of cultural sensitivity is like saying doctors will be more human if we just improve their communication skills (Department of Psychology, University of Waikato, 1990, p. 16).

The media interaction is an example of how despite attempts to implement and design responses for Māori, staff were often hamstrung by political resistance. The analysis by the Department of Psychology at Waikato University noted that:

> None of the media responses addressed key aspects of Puao-te-Ata-Tū, that the Pākehā ways of running the department and the (predominantly Pākehā) staff do not work effectively for a significant group of legitimate recipients…. It is likely that an important reason for such failure is that the Pākehā staff and institutions are interacting with clients in terms of Pākehā common sense. Māori workers in the settings are constantly being socialised to respond in the same way unless they work in a kaupapa Māori context, this is a self-sustaining cycle of interpretation and interaction (Department of Psychology, University of Waikato, 1990, p. 13).

There is evidence of separatist language used when Māori attempt to implement change in the Department in numerous documents, under the guise of bi-culturalism.

These examples demonstrate how the lack of Māori within organisations like the Department of Social Welfare left Māori practitioners exposed to institutional isolation and rendering them vulnerable to both the organisation and the community (Moyle, 2013, p. 20). The lack of Māori within the DSW, and the workforce distribution of Māori through 'pepper potting', left Māori vulnerable and unable to make change within their own workplaces.

Came et al. (2019) investigated how Māori leaders in health services experience marginalisation. Participants in their research described how their knowledge and interests were devalued and they experienced racism and tokenistic engagement.

Some indicated it took considerable effort to establish credibility, be heard, have impact, and navigate advisory meetings, but even then, their inputs were marginalised. Marginalisation in the workforce limits the ability of Māori leaders to influence and make changes within the organisation.

Moyle (2013) noted the lack of Māori practitioners brings with it a plethora of other challenges such as the competition between agencies to employ Māori staff. The impact of marginalisation in the workforce is described in the literature as Māori staff having to leave their 'Māoriness' at home, experiencing burnout, with the additional expectation that they will support and enculturate non-Māori staff within the sector. In addition, there have never been enough Māori social workers to match the over-representation of whānau Māori in the system (Hollis-English, 2012).

Māori staff had to leave their 'Māoriness' at home

For the entire period of this research Māori staff have worked in an environment that was riddled with institutional racism. This was first acknowledged in the 1980s by the MAU and WARAG reports, and again recently by Grainne Moss in her statement to the Royal Commission of Inquiry (Waitangi Tribunal, 2020).

In the 1980s the Māori Advisory Unit, described how Māori staff members talked about leaving their 'Māoriness at home when they went to work', returning at the end of the day to put it back on. The MAU stated, 'being Māori should be considered an asset, not a hindrance to one's work and opportunities within the Department' (MAU, 1985, p. 13). Conversely, Māori staff were often used to provide advice on Māoritanga however, their knowledge, skill and ability went unrecognised and unrewarded. The report argued that such knowledge and experience should be considered a specialist qualification.

The Māori Advisory Unit noted particular strains were placed on Māori staff members because they were Māori (1985, p. 17). They experienced feelings of conflict because their attitude towards clients was judged as being 'not professional', one of 'over involvement', or 'too personal', observing that Māori staff could not disguise their concern for people who looked to them for assistance. The advisors noted:

> The only alternative for Māori staff was 'to fit into the system' and forsake their 'Māoriness', thereby hopefully reducing their strains, eliminating 'feelings' of conflict within themselves and those real feelings of isolation because they are Māori and have a different approach to clients (MAU, 1985, p. 17).

"The shit hit the fan when somebody in another office complained about what was going on (Māori units), the newspaper got it … I'll just say one of the things I was most proud about was the controversy took the Saddam Hussein's invasion of Kuwait off the front page of The Evening Post. This kind of attack on a squinky little bloody Māori unit … talking about soft apartheid."

Harry Walker, Māori public servant

Māori staff worked with dual expectations

Document analysis from the research period demonstrates Māori public servants have had to manage the dual expectations of the Māori community and the public sector. In many cases Māori public servants, although they are not responsible, nor have the power, are the ones who 'front up', and would feel the brunt of Māori dissatisfaction with government (Hollis-English, 2015). Hollis-English (2015) observes that this may be a legacy from the previous Māori Affairs regimes of Tu Tangata and the Kōkiri process, whereby 'fronting up' to the Māori community is embedded as part of the sector approach. Moyle (2013) asserts:

> 'Having to battle a system from within' is a role that consumes enormous energy and can limit vision. It can leave the social worker vulnerable to both the organisation and the community. This position leaves Māori workers exposed to being individually demonised and labelled by institutional representatives as incompetent or unprofessional if we do not conform to institutional mores (Moyle, 2013, p. 6).

The Human Rights Commission (1992) report on 'out of family care' noted, that 'Māori were very concerned about the effects that Crown management had on Māori people working in Crown agencies' (p. 117).

Boston and Gill, (2011) argue the critical observation is that 'Māori public servants attended to both roles, as principals and stewards, and tried to do the best they could' (p. 237). Some found themselves walking in two worlds, negotiating governance arrangements that included both 'hard' factors, such as, structure, rules, processes, and mandate, and 'soft' factors, such as, people and relationships (p. 237). Love (2002) notes that unlike many of their non-Māori social work counterparts, Māori practitioners face the dual burden of professional and cultural expectations within the organisation as well as from the communities. Moyle (2013) describes this dual accountability as like 'walking the tightrope between two worldviews whilst at the same time managing their own personal and professional identity' (p. 4). There has no doubt been a personal toll on many Māori who have worked in the State Care sector, many may not have been able to meet expectations or were seen by either of the parties as not meeting their expectations.

Love (2002) reflected:

> One of the side effects of the co-option of Māori into the current statutory regime has been that many of the social activities of the 1970s and 1980s has become the social service providers of the new millennium ... Māori workers are employed for their Māori knowledge and standing but pressured into conforming to institutional mores that are in conflict with tikanga Māori. This is particularly problematic for workers who have come from iwi of Māori community practice, where the trust of their communities and their standing among these people are pivotal to their successful work (Love 2002, p. 30).

On the other hand, Māori workers perceived as conforming to the norms within statutory welfare systems, may be viewed by their whānau, hapū, iwi and communities; 'as brown faces doing the dirty work that was previously done by white social workers ... the challenge they face is being over-worked and yet undervalued or worse invisible' (Love, 2002, p. 32). This perception of Māori public servants is noted by researchers, practitioners and the government (Love, 2002; Moyle, 2013; SSC, 1998).

> "We weren't always popular because we were identified with the government. I've been told to, 'F off,' on a number of occasions. 'Stealing the land. You turn up with the car, ah Fuck off'. It's just the way it was, eh? And you said, 'Oh well, whatever. I'll come back bro when you're in a better mood'."
>
> **Harry Walker, Māori public servant**

In 1998, the State Services Commission acknowledged that Māori recruitment problems are linked to the perception that Māori joining the Public Service have 'sold out' (SSC, 1998, p. 3). Cribb's (2005) research found that public servants could be, or at least could be perceived to be, operating as principals with a monitoring focus and treated as agents of the state. It was the government that usually decided what work needed to be done with Māori, rather the contracted NGO. Some Māori working for NGOs felt like they ended up doing the work of the state, so becoming agents of the state (Hollis-English, 2015).

Māori staff experienced burn-out

Since the 1950s the State Care sector has been underfunded and operating in a state of crisis particularly through the 1970s, '80s and '90s. Staff were recorded as being so stretched they were constantly responding to crisis events (Garlick, 2012). The literature indicates this is more evident for Māori staff. Hollis-English (2012) refers to this as 'brown face burnout'. Brown face burnout has two important components; first it is about Māori social workers being over worked and generally unhappy about their workload, the second burnout is associated with their ethnicity, being Māori' (Hollis-English, 2012). Burnout and high turnover of Māori social workers further results in a drain of Māori knowledge within organisations (Connolly, 2006; Hollis-English, 2012; Pakura, 2005).

While the department introduced Roopū teams and other initiatives to support Māori staff, these were underfunded, and in some cases served to isolate Māori further. The findings support Moyle's contention that 'Māori social workers are undervalued and ill rewarded for their cultural and professional expertise and their contributions to social work in development of care and protection' (Moyle, 2013, p. 22).

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“You become isolated in your profession, because you're seen as a tokenistic complicit guy because you're guilty by association, by being in the organisation, by your own whānau. You're damned if you do, damned if you don't. That wasn't covered off, from a cultural safety point of view, by managers or any of them. They had no comprehension of that. They didn't understand complexities of why that was happening.”

– Shane Graham, Māori social worker

Māori staff worked in a context of tokenistic biculturalism

The call for biculturalism in government in the 1980s saw many agencies appropriate Māori cultural symbols and rituals, but in such a way that they did not impede on their core functions (Workman, 2012). Workman describes this period as when 'the 'dial-a-kaumātua' industry was born' (2017 p. 169). This was followed by the examination of their structural arrangements, staffing and human resource policies. Some departments committed to increasing the level of Māori staffing and Māori development. They also set out to enculturate Pākehā staff on Treaty issues and tikanga Māori, however, this was often left up to individual Māori staff within public service departments.

Māori staff are often referred to in the literature, as being in the unenviable position of being responsible for enculturating the system without the resources, capability or capacity required to make the expected change (Gardiner & Parata, 1998).

Several Māori researchers/practitioners have argued that many of those working in youth justice and child protection sectors lack the necessary working knowledge of Māori cultural perspectives to enable them to work as bicultural practitioners, despite being 'professionally approved' as culturally competent (Moyle, 2013, 2014; Love 2000; Rimene, 1994). Both Moyle and Hollis found that Māori social workers were often placed in a position where they had to educate their colleagues (Moyle, 2013, Hollis, 2006, Hollis-English, 2015). Hollis (2006) highlighted that it should not be the responsibility of Māori practitioners to compensate the lack of culturally competent practice in care and protection (Hollis, 2006). However, Māori social workers are often taking on the role of educating colleagues and are overworked as a result of the added responsibilities (Hollis-English, 2015).

In her study of seven Māori social workers, Moyle (2013) found that Māori practitioners were constantly having to compensate for the lack of bicultural capability in the care and protection system. They provided this support to their colleagues in addition to completing their own casework. Despite this extra responsibility, they felt undervalued. This lack of recognition and reward for their cultural and professional expertise takes its toll, which also goes unnoticed thus exacerbating the harm caused over time.

Hollis-English (2015) and Moyle (2013) discovered that Māori social workers found working with non-Māori colleagues a major challenge, particularly when non-Māori colleagues questioned the use of Māori processes, due to ignorance, disagreement or disapproval. For Māori practitioners everything they do begins and is underpinned by their values and beliefs (Moyle, 2013). Working within a sector that is institutionally racist means Māori staff are constantly at odds with the values and beliefs that are privileged and accepted as normal.

Māori staff choosing working outside state agencies

Māori social workers in government organisations lament the lack of organisational support for Māori practices (Hollis- English, 2015, p. 220). Hollis-English (2015) found Māori social workers working for the government gave very few positive comments about their employer and many mentioned the feeling of being under surveillance and being restricted by organisational policies.

Many significant developments for Māori social work have originated within NGOs because of their openness in allowing staff, particularly Māori staff, to be flexible and creative. NGOs which provide supplementary, complementary and primary services to the public under government contracts can be innovative and flexible, protect particular interests, promote voluntary citizen participation, and attend to needs which are not met by the government (Slack & Leung-Wai, 2007).

Hollis (2006) demonstrated how Māori social workers' experiences within non-government organisations varied. Some found working for a community-based organisation particularly difficult for Māori social workers, especially if their employer relied heavily

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“You just sort of, you just say, 'Well, I don't actually need that. I'm not going to be in a place which doesn't understand. It's not my job to educate everyone.' Surely, it's the system's job to do that.”

– Shane Graham, Māori social worker

on them to undertake the implementation of tīkanga in the workplace, whereas other organisations attempted to create culturally supportive atmospheres. Similar to government organisations, Māori social workers were concerned about Māori positions being disestablished. Furthermore, they felt that non-government organisations should be wary of becoming tokenistic in their implementation of tīkanga Māori (Hollis-English, 2015, p. 221).

In contrast, Hollis-English (2012) found that Māori social workers within Māori and iwi-based organisations reported predominantly positive workplace experiences. They described supportive environments that used Māori processes to guide their work including having access to cultural advisors, kaumātua and kuia (female elders). Additionally, the whānau had access to their knowledgebase and support, and it was common practice to use tīkanga through pōwhiri, poroporoaki and hui. Karakia and reo were also commonly being used in Māori organisations as well as other tools/concepts, such as: kanohi-ki-te-kanohi, whanaungatanga, tautoko and ā te wā. Their management was supportive and knowledgeable about te ao Māori and regular training in Māori models of practice were provided. When asked for suggestions of how Māori organisations could improve, their responses revolved around relationships and communication with other organisations. Māori social workers felt that better relationships would enhance the use of resources and improve the referral process for Māori whānau (Hollis-English, 2012, p. 164).

Boulton (2005) found that Māori health providers deliver services at the interface between two philosophical viewpoints or worldviews. Firstly, for the Māori community in which they are located and to whom they provide the services, and secondly for the funder from whom they obtain resources to enable them to deliver services. As a consequence of working at the interface, Māori providers regularly and routinely work outside the scope of their contracts to deliver mental health services which are aligned with those values and norms enshrined in Māori culture (p. ii).

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“I worked alongside one great Māori practitioner, he often became disheartened and traumatised with efforts to move his case work to whānau based. In the end he left, running an NGO, … that over the years has gone from strength to strength.”

– Pauline Tucker, non-Māori social worker/Raewyn Nordstrom, Māori social worker

Māori staff developed kaupapa social work practices

The introduction of Puao-te-Ata-Tū brought about significant changes for Māori social workers and contributed significantly to the development of Māori social work practices (Hollis, 2006). Māori practitioners have contributed a great deal to the development of Māori social work in Aotearoa New Zealand (Hollis-English, 2006; 2012). Several Māori practitioners and academics have specifically addressed the topic of Māori social work, describing how Māori social work practitioners have, despite resistance, established methods underpinned by Māori theories (Bradley, 1995; Connolly, 2001; Eketone, 2004; Ruwhiu, 2002, 1999; Walsh-Tapiata, 2003, 1997; Walker, 2001; Hollis-English, 2012; Moyle, 2013). Indigenous practitioners play an essential role in defining problems and developing solutions for indigenous communities (Hollis-English, 2012).

A variety of theoretical approaches influencing Māori social work practice have developed over the past 50 years (Hollis, 2006). 'Tikanga Māori such as whakawhanaungatanga, wairuatanga (spirituality) and aroha, all fundamental aspects of Māori social work methods, are vital to their relationship with clients and also their approach in the organisational environment' (Hollis, 2006, p. 86). Research identifies the lack of support for Māori social workers to develop specific cultural knowledge in order to continue critically integrating concepts of identity, theory and tikanga into practice (Moyle, 2013; Moyle, n.d.a). Hollis-English, (2012) maintains that investment in training would allow indigenous practitioners to work in culturally appropriate and informed ways with indigenous families, without the pressure to conform to non-indigenous theoretical discourse.

However, some Māori social workers implementing Māori models of practice experienced constraints. Hollis (2006) found that while Māori workers were permitted to use Māori processes and initiatives, it was only within the boundaries and protocols of the organisation and therefore, they were restricted in implementing practices based on tikanga (Hollis, 2006). Similarly, Moyle (2013) found that inclusion of Māori protocols within the family group conference (FGC) process was in many cases done in a tokenistic manner, and that much of the success of the FGC was dependent on the social worker's ability to engage with the family. This was particularly hard for Māori social workers as they were being asked to use some Māori methods of practice, but within a restricted environment (Hollis-English, 2012, p. 66).

Māori staff were resistant

In the 1970s and 1980s, Māori staff protests about the treatment and placement of Māori in the State Care sector became more evident (Sutherland, 2020). Māori staff gave evidence to the ACORD public inquiry on the treatment of children within residential homes (Sutherland, 2020, p. 93). Workman (2017) noted that Māori widely regarded government bureaucracy as culturally biased, and for Māori, working in the public service during this time, it was threatening and unpleasant. Internally, Māori public service staff were 'calling out' the public service for how they positioned Māori within the Crown agencies (Workman, 2017).

A good example of such 'calling out' is found in a speech entitled 'Cultural Imperialism and the Māori: The Role of the Public Servant' delivered by Donna Awatere, at a national hui at Waahi, chaired by Peter Boag (Deputy Chair of the SSC) on 'The Public Service in a Multicultural Society'. Awatere challenged cultural imperialism, arguing that 'Māoritanga has displayed extraordinary cultural resistance to imperialism' and that the basic interests of the Public Service and the Māori are diametrically opposed' (Awatere, 1982, p. 2). She asserts:

> The number of Māori who are willing to wear the legacy of spiritual courage and to go within the imperial stronghold, the public service and strike some blows for Māori sovereignty is small. The Service itself forces Māori people to live a schizoid existence. To hang our Māoriness outside the office door. To wait like pets for changes that don't come. Sneaking our Māori side in occasionally and holding our breath. But basically, forced to be content with the

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“We did things that weren't acceptable to the bureaucracy, but we did them … we wrote about how to put Puao-te-Ata-Tū into practice, so when excreta hit the fan, it was at a public hui down here at Waiwhetū, where all these booklets that we wrote were held up as the best things since sliced bread, but the bosses, the bureaucracy's response to that was, ‘Who the hell did this? Find out how many of these things are left?’ Then with with great gusto, we said, ‘Oh no, there's about 4,000 of these booklets. They're all over the country,’ … and then they turned out to be some of the best blooming practice booklets.”

– Doug Hauraki, Māori senior public servant

> magician's tricks, half believing that reform and change are not fallacious; illusions which make us feel we are the house pets we are (Awatere, 1982, p. 4).

She concludes:

> The harsh reality is that the Service forces us to crawl on our knees hobbling to the tunes of those who laugh and dance beside the opening grave of Māoritanga singing empty tunes of multiculturalism.
>
> The task ahead of the Public Service to pave the way for biculturalism require it to examine closely how the existing economic, political and social relationships support the powerful vested interests of those who benefit from white hegemony. This is a big job, one that requires an end to self-serving cross-eyed myopia which promotes multiculturalism dressed up in brown faces with a haka skirt mentality (Awatere, 1982, p. 4).

Concern about the issue of conflict between Māori and Pākehā dominated the discussion at Waahi, and a prevailing view developed that progress could not be made with the concerns of other cultural groups until government had dealt with the unfinished business between Māori and Pākehā (Workman, 2017). Agreement was reached within the public sector that multiculturalism would first be approached through what became known as the 'bicultural imperative', with public servants expected to develop bicultural awareness and sensitivity (Workman, 2017). Harris (2007) describes biculturalism as 'the magic stopper that would keep the racial tension genie in the bottle, but it too was problematic. Biculturalism required cultural effort from Pākehā – acceptance of Māoritanga – and it was probably unacceptable to many Pākehā' (p. 17). Evidence suggests biculturalism was never achieved across the Department of Social Welfare or CYPS (Sorrenson, 1996; Moyle, 2013; Love., 2002).

During our interviews, there were numerous instances where Māori staff described efforts to change or resist the actions of the state. Letters to Department of Social Welfare senior management throughout the 1980s and 1990s were cited which complained of inaction particularly following Puao-te-Ata-Tū, a lack of funding for Māori initiatives such as Mātua Whāngai and concerns that Māori initiatives were tokenistic and unsupported in regional offices. Being a 'squeaky wheel' in the machinery of government did not go without a personal cost. Several interviewees spoke about being made redundant, being reprimanded for whistle blowing, having to take time out due to personal stress and realising that they had compromised their career opportunities for being seen as disagreeable in relation to the intentions of the state.

> "What I realised was that the changes that I wanted were unlikely to happen in my lifetime, and it didn't matter. The fact that you've got the courage to carry on, that's all you can do … it doesn't matter if you fail because to me, at that time, the major impediment was ambition. If you're ambitious, you'd tell lies to get to where you need to be. So, if you're not ambitious, you can tell the truth and say to yourself, 'Well, suck up.' You could be ambitious or have integrity but not both, so that when I abandoned all ambition just to cope."
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> **Tā Kim Workman, Māori senior public servant**

> "We were constrained, if I can call it that, by the public service ... there was a public service code of conduct. It was forbidden for us to criticise another government department., I breached it … I'd call people racist within the department and gave examples of it. I'd speak openly with people ... then I get hauled up and so I'd say, 'Yes I did it'."
>
> **Harry Walker, Māori senior public servant**

Discussion and summary

This chapter described the challenges Māori staff have faced working for the state sector, particularly in welfare departments during the research period. The metaphor of a machine was used to provide a structure to demonstrate how the mechanisms of the state have led to the Māori staff experiences reported in research. At all levels of the machinery of government, from grassroots working with the community, to regional offices, to senior management positions, staff have felt, at the very least, compromised by the state machinery.

The mechanisms of the state have been noted in this chapter as being; the marginalisation of Māori staff, inequitable employment practices, lack of opportunities particularly leadership, and the instability of the constantly changing employment context. Māori staff, during the research period, were employed in institutions designed by the state, such as residential homes, special schools and psychiatric institutions. In these contexts, they were employed in roles defined by the state inherited from colonial structures and colonial understandings of the 'social welfare and the social worker'. These roles were monitored, endorsed and assessed through professional structures, such as the documenting of roles and professional association memberships. Māori were prepared for these roles by training organisations founded on colonial social welfare concepts. Once cultural training began in the 1970s, it tended to focus on exposing non-Māori social workers to cultural content rather than upskilling Māori staff.

Māori staff were expected to work for the state within a resource constrained environment, most often noted as being insufficient to particularly meet needs for Māori initiatives. Māori staff were tasked with implementing programmes that were designed by state. Valued programmes that emerged from Māori practice, such as family decision-making, were captured by the state and morphed into a legal process, like the Family Group Conference.

The impact of the machinery of the state, was that Māori staff had to leave their Māoriness at home and conform to the Pākehā hegemony within the workplace. Practitioners worked with dual expectations, the expectations of their own community, and those of the state, but often expected to privilege the desires of the state over their own community and relationships. Māori staff reporting 'brown burnout', often chose to work outside the state in non-government organisations.

While Māori staff have worked within this context, they have developed their own practices and own theoretical approaches. They have been able to articulate their own approach to kaupapa Māori social work and engage in personal research and development. In our research, there was substantial evidence that Māori staff were resistant to changes that they believed did not reflect the intention of the Treaty of Waitangi or Puao-te-Ata-Tū and voiced their concerns to senior managers. They described themselves as the squeaky wheel in the machine, realising their resistance compromised their career opportunities and ambitions within the sector.

Chapter Eight
Resistance, response and critical junctures of change

Ko Tū-mata-whāiti.

It is Tū of the small face[75].

[75] Said when a lone person is willing to face overwhelming odds.

Mead, H., & Grove, N. (2001). Ngā Pēpehā o ngā Tīpuna. Victoria University Press: Wellington. (1644, p. 267)

Introduction

Resistance by Māori whānau and their communities to institutional racism and inadequacies of the State Care system emerged as a key theme consistently across literature and interview analysis. It was clear that initiatives were developed to prevent tamariki Māori being taken and/or kept in the State Care system.

Response and resistance do not occur within a vacuum but within a social and political history. A framework described by Liu and Pratto (2018) based on the intersection of Critical Junctures Theory and Power Basis Theory is used in this chapter to understand how human agency is conceptualized at micro-, meso-, and macro-levels as described by Gergen (1973) 40 years ago. Liu and Pratto (2018) use this theory to describe how critical junctures in history (moments of potential for substantive change) result in continuity (no change), anchoring (continuity amid change with new elements), or rupture (p. 261). Critical Junctures Theory has been used to frame the discussion of response and resistance in this chapter. The theory 'considers that societies sometimes are relatively stable and sometimes change but in ways that are anchored in previous practices and organisation—and sometimes that organisation is ruptured' (2018, p. 261).

The theory proposes four forms of time-based organisation for societies.

1. **continuity**, in which the patterns of behaviour, social structure, and shared beliefs are largely contiguous with the immediate past (see Durkheim, 1912).
2. **rupture**, which refers to substantial changes in socio-political organisation occurring in relatively short periods of time, including chaos (Liu, Fisher Onar, & Woodward, 2014).
3. **anchoring**, sets of intra/interpersonal and institutional processes that maintain continuity amid change (see Abric, 1993; Moscovici, 2008); and
4. **re-anchoring** (restabilising a system after rupture).

Whereas continuity and (re-)anchoring concern societal stability, rupture entails disorganising and perhaps reorganising significant aspects of society (Liu & Pratto, 2018, p. 262). 'Rather than considering only gradual and evolutionary social change, or the stability of power hierarchies, as many theories of social organisation do, Critical Junctures Theory advocates for understanding ruptures and their relation to periods of organisational stability' (Liu & Pratto, 2018, p. 277).

Liu and Pratto's analysis provide a detailed but flexible approach to history that is not deterministic, chaotic, or relativistic (2018, p. 277). Further, their theory places universal human psychology, rather than the psychology of leaders or no psychology at all, at the centre of human history, recognising the potential people have to right the wrongs of the past, and the present (2018).

The framework is used to examine different responses and resistance at the micro- (person/whānau), meso- (group/organisation), and macro-level (government/intersocietal). In this context these levels are dynamic systems in time, responding

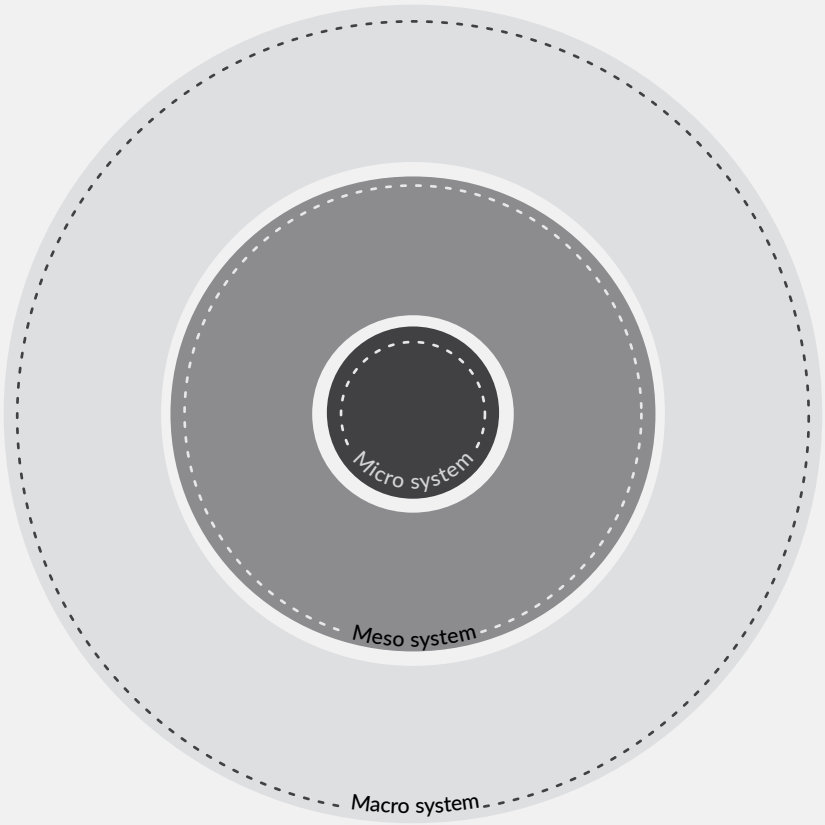
to the context, and interactions between the levels. Figure 8.1 demonstrates the interaction between individuals and whānau, organisations and groups, and the larger macro system of government/society.

The intention of this chapter is not to describe all of the resistance and response efforts but rather to demonstrate the push/pull forces between Māori and the state throughout the research period. Critical junctures in history (moments of potential for substantive change) have resulted in continuity (no change), anchoring (continuity amid change with new elements), and rupture. The chapter explores how the state attempted to anchor and re-anchor, the settler state assimilative ideologies amid complaint, protest, reorganisation and restructuring.

Micro level - the actions of individuals and whānau

Individuals have responded to the settler state intervention under the guise of welfare in their whānau in various ways. Māori tamariki and vulnerable adults who experienced abuse in State Care spoke out about the abuse they experienced. Unfortunately, complaints by children and vulnerable adults in the State Care system were generally ineffective. Cooper and Hill (2019) provide several examples of children complaining of sexual abuse by teachers and staff in residential homes during the research period. However, despite a history of complaints against the staff, the children were considered untrustworthy and unbelievable

Figure 8.1. Micro-, Meso- and Macro-Level system



Macro: Society as a whole, e.g. political, economical, social factors
Meso: Parts of the society, e.g. groups, organisations
Micro: Actions of individuals

by the adults managing the institution. Regarding a Campbell Park incident, Cooper and Hill note, 'the Police declined to press charges, believing the boys would not do well under cross-examination' (2019, p. 10). Staff members who were found to be abusing children, were often permitted to resign from their positions without referral to the police, or worse, were shifted to another institution (Cooper & Hill, 2019, p. 10).

Children who did complain did so within environments that were described as having a culture of violence. It was commonly understood through actions and words that if children disclosed abuse, they would be further punished or targeted for being a 'nark' (Cooper & Hill, 2019, p. 14).

There were no official mechanisms for children or vulnerable adults to complain about their treatment in care despite recommendations that a complaints panel should be established (HRC, 1992). Ironically, there were no mechanisms to ensure child protection within what was considered a child protection system. Despite the lack of process and culture of silence, there are a number of records of children making complaints against staff members within institutions and about the abuse suffered in foster families (Archival data, ACORD, 1979, Cooper and Hill, 2019).

Similarly, since 1950, there is evidence in archival material of whānau writing letters to advocates, welfare officers, residence staff, Government departments and Ministers inquiring after their tamariki and asking for them to be returned to their whānau. While individuals took action at the time, it was insufficient to influence change as the system continued on regardless of the complaints. The complaints at the micro-level were effectively shut down by the actions and inactions of the meso- and macro-level organisations.

However, as Liu and Pratto (2018) demonstrate, when individuals are able to connect with collectives, they can create a critical mass movement from below, creating actions that they describe as 'sticky' (that is, leading to an enduring state of affairs or enduring change). This is best illustrated through the actions of the Auckland Committee on Racism and Discrimination (ACORD) and its partnership with Ngā Tamatoa, the Polynesian Panthers party and Arohanui Inc. to support whānau and individuals in the settler State Care system.

The work of ACORD and Ngā Tamatoa in supporting the community (micro system) to change the actions of the settler state (macro system) is particularly apparent throughout the 1970s and 1980s. Their ability to organise and cause rupture in the system is an example of how collectives (or advocacy) can bring about change. The following two cases discuss the work of ACORD widely referenced in this document, and Arohanui Inc.

Auckland Committee on Racism and Discrimination (ACORD)

Auckland Committee on Racism and Discrimination (ACORD) was formed in 1973 by Oliver Sutherland (spokesperson) and several other Pākehā[76] following the 1973 annual conference of the New Zealand Race Relations Council. At the conference, Māori and Pacific activist groups Ngā Tamatoa and Polynesian Panthers challenged the Pākehā attendees to organise themselves to fight institutional white racism. The pervasive 'comfortable mythology of racial equality' among Pākehā needed to be deconstructed to raise awareness about insidious racism in Aotearoa New Zealand. Thus, ACORD deliberately used the term 'racism' in their name to confront this myth.

At the same conference, Oliver Sutherland, John Hippolite and Ross Galbreath from the Nelson Māori Committee presented a paper entitled 'Justice and Race: a monocultural system in a multicultural society'. The paper caused controversy from the outset given the opening sentence: 'Together with venereal disease and measles, the judicial system of Aotearoa New Zealand was brought to this

[76] The other members of ACORD were: Ulla Sköld, Mitzi & Ray Nairn, Ross Galbreath, Robert Ludbrook, Margaret Arthur, Wallace Sutherland, Sally Symes, Anne Smith, Peter Denee, Wayne Sendles, Judy & David Holt, Philip Tremewan, Lesley Smith, Chris Lane, Helen Nelson, Zeta Anich and Jane Kelsey (Sutherland, 2020, p.13).

country by pakeha colonists' (Sutherland, Hippolite, Galbreath, & Smith, 1973, p.1). Oliver Sutherland and his colleagues compared Māori imprisonment rates before and after the start of:

> a legal aid scheme [initiated by Oliver Sutherland and John Hippolite of the Nelson Māori Committee in 1972] which aimed at arranging free representation for every Maori and other Polynesian person appearing in the Nelson Magistrate's and Children's Courts… At the time there was no duty solicitor or public defender scheme anywhere in the country. (Sutherland, 2020, p. 17).

Based on the magistrate's court files for the period of 1970 – 1972, Sutherland and his colleagues (1973) found that in the 'normal years' of 1970 and 1971 before the scheme started, approximately 18% of Māori defendants had lawyers, in 1972 the figure was 79%. Accordingly, there was a significant increase in 'not guilty' pleas in 1972, and for the first time in the three-year period, cases against Māori defendants were dismissed. Additionally, the rate of imprisonment decreased from 34% to 19% - this was lower than the rate for non-Māori offenders for the first time in Aotearoa New Zealand. The authors concluded that the results showed evidence of 'institutional racism' and if representation by counsel had a similar effect on sentencing in other courts across Aotearoa New Zealand, then 'at least one of every three Māori in prison should not be there' (Sutherland, 2020, pp.25-26).

The paper gained widespread publicity and caused much debate, denials and recriminations within the legal profession. Dr A. M. Finlay, the then Minister of Justice, 'criticised the language of the report as 'too colourful' and 'biased' although he said its implications were 'disturbing' and promised a departmental investigation into the recommendations in the report for a fully comprehensive, nation-wide duty solicitor scheme' (Steele, 1973, p.8). Unfortunately, the proposal Dr Finlay put to cabinet fell far short of what ACORD and Ngā Tamatoa believed was necessary, as although it guaranteed legal advice to defendants, it did not guarantee representation (Sutherland, 2020, p.53). Furthermore, due to pressure (which included denying legal aid to his clients) on one of their lawyers to dissociate himself from the report, the Nelson Legal Aid Scheme eventually collapsed (Sutherland, 2020, p.40). However, ACORD continued to fight for:

> the introduction of a duty solicitor especially in the children's court; for the use for Māori and other Pacific languages in the courts; for reform of the 'closed court' hearings within prisons; and for reform throughout the penal system, especially post-release procedures. (Sutherland, 2020, p. 42).

The establishment of a Royal Commission on the Courts (which included Māori and female representation) in 1976, offered ACORD some hope and a new forum to press their concerns about the lack of court interpreters for defendants from the Pacific Islands; the conditions under which child defendants were held at the children's and magistrates courts; children being remanded in adult prisons such as Mt Eden in Auckland; the disproportionately high detention rates for Māori women and girls and the 'degrading and dehumanising' facilities for females in police cells; and the lack of Māori staff in the courts. When the report was released in 1978, the Commission's recommendations included:

“

“There is a whole file series called Miscellaneous, and within that, there's a most distressing series of letters from a Māori woman ..., whose two boys had been picked up committing a minor crime, and had ended up being put into the system, and shuffled around and put in Campbell Park. One of them might have been at Epuni. But this poor woman could not find out where they were put, and they (the staff members) were openly dismissive, and it's like ... I can remember sitting there reading, and thinking, ‘God, that's inhuman’.”

– Di Dickenson, non-Māori, public servant researcher

- the appointment of Pacific language interpreters to the courts
- that wherever possible children and young people should not be remanded to adult jails
- that determined efforts must be made to recruit Māori and other Polynesian people to all levels of the justice department
- a deliberate policy of encouraging Māori and other Polynesian people to undertake legal studies be introduced.

ACORD was satisfied with most of the recommendations but felt the one regarding children on remand in adult prisons was a 'weak-kneed … [response and] little different from that of various Ministers of Justice to whom [they] had been complaining since 1973' (Sutherland, 2020, p. 74).

Analysing the annual 'NZ Justice Statistics' over a decade from 1971 to 1981, ACORD demonstrated (among other things) that:

> children on remand were more likely to be locked up in prison or a welfare home (13.4%) than an adult on remand (6.4%) … [and they concluded that] these statistics proved the deliberate, systematic and increasing oppression of children, particularly Māori children, by the state. (Sutherland, 2020, p. 194).

Indeed, it was not until 1989, as part of the Children and Young Persons Act, that 'the detention of under 17-year-olds on remand in adult prisons was statutorily ended' (Sutherland, 2020, p. 209). This followed vigorous campaigning by ACORD which had been rescuing boys from Mt Eden and had accumulated several key case histories. Their campaign included three letters of complaint to the Secretary of Justice, before finally their comprehensive letter to Geoffrey Palmer, the new Minister of Justice in 1984, sparked an inquiry by Judge Augusta Wallace who concluded her report by asserting that 'youths up to the age of 17 years old ought not be placed on remand in Mt Eden Prison' (Wallace, as cited in Sutherland, 2020, p. 207) and the practice 'stopped virtually overnight which was a huge success for ACORD' (O. Sutherland, personal communication, 27th April, 2021).

For 15 years, ACORD conducted a series of investigations and campaigns against the treatment of children, especially Māori, by justice, police, social welfare and the health system exposing the institutional racism within those state departments. It instigated a number of Ombudsmen, Human Rights Commission, Judicial and other official inquiries into the abuses revealed by their research and gained protections for children incarcerated by the state. It also laid the groundwork for a national duty solicitor scheme (Sutherland, 2019, p. 1; The Law Foundation cited in Sutherland, 2020, back cover). Indeed, eighty reports, leaflets, submissions etc. were produced by ACORD between 1973 and 1984 (Sutherland, 2020, pp. 277-280). Over the years, ACORD was supported by Māori and non-Māori Polynesian consultants from Auckland District Māori Council, Māori Women's Welfare League, Ngā Tamatoa, Polynesian Panther Party, Samoan Progressive Association who provided help and guidance to the members of ACORD (Sutherland, 2020, p. 29).

Oliver Sutherland had first heard about the abuses against children, of whom a 'hugely disproportionate' number were Māori, within justice and social welfare institutions during his role as secretary on the Nelson Māori Committee in 1970. However, by 1974 due to ACORD's high profile, their efforts to gain justice for children in the courts were well known among Māori and Pacific community groups who sent them a steady stream of parents concerned over the treatment of their children by the police, social welfare and the courts (Sutherland, 2020, p. 84). The disclosures made about the homes from ex-residents and their parents, current and ex-staff, as well as those from psychologists and teachers from the Education Department 'built up a horrendous picture of ill-treatment and abuse' (Sutherland, 2020, p. 85).

On 11 June 1978, following repeated calls to the government to hold a full independent public enquiry into the administration of Social Welfare children's homes, ACORD in conjunction with Ngā

Tamatoa and Arohanui Inc. conducted its own public inquiry. It assembled a panel of four Māori; Donna Awatere (psychologist) and Ripeka Evans (law student) from Ngā Tamatoa; John Hippolite, a Māori Activist who had earlier worked with Sutherland on the Nelson Māori Committee and was at that time a nurse at Tokanui Psychiatric Hospital; Betty Wark, founder and manager of Arohanui, a home in Herne Bay to accommodate children in trouble, homeless or on remand; and Poe Tuiasau, a Samoan from the Polynesian Panther Party. Betty Wark who had often referred cases to ACORD was invited to be the chair. They held the inquiry at Auckland Trades Hall and 'invited anyone who had first-hand information about the homes to give their testimony publicly' (Sutherland, 2020, p. 93).

The inquiry found evidence of 10 categories of cruel and inhumane treatment in various social welfare homes:

- Secure units (physical conditions) (e.g., extended periods of solitary confinement, non-opening windows, having to eat meals by the toilet).
- Violence and assaults perpetrated by staff.
- Intrusive venereal disease examinations forced on all girls regardless of age or sexual activity.
- Delousing and stripping down: lack of privacy and dignity.
- Blistered feet from forced PT as punishment (e.g., forced barefoot running on asphalt).
- No underwear issued resulting in chafing.
- Ill-fitting clothing and made to wear pyjamas (girls) or shorts (boys) all day and night. Inadequate warmth and 'repulsive stench' from being worn continuously.
- Spirit breaking procedures (e.g., nodding system, forced to mow lawns that had already been mown, continuous PT as punishment because other boys had run away – until they returned).
- Health and hygiene (e.g., use of the same dirty rag to clean toilet and hand basin, only issued with four squares of toilet paper per day, lack of fire drills).
- Lack of communication, stimulation and education (in secure units).

The inquiry also identified three major breaches of staff regulations relating to: close custody and secure units, constructive use of time, and health and hygiene (ACORD, Ngā Tamatoa and Arohanui Inc, 1979, p. 27 - appendix; Sutherland, 2020, p. 102).

In April 1979, the newly formed Human Rights Commission (HRC) accepted ACORD's complaint based on evidence from their public inquiry into 'Child Welfare' homes detailing the violation of specific articles of the United Nations Covenant on Civil and Political Rights which the NZ government had just signed. The inquiry began on 11 February 1980, following delays caused by the death of Harry Dansey, the Race Relations Conciliator, and the need to replace him to ensure Māori representation on the HRC panel as ACORD refused to proceed with an all Pākehā panel (Sutherland, 2020, p. 111). ACORD's witnesses included 15 ex-inmates, 6 parents/foster parents, 10 present or past staff, 3 social workers and 2 neighbours (Sutherland, 2020, pp. 110-113).

The young ex-inmates mostly reaffirmed earlier accounts of mistreatment, however ex-staff members who had not spoken out before, 'revealed much more about the inhumane and degrading practices and policies of the homes' (Sutherland, 2020, p. 113). The new testimony of ex-staff members of Wesleydale Boys' Home included accounts about a 'most shockingly barbaric practice' called the 'Golden Fist'. When a boy had run away, all the other boys lost their privileges (denied morning and afternoon teas, supper, rest periods etc.) until he was found. In this way, a feeling of anger built up against the absconder. When he was eventually caught, staff ordered a 'boxing match' between him and the boy who was the best boxer at the home. This continued, in the presence of staff who

assembled to watch, until the absconder 'fell down and could not, or would not, get up' (ACORD, 1982, p.4; Sutherland, 2020, p. 116).

Without explanation for the delay, the HRC's report on the inquiry was not released until September 1982, approximately three years after ACORD lodged the complaint. ACORD's press release, on the day the HRC report was published, stated that the HRC's findings of Department of Social Welfare's breaches of basic human rights vindicated their stand, but that they were disappointed by the report's 'lack of teeth to bring about real change' (Sutherland, 2020, p. 126).

Meanwhile in 1976, ACORD became aware of a Niuean boy who had been subjected to regular electroconvulsive therapy (ECT) shock treatment (without authorisation from his parents or social welfare officers), some of which were administered as punishment without sedation or anaesthetic. The boy had been made a ward of state at the age of 13 in 1975 after having been assessed as having behavioural problems which manifested as mild offending. He was sent to Owairaka Boys' Home, but was transferred later that year (1975) to the Adolescent Unit at Lake Alice Psychiatric Hospital (Sutherland, 2020, p. 134-135).

ACORD alerted the media to this case and sent a letter of complaint to the Minister of Social Welfare, Bert Walker, demanding a full inquiry and an immediate suspension of guardianship orders from the Auckland Department of Social Welfare who they deemed incompetent to be trusted with care and protection of children, given that they had sent a behaviourally disturbed 13-year-old boy with minor offences for shoplifting to Lake Alice Hospital for the Criminally Insane. After initial denials about any misconduct, the minister announced a Magisterial Commission Inquiry and appointed W J Mitchell as the 'Commission' in January 1977. On receiving a copy of the report, ACORD found that Mitchell had striven to exonerate the actions of all the officials and medical staff who had dealt with the boy and instead sought to blame his family for not looking after him. Additionally, the report was openly hostile to ACORD and it was prefaced by Mitchell 'noting that one reason for giving ACORD standing in the inquiry was because he might want to apportion costs against [them]' (Sutherland, 2020, p. 141).

Sir Guy Powles, the Chief Ombudsman, who ACORD had kept informed of the situation, initiated an inquiry into a very similar case at Lake Alice. His recommendations included that 'The Department of Health ensure that the Medical Superintendent of Lake Alice Hospital has closer control over and final responsibility for the administration and operation of the Disturbed Children's Unit' (Sutherland, 2020, p.152). The fallout from the Chief Ombudsman's Inquiry was that several other similar cases emerged detailing accounts of gross misuse of ECT equipment for the punishment of children at Lake Alice including allegations of torture. On behalf of ACORD, Sutherland visited Dr Mirams, Director of Mental Health in the Health Department, to hand over information on further cases. In a press release Sutherland stated, 'If the allegations are proved, this misuse of the shock [equipment] will constitute perhaps the most appalling abuse of children in the guardianship of the state this country has known' (Sutherland, 2020, p. 159). In contrast, Dr Mirams wrote in a letter to Sutherland that 'the use of painful electric stimuli as part of aversion therapy is quite acceptable practice' (Sutherland, 2020, p. 158).

A police inquiry was launched into allegations of the misuse of ECT equipment and although no evidence of criminal conduct was found, the revelations of abuse ultimately (in 1977) led to the resignation of Dr Leeks, the psychiatrist who had administered the ECT, and the closure of Lake Alice Adolescent Unit in 1978 (six years after it first opened). However, 'the College of Psychiatrists didn't ever publicly criticise him or challenge his approach to managing difficult children' (O. Sutherland, personal communication, 27th April, 2021). Two decades later, in 1999, scores of victims revealed the scale of the abuse at Lake Alice in the media and following a successful class action brought by lawyer Grant Cameron on their behalf, Prime Minister Helen Clark apologised to the claimants, on behalf of the New Zealand Government, and agreed to a pay-out of approximately $10 million (Sutherland, 2020, pp. 134-164).

“

“The values and cultural norms become imposed, become so embedded that nobody even thinks twice that this is a Pākehā way of doing things.”

– Oliver Sutherland, advocate for Māori

Arohanui Inc

Whāea Betty Wark worked with 'at risk' Māori youth in Auckland for more than 30 years. She was born at Ōmanaia, a small settlement in southern Hokianga, on 6 June 1924, and raised as a foster child. At the age of eight, Betty moved with a foster family to Motutī, a remote settlement in northern Hokianga. She never felt wanted or part of the family and was forced to sleep in a storage shed. Her Pākehā foster father abused her psychologically, physically and sexually, and her childhood was virtually devoid of stability or love. In her later life, she spoke of this abuse as a motivating force for her heart politics.

Her childhood experiences had left her disconnected from her Māori roots, and she was unaware of her whakapapa until her mid-life. Her identity evolved during the Māori renaissance of the late 1960s and 1970s as she became involved in the urban Māori movement. She got actively involved with the Ponsonby branch of the Māori Women's Welfare League and the Ponsonby Māori Community Centre.

In the late 1960s, Betty helped establish a hostel for young Māori displaced by urban renewal, with support from the Māori Women's Welfare League and the Catholic church. She ran the hostel during the day and returned to her family in the afternoon. In 1974, Betty helped set up Arohanui Incorporated, a community-based organisation that provided housing and assistance to young people referred from the courts, prisons, Social Welfare and other sources. At Arohanui, the hostel she managed, young Māori found a bed, a hot meal, help with addiction, and the prospect of education and reconnection with a resurgent Māori culture.

Arohanui, was the main focus of the rest of Betty's life. She and her colleague Fred Ellis patrolled the streets on winter nights, taking creamed mussel soup and scones to 'street kids' urging them to contact Arohanui. Many did and were either reunited with whānau (family) or alternative accommodation was found for them. Many young people received a meal, a place to sleep and 'a lot of loving care' at Arohanui, as Betty, together with the other trustees and workers, strove to maintain a positive, family-like environment for the residents.

As Arohanui grew and began applying for government funding, the trust also began offering literacy and numeracy programmes. Arohanui strengthened its Māori culture and language programmes and introduced several innovative health and exercise programmes which used martial arts and Māori weaponry drills. Many residents were addicted to solvents, drugs or alcohol, and Betty investigated various programmes to help them overcome these afflictions.

From the late 1960s Betty's work was periodically profiled in the news media, where she was portrayed as a 'mother to lost boys' and Auckland's 'Mother Teresa'. Betty termed her community development work and activism her 'heart politics'. It was a term that represented her involvement in community grassroots initiatives and the feelings of connectedness she felt with the people and causes she was concerned with (abridged from Connor, 2015).

ACORD spokesperson Oliver Sutherland noted their close association with Betty Wark in his recent book:

> For the past five years we had valued a close association with Betty Wark, founder and manager of Arohanui in Herne Bay, a home established to accommodate children in trouble, homeless or on remand. Betty had often referred cases of children in Social Welfare homes or in adult prisons to ACORD. She was well known and trusted in the Māori and wider social welfare community (Sutherland, 2020, p. 93).

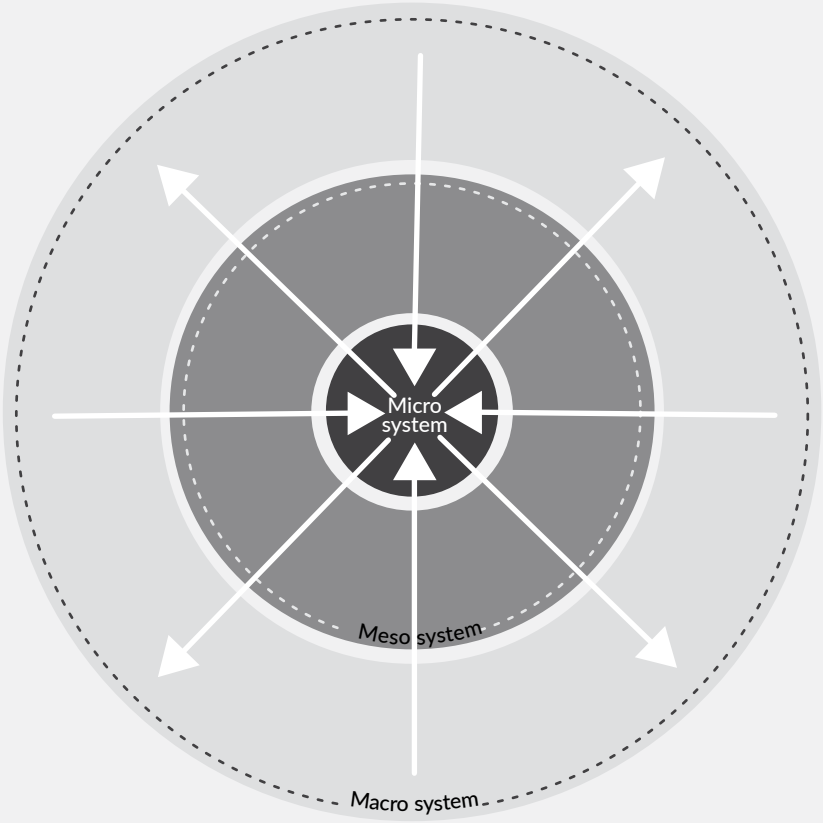
As mentioned previously, Betty chaired the 1978 ACORD inquiry into residential care. Her story is just one of many that described how whānau collectivised within the community to support individuals.

On their own, individuals and whānau within the system were unable to cause any change to the settler state welfare provision. Despite evidence of complaint by both individuals who were abused and their whānau, the settler state continued on

without any change to policies and practice for the period of the research focus (1950-1999). However, the significant work over a number of years by advocacy groups like ACORD, Ngā Tamatoa and Arohanui Inc, alongside individuals and whānau, did cause the state to reconsider the conditions and provisions of State Care. This resulted in the closure of some institutions like Lake Alice, and changes in conditions within justice and subsequent State Care. The state's response to the critical juncture caused by advocacy activity was to anchor, and to continue, but with new elements.

More recently, survivors of abuse in State Care have told their stories via blogs, to researchers and in the media to push for an inquiry and expose the abuse of the state (Smale, 2017; Mirfin-Veitch and Conder, 2017; Stanley, 2016; Cohen, 2011; Moyle, 2015). Recalling events of abuse can be re-traumatising for survivors, particularly if they do not have authorship over their own stories. They also have no control over how others perceive them. Not much is known about how general audiences perceive such trauma stories, however these perceptions can have profound consequences for survivors' mental health (Delker, Salton, McLean, & Syed, 2020). Testimonies from survivors have been evidenced in reports, inquiries, in the media, personal blogs and are an act of significant resistance. Recently, the collective persistence of these narratives in the public realm have been pivotal in bringing about a critical juncture, which has led to the Royal Commission inquiry and other recent changes within the macro system. Figure 8.2 demonstrates the response of individuals and collectives with the Micro-level structure.

Figure 8.2. Micro responses, Macro re-anchoring



Macro: Society as a whole, e.g. political, economical, social factors
Meso: Parts of the society, e.g. groups, organisations
Micro: Actions of individuals

Meso System – the actions of organisations

Throughout the research period, different Māori organisations have emerged to work within Māori welfare and the settler State Care system. It is apparent from the literature that these organisations supported Māori within the community (micro-level) but were constantly engaged in push-pull activity with the state (macro-level).

These organisations, established on the basis of the enlightenment discourses of the political elite in the nineteenth century, were intended to support Māori to assimilate into an improved life. Liu and Robinson (2016) describe the how enlightenment discourses of benevolence (the government was looking after the interests of all its subjects, including Māori), perfectibility (Māori were new to democratic systems of governance and needed time and training to become capable of full participation), and utilitarianism (the actions of the government produced the best outcomes for the most people by putting Māori owned 'waste' land to agricultural use), as well as modern and old-fashioned racism, were used to justify colonisation (p. 274). The state needed and wanted intervention from macro-level organisations to assist in their assimilative aspirations for Māori, however, once the organisations formed and established their own rangatiratanga, they inevitably began to challenge the state.

Liu and Pratto (2018) describe how colonised people, like everyone else, can be expected to figure out how to use the power they do have to gain more power, especially to meet their most acute needs (see Belich, 1986; Liu, Lawson-Te Aho, & Rata, 2014). In the next section we analyse how early in the research period Māori used meso-level organisations to assert rangatiratanga, or power, and how the state responded through either continuing or anchoring, creating a push-pull tension between the meso and macro-level.

Māori War Effort Organisation

The Māori War Effort Organisation (MWEO), originally tasked with recruiting Māori into the war effort, led to the establishment of the Māori Battalion along tribal lines. It set up 21 districts and more than 300 tribal committees. Beyond recruitment, the MWEO facilitated a good deal of welfare work carried out in association with the village committees with considerable success and efficiency. Recruitment also came to have a welfare function. Tennant (2007) describes how the MWEO's collective approach to welfare and their tikanga-based methods were a move towards rangatiratanga.

To maintain the momentum of developments generated by the MWEO post-war, MPs Eruera Tirikatene and Paraire Paikea drafted early versions of the Māori Social and Economic Advancement Act 1945. The Act was supposed to herald a new dawn of Māori cooperation and involvement in decision-making with the state, including the development of the Native Affairs Department.

The Māori Welfare Organisation, formed under the Act, was designed to 'give general direction to [all of] the activities' (ref) of the Act. Hill (2005) describes how under the new legislation three dozen paid welfare officers within the 22 zones were established and although not designed as expressions of autonomy, the state had to make autonomist concessions to ensure the newly established official committees worked. However, Hill (2005) asserts the ethos of the department remained, firmly assimilationist rather than autonomist, with

professional bureaucrats in control of the welfare organisation activities.

Māori Welfare Organisation

In late 1949, official committees generally established as flax roots Māori initiatives, were apparent across the whole country. There were 381 Tribal Committees and 65 Tribal Executives. By 1952, the numbers had increased by 59 and 10 respectively, partly because of their establishment in large towns and cities (Hill, 2005). In 1953, the Minister of Native Affairs gave approval for district and national level organisation to occur within the Māori Welfare Organisation. The official committees were intended to help guide the assimilationist journey.

Hill (2005) notes that the state saw these committees as temporary in nature pending full assimilation. In contrast, the Māori committees' agendas included utilising crown-endorsed mechanisms for the pursuit of rangatiratanga. Hill (2005) wrote that the 'Māori collective entities strongly asserted rangatiratanga, in ways that changed to suit the times, and the crown responded in an attempt to deal with the manifestations, especially by attempting to appropriate their organisational forms and energies' (p. 1). In a series of complex negotiations, both parties attempted to maximise their benefits.

Commentators of the time noted that the committees and the Welfare Leagues were 'rendering magnificent service' in terms of the retention and revival of tradition, knowledge, arts and craft and communal decision-making through the official system. Māori were preserving and promoting 'a culture and a philosophy of [their] own' (Hill, 2005, p. 3). By 1959, it was estimated that ten percent of Māori were involved in an official committee and/or the Māori Women's Welfare League, which worked with the Māori Welfare Organisation. Through 'family, tribal and friendship networks, the officially endorsed Māori mechanisms had a very significant impact' (Hill, 2005, p. 4).

By the 1950s various Māori communities and organisations were voicing their concerns about rising levels of young Māori offending rates and over-representation in children's courts (Dalley, 1998). At the time the Māori Welfare Organisation system, had become a key channel for Māori resistance to the state agenda of full assimilation. In effect, Hill (2005) describes this as 'Māori reappropriating the state's appropriation of Māori flax roots organisational forms and energies' (Hill, 2005, p. 2).

As an example of how the committees sought to support Māori, Hill (2005) describes how in 1953 the local tribal committee persuaded the Onehunga Borough Council to provide an urban Community Centre at low rent. Up to 400 people used the centre, there were communal meals every Sunday, as many locals 'still [did] not have suitable homes where they can spend Sundays pleasantly'; there were sporting, cultural and social sub-committees comprising tribal committee members and non-members alike, a major way of rebuilding leadership capacity in urban situations. In all their activities they emphasised their Māoriness, not their official, assimilation-orientated functions (Hill, 2005, p. 6).

In 1950, the Pukekohe tribal committee combated local racism by securing a local Māori school. This became 'the rally point for a revival of Māoridom in the community, fulfilling the purpose of a marae which this community, drawn from many different tribes, lacked' (Hill, 2005, p. 6). The committee had created, a social revolution on a small scale. Such small revolutions of empowerment and assertion occurred all around the country, aggregating into a powerful movement. These committees also carried out social control duties among their own people often in order to avoid formal state intervention (Hill, 2005, p. 6).

Māori Women's Welfare League (MWWL)

Established in 1950, the Māori Women's Welfare League (MWWL) has been a highly effective and enduring welfare body. The MWWL was established to draw together Māori women on a national basis, to address their own and their families' needs.

Between June 1950 and September 1951, intense efforts went into preparing for the establishment of the league, particularly on the part of the women who became Māori welfare officers. By March 1951, 160 branches and fourteen district councils had been formed; by September 1951, 187 branches were operating (Rei, 1993).

Whilst nurturing Māori culture, the league's aims and objectives included promoting the health, education and general wellbeing of women and children; providing aid to members and others in sickness and distress; fostering closer liaison with other Māori organisations; and promoting understanding between Māori and Pākehā women through links with other women's organisations.

This emphasis upon Māori responsibility for whānau wellbeing was supported by other Māori organisations. The MWWL firmly believed, 'the solution to the issue of Māori delinquency lay with Māori communities, not with the officers or institutions of the state child welfare system' (Dalley, 1998, p. 193). The Māori Women's Welfare League argued 'that Māori themselves were best suited to solving their delinquency problems' (Dalley, 1998, p. 193).

The MWWL believed there were many benefits for whānau in accessing Western technologies, and that modern schooling and health practices would advantage whānau. It is important to note there were immense psychosocial pressures on whānau at the time to abandon their cultural identity and accept the prevailing view that Māori culture was inferior and backward compared with that of the Pākehā (Smith, 1989; Reid, Cormack & Paine, 2019). However, many Māori resisted total assimilation despite societal pressures (Smith, 1989) and never gave up their desire for tino rangatiratanga (Durie, 2003). The history of the MWWL written by Tania Rei (1993) demonstrates the constant push/pull forces between the state and Māori rangatiratanga expressed through the MWWL.

New Zealand Māori Council (NZMC)

In 1959, the Māori District Councils began to reform or revitalise, and in October a non-official national body, the Dominion Council of Tribal Executive, was established informally at Rotorua. The incoming National government would establish the New Zealand Māori Council (NZMC), created under the Māori Welfare Act 1962 (later called the Māori Community Development Act 1962).

This Act established 14 district Māori councils and the national body, the National Māori Council. The Māori Council was developed to:

1. promote, encourage, and assist Māori

(i) conserve, improve, advance and maintain their physical, economic, industrial, educational, social, moral, and spiritual well-being.

"The Māori Women's Welfare League played a strong role (supporting whānau) and a very proactive role. I don't know whether they're the same today, I'm not sure. But certainly, when I was a Māori welfare officer, they were huge in terms of support within the community."

– Harry Walker, Māori public servant

> (ii) assume and maintain self-reliance, thrift, pride of race, and such conduct as will be conducive to their general health and economic well-being. (s18, Māori Community Development Act 1962).

It was intended to be a nationally representative body based on a structure of committees feeding into district Māori councils, which in turn provided delegates for the national council. This was to be 'a two-way channel of communication with the Māori race' (Stephens, 2013, p. 7). The council came into prominence in the 1980s when it won landmark cases about Māori rights under the Treaty of Waitangi in court (Te Ara, 2020). However, when the New Zealand Māori Council perceived that the government was not only not working with Māori, but actually working against rangatiratanga, it became from time to time a thorn in the side of the very state of whose machinery it formed a part.

In the next two decades (the Māori Council) developed considerable skill in monitoring parliament, scrutinising legislation and making submissions to ministers and select committees of the house. The League and the Council were the conservative expressions of Māori activism, pursuing Māori rights within the framework of the parliamentary system (Walker, 1984, p. 267).

During this era, there was a fine balance between working with and against the state. Particularly in the 1950s and 1960s as Māori, dependent on the state for funding, attempted to use the state's resources intended for assimilation to create rangatiratanga movements in the community. Harris (2007) investigated Māori leadership and their processes during the 1950s and 60s with a particular focus on the intersections with the settler state's policies. Harris (2007) argued that at this time it was 'a delicate and potentially culturally dangerous balancing act' (p. 4). In order to survive the continual onslaught of colonisation, assimilation and then integration, Māori leadership sought adjustments to state policies and practices for the betterment of Māori communities (Harris, 2007). Harris argued:

> Manifested in this tension was a desire on the part of many modern Māori to remain traditionally Māori, and therefore tribal in outlook, while simultaneously participating fully in a modern Western society - socially, economically and politically. It has been a function of Māori leadership to navigate the stresses and changes of te ao hurihuri while endeavouring to maintain a comfortable balance between full participation in New Zealand society and preservation of cultural distinctiveness (Harris, 2007, p. 4).

The Waitangi tribunal note in their investigation into the WAI 2417 claim, that, for much of its existence, the NZMC has been said to be a bird without feathers referring to the lack of funding. The history of 'Māori pursuit of mana motuhake or Māori self-government and autonomy is a long one, but it has often foundered on the rocks of poverty due to lack of adequate support and funding by the Crown' (Waitangi Tribunal, 2015, p. xix).

In his analysis of Māori community resistance, Hill (2009) notes that the official committees established under the 1945 Act were:

> not designed as expressions of autonomy, but the state had to make autonomist concessions to ensure that they worked. Māori not only operated the committees as adjustment mechanisms to the post-war world (their official purpose) but also as collective organisations embodying the longstanding Māori aspiration to exercise rangatiratanga (Hill, 2009, p. 11).

While they carried out the functions of the Crown as required, they did so in pursuit of Māori autonomist aspirations. These quests for rangatiratanga were always constrained under the umbrella of the state assimilationist policies, however Māori and the Crown both sought to maximise their positions through the push/pull negotiation.

Māori Wardens - Wātene Māori

Māori Wardens trace their origins back to the Kīngitanga Movement of the 1860s. In the rūnanga of the Kīngitanga of the mid-nineteenth century, Wātene Māori were given responsibility for policing law and order and controlling liquor consumption in

their communities. Wātene first received statutory powers under the Māori Social and Economic Advancement Act 1945 and were under the control of the Tribal Executive Committees in whose districts they operated. While there is no direct evidence of how Māori Wardens impacted State Care, they were a Māori response to the challenges in Māori communities that came under the umbrella of welfare.

> 'Māori people have always liked to take responsibility for controlling their own communities and it was for this purpose that Wardens were first appointed.' (Waitangi Tribunal, 2015, p. 70)

The mandated powers of Māori Wardens were focussed almost exclusively upon the problems of alcohol abuse and delinquency. This reflected government priorities but also community concerns in the 1950s and 1960s. As noted in earlier chapters, the Department of Māori Affairs of the time believed levels of delinquency and alcohol abuse in Māori communities to be of very serious proportions and symptomatic of a deeper social disorder (Harris, 2007, p. 41).

By 1960, 455 wardens were operating around the country, according to a Department of Māori Affairs annual report, working to control the consumption of liquor in hotels during ordinary hours, as well as preventing rowdiness and disturbances in public places (Waitangi Tribunal, 2015). Ranginui Walker stated the rural wardens '... operated in the context of their hapū or iwi, they were known to the people. They were invariably known by the young as 'Uncle' or 'Aunty' and their word was law' (Walker, 1990, p. 204). Formalised under the Māori Welfare Act, there is evidence that the wardens played a significant role in some Māori communities supporting peace keeping, as well as acting, at times, as a buffer between police and Māori communities. In addition, it appears that they were often being called in to help with matters that are far beyond the limited range of functions assigned to them in the Māori Welfare Act. Reports show that they were dealing with all sorts of social problems (NZMC, 1968).

Māori Wardens, however, have not been without controversy. In 1965, following considerable discussion the NZMC voted in favour of recommending that all wardens wear uniforms while on duty (Waitangi Tribunal, 2015). The uniforms assured instant recognition, however, this fuelled concern from police and other authorities, that wardens were over-stretching their powers and becoming an auxiliary police force. Research indicates that wardens were seen by some as an additional force to police Māori, effectively discriminating against Māori. The activities of the Wardens were highly variable across communities and some wardens were seen as unfit to be in the role (Waitangi Tribunal, 2015).

Māori Wardens have always been, and remain, unpaid volunteers who have carried out their valuable community work on minimal resources (Waitangi Tribunal, 2015). Māori Wardens carry out a wide range of community and welfare functions, including school truancy patrols, supporting young offenders at court appearances, providing advocacy for Māori whānau dealing with government agencies such as Work and Income New Zealand (WINZ), patrolling the streets at night, and providing security assistance at large public events.

On 27 September 2013, representatives of the NZMC and several District Māori Councils (DMCs) filed the Wai 2417 claim with the Waitangi Tribunal. They challenged the Crown's right to conduct a review of the Māori Community Development Act 1962, and its administration of the Māori Wardens Project (MWP) launched in 2007. At its core, the Wai 2417 claim is 'the long struggle for mana motuhake, Māori self-determination and autonomy' (Waitangi Tribunal, 2015, p.2). The inquiry found that while the Māori Wardens Project was an attempt to provide resources and training for wardens, the project was run without any Māori community oversight. This was inconsistent with the Treaty and prejudiced the claimants (Waitangi Tribunal, 2015).

These organisations were established under the 'Enlightenment discourses' used in colonial and contemporary New Zealand (Liu and Robinson, 2016). Liu and Robinson describe how the nineteenth century symbology of the Aotearoa New Zealand political ruling class was low on aversive or

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“(There’s) this dishonest resistance (in State Care agencies) really because … I’m not sure what it’s about … the so-called partnerships that they’ve had with Iwi organisations and that, I’d contend that they weren’t ever really true to partnerships. That was certainly funding that went from transactional relationships and based on a contract and you do what’s expected really.”

– Don Sorrenson, Māori social worker

> "I was a (public servant) in 1958, so I saw the impact of that on the migration of Māori urban migration. (I saw) the effort made to assimilate Māori by pepper-potting their housing throughout the community, not allowing them to develop a socially cohesive community of their own … generally the idea was they were to become Pākehā and be assimilated, and were driven into the system."
>
> **Tā Kim Workman, Māori senior public servant**

hostile racism against Māori, but a form of racism resting on the promise of benevolent tutelage by a superior civilisation that considered it a duty to enlighten less advanced peoples (Storey, 2009). The state supported these organisations in the pursuit of assimilation, however, as Māori collectivised in these organisational structures, they pursued their own self-determining agenda.

The Māori Renaissance

The section explores how a period referred to as the Māori Renaissance, beginning with Dame Whina Cooper's Land March in September 1975 brought about a critical juncture in history leading to significant change. Liu and Pratto, (2018) provide the Māori Renaissance as an example of 'indigenous people changing the direction of their power spiral' (p. 277). The collective agency of Māori protesting predominantly about land confiscation, and other acts of colonisation result in a period of significant disturbance leading to rupture. Out of this renaissance, resistance groups such as Te Matakite o Aotearoa, Māori Organisation on Human Rights, Waitangi Action Committee and Ngā Tamatoa emerged to challenge the status quo.

Te Roopū o te Matakite o Aotearoa

Te Matakite o Aotearoa ('Those with Foresight'), campaigned against the loss of Māori land and organised the 1975 Māori land march, bringing Māori political issues to national attention. Te Roopū o te Matakite o Aotearoa was launched in early 1975, at a hui convened by Te Rārawa leader Whina Cooper at Māngere Marae to protest the relentless alienation of Māori land. Fifty marchers left Te Hāpua on 14 September 1975 for the 1000-kilometre walk to Wellington. By the time they reached Parliament there were 5000 marchers and 60,000 petition signatures. Other high-profile protests over the loss of Māori land followed, including the occupation of Bastion Point in 1977 and the Raglan golf course in 1978.

Māori Organisation on Human Rights (MOOHR)

In the 1970s, a Wellington Māori activist group also published a newsletter under the name of Māori Organisation on Human Rights (MOOHR). The aims of MOOHR were the defence of human rights against oppression, attacking legislation inimical to Māori rights and opposition to discrimination in housing, employment, sport and politics (Walker, 1984).

In the August 1971 newsletter, MOOHR made an unequivocal assertion of the Māori dynamic of self-determination and claimed a continuation of Māori-Pākehā tension because of it: 'These movements of Māori rights to run Māori affairs will continue

so long as Māori people feel oppressed by Pākehā-dominated governments' (as cited in Walker, p. 276). Walker identifies this statement as a 'portent of the rising tide of Māori consciousness in the next decade and an escalation of activism' (Walker, 1984, p. 276).

MOOHR developed a network around their newsletter. Issues carried information and analysis on land confiscations, inequality in education, prison statistics and housing, as well as international issues such as the Vietnam War. Their March 1972 Special Bulletin described their frustration producing submissions for Parliamentary Select Committees convinced MOOHR members of the futility of following the respectable rules of the system. 'We say stick your special committees and submissions!' Protest, direct action and disruption were the order of the day (ISO Aotearoa, 2018, n.p.). Walker called MOOHR the 'underground expression of rising political consciousness among urban Māori' (ISO Aotearoa, 2018, n.p.). Te Hokioi and MOOHR demonstrated the new wave of youthful, aggressive and dynamic Māori leaders (Walker, 1984).

Waitangi Action Committee

Formed in 1979, the Waitangi Action Committee (WAC), a coalition of Māori activists, and Pākehā organisations against racism, sexism, capitalism and government oppression, aimed to educate people about the fraudulent nature of the Treaty. They circulated newsletters, networked with other activist groups, and organised many protests and demonstrations, including the 1981 protests that disrupted celebrations at Waitangi resulting in several members being arrested for rioting.

According to Walker (1984), by the early 1980s the WAC was referred to as being at 'the radical cutting edge of Māori politics both in its methods and demands' (p. 220). WAC's rhetoric was 'couched in terms of revolutionary struggle', condemning colonisation and the exploitation and oppression of indigenous peoples. It sought to 'expose the nature of the capitalist state', to free Māori from the 'yoke of Capitalism' and to defend the '[r]ight of all indigenous peoples to self-determination' as part of the ongoing 'struggle against imperialism' (Hill, 2009, p. 176).

Increasingly, WAC activists 'carried their activism to the edge of the law' (Poata-Smith, 1996). While they earned the ire of conservative Māori leadership and the Muldoon Government, protestors gained support from both Māori leaders and increasing numbers of Pākehā who identified with Māori activist causes (Hill, 2009).

Ngā Tamatoa

Ngā Tamatoa (the young warriors) emerged out of the 1970 Young Māori Leaders Conference at Auckland University. Initially, the radical faction grabbed the headlines with its rhetoric of 'brown power' and 'Māori liberation' (Walker, 1994, p. 276). The members of Ngā Tamatoa were young, urban-educated, and used techniques such as petitions, demonstrations and pickets to bring about transforming social action. Ngā Tamatoa initiated a legal-aid programme, opened an employment office in Auckland, and launched a nation-wide petition for the recognition of the Māori language in the education system.

Ngā Tamatoa member, Vern Winitana, concerned about growing numbers of Māori youth appearing in courts in Wellington, identified the need for representation within the court system. Winitana, a probation officer at the time, witnessed racism in the court processing of Māori youth. He saw how lack of information and support inevitably led to the wrongful convictions of many Māori youth. From 1972, Ngā Tamatoa helped many Māori youth navigate the court system. This was met with resistance from the media, who criticised the group for trying to incite violence and overthrow the court system.

Ngā Tamatoa later joined forces with other groups including ACORD and Arohanui Inc, to investigate the treatment of Māori youth in the justice system and State Care residences. A national duty solicitor scheme of sorts finally got off the ground in July

1974, however it fell far short of what Ngā Tamatoa believed was necessary. ACORD argued that what was proposed would not remove discrimination from the courts and that it overlooked the particular needs of Māori, other Polynesian children, and their parents. Ngā Tamatoa said that the scheme '[did] nothing to attack the basic problem of the institutionalised racism which continues to exist in the whole of the judicial system, and which ensures that we remain the jail fodder in this society' (Ngā Tamatoa cited Sutherland, 2019, p. 4). Walker (1984) credits Ngā Tamatoa with the recognition of tamariki/rangatahi rights to legal representation, of land rights, of the revitalisation of te reo Māori and the establishment of Kōhanga Reo.

The protest actions of Ngā Tamatoa, and Ngāti Whātua at Bastion Point and all those who took part in the land marches the 1970s and early 1980s left strong images in the consciousness of the nation (Smith, 1994, p. 113). This led to increased resistance and awareness for change within the Department of Social Welfare, instigating a number of inquiries and investigations into State Care leading to Puao-te-Ata-Tū. It was a time of rupture and radical change for the public sector.

Te Urupare Rangapu/Partnership Response, the government policy response to the proposed restructuring of Māori Affairs, was released in 1988. Te Urupare Rangapu announced a development decade, beginning with the Hui Taumata and culminating in Iwi Authorities being fully operational by 1994. Further, at the end of the decade, under the changes in the 1989 Act, organisations could apply to be approved as caregivers and CYPS would place children in the care of those organisations. However, Cooper and Hill (2019, p. 16) note 'the state retained responsibility for those children, because, in most cases, the placement of children did not change the custody or guardianship arrangements in place'. The approval scheme gave rise to a plethora of programmes and organisations, some set up as small, incorporated societies and completely reliant on the funding provided by CYPS. This led to significant changes in the State Care system of delivery at the end of the 1990s.

The subsequent neoliberal changes of the 1990s demonstrated how Aotearoa New Zealand reflected overseas trends restructuring the state along market lines and devolving services to iwi and community. Restructuring in Aotearoa New Zealand included privatisation and state divestment, corporatisation of government departments into relatively autonomous commercial enterprises, deregulation of market products, contracting out for services, and the introduction of private sector management and accounting procedures (Kelsey, 1993). Devolution to iwi, however, incorporated limited resources and limited power (Smith, 1994, p. 113).

Walker (1992, cited in Smith, 1994) claimed the tribal revival was flawed because over 70% of Māori lived away from their tribal areas in towns and cities. Devolution would deliver nothing to them unless they formed groups linked to their tribal rūnanga (Walker, 1992, Metro, p. 127, cited Smith, 1994). In the appendices of Puao-te-Ata-Tū, the importance of tribalism to Māori development is emphasised.

> "There was resistance from our people ... because of their concern of being controlled by a government agent. And not by our people having the full say."
>
> **Te Inupo Farrar, Māori Mātua Whāngai and DSW social worker**

"Implicit in Puao-te-Ata-Tū is the notion of government in partnership with Māori – whether its Iwi/, whether it's in other contexts Māori Trusts, service providers and so on. If you look across the current landscape, we really haven't got that far down that track, and every step still tends to cause some difficulty and trouble."

Sir Michael Cullen, Minister of Social Welfare, 1987

> 'It must also be remembered that every major Maori thrust in our history since 1840 has had a tribal basis for its success. In the cases where the thrust has collapsed it has been because the central element of tribal autonomy and tribal recognition has been ignored or subverted' (Puao-te-Ata-Tū 1988, p. 59).

Further in the document, the Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare noted.

> 'It must be remembered, though, that this social system was not set in cement! From our furtherest histories our tribes have mixed and divided and migrated and formed fresh relationships. The division and blending of our tribes are what Maori tradition is all about' (Puao-te-Ata-Tū 1988, p. 60).

The following examples demonstrate how Māori responded to the changes of the period. Firstly, the response to the state determining who could be considered an iwi and secondly, the subversion of iwi by the state through controlling power and funding.

Te Whānau o Waipareira

In 1984 Te Whānau o Waipareira Trust was established in West Auckland. The kaupapa of Waipareira at the time was 'to not only deliver its first basic services, but to support whānau with problems caused by rapid urbanisation, with decades of high unemployment, poor education and low income seriously threatening to undermine the potential of Urban Māori' (Allport et al., 2017, p. 7). Te Whānau o Waipareira traces its origins to the first generation of Māori migrants to West Auckland during and after the Second World War. Through the Trust, Māori community leaders provided welfare work for other Māori who had lost their traditional support networks as a result of urbanisation (Waitangi Tribunal, 1998, p. xxii).

The development of Hoani Waititi Marae during the 1970s and 1980s was pivotal in creating Te Whānau o Waipareira as a community. It was on the Hoani Waititi Marae that the principles and practice of the Community Management Group were set down, to be followed later by the formation of the Trust itself which was constituted under the Charitable Trusts Act in 1984 (Wai 414, p. xxii). The whānau philosophy brought together individual fragmented groups operating in the social welfare and educational domain 'under one umbrella as whānau' (Waitangi Tribunal, 1998 p. 78).

The Trust ran a variety of social support services including Alternative Education Unit's rehabilitation of 'at risk' youth, Māori language immersion courses, social support, general employment, and training programmes, all of which were aimed at raising self-esteem as a first priority (Waitangi Tribunal, 1998, p. 79).

In 1989, the Trust went to the Waitangi Tribunal in an effort to receive equal treatment as a service provider under the Children Young Persons and Their Families Act 1989 (CYPF Act). The claim stated that because the Crown failed to preserve traditional social structures when urbanisation occurred, those Māori who did not identify with an iwi were effectively denied their rights under the Treaty (Levine, 2001). The Trust argued that it should be recognised as a Crown Treaty partner because the 'policy of approving only kin-based groups as iwi social services divides Māori in a manner which is contrary to the reality of modern Māori life and contrary to the Treaty of Waitangi' (Waitangi Tribunal 1998, p. 163).

The claim by Te Whānau o Waipareira 'broke new ground in contending that a non-tribal group of Māori has rights under the Treaty of Waitangi' (Waitangi Tribunal, 1998, p. xxii). In an internal report the Department of Social Welfare noted that, 'This application of Treaty principles to the Crown's relationship with non-kin-based groups is ground-breaking and extends the understanding of rangatiratanga that the Crown has generally responded to' (DSW, 1999, p. 8).

While the formal literature on the history and growth of Waipareira is not extensive, the information exploring the types of issues and challenges which have shaped the Trust's strategic intent is considerable (Allport, 2017. p. 10). Since establishment, the Waipareira Trust has provided health, education and welfare services to the South Auckland community. In 1997, Te Whānau o Waipareira became a founding member of the National Urban Māori Authority (NUMA), and established its own research company Wai-research in 2013.

Te Whānau o Waipareira is an example of an organisation that formed from community-initiated action to support whānau in their community. Reliant on the state for funding, Te Whānau o Waipareira sought to be recognised as an iwi to gain equity in funding and rangatiratanga in an urban Māori environment.

Ngāti Porou - Ara Kainga

In 1987, Ngāti Porou first proposed its Ara Kainga model and approach, against the backdrop of Puao-te-Ata-Tū and the government's policy of devolution to iwi, Te Urupare Rangapu. Prior to November 1989, legislation had substantially reduced the rights of whānau, with minimal recognition of whāngai. This created significant barriers preventing whānau from supporting their own and restricted their ability to intervene when complications arose within whānau. Ngāti Porou quickly responded to create The Ngāti Porou Whānau Development Taskforce when state representatives announced that 'Most of the children in State Care in the Gisborne district are Ngāti Porou' (Te Rūnanganui o Ngāti Porou, 2019, p. 5). Engaging in extensive consultation and research the Taskforce's objectives were to:

- Canvass Ngāti Porou opinion on the removal of Ngāti Porou children from State Care and return them to their whānau,
- Identify the needs and requirements of whānau to enable them to provide for the tamaiti mokopuna returned to them,
- Investigate the capacity, capability and willingness of government departments and social services to transfer the necessary resources, authority and responsibility to whānau, to meet the needs of repatriated tamaiti mokopuna,
- Promote marae based whānau wānanga, to identify, re-familiarise and reinforce traditional Ngāti Porou whānau care and protection values, practices and models: and
- Examine the position of whāngai to provide authentic evidence on the manner in which Ngāti Porou whānau have conducted childcare separate to western legal processes. (Te Rūnanganui o Ngāti Porou, 2019, p. 6)

Results emphasised 'overwhelming support' for the return of Ngāti Porou pēpi, tamariki and rangatahi in the State Care system to the care of their Ngāti Porou whānau. The research emphasised that extended whānau needed to be legally recognised.

More needed to be done on the part of the State Care system to recognise the rights of whānau in the decision-making process relating to the care, protection and wellbeing of their tamaiti mokopuna. Other findings emphasised hapū and whānau concerns and issues with the State Care system including that the Department of Social Welfare had been 'unable and/or inadequate to come to terms with Puao-te Ata-Tū' (Te Rūnanganui o Ngāti Porou, 2019, p. 7).

It was noted that change could only occur if more were done to address the economic outcomes (employment/household income) of Ngāti Porou whānau that would enable them to effectively provide better conditions for the return of their tamaiti mokopuna. Although eager to provide for tamaiti mokopuna, whānau often needed additional resources to enable this to happen, as they were restricted with low household incomes and/or limited access to services.

Te Rūnanganui o Ngāti Porou started 'a process to stem the flow of Ngāti Porou children into State Care and repatriate them with their whānau and hapū' (Te Rūnanganui o Ngāti Porou, 2019, p. 9). This started with the 1992 Ngāti Porou Hapū Social Services Stocktake Report, alongside training programmes for hapū capability development, direct investment in life skills and parenting programmes delivered by the Rūnanga Social Services Team and the Ngāti Porou Hapū Social Services Network. Progress and achievements are noted in Te Rūnanganui o Ngāti Porou, 2019.

These organisations demonstrate the varied and continuous response of Māori organisations, meso-level, to the macro-level settler state intervention in Māori lives. Walker (1990) states the process of colonisation, as a struggle without end for Māori and these organisations, over time, represent the continuous struggle of Māori to collectively respond to the settler state. The collectives were seeking power to determine their own lives through rangatiratanga, within a system designed to retain power within the dominant culture – the state.

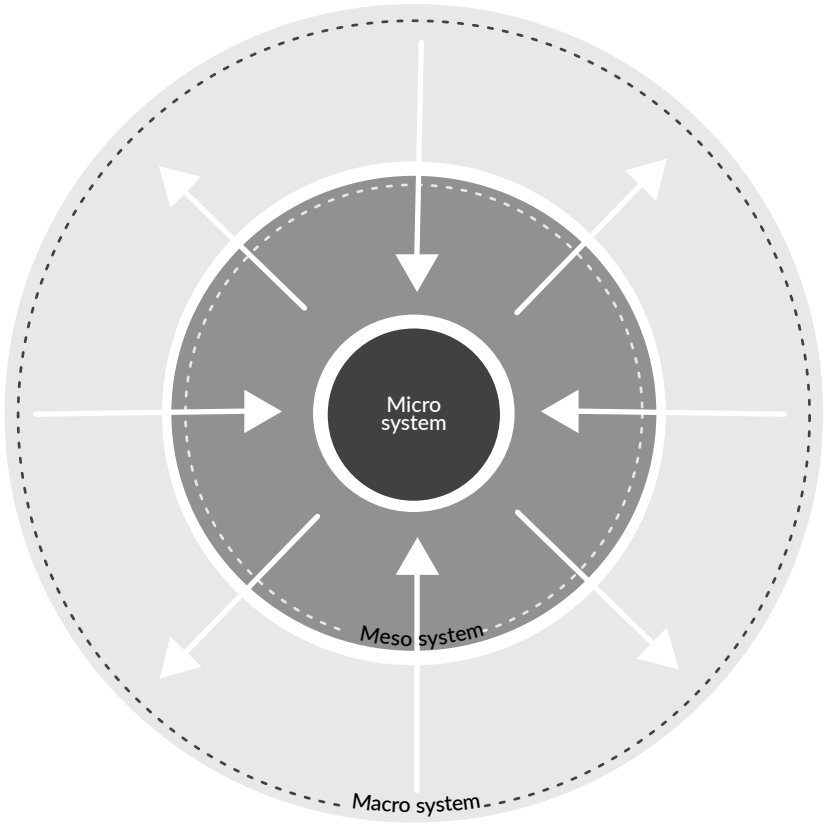
Liu and Pratto, (2018) describe how human collectives are complex systems with multiple actors who respond to their current context with their current capacities and goals to influence their future contexts and experiences (p. 264). Humans act within specifiable ecological and historical conditions (Archer, 1995), which includes other people, collectives, and the social and natural environment. People's actions influence aspects of contexts and what happens next in history (Archer, 1995). These organisations all demonstrate the ongoing struggle with the state for rangatiratanga within the historical context in which they were situated.

Te Whānau o Waipareira Trust demonstrates how an organisation, through the use of the Waitangi Tribunal, was able to create a critical juncture, changing the course of history by establishing the rights of 'urban Māori' as iwi. However, the state, retaining power and control over the entire settler state system, provided insufficient funding or influence for iwi to make significant changes. Figure 8.3 demonstrates the push pull tension between the meso- and macro level.

"The tribal authorities … there's a lot of push and pull. You had this Iwi Leaders forum, those people … they have good intentions. But they don't have the resource. So, they try and do the best they can with the minuscule resources that they've got. They're dealing with health, housing, welfare, education, fisheries, land, environment. Man. That's a huge … each one of these, that's one government department."

Harry Walker, Māori public servant

Figure 8.3. Meso responses, Macro re-anchoring



Macro: Society as a whole, e.g. political, economical, social factors
Meso: Parts of the society, e.g. groups, organisations
Micro: Actions of individuals

Meso - Māori initiatives within the state

Growing assertions of mana motuhake in the 1980s and the desire to develop bicultural approaches within state institutions resulted in attempts to incorporate core Māori values, such as whakapapa and whanaungatanga, into the state's welfare policies. However, the extent to which this has been realised in welfare practices has been questioned (Awatere-Huata, 1982; Moyle, 2013; Moyle & Tauri, 2016; Hollis-English, 2012; Sorrenson, 1998). 'Biculturalism' became a dominant discourse of governance in Aotearoa New Zealand (Liu & Robinson, 2016). While there has been symbolic inclusion of Māori as bicultural partners in the national identity of Aotearoa New Zealand (Liu & Pratto, 2018; Sibley & Liu, 2007) this was not matched by resource-based equality (Sibley, Liu, Duckitt, & Khan, 2008).

After the ruptures of the 1980s and under the banner of the Puao-te-Ata-Tū, the state developed Māori initiatives in order to respond to the over-representation in State Care by devolving services to the communities. Devolution coincided with Māori ambitions for greater autonomy and the re-establishment of social structures such as iwi. However, these programmes, while aimed at supporting the meso- and micro- level communities and individuals, were developed within the macro-level assimilationist environment, often competing with rangatiratanga aspirations of Māori groups such as iwi. Thus, while these programmes and policies attempted to improve Māori affairs, they may have unwittingly served to recolonise and boost assimilation (Dowdon, 2019). The critical juncture created a rupture, soon after the state began re-anchoring.

Tu Tangata

In 1977, Kara Puketapu was appointed as the Secretary for Māori Affairs, a position he retained until 1983. In a shift away from the government integrationist policies of the late 1970s, Puketapu transformed the department by recruiting more Māori staff, and convening a series of consultative hui in districts around the country. Puketapu saw possibilities for advancement through adopting the 'entrepreneurial mode to achieve social and cultural emancipation' (Smith, 1994, p. 116). The department presented policies to Parliament generated from these preliminary discussions with Māori at 'Hui Whakatauira', attended by 100 leaders from districts across the country.

Puketapu introduced a series of programmes emphasising Māori community development, grouped together under the 'Tu Tangata' programme. Tu Tangata established local 'kōkiri' groups to determine local needs, decide upon tasks for community action, and administer community participation in the provision of services to Māori (Hill, 2009, p. 193). The philosophy of Tu Tangata was to promote Māori 'cultural and economic advancement' through 'encouraging self-reliance and self-determination' (Hill, 2009, p. 191).

In 1981, the Department of Māori Affairs explained:

> Tu Tangata is encouraging Māori communities to become more self-sufficient and self-reliant through fuller utilisation of their own resources. Crime prevention, marae development, whānau projects, Māori language promotion, and a kaumātua wānanga are some of the many tu tangata activities being spearheaded by the community ... It is the department's view that self-determination measures now being exercised by Māori leadership through its wide network of organisations and activities does mean that tremendous progress is being made on many fronts (Hill, 2009, p. 194).

The change of name from Māori Welfare Act in 1979 to Māori Community Development Act symbolised the shift in emphasis away from what was seen as welfare-statism towards community empowerment and self-reliance (Hill, 2005). Tu Tangata was significant in marking the beginning of a change in the direction of government policy towards the devolution of funds, service provision, and decision-making to local community organisations. The move was widely welcomed by Māori communities as representing 'practical embodiments of the

recognition and exercise of rangatiratanga' (Hill, 2009, p. 199).

Tu Tangata marked the beginning of a government policy of recognising and negotiating with tribal authorities (Waitangi Tribunal, 2015). One of the major policy platforms of Tu Tangata, the Mātua Whāngai programme, aimed to take young Māori out of social welfare institutional care and return them to be cared for within their own tribal groups (Walker, 1990).

Mātua Whāngai

The roots of Mātua Whāngai lie in a Māori community response to Māori over-representation in the system. At the Hui Whakatauira held in Taumaranui in 1981, Māori identified that too many of their young were being institutionalised and whānau wanted to provide care for these children in their communities.

In 1983, the government (The Departments of Māori Affairs, Social Welfare, and Justice), in partnership with iwi, launched the Mātua Whāngai programme as a system of social care. The programme was initially a joint project between the Department of Social Welfare and the Department of Māori Affairs, in partnership with Māori communities with the Department of Justice joining the partnership later (Adair & Dixon, 1998).

Mātua Whāngai was part of the National government's 'Tu Tangata' Māori affairs policy and sought to 'recognise Māori as an integral and legitimate component of society, as well as demonstrate a willingness to tap into Māori communities for resources, and a commitment to Māori structures and culture as solutions rather than problems' (Fleras & Spoonley, 1999, p. 115). It was also hoped that Tu Tangata would indigenise the bureaucracy from within by redefining relationships with the client and transferring government programmes to Māori authorities (Fleras & Spoonley, 1999).

The two goals of the programme were:

- 'To prevent the flow of young Māori people into government institutions.
- To remove Māori youth in these institutions and place them into the care of whānau hapū (tribal) groups' (Mātua Whāngai, n.d, p. 6).

The essential feature of Mātua Whāngai is whānau tribal development. By this we mean the development of the tribal whāriki. This is a human mat which weaves and connects individuals and families together so that those in need or in institutional care can be placed back into a strong supportive system. Traditionally this whāriki iwi provided total care. Today this human mat has worn thin and, in some cases, has disintegrated. This policy seeks to reweave and restrengthen this whāriki iwi to provide once again a supportive network and a foundation for development. (Mātua Whāngai, n.d).

> "From about 1990, when the national government came in again, Don Hunn, who was the commissioner of the state services commission, sort of said to the departments, 'Well, you can do this stuff if you want, but it's optional'. Yeah, and so all of a sudden, people lost interest."
>
> **Tā Kim Workman, Māori senior public servant**

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“Mātua Whāngai that was John’s (Rangihau) great dream, he was talking about his world of reference Ohinemutu village, Rotorua, which he married into on the lake. Those small villages … Ruatahuna … Murupara. I think those villages, those size of communities, that was John's intellectual reference. It came from those sorts of villages … it takes a village to raise a child. It doesn't cater adequately for a fractured and dispersed diaspora of the people living on much better defined in terms of class and consequently income and frequently a nest of, well nowadays methamphetamine.”

– Tā Tipene O’Regan, editorial team Puao-te-Ata-Tū

The Mātua Whāngai as a system of social care, sought to divert Māori children from institutions and, according to Durie, was primarily concerned with the containment of 'risk' to children, rather than positive whānau development (Durie, 2003, p. 166). Workman (2017) noted Mātua Whāngai provided whānau-and-hapū-based (rather than state welfare) alternatives care for 'youth at risk' and sought to de-institutionalise young Māori in Social Welfare homes.

The programme intended to use traditional Māori kinship structures and the traditional practice of whāngai (care for, adopt), where close relatives would bring up and care for Māori children (Hollis-English, 2012). The objectives were to release Māori children from institutional placements and place them into the care of their family and tribal groups, (whānau, hapū and Iwi) (Ministerial Advisory Committee, 1986). Critics of the initial implementation of the programme described it as a means to disestablish residential facilities, while at the same time passing the burden of care on to whānau under the guise of devolution (Walker, 2001).

There was a notable underestimation of the resources needed to carry the burden. Māori whānau, hapū, and iwi were provided with no means to compensate for the additional demands (Bradley, 1995; Durie, 2005; Walker, 1990). Koha payments were made to providers by the Department of Māori Affairs.

> A koha in relation to any placement is just that - a koha. The Taura Here Roopū will determine what koha should be made to whānau who have a whāngai in their care. They then let the Tribal Roopū know what the whānau need. The Tribal Roopū, having a national overview of the overall needs of their members will apportion to the Taura Here Roopū whatever they are able…. The koha funding process reinforces a strong belief that the iwi Māori are capable of managing their own affairs (Mātua Whāngai, Policy Document, n.d.).

Walker (2001) highlighted the difference in the funding of Māori children in the custody or guardianship of the Director General of Social Welfare compared to Māori children in Mātua Whāngai care. In 1994, it was recommended that Te Puni Kōkiri investigate establishing a register of complaints filed against government agencies by Māori providers or consumers, however the report noted that Te Puni Kōkiri was unable to directly assist any complaints (p. 20).

Durie describes how the programme had both positive and negative implications for iwi Māori and whānau. It appeared to offer a degree of self-governance, although clearly it was a government agenda with limited Māori control and at times conflicting objectives. In a positive sense, 'it presented opportunities for assuming new levels of responsibility, but there were also some disquieting signals that it was a government manoeuvre for economic reform and cost cutting at Māori expense' (Durie, 2005, p. 175).

The Māori Advisory unit (1985) noted that the model of welfare (Mātua Whāngai) is about the decentralisation of power and resources to whānau or community linked groups. However, they noted that Mātua Whāngai, 'which unfortunately instead of being allowed to grow and develop is generally floundering because it has been slotted into the presently existing structure as 'Māori fostering' (1985, p. 19). 'Mātua Whāngai implies far more than this, but some members of the Department cannot see beyond this restrictive view' (1985 p. 14). They recommended the concept of Mātua Whāngai uses the initiatives of Te Koputu Taonga, Wai Ora and Kohanga Reo as essential components in looking at alternative methods or systems of welfare (1985, p. 19), 'essentially we are talking about a concept of whānau and community development which ensures that the responsibility for providing care to its members, returns to the whānau, the hapū, the iwi' (1985, p. 19).

Mātua Whāngai was an important change for the DSW in its approach to dealing with Māori children who were in State Care, but expectations of the scheme from Māori communities were very high, and it was quickly apparent that the programme was not resourced well enough to meet their expectations (Dalley, 1998, p. 329-30). While the Mātua Whāngai programme may have had the

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“At the time I was the only Māori social worker. I was so excited about Puao-te-Ata-Tū and Mātua Whāngai, I just thought, ‘Oh, here we go’. But even searching for my own family, who were all in State Care, and being told, even though I was a staff member that I couldn’t have any information on them. I was trying to find them, because I had got approval to be a foster parent for whānau.”

– Te Inupo Farrar, Māori Mātua Whāngai and DSW social worker

> "Mātua Whāngai … Māori people pushing for the de-institutionalising children fitted the political philosophy of the time. The economic philosophy of the time. Which was for the state to dispense with its responsibilities. There was an interest in closing the institutions. A lot of them closed. Now, the theory was that the money which was to be saved by closing the institutions would be used to support the organisations. Didn't happen. There was some funding that was allocated, but it dried up."
>
> **Harry Walker, Māori public servant**

potential to be transformative, it was not funded adequately and often diminished by Pākehā staff. Workman (2017) noted how Mātua Whāngai had been slowly 'demolished' by DSW offices around the country probably in an effort to maintain control. When their attempts to control were unsuccessful, they were 'threatened by the success of Mātua Whāngai' (HRC, 1992, p. 169).

Nevertheless, the Mātua Whāngai programme made a major contribution to Māori social work development (Hollis-English, 2012) and would later be revisited by the Puao-te-Ata-Tū report in 1986 and by the Child, Young Persons and their Families Act 1989. Initiatives such as Mātua Whāngai and Te Kohanga Reo were seen as 'a way to invert the bureaucratic pyramid by encouraging community-driven, culturally sensitive programmes and services' (Hollis-English, 2012, p. 29).

Both Tu Tangata and Mātua Whāngai were attempts within the state to make changes as a result of the critical junctures within the system. Liu and Pratto (2018) explain: 'States and other large-scale political units are complex systems. As such, they change in time, have actors at multiple levels of analysis, and the more actors there are with disparate goals, the more complex the system becomes' (p. 276). This research demonstrates the complexity of the settler state welfare system, the pervading paternalistic enlightenment discourse of benevolence, and the attempts to change the direction of the policy post the 1980 ruptures. While good intentions at the time drove Māori within the state system to attempt to change the direction of the state, the mechanisms within the state designed to retain power created significant barriers. Funding constraints, the inability to influence other social indicators, and the continued intervention by the state in Māori initiatives has stymied aspirations. While both Tu Tangata and Mātua Whāngai led to significant changes within the state welfare system, they fell short of the aspirations that underpinned their development.

As explained in chapter 6, the state set about re-anchoring soon after the rupture created by Puao-te-Ata-Tū. Through the 1980s and 1990s, first under Labour, then under the National Party, Aotearoa New Zealand implemented neoliberal reforms on an unprecedented scale. Controls on wages, prices, rents, interest rates, were removed, and finance markets were deregulated. These changes were based on the Eurocentric beliefs that welfare helped create unemployment by encouraging dependency. Although the deregulation, liberalisation and

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“The dream, the moemoea for our people wasn't really listened to. The whānau also didn't get on board, even our own whānau, Māori whānau. It was supposed to have been known as a community organisation, but the control was still with the powers that be. So we couldn't work in the way that we wanted to, we always had to go cup in hand.”

– Te Inupo, Māori Mātua Whāngai and DSW social worker

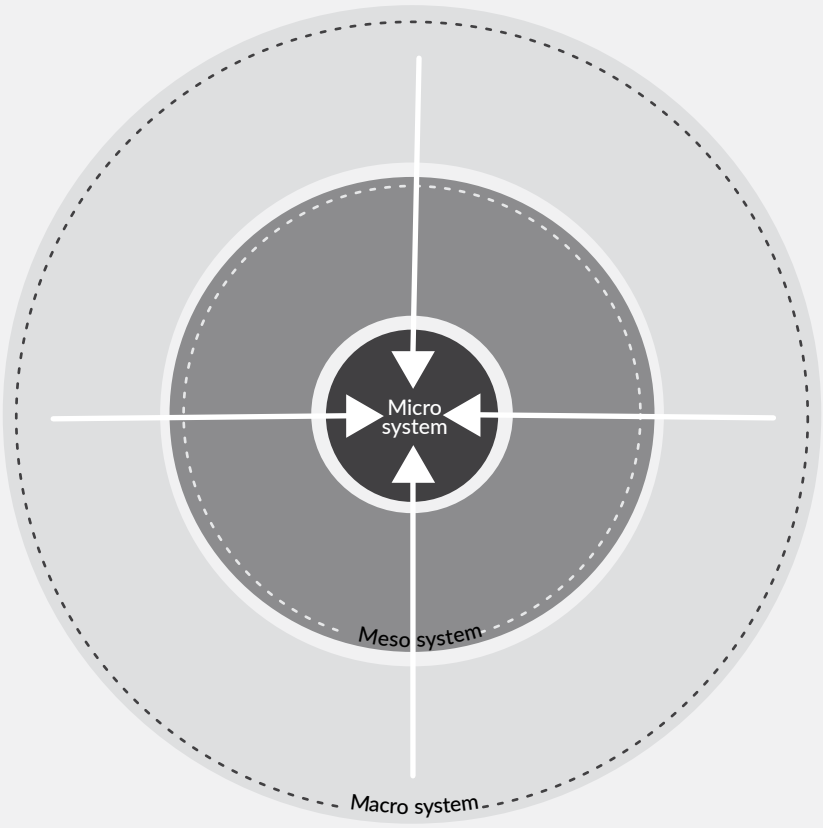
privatisation associated with neo-liberal economics was often in tension with the fourth Labour government's (1984-1990) social agenda, this was not the case under the National governments in the 1990s, whose economic and social reforms were more consistently 'neo-liberal' (Humpage & Craig, 2008).

Using narrow metrics like inflation and government debt, the assumption could be made that the reforms worked. However, using fundamental economic measures like employment, income levels, and economic growth, all of which free-market policies were supposed to boost, the reforms were a miserable failure (Marcetic, 2017). The economy shrank by 1 percent between 1985 and 1992, while other countries in the OECD saw 20 percent growth, poverty skyrocketed, with one in six falling below the poverty line by 1992 (Easton, 1995). Income inequality widened sharply, with the bulk of income gains going to the wealthiest citizens (Marcetic, 2017) which in effect negated the positive shift in social and welfare policy.

The following figure demonstrates how the macro-level policy initiatives within state flowed down into the micro-level, alongside macro-level re-anchoring initiatives.

> "The iwi social services had to be approved under the Children, Young Person's Act of 1989. It wasn't a matter of our people saying, 'We're going do this, we had to get the stamp of approval from tauiwi and the CEO of the department of social welfare'. It wasn't an easy time."
>
> **Te Inupo Farrar, Māori Mātua Whāngai and DSW social worker**

Figure 8.4. Macro response and re-anchoring



Macro: Society as a whole, e.g. political, economical, social factors
Meso: Parts of the society, e.g. groups, organisations
Micro: Actions of individuals

Discussion and summary

This chapter provided an overview of examples of Māori-focussed responses and initiatives that have been implemented by whānau, hapū, iwi and government organisations within the settler State Care sector during the research period.

Māori have consistently expressed their belief that over most of the last century, participation in the state child welfare system had the potential to cause more harm than good for Māori children and whānau (Kaiwai et al., 2020). The evidence reviewed in this chapter indicates that Māori responded and resisted the intervention of the state at all levels. Firstly, at the micro-level, through individual/whānau complaints of abuse and mistreatment, and through collective advocacy. Secondly at the meso-level through Māori organisations and collectives that became increasingly radicalised to bring about change in the system. Finally, at the macro-level through Māori programmes within the state system designed to devolve responsibility to Māori via Iwi and urban authorities.

Critical Junctures Theory was used to frame the discussion of response and resistance. The theory contends that societies are relatively stable and sometimes change, but in ways that are anchored in previous practices and organisation, and sometimes organisations and structures are ruptured (Liu & Pratto, 2018). Throughout the research period 1950-1999, critical junctures occurred when Māori responded to the settler welfare state. These responses increased in resistance and intensity over the 50-year period with evidence of a rupture in the late 1980s in response to evidence of institutional racism and over-representation of Māori in the State Care system. However, despite the resistance, and evidence of critical junctures, the evidence suggests the state quickly re-anchored to resume power and control of the state system. Liu and Pratto, (2018) describe this anchoring as continuity amid change, endorsing new elements but incorporating them within the existing coloniser forms of power and justice.

> *'The forms of power and the types of justice prevalent in Anglo-settler societies today appear to have been anchored through time as part of a centuries-long process of colonisation. They ruptured other systems of societal organisation and have avoided rupture themselves. They continue to be the anchors of NZ society today'* (Liu & Pratto, 2018, p. 276).

Chapter Nine

Methodology

This research was designed to provide evidence for the Crown's narrative, to support agencies to better understand the nature of Māori involvement with the State Care system (1950 to 1999). This includes tamariki Māori and vulnerable adults, as well as whānau, hapū, iwi and other Māori communities, including Māori staff who worked in the State Care system during this time period. The research informs the Crown about the causes and impacts of Māori over-representation and how or if, services and systems changed after the implementation of Puao-te-Ata-Tū and the 1989 Children, Young Persons, and their Families Act (the 1989 Act).

Māori-centred research, Critical Race Theory and research kaupapa

The research methodology adhered to a Māori-centred design (Cunningham, 1999; Moyle, 2014) as the research team was made up of Māori and non-Māori researchers utilising both qualitative and quantitative methods. Cunningham (1999) states that Māori-centred research engages Māori in all levels of the research, operating Māori data collection and analysis processes and ensuing Māori knowledge. Moyle (2014) also argues that Māori-centred research draws strongly from kaupapa Māori theory and principles. Citing other kaupapa Māori theorists (Bishop, 1999; Smith, 1999; Pihama, Cram, & Walker, 2002) Moyle notes that kaupapa Māori refers to a framework or methodology for thinking about and undertaking research by Māori, with Māori, for the benefit of Māori. It is a way of understanding and explaining how we know what we know, and it affirms the right of Māori to be Māori (Pihama, Cram, & Walker, 2002; Moyle, 2014, p. 30).

In this regard our research kaupapa is fixed on Māori survival (Mikaere, 2011, p. 37) underpinned by a strong ethical commitment to social justice (Penetito, 2011, p. 42).

A Māori-centred perspective in this project intersected with Critical Race Theory. Critical Race Theory (CRT) is rooted in the multiple, nuanced, and historically and geographically located epistemologies and ontologies found in Indigenous communities (Brayboy, 2005). Employing a critical analysis (particularly in the document and literature review) exposes contradictions in policy and law, illustrating the ways in which laws create and maintain the race hierarchy in which we live. The Eurocentric 'child protection' focus in Aotearoa New Zealand has entrenched colonial and racist mentalities which provide largely unexamined barriers to real movement towards meaningful ideological and systemic change. The theoretical framework was also informed by research produced by the Ngāi Tahu Research Centre Whenua Project, which is part of the larger He Kokonga Whare research programme funded by the Health Research Council of New Zealand (HRC ref: 11/793). The Whenua Project has explored the impacts of colonisation and land alienation on Ngāi Tahu Māori with the aim of finding culturally relevant solutions to effectively support Māori health and wellbeing. Results from this research demonstrate how the 'colonising environment shifts over time, steadily undermining the independent social and economic structures of whānau and hapū' resulting in intergenerational trauma, deprivation and cultural alienation (Reid et al., 2017, p. 9- 10). Settler colonisation is not viewed as a historical event, but rather as a broader colonising environment that endures over time.

> *"... the settler state operates under the western worldview and its policies are formulated using principles that often counter indigenous*

> *understanding of the world (Reid and Rout, 2016a). Thus, the institutional structure of the settler state may still be traumatising, even when the settler state is seeking to address institutional biases. To fully include an indigenous perspective in the design of institutional structures, we consider that the settler state and society must become introspective of its own developmentalist assumptions in a way that permits indigenous worldviews to enter and shape institutions on an equal footing. Furthermore, the institutional settings need to be modified in a way that permits the underlying structural inequalities relate to settler resource expropriation to be addressed (Reid et al, 2017, p. 26).*

Our theoretical framework was informed by previous studies that examined how race has been used to construct understanding of key terms, concepts and systems underpinning State Care within Aotearoa New Zealand and other colonised countries.

The following are short examples of how foundational concepts are viewed differently between Māori and the settler state, and how these have underpinned our analysis.

Concept of family/whānau

Prior to colonisation children were cared for in the context of whānau, hapū and iwi. Children, through whakapapa were regarded as the physical embodiment of tūpuna, thus giving them a preferential position and ensuring their safety and nurture within whānau and hapū structures. The care of children was shared within extended family structures (Hiroa, 1970). Children were not considered the property of their parents but belonged to the whānau, which was in turn an integral part of the tribal system bound by reciprocal obligations.

Gendered relationships and the valued status to wāhine Māori

In pre-colonial society, wāhine Māori had autonomy equal to males and gendered relationships were fluid (Mikaere, 2011). Tūpuna, both female and male, had multiple partners (Mikaere, 2011, p. 36). Whānau wellbeing was associated with Papatūānuku (a female Māori deity) and the physical links to whenua (Mikaere, 1994). The term 'whenua' refers to both land and afterbirth.

Identity and belonging

Māori children are not the exclusive possession of their parents; they belong to whānau (extended family), hapū (subtribe) and iwi (tribe). Their identity is inextricably linked to whakapapa (genealogy) and this in turn links them to specific places, symbolised by mountains and rivers. Whether living in this locality or not, this is their turangawaewae or primary place of belonging. For Māori, whanaungatanga (family connection) may be a more appropriate concept than attachment.

Whakapapa and genealogical perspectives

Within the traditional cultural system, whakapapa provides the foundation for identity and self-esteem (Bradley, 1997; Pitama, 1997). Through separation from their whakapapa or contextual base, Māori language and culture becomes lifeless and empty. The result is a loss of mauri or life force and strength within the words and concepts.

Concepts of care and protection

Pitama (1997) describes the whāngai system as having its own set rules and criteria, a central element of which was that it occurred within the kinship group and that whakapapa connections were maintained. Whāngai status allowed children to maintain contact and connections with the birth family and the whāngai family. She indicates that abuse of a child was one of the reasons that such a placement may be made but not the only reason. Pitama (1997) stresses that to be whāngai was something special and argues that it was a powerful system aimed at protecting the child and hapū rights and privileges.

Colonial laws and policies

Policies which included attempts to eradicate Māori language and colonial strategies designed to keep Māori in the "menial" or servant class continued to

impact on Māori in the early decades of the 20th Century. The loss of land meant loss of papakāinga that had ensured the foundations for Māori whanau, hapū, and iwi cohesiveness, economic facility, and ultimately health and wholeness.

Discrimination and racism

Assumptions underpinning most family law and policy in Aotearoa conflict with Māori understandings and practices regarding whānau. The effect of these assumptions is that Māori social norms and practices have been largely ignored and, making no substantive accommodation for these forms and practices, can be seen as constituting an "attack" on Māori beliefs, forms and practices regarding family/whānau (Durie-Hall & Metge, 1992, p. 50).

The impact of urbanisation

Large numbers of Māori children were removed from their families by well-meaning social workers, particularly in the post-World War II era, when there was a massive migration of Māori from rural to urban areas. From the 1960's, through the 1970's, 1980's, and 1990's, many Māori whānau had been affected by the taking of children. The removal of Māori children from their families, was seen by the state as, "in the best interests of the child". It became something of a paternalistic fashion at this time also, for middle class Pākehā to foster or adopt Māori children, with a view to providing them with opportunities that their own whānau and communities were seen as unable to provide (Love, 2002).

Individualism versus collectivism

The conception of self, underpinning ongoing colonial processes in Aotearoa New Zealand has been described by Sampson (1993) as "self-contained individualism … makes the individual the basic unit of social analysis. It supports a politically conservative predisposition to bracket off questions about the structure of a society, about the distribution of wealth and power for example, and to concentrate instead on questions about the behaviour of individuals within that (apparently fixed) social structure" (Tesh, 1988, p.161).

Partnership insider/outsider research

The research team strongly believed this research should be part of the solution (redressing harm caused), as opposed to perpetuating or contributing to the problem (the perpetuation of marginalisation and/or harm). Research, like State Care also has a colonial history. Smith (1999) states.

> 'It is surely difficult to discuss research methodology and indigenous peoples together, in the same breath … without understanding the complex ways in which the pursuit of knowledge is deeply embedded in the multiple layers of imperial and colonial practices.' (p. 2)

The general trend of research into indigenous people's lives in Aotearoa New Zealand in the past has been for the 'research story' teller to be an outsider who gathered the stories of 'others,' collated them and generalised as to the patterns and commonalities (Bishop, 1996, p. 26). In this research, working in genuine partnership with research survivors of State Care rather than doing research 'to them' was crucial to upholding the mana of survivors and the research. Key to the methodology was adapting research practices (iterative analysis) through genuine partnership with insiders (those who had experienced State Care abuse).

Due to the scope and impact of State Care on Māori whānau in Aotearoa New Zealand, just about every researcher on the team had some experience or connection to the State Care system, if not directly affected, they had whānau who had been impacted[77]. Therefore, moving beyond strict outsider/insider dichotomies in this research was important. However, the team emphasised the relative nature of researchers' identities and roles

[77] This is discussed in more depth in Chapter 4. The Impact of the system on Māori.

(Kerstetter, 2012). This was particularly important when examining the power held within the research team and the privileging of those voices who may hold less power through marginalising research/ academic processes.

Insider researchers reviewed all aspects of content development in this report. These team members are highly experienced researchers who have published their experiences as academics and research practitioners. Their networks and ability to engage key informants through their relationships has been vital to this research. Non-Māori researchers have also been involved in this research. They have entered the research as Te Tiriti o Waitangi partners.

There are distinct advantages in a team research approach, particularly for integrating diverse perspectives. Louis and Bartunek (1992) argue that research teams in which one or more members are relative insiders to a setting and one or more members are relative outsiders, offer distinct advantages for integrating diverse perspectives. Insider/outsider partnership methodologies have been used in research previously with indigenous communities (Rewi, 2014; Moyle, 2014; Dew, McEntyre & Vaughan, 2019).

Our own research was conducted in sequential phases that were iterative – informing the next phase.

Phase 1: Literature and document review

This research provides the basis for the Crown's narrative, to support agencies to better understand the nature of Māori (including children, parents, whānau, hapū, iwi and communities) involvement with the care system from 1950 to 1999. The research examined the causes and impacts of Māori over-representation and how or if, services and systems changed after the implementation of Puao-te-Ata-Tū and the 1989 Children, Young Persons, and their Families Act (the 1989 Act).

Working with Crown agencies

Crown agencies have primary responsibility for their records and hold registers of material transferred to Archives New Zealand. Records on individuals (such as client case files) are held in strict confidence by agencies and by Archives New Zealand (the storage location of files on individuals depends on the date range). Archives New Zealand contains records created and used by the New Zealand Government, dating from around 1840 to the recent past.

Ihi Research met with researchers/data analysts from each of the Crown agencies involved and the Crown Secretariat, to discuss the records held and relevance to the research. Many of the Crown agencies had already compiled information for Royal Commission, some of this was shared with Ihi Research.

Permission was granted by several Crown Agencies to access reports published by the Crown held in archives. No personal information or client information was collected or viewed. Where the Crown agencies were unsure of the content of reports, the report were sent to the agency by Archive for permission, prior to Ihi Research viewing the records.

Ihi Research intended to access records and documents through Archway, the online database for records held at Archives New Zealand. Three researchers from Ihi Research received training from Archives staff. Ihi Research accessed predominantly internal reports, correspondence and publications rather than institutional records, although some Campbell Park records were reviewed.

Challenges of document review

There were significant challenges accessing Crown records from the research period[78]. The records transferred to Archives New Zealand have mixed levels of metadata (that is, the high-level information held about a record or file's contents) depending on the date ranges of the records. Similarly, records held by agencies are also described at varying levels of detail, reflecting variations in record-keeping practice within agencies over time.

Having less metadata for older physical files can make it slower to identify all relevant records within a category. It can make it very difficult to identify and extract information on specific ethnicity. For example, pre-1980s personal files often did not record ethnicity so identifying impacts on Māori survivors will involve reviewing the contents of large numbers of files to try to confirm if they relate to someone who is Māori.

There are known gaps in records, particularly where record responsibilities have been within separate entities such as district health boards (previously hospital boards and area health boards) and schools. Records prior to the Archives Act 1957 are often incomplete.

We attempted to review:

- All policy and legislation related to children and young people in the care of DSW that was in place from 1950 to 1999, including departmental guidance documents,
- Policy, legislation and guidance that specifically relates to the education of tamariki Māori,

[78] For further details see the Introduction.

- Anything specific to Māori in psychiatric care,
- Anything specifically related to the apprehension of Māori by Police (particularly Māori young people) and Māori in the Court system.

As highlighted in previous sections of this report, our experience of making sense of the 'evidence-base' related to Māori experiences of State Care between 1950 – 1999 has contributed to our understanding of structural and systemic racism. This has been due to:

- Insufficient, patchy and poor-quality ethnicity data collection across State Care institutions.
- The loss of key documents related to State Care institutions, including the destruction of evidence (Stanley, 2016).
- The use of racist, deficit terminology terms in archival records such as 'half-caste'; making judgements about ethnicity based on skin colour and lumping the 'Brown' children together (as seen in Campbell Park Ministry of Education Records - "Māori and Pacific children are the majority".
- Reports by various Ministries which are identified as being on their websites (yet not available through their websites).
- Lack of adequate Ministerial oversight, commitment to and monitoring of key policies in action (such as Puao-te-Ata-Tū).

In March 2021, we were still negotiating with the Ministry of Education about gaining access to residential special school's Annual reports and School Reports, additional data into psychiatric and health residences. We were able to access this data in April 2021 with the help of key Ministry personnel. There is currently a project underway to reclassify archival data, specifically that which relates to Māori, so that information is more readily identifiable and retrievable.

While the research is strongly ground in documentary evidence, there were limitations in the existing data. For this reason, a series of interviews were planned and conducted by the research team to support the findings.

Integrative literature review

An integrative literature review 'is a form of research that reviews, critiques, and synthesises representative literature on a topic in an integrated way such that new frameworks and perspectives on the topic are generated' (Torraco, 2005, p. 356). It is a method that permits the presence of diverse sources and methodologies (including experimental and non-experimental research) and has the potential to contribute significantly to policy design and evidence-based practices. Integrative reviews can clarify concepts and review theories by presenting an overview of the present state of a phenomenon. In this way an integrative literature review contributes to theory development. This is done by analysing and highlighting methodological issues and debates, whilst pointing out gaps in current understandings. It provides evidence that has direct applicability to practice and policy (Torraco, 2005).

Importantly the integrative literature analysis identified main themes as well as significant gaps in the evidence-base, that informed the second phase of data collection and analysis. In keeping true to the whakataukī, understanding the historical context is critical to understanding why and in what ways Māori are over-represented in the State Care system. This means understanding the historical context that informed policy decisions before 1950 and to 1990.

Our experience in conducting other high-quality integrative literature reviews related to Māori experiences in the state system, has highlighted the value of leveraging the expertise of key advisors, particularly their connections and 'insider' knowledge. We worked collaboratively with key staff at The Crown Secretariat and Crown Agencies to undertake an initial scan of documents readily available. This provided an opportunity to identify

examples of on 'the margins', not typically found in mainstream empirical or grey literatures.

- The initial search terms were to be agreed in collaboration with the Crown Secretariat and key Crown Agency staff and included,
- Terms such as 'Māori' 'Māori' 'native' 'children' 'juveniles' 'maladjusted' 'delinquents' 'adults' and 'family' 'whānau'.
- 'State Care' 'wards of the state' 'foster care' as well as 'Child Welfare', 'Department of Social Welfare and Child, Youth and Family' 'residences' as well as Education, Justice and Social Welfare
- Review of literature and primary sources concerning the development and implementation of Puao-te-Ata-Tū and the 1989 Act up to 2000.

To determine the extent of differential treatment the review included analysis of Pākehā/New Zealand European children and families between the same time frames. The search focussed on material produced between 1950 and 2000 and included:

- Unpublished and published literature and reports; and
- Masters/PhD theses relevant to the review

Key phrases were searched in:

- Recently published literature by using the Social Science Citation Index (SSCI) or the Web of Science
- Google scholar
- INNZ (an online index of New Zealand journal articles)
- Australia/New Zealand Reference Centre & MasterFILE Premier (EBSCO databases)
- AlterNative
- MAI Journal
- ProQuest
- Kiwi Research Information Service (https://nzresearch.org.nz/)
- Matapihi/ DigitalNZ (https://digitalnz.org)
- Webpages, documents and reports associated with Education Department residential schools for 'maladjusted children' such as Fareham House, Holdsworth, Kohitere, Epuni Boys' Home, Allendale Girls' Home, Mirimar Girls' Home, Auckland Boys' Home, Christchurch Boys' Home, Lower Hutt Boys' Home as well as the Adolescent Unit at Lake Alice Hospital.
- Webpages, documents and reports from Ministry of Social Development (MSD); Alcohol and Drug treatment Facilities, Human Rights Commission (HRC) as well as Health Camps etc

The reference lists of identified publications and source material were hand-searched to identify additional relevant publications. Finally, other stakeholders who have expertise in the field of Māori experiences of State Care between 1950-1999 were consulted for source material not found by the electronic database search. Literature reviews and interpretative studies conducted after the year 2000 were also examined to gain more contemporary analysis.

Inclusion and exclusion

Inclusion of literature sources was conducted through peer review by two Ihi researchers experienced in integrative literature reviews and Māori experiences of intergenerational abuse in State Care. This was conducted against a set of clear inclusion criteria constructed to align with the different parts of the literature review as determined by the research questions[79].

[79] The research questions have been outlined in the Introduction of this report.

Analysis

Analysis has involved determining how and in what ways the literature represents the central issue of Māori experiences of State Care during the timeframes of 1950-1999. Data analysis integrated within literature reviews requires that the data from primary and secondary sources are ordered, coded, categorised, and summarised into a unified and integrated conclusion about the research problem (Cooper, 1998).

A thorough interpretation of primary sources, along with an innovative synthesis of the evidence, were the goals of the data analysis stage. Critical analysis involved deconstructing the topic into its basic elements. These included the history and origins of the topic, representation of Māori survivors of abuse (gender, age, dis/ability, sexuality, rural/urban location), as well as Māori whānau and staff, their lived experiences and voices. The literature review was used to identify the types of practices used in State Care institutions that Māori and Pākehā children and young people experienced. The review also involved identifying Te Tiriti o Waitangi interests and evidence of decision-making. Analysis meant identifying the main concepts, the key relationships through which the concepts interact, research methods and applications of the topic.

Information on the total number of articles identified and screened was included in an electronic matrix. This matrix records the number of included literature sources and key findings from analysis. Thematic analysis was employed with all included literature sources. Key gaps that emerged through analysis, have formed the basis of interviews.

Table of literature sources

Information on the total number of articles identified and screened was included in an electronic matrix. This Matrix records the number of included literature sources and key findings from analysis. Thematic analysis was employed with all included literature sources. Key gaps that emerged through analysis, formed the basis of interviews. Four hundred and eighty-two sources were reviewed for this work. Table 9.1 indicates the type of sources reviewed.

Other includes, personal communication, affidavit, conference papers, and submissions to government.

Table 9.1. List of sources

Thesis	40
Journal	168
Web	14
Book	65
Book chapter	27
Report	103
Research paper	9
News article	7
Other	49
Total	**482**

Phase 2: Interviews

The purpose of the interviews/focus groups/ wānanga is to create context to the desk-based work and understanding whether those policies were achieving their purported aims, whether they were implemented as specified, unintended effects, actual effects and to fill any gaps in knowledge exposed by the review.

Whanaungatanga ensures that strong, positive relationships underpin all our interactions with research informants and partners. This value demands that we, as researchers, build connections with the Māori communities we work in for the life cycle of this project and beyond. Whanaungatanga ensures we capture, create, nurture, grow and protect the mātauranga shared with us during this project, not for our own benefit or gain, but for the

benefit of whānau. Whanaungatanga demands that we engage with our participants in a way that is mana-enhancing, respectful of each individual and the collective mauri and whakapapa.

Utilising a partnership approach in the design ensures the voice and experiences of our participants are privileged throughout the process. We see this as an essential part of Māori centred design, whānau rangatiratanga is always central to our data collection, analysis and presentation. We do this by involving research participants in the research process, returning the data to the participants (known as member checking) and ensuring informants have authority over their own narrative. This includes seeking their permission to use specific quotes.

Our primary strategy for working with whānau is to follow tikanga and that whānau determine the tikanga, as it is their place, and their story. Our researchers follow an engagement tikanga, first articulated by Linda Smith in 1999.

- Aroha ki te tangata (a respect for people)
- Kanohi kitea (the seen face, present yourself face-to-face) - even if this is via zoom/video conference
- Titiro, whakarongo … korero (look, listen … speak)
- Manaaki ki te tangata (share and host people, be generous)
- Kia tupato (be cautious)
- Kaua e takahia te mana o te tangata (do not trample over the mana of the people)
- Kaua e mahaki (do not flaunt your knowledge).
  (Cram, 2009; Smith, 1999)

When whānau have the information, they need and are well supported, interviews are successful. We provided the opportunity for participants to view the questions before the interview, ask questions and make suggestions, and invited them to bring whānau support with them. Meeting kanohi ki te kanohi, we offered them the opportunity to decide where the interview is held, always providing a neutral option such as an office, or meeting place.

Once participants had been identified a researcher made contact, usually by telephone, (followed by an email/letter) to explain the purpose of the research and inviting the participant to be part of the research. If they agreed to be interviewed, either on their own or with others, a suitable time was agreed on. This included an agreement as to how the engagement would occur – kanohi ki te kanohi, zoom, or telephone.

As the project is iterative, we did not know how many interviews or focus groups were required to address the knowledge gaps emerging from document and literature analysis. The desk-based research highlighted information gaps and information that needed to be tested against real-life experiences of individuals or whānau. Therefore, every interviewee had an interview schedule specifically designed for their role, interest, and experience. Not all those who were approached agreed to be interviewed. Māori researchers interviewed Māori participants. The roles assigned to the interviewees are indicative of the positions they held during the research period.

Ethical Considerations

Ethical approval for the project was sought through the Evidence Centre: Te Pokapū Taunakitanga at Oranga Tamariki.

Participant information sheets and consent forms were forwarded, and consent forms were signed by all participants.

Participants decided where the interview should be held. Some participants gave us copies of correspondence, papers and material that they had kept, as evidence of their engagement in the State Care system. All data is kept secure and will be destroyed one year following release of the report.

Interviews were digitally recorded and then transcribed. The transcriptions were analysed manually using thematic coding according to the research questions. Transcribers signed confidentially agreements. Interview transcripts were sent back to participants if requested, quotes used for the report were checked by the informants, to ensure the accuracy of comments made. Participants were given an opportunity to change or amend their quotes, and to remain confidential. In the body of the report those who chose to remain anonymous are referred to by their role.

Table 9.2. List of participants

Number	Name	Ethnicity
1	Senior Public Servant	Māori
2	Senior Public Servant	Māori
3	Wātene Māori Representative	Māori
4	Senior Public Servant	Non-Māori
5	Social Worker	Non-Māori
6	Public Servant Researcher	Non-Māori
7	Statistician	Non-Māori
8	Social Worker	Māori
9	Mātua Whāngai Worker	Māori
10	Senior Public Servant	Māori
11	Social Worker	Māori
12	Social Worker	Māori
13	Kaumātua Social Services	Māori
14	Social Worker Mātua Whāngai Worker	Māori
15	Sector volunteer	Māori
16	Family home parent	Māori
17	Māori provider	Māori
18	Social Worker	Non-Māori
19	Social Worker	Māori
20	Social Worker	Māori
21	Public Servant in DSW	Māori
22	Senior Public Servant	Māori
23	Public Servant Researcher	Māori
24	Kaumātua and Iwi Leader	Māori
25	Minister of the Crown	Non-Māori
26	Activist	Non-Māori

Research
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Information Sheet

Research into Māori involvement in the State Care system

Tēnā koe,

The Crown Secretariat is responsible for the Crown Response to the Royal Commission of Inquiry into Historical Abuse in State Care and in the care of Faith-based Institutions. Ihi Research has been contracted by the Crown Secretariat to undertake research into Māori involvement in the State Care system 1950-1999. Ihi Research is an independent kaupapa Māori research company (www.ihi.co.nz).

What is the focus of the research?

The Crown Secretariat wants to understand the causes of over-representation of Māori in the State Care system[80], Māori experiences of the system, and how services and systems changed after the implementation of Puao-te-Ata-Tū and the 1989 Children, Young Persons and their Families Act (the 1989 Act).

Why are we doing this research?

The Royal Commission's terms of reference specifically require it to give "appropriate recognition to Māori interests, acknowledging the disproportionate representation of Māori, particularly in care". In addition, the Royal Commission has announced it has launched eight investigations into different themes and settings, one of which is focussed on Māori.

Ihi Research needs to understand what sits behind Māori involvement with the State Care system, its impacts, and changes over time. This will help us to provide the Crown Secretariat and Royal Commission with the information it needs for the inquiry. It will also help inform agencies' decisions on future policies, practices, and services for Māori across the State Care system.

How is the research structured?

The research has been designed in three parts:

- Part A: Asks about Māori over-representation in the State Care system and the link with colonisation, land alienation, urbanisation and racism.

[80] TThe "state care system" is defined in the Royal Commission's Terms of Reference as formal and informal arrangements in the following care settings: social welfare settings, health and disability settings, educational settings, and transitional and law enforcement settings. These include, for example: all schools (day and residential), early childhood centres, psychiatric institutions, day and residential disability services, Police cells, Borstals, children's homes, foster care arrangements and adoptions. They also cover service providers who have been contracted by State agencies to provide care services.

- Part B: Asks about Māori experiences of the State Care system (including that of Māori staff).

- Part C: Asks about the impact of changes to the State Care system, in particular the impact of the 1986 report Puao-te-Ata-Tū and the implementation of the Children, Young Persons and their Families Act (1989).

All three parts have a significant desk-based element. However, Part B and Part C involve interviews with key participants to fill gaps in the documentary evidence available.

We have identified some gaps in the desk-based review and are focused on the following questions.

1. How have Māori staff experienced working in the State Care system? Have they felt listened to, or able to contribute? Have they felt supported?

2. How has the number of Māori staff and the experience of Māori staff changed over time? What are the experiences of Māori with the agencies responsible (including service providers contracted by agencies) for the care of tamariki Māori and vulnerable adults?

3. What initiatives have been generated and led by whānau, hapū, iwi and communities to cope with tamariki Māori over-representation in the State Care system and the impact of this?

What does your participation in this research mean?

You have been identified as someone who could help us understand how the State Care system was experienced by Māori staff as well as the initiatives generated and led by whānau, hapū, iwi and communities to cope with tamariki Māori over-representation in the State Care system.

We would really like to talk with you as part of an individual interview, focus group interview and/or wānanga. We would prefer the interview was kanohi ki te kanohi and at a place of your choosing, but this will depend on COVID-19 alert levels. If you would prefer for the interviews to be held at your home or someone else's home, two Ihi interviewers will attend. If the COVID-19 alert levels should rise, we will hold the interview via zoom or telephone. If you choose to participate, a small koha (up to $50, usually as a voucher/petrol or supermarket) will be given to you to compensate for your time and travel expenses.

The interview will take approximately 45-60 minutes. To ensure we represent your views faithfully the kōrero will be recorded using a digital recording device. However, you can choose not to have your interview digitally recorded. In this case there will be two interviewers and one of them will take notes. All interviews will be transcribed, and a copy of your transcript will be sent back to you to confirm the accuracy. If you agree to participate in an interview, you are welcome to bring along a support person. It is important that you feel comfortable. There may be instances where you disclose information that could be upsetting or distressing. You are entitled to access support and you will be provided will a list of support services/supervision at the time of the interview.

If you choose to take part in a focus group interview or wānanga, it is important that you keep details of the group discussion confidential. This means that you will not discuss details of the focus interview/ wānanga and/ or what has been shared. This includes the names of the people attending and the contents of their discussion. It is important that everyone feels safe and comfortable to participate fully.

You are under no obligation to accept this invitation to participate in this research. If you do choose to participate, you have the right to:

- Decline to answer any particular question/s.
- Withdraw at any time and information you have contributed at any time up until the report is written.
- Ask any questions about the research at any time during your participation.
- Provide any information on the understanding that your name will not be used, and you will not be identified.

All information provided is confidential. However, it is important to note that Ihi Researchers will only break confidentially when there is serious danger in the immediate or foreseeable future to you or others.

All interview recordings will be listened to only by members of the evaluation team and a professional transcriber. If we use a quote from your interview, we will disguise your identity. You will not be identified (unless you wish to be). Interview transcribers have signed confidentiality agreements. All interview data, including audio files and written interview transcriptions will be securely locked in a filing cabinet or a password protected file for the period of 1 year after the completion of the research and then destroyed. The information you provide will be analysed. We will send back emerging themes to you so that you can comment on these.

If you have any questions or concerns, please do not hesitate to contact me.

Nāku noa, nā

Dr Catherine Savage Director of Ihi Research

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Consent Form

Research into Māori involvement in the State Care system 1950–1999

Full Name: _____

I have read the Information Sheet and had the research explained to me.

I am aware that participation in this research is voluntary and I understand the information will be kept confidential.

Any questions that I have asked, have been answered and I understand that I may ask further questions at any time.

All information will be in a password protected file and stored for a period of 1 year after the publication of the report/research and will then be destroyed.

I understand that my identity will not be revealed in any part of the research.

Please tick the boxes if you agree.

- ○ I agree to participate in this study under the conditions set out in the information sheet.
- ○ I give consent for my interview to be digitally recorded and transcribed.
- ○ I give consent for hand-written notes to be taken for my interview and for these to be transcribed.
- ○ I give consent for my comments to be included in the research.

Please sign and date this consent form.

Signature: _____ Date: _____

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Appendix 1: Chapter 5 The Three Articles

Article the First

The chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation or Individual chiefs respectfully exercise or possess, or may be supposed to exercise or to possess over their respective territories as the sole sovereigns thereof.

Article the Second

Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates, Forests, Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession, but the chiefs of the United Tribes and the individual chiefs yield to Her Majesty the exclusive right of Pre-emption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective proprietors and persons appointed by Her Majesty to treat with them on that behalf.

Article the Third

In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand her Royal Protection and imparts to them all the Rights and Privileges of British subjects.

Note: These are the English version of the three articles of the Treaty of Waitangi as they appear in Puao-te-Ata-Tū. A literal English translation of the Māori version of these same articles follows (source: Project Waitangi).

This is the First

The Chiefs of the Confederation and all these chiefs who have not joined in that Confederation give up to the Queen of England for ever all the Governorship (kawanatanga) of their lands.

This is the Second

The Queen of England agrees and consents (to give) to the Chiefs, hapus and all the people of New Zealand the full chieftainship (rangatiratanga) of their lands, their villages and all their possessions (taonga: everything that is held precious) but the Chiefs give to the Queen the purchasing of those pieces of land which the owner is willing to sell, subject to the arranging of payment which will be agreed to by them and the purchaser who will be appointed by the Queen for the purpose of buying for her.

This is the Third

This is the arrangement for the consent to the governorship of the Queen. The Queen will protect all the Māori people of New Zealand and give them all the same rights as those of the people of England. From Parata (1994).

Appendix 2: Data from historic abuse claims

Total N	As at 31 March 2021, Ministry of Social Development had 4,624 Historic Claims claimants.
Ethnicity [1]	Over half of claimants (53%) identified as Māori Just under half (43%) identified as New Zealand European 4% of claimants identified as Pacific Islander 13% combined 'other' and 'not disclosed'
Age	As at 31 March 2021, 27% of the claimants were under 15-39 54% of the claimants were 40-59 20% were 60 and over
Gender[2]	70% Male 29.2% Female 0.1% Gender diverse 0.7% Not disclosed
Type of allegations	Claims received covered a wide range of abuse and neglect allegations and alleged failures in the provision of care. Claimants have made allegations about sexual, physical, verbal, emotional and psychological abuse and neglect. These allegations relate to residential institutions, foster care, 31 family homes, Ministry caregiver placements, approved church and community organisations and by staff members. Concerns also relate to decisions made by social workers, such as failing to remove a child from an unsafe family environment or failing to provide the necessary support to a child in care.
Period claims relate to	In the early years of the Historic Claims Process, claims generally related to events that took place during the 1960s, 1970s and 1980s. Though, as time has progressed and the definition of historic has been broadened, the Ministry now has a much broader spread of claims and now regularly receives claims relating to events in the 2000s.
Period claims relate to	Consistent themes of engagement with claimants, many claimants: • have low income, • have health or mental health difficulties, • have difficulties finding or retaining work, • are transient and some have been in prison at some point since leaving State care. Many claimants attribute the difficulties they have faced to their experiences as a child in State care. Overcoming these challenges may not be possible without an understanding and acknowledgment of that experience. Experiences in State care have also contributed to a distrust of government, and a resulting reluctance to engage with government services that may be able to offer assistance to claimants and their families.

Source: Demographic information obtained from Historic Claims, Ministry of Social Development (personal communication, May 27, 2021). The content of the claims was obtained from the Brief Evidence of Simon MacPherson (Deputy Chief Executive for the Policy Branch) for Ministry of Social Development (for the Abuse in Care Royal Commission of Inquiry hearing).

[1] The results combine the primary, secondary, and tertiary ethnicities; therefore, the resulting totals are larger than the total number of claimants.
[2] 'Gender diverse' was introduced as a category for recording only in late 2018.

Appendix 3: State Care Timeline

This timeline lists major institutional and legislative changes and reports across the welfare, justice, education and health sectors. Prepared by the Secretariat, Crown Response to the Abuse in Care Inquiry[1].

Year	Event	Description
1909	Native Land Act	Prevented Māori from adopting children in accordance with Māori custom. The Native Land Court could make orders for adoption by Māori, but only of Māori children. Also affected marriages between Māori.
1911	Mental Defectives Act	Consolidated regulations to detain 'mentally defective' persons, allowing voluntary admission, licencing and basic requirements for institutions. Also enabled the transfer of 'feeble-minded' minors from a mental hospital to a special school.
1924	Borstals Act	The Prevention of Crime (Borstal Institutions Establishment) Act. Offenders aged 15-21 could be detained in Borstals for one to five years for 'reform', which included occupational training.
1925	Child Welfare Act	Established the Child Welfare Branch in the Department of Education and Children's Courts. Allowed for a range of residences: receiving homes, probation homes, convalescent homes, training farms and schools. Set the age of criminal responsibility at 7 years. It also required all illegitimate births to be notified to Child Welfare Officers (which continued until 1983).
1926	Child Welfare Branch set up	Based in the Department of Education, it had responsibility for the welfare of all children (whether in institutional care or in the care of family). The Superintendent of Child Welfare was responsible to both the Minister of Education and the Minister in Charge of Welfare.
1928	Mental Defectives Amendment Act	Established the Mental Hospitals Department and broadened the definition of 'mental defective', so it applied to more people. It set up residential institutions for people with intellectual disabilities and set up a Eugenics Board (disestablished in 1932).
1931	Native Land Act	Removed recognition of adoptions by Māori custom for things such as succession to native land where there was no will (unless the adoption had been registered pre-31 March 1910 and was still in place). Also impacted land development and title.

[1] https://www.abuseinquiryresponse.govt.nz/documents/state-care-timeline/

Year	Event	Description
1932	Health Camps	The first permanent Children's health camp was built at Otaki.
1940	Māori Purposes Act	Marriages in accordance with Māori custom, and certain earlier adoption orders, were deemed valid for specific land purposes.
1941	Separate schools added to health camps	A separate school was added to the Otaki Children's Health Camp, and subsequent permanent children's health camps were built with an associated school attached. School staff were employed and managed by the Department of Education.
1945	Māori Social and Economic Advancement Act	Established Tribal Executive Committees, Māori Wardens and Māori Welfare Officers. The latter did not have statutory responsibilities but worked with child welfare officers from under the Child Welfare Branch of Education. The Act also removed discrimination in social security that had disadvantaged Māori.
1948	Child Welfare Division	The Child Welfare Branch of the Department of Education was renamed the Child Welfare Division.
1950	Mental Defectives Amendment	Made it compulsory for institutions caring for 'mentally defective persons' to have a medical superintendent (a qualified doctor) and for an institution with more than 100 patients to have a medical officer living in residence.
1953	The Aitken report and the Burns report	The Consultative Committee on Intellectually Handicapped Children (Aitken Report) advocated an expansion of the residential institutional model for the 'great majority of imbecile children'. The Burns report advocated for small-scale facilities in communities.
1953	Māori Affairs Act	Consolidated legislation on Māori land and set up the Department of Māori Affairs and the Board of Māori Affairs. It separated more whānau from land to which they had whakapapa links, and further limited the recognition of marriages and adoptions done in accordance with Māori custom.
1954	The Mazengarb report	The Special Committee on Moral Delinquency in Children and Adolescents criticised films, comics, and declining standards of family and religious life. Later described as leading to a 'moral panic'.

Year	Event	Description
1955	The Adoption Act	Codified adoption practices around a 'nuclear' family using a model of closed adoption. This cut across tikanga Māori, as it did not recognise the custom of whāngai. It also removed the restriction that Māori could only adopt Māori children. If an applicant was Māori, the adoption order was heard in the Māori Land Court.
1955	National Committee on Māori Education	The Minister of Education appointed a National Committee on Māori Education (with majority Māori membership), which agreed there should be one system of State schooling for both Māori and Pākehā. The Committee was reconstituted as the National Advisory Committee on Māori Education in 1956, reporting annually to the Minister of Education.
1956	Health Act	Affirmed the Department of Health's administration of the Mental Defectives Act 1911.
1957	The Hospitals Act	Established 18 District Health Offices and 29 locally elected Hospital Boards, to oversee hospitals and some other services. It also set up the Hospitals Advisory Council to advise the Minister of Health on the provision, control, and management of the Hospital Boards.
1957-1958	The Juvenile Crime Prevention Section	Established by Police in Christchurch in 1957 and expanded to other centres in 1958. Aimed to divert young, minor, offenders away from the Courts, so long as they admitted guilt, agreed to make amends, and their parents took responsibility for their behaviour. Policewomen were targeted to staff the Section.
1959	Superintendent of Registered Children's Homes and Child Care Centres	Appointed by the Department of Education to oversee the inspection of children's homes and childcare centres and provide advice. Part of a response to a public outcry over neglect in a day-care facility in 1958. The Child Welfare Division regulated the registration, licensing, and control of childcare centres, and appointed specialist officers to supervise them.
1960	Child Care Centre Regulations	Established minimum standards for childcare centres (also in response to the 1958 neglect case). All premises caring for three or more children had to be registered with the Child Welfare Division.
1960	The Police Offences Amendment Act	Criminalised minors' possession or drinking of alcohol. Stricter measures were introduced for dealing with older youth offenders, including detention centres for those aged 16 to 21 years.
1961	The Hunn Report	The Department of Māori Affairs' report identified disadvantage and concluded that Māori were a 'depressed ethnic minority'. The Report noted education had a major role to play in the economic and social advancement of Māori, and recommended abandoning the policy of assimilation in favour of integration.

Year	Event	Description
1961	The Māori Education Foundation Act	Set up after the Hunn report, mainly using Department of Education staff, to lift Māori education standards 'equal to that of the Pākehā' by encouraging Māori into secondary and tertiary education.
1961	The Crimes Act 1961	Raised the age of criminal responsibility from 7 to 10 years, and included statutory confirmation of the common law principles that parents, care providers and schools could use force to correct the behaviour of children (Section 59).
1961	The Child Welfare Amendment Act	Amended the Child Welfare Act 1925 to allow a child or parent to request, after one year, a review of a committal or supervision order.
1962	The Māori Welfare Act (later the Māori Community Development Act)	Updated the Māori Social and Economic Advancement Act 1945. It enabled the appointment of Honorary Welfare Officers, established the New Zealand Māori Council, and added specific functions for Māori Wardens. Tribal committees were replaced by committees representing mainly geographic areas that did not always reflect iwi areas of interest. In 1979 the Act's title was changed to the Māori Community Development Act.
1962	Māori Land Court adoptions ceased	All adoptions became processed by the Magistrates Court, and the separate Māori birth and death registers were combined.
1962	Mental Health Division	The Department of Health was reorganised into six divisions, including one mental health division.
1962	The Currie Report	Report of the Commission on Education in New Zealand reinforced the State's provision and control of education. Advocated equality of opportunity, drew attention to the disparity in Māori education and recommended Te Reo as an optional subject at secondary level.
1964	The Education Act	Allowed the Minister to establish 'any special class, clinic, or service' and outlined conditions to compulsorily enrol 'certain children' who might be required to attend. Children 'suffering from a disability of the body or mind' were not eligible to enrol in regular schools, and parents remained responsible for their education. The Act also provided for the training of teachers for special education.
1968	Police Youth Aid Section	Established after an overhaul of the old Juvenile Crime Prevention Section to work more closely with young people and avoid them entering the Court system.
1968	The Guardianship Act	Defined and regulated the authority of parents as guardians of their children, their power to appoint guardians, and the powers of the Courts in relation to the custody and guardianship of children.
1969	The Status of Children Act	Removed the legal distinction between legitimate and illegitimate children.

Year	Event	Description
1969	The Mental Health Act	Replaced the Mental Defectives Act 1911, revised the definition of mental disorder, and included 'informal patients' admitted to a psychiatric institution outside the Act who could leave at any time (provided they were not 'disordered'). For the first time the Act set time limits around patients being subject to compulsory detention.
1969	Integrated schools	The separate Māori school system administered by the Department of Education was abolished. Management of the 105 Māori primary schools and remaining Māori district high schools were transferred to education board control. Māori High schools had been closing or transferring since the mid-1950s.
1971	Joint 'J' Teams	Set up to support young Māori in cities. Included Police, Child Welfare, Māori Affairs and voluntary groups (disbanded in 1980).
1971-1972	The Department of Social Welfare Act	Merged the Department of Social Security and the Department of Education's Child Welfare Division to form the Department of Social Welfare (DSW), which began operating on 1 April 1972. DSW was responsible for child welfare, but residential special schools for 'hearing handicapped, maladjusted and backward children' remained with the Department of Education.
1972	Mental Health Amendment Act	Transferred control of psychiatric hospitals from the Department of Health to Hospital Boards.
1972	Lake Alice Child and Adolescent Unit opened	The Unit operated for six years but children and young people may have been treated in Lake Alice prior to the unit being opened.
1973	The Social Security Amendment Act	Established the Domestic Purposes Benefit (DPB), to support sole parents (over the age of 16). The DPB was also available for people to care for an adult who otherwise would have needed to be in hospital. The DPB helped give women economic independence and may have helped some whānau Māori keep their children.
1973	Royal Commission of Inquiry into Hospital and Related Services	Rejected the view that the majority of mentally handicapped people should be placed in institutional care from the age of five. Recommended review of psychopaedic services and that mentally handicapped people should not be in psychiatric hospitals.
1974	Children and Young Persons Act	Replaced the Child Welfare Act 1925 and separated children (aged under 14 years) and young people (14–17 years). Only young people could be referred to the Children and Young Persons Court. The Act also modernised the framework for Youth Aid Services, including preventative work with young people, including the use of informal warnings or sanctions as an alternative to arrest.

Year	Event	Description
1975	Treaty of Waitangi Act	Established the Waitangi Tribunal, and began to recognise Māori rights under the Treaty. Initially, its scope of was limited to contemporary grievances arising after 1975, but a 1985 amendment enabled the Tribunal to investigate claims going back to 1840.
1975	The Disabled Persons Community Welfare Act	Provided financial and other assistance for disabled people, and support for private organisations that provide facilities for disabled people to help them stay in the community. Allowed the Department of Social Welfare to pay up to four weeks respite care for a disabled child, and a Disability Allowance of up to $8 a week, subject to an income test.
1975	Private Schools Conditional Integration Act	Facilitated the conditional and voluntary integration of a private school into the State education system, on the basis that the school's special character (religious or philosophical belief) would be 'protected' and 'safeguarded'. 249 Catholic and 9 non-Catholic private schools had integrated by 1983.
1976	McCombs Report (Towards Partnership)	Criticised the lack of Māori, Pacific people and women in school governance, the isolation of school boards from communities and the concentration of power in the Department of Education.
1978	Lake Alice Child and Adolescent Unit closed	The Child and Adolescent Unit at Lake Alice psychiatric hospital closed.
1979	Intensive Foster Care schemes	The Department of Social Welfare established Intensive Foster Care schemes to match more difficult children with carefully selected foster parents, who received training, advice and support.
1980	The Family Court Act Established	Established the Family Court. Its jurisdiction included marriage and its dissolution, adoption, guardianship, paternity, matrimonial property and spousal and child maintenance. (Later expanded further to include care of children and child protection and welfare)
1981	Borstals closed	The last of the borstals was closed by the Criminal Justice Amendment (No 2) Act 1980.
1982	Police national register of complaints	The first system to track Police complaints, and how they were dealt with. The register revealed more complaints than expected, the prominence of excessive use of force (especially at stations after arrest), prevalence of some bad practices (such as strip-searches in public), and the recurrence of some officers' names in complaints.
1982	Kōhanga reo	The first kōhanga reo was supported by the Department of Māori Affairs. A year later, there were 100 (currently over 460). As well as reviving Te Reo Māori, the aims included immersing children and whānau in Māori child rearing practices.

Year	Event	Description
1982	The Johnson Report	Followed a 1979 Human Rights Commission Inquiry into Auckland residences and the 1978 Auckland Committee on racism and Discrimination (ACORD) inquiry conducted by a group of social workers into residences in Auckland. Identified significant problems with residential practice including: overcrowding, use of secure care and disrupted social work practice.
1983	The Area Health Boards Act	Established 14 Area Health Boards to gradually replace the Hospital Boards and District Health Offices. The change was completed when the Local Government Act 1989 abolished Hospital Boards.
1983	Police Directorate of Internal Affairs	Established to manage discipline, complaints and related appeals. New policies were introduced for dealing with complaints made in Police custody.
1985	The Adult Adoption Information Act	Enabled adopted children and birth parents to access information about each other, but allowed birth parents to request a veto on their information so that the child may not have access to the information.
1986	Ministerial Review of Department of Education Residential Special Schools	Examined the seven residential special schools (which served 396 children and employed 350 staff) and recommended they be consolidated, as some children's needs could be met in their local area. The review resulted in the closure of Campbell Park School, with services consolidated at Salisbury and Hogben Schools.
1986	Residential Care Regulations	The Children's and Young Persons (Residential Care) Regulations represented the first time that practices for the care of children and young people in social welfare residences were set out in statute.
1986	Early childhood services integrated within the education system	Responsibility for the funding and administration of early childhood care and education services was transferred from the Department of Social Welfare to the Department of Education on 1 July 1986.
1986	Te Whainga i Te Tika – In Search of Justice	The report of the Advisory Committee on Legal Services raised concerns about: children lacking effective legal protections; young people not understanding what was happening in courtrooms; institutional racism; and identified children and young people under the control of government departments as especially vulnerable.
1987	Corporal punishment	Corporal punishment in schools was abolished in practice (by policy) in 1987 but not legislatively until 1990.

Year	Event	Description
1988	Puao-Te-Ata-Tū	The Report of the Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare (DSW). It identified institutional racism in DSW and in wider New Zealand society and found DSW to be a 'highly centralised bureaucracy insensitive to the needs of many of its clients'. It also suggested funding community work to strengthen Māori networks and family links. In response, DSW accelerated moves away from foster care and residential institutions, closing most institutions, reorganising those that remained, introducing new residential care regulations and reallocating resources to community-based alternatives.
1988	The Mason Report	The "Committee of Inquiry into Procedures used in Certain Psychiatric Hospitals in Relation to Admission, Discharge or Release on Leave of Certain Classes of Patients", investigated the treatment of patients who had a crossover with the justice system (particularly violent offenders). As a result, a network of regional psychiatric secure units such as Auckland's Mason Clinic was set up. It also called for integrated bicultural services to better meet Māori needs, acknowledging that psychiatric assessments used a western model that did not consider family, culture and spiritual identity.
1988	The Picot Report and Tomorrow's Schools	The Picot Report (Administering for Excellence: Effective Administration in Education) identified: over-centralised decision-making; complexity; lack of information and choice; lack of effective management practices; and powerlessness among parents, communities and staff. Government's policy response, Tomorrow's Schools, agreed with the Picot Report, and by the end of 1991, most of its major reforms were either in place or underway.
1989	The Education Act (Department of Education to the Ministry of Education)	Gave effect to Tomorrow's Schools, devolving the school system into approximately 2,600 self-managing schools, governed by elected boards of trustees (the legal employer of all school staff) and managed by Principals (as standalone Crown entities). Boards of trustees were responsible for making sure their schools were physically and emotionally safe places for students and staff. The Department of Education was abolished (along with the regional Education Boards and Boards of Governors) and replaced with a smaller Ministry of Education. A range of new regulatory agencies were introduced, including the Education Review Office, NZ Qualifications Authority, and the Teacher Registration Board. The Act also provided for special education for people under-21 in schools, special schools, special classes, clinics or services.

Year	Event	Description
1989	The Children, Young Persons, and Their Families Act	Arose from concerns about over-formalised treatment of juveniles, allegations of harsh treatment and racism (e.g. in Puao te Ata tu), and a lack of public accountability for its actions. Internationally, there was increasing recognition of children as having legal rights. Distinguished between 'care and protection' and 'youth justice', acknowledged the rights and responsibilities of families and set up Family Group Conferences. Imprisonment became an intervention of last resort and Police Youth Aid dealt with most offending. The Act also established the Office of the Children's Commissioner.
1990	The Education Amendment Act	Prohibited the use of force (by way of correction or punishment) by anyone employed by a board of trustees, or supervising or controlling children, in an early childhood service, home-based care service or registered school.
1990	Police Complaints Authority	In its first year 795 complaints were received, including death/serious injury, harassment/excessive attention, suicide in Police care and the mistreatment of children. The Authority estimated 20 per cent of complaints were wholly or partially sustained.
1990	Te Kōhanga Reo	Following the disestablishment of the Department of Māori Affairs, kōhanga reo operations were moved to the Ministry of Education.
1992	Department of Social Welfare restructure	Five business units were created: the New Zealand Income Support Service; New Zealand Children and Young Persons Service; New Zealand Community Funding Agency; Social Policy Agency; and, the Corporate Office.
1992	The Education (Home-Based Care) Order	Set out a code of practice for chartered home-based early childhood education services (providing education or care to fewer than five children under the age of 6 years). The regulations were replaced by Licensing Criteria for Home-Based Education and Care Services 2008.
1992	The Mental Health (Compulsory Assessment and Treatment) Act	Replaced the Mental Health Act 1969 and revised provisions for compulsory assessment and treatment. The Act had a new definition of mental disorder and set out patients' rights, and processes, reviews and inquiries to protect them. The intent was to provide treatment in the least intrusive and restrictive way.
1992	Police internal tribunal system	Established to deal with disciplinary matters of insufficient seriousness to place before the criminal Courts.
1993	Ministry of Health, Regional Health Authorities and Crown Health Enterprises	Established to replace Department of Health and Area Health Boards. Residual Health Management Unit (later renamed the Crown Health Financing Agency) took over the remaining responsibilities for Area Health Board assets and liabilities not transferred to Regional Health Authorities and Crown Health Enterprises.

Year	Event	Description
1996	The Education Amendment Act	Increased the Teacher Registration Board's responsibility to ensure teachers met 'satisfactory teacher' standards throughout their careers. It required all teachers to show evidence of meeting the standards when renewing their practising certificates, and made it illegal for state and state-integrated schools, other than kura kaupapa Māori, to employ people in permanent teaching posts who did not have a practising teachers' certificate.
1998	Department of Work and Income (known as WINZ)	Established with the merger of Income Support Service and the New Zealand Employment Service, Community Employment Group and Local Employment Co-ordination.
1998	Education (Early Childhood Centres) Regulations	Required all early learning services (caring for three or more children under the age of 6 years) to be licensed, and set minimum standards for child protection, health and safety, curriculum, premises /facilities, qualification levels, and management. Allowed the Secretary for Education to immediately suspend a centre's licence.
1999	Department of Child, Youth and Family Services establishment	Children, Young Persons and their Families Agency established with the merger of the New Zealand Children and Young Persons Service and the New Zealand Community Funding Agency. Later in the year, it became the stand-alone Department of Child, Youth and Family Services (known as Child, Youth and Family).
1999	Ministry of Social Policy	Established by the amalgamation of the Social Policy Agency and Corporate Office of the former Department of Social Welfare with the addition of a new Purchasing and Monitoring Group.
2001	The Education Standards Act	The Act regulated school boarding houses, introduced compulsory registration for kura kaupapa and early childhood teachers, and required complaints about teachers conduct, competence, or serious misconduct to be reported to the Teachers' Council. It also amended the Education Act 1989 to require mandatory police vetting for all teachers, non-teaching staff, and contractors every three years.
2001	Ministry of Social Development	Established by the amalgamation of the Ministry of Social Policy and the Department of Work and Income.
2001	District Health Boards	District Health Boards established, replacing the Crown Health Enterprises.
2001-2002	Lake Alice apology	Government apology and compensation to approximately 180 former patients of the Lake Alice Hospital Child and Adolescent Unit (1972–1978) after a private inquiry into mistreatment in the Unit.
2002	Office for Disability Issues	Established within the Ministry of Social Development.

Year	Event	Description
2005	The Education (Hostels) Regulations	Prescribed a hostel licensing system and checks on operators, with options for direct intervention if serious safety concerns were identified. (Hostels do not include private boarding arrangements, but include: residential special schools, health camps, state and state-integrated schools' boarding hostels, and private hostels for international students attending registered schools).
2005	Child, Youth and Family merger	Child, Youth and Family merged as a service line within the Ministry of Social Development.
2006	Kimberley Centre closed	The last residential disability care facility was closed (the Kimberley Centre in the Horowhenua).
2006	Claims Resolution Team	Set up inside the Ministry of Social Development to respond to claims of historic abuse or neglect against Child, Youth and Family or its predecessor agencies.
2007	Te Aiotanga:	The Report of the Confidential Forum for Former In-Patients of Psychiatric Hospitals (Te Aiotanga) summarised and evaluated the process of the Confidential Forum, and summarised what the Forum heard from former patients and their family members and support people, and former staff. Follow up actions were described.
2008	The Confidential Listening and Assistance Service (CLAS)	An independent body set up for people to talk confidentially about their experiences, to help them identify (and get assistance to meet) their needs, and to refer those who want to follow up their concerns to a Government agency. When it closed in 2015, the Confidential Listening and Assistance Service reported that of the 1,103 people they had met 626 reported being abused while in the care of the State.
2012	Crown Health Financing Agency	The Crown Health Financing Agency was disestablished and its assets and liabilities transferred to the Ministry of Health, including responsibility for addressing claims of any historic abuse that occurred before 1 July 1993.
2012	Health camp schools closed	Following the Education Review Office's recommendation that the Ministries of Education and Social Development examine the role of health camps and their schools within the wider provision of services for students with moderate to severe behaviour difficulties, the health camp schools were closed. Responsibility for helping children with behavioural and social needs was contracted to Stand Children's Services.

Year	Event	Description
2014 - 2015	The Vulnerable Children's Act	The Act introduced new requirements for children's worker safety checking. State services and organisations providing government-funded services to children and families were required to have a Child Protection Policy setting out their commitment to child protection and providing information on how staff should respond when they have concerns about the safety and wellbeing of children. The regulations set out the details of the mandatory safety check. Anyone convicted of a specified offence could not be employed as a core children's worker unless they had an exemption.
2017	Oranga Tamariki	The Ministry for Vulnerable Children, Oranga Tamariki was established, as a separate agency to replace Child, Youth and Family.
2017	The Education (Update) Amendment Act	Provided a legal framework for the appropriate use of physical restraint by teachers and authorised staff, allowing physical restraint only where there was a serious threat to safety. It also prohibited the use of seclusion in early childhood services, ngā kōhanga reo, schools and kura.
2018	Abuse in Care Royal Commission	The Government announced the establishment of the Royal Commission of Inquiry into Historical Abuse in State Care (later extended to include Faith-Based Institutions). The Royal Commission's contextual hearing, its first substantive public hearing, was held in November 2019.

The Research Team

Catherine Savage
(Kāi Tahu, Kāti Māmoe)

Catherine was adopted as an infant into a Pākehā family, as part of the closed adoption system. She is the lead researcher at Ihi Research and is interested in community development and social justice. She has previously worked as a psychologist and an academic.

Paora Crawford Moyle
(Ngāti Porou - Te Whānau a Tūwhakairiora)

Paora was raised in the custody of the state, in both state and faith-based settings. Paora is a long serving social worker, a registered professional supervisor, and currently completing a PhD through Victoria University, on stolen tamariki and mokopuna Māori in Aotearoa.

Larissa Kus-Harbord

Larissa Kus-Harbord, at 4 years old, migrated with her family from Ukraine to Estonia to live in a new cultural and language environment. Twenty-five years later she came to Aoteroa to complete her PhD in cross-cultural psychology. Larissa works as a researcher in Ihi Research. As a mother of a little girl, she is interested in children's wellbeing, social justice and cross-cultural interactions.

Annabel Ahuriri-Driscoll
(Ngāti Porou, Ngāti Raukawa, Ngāti Kahungunu)

Annabel was adopted as an infant into a Pākehā family, as part of the closed adoption system. She is currently a lecturer in hauora Māori/public health at the University of Canterbury, where she recently completed her doctoral studies, investigating the lived experiences of Māori adoptees.

Anne Hynds

Anne Hynds is Pākehā, and a senior researcher for Ihi Research. She has a research interest in social justice. She has previously worked as a teacher within Deaf education, and has held academic roles at Victoria University of Wellington and the University of Auckland.

Kirimatao Paipa
(Ngāti Pōrou, Ngāti Whakaue, Tukorehe)

Kirimatao is a mother and a grandmother and has a brother and sister who were whāngai to different siblings of her father - one was successful, one was not. She works as an evaluator, researcher and teacher and is interested in using those skills to enable indigenous communities, whānau, hapū and iwi.

George Leonard
(Ngāti Rangiwewehi, Ngāti Raukawa, Ngāti Whakaue, Ngāi Tūhoe)

George is a recent law graduate from Canterbury University. George is interested in criminal law and the treatment of rangatahi in the justice system.

Joanne Maraki
(Ngāti Porou, Rongomaiwahine, Rakaipaaka)

Jo is the whāngai of her whānau. A privilege she believes taught her to value relationships between people, places, and situations. Joanne works in health and social services and is interested in the role of evaluative research in contribution to community, hapū and iwi development.

John Leonard
(Ngāti Rangiwewehi, Ngāti Raukawa, Ngāti Whakaue, Ngāi Tūhoe)

When John was 25, he met his older sister who was adopted through the closed adoption system in the 1960's. John is the managing director of Ihi Research and interested in indigenous approaches to healing men's trauma.

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