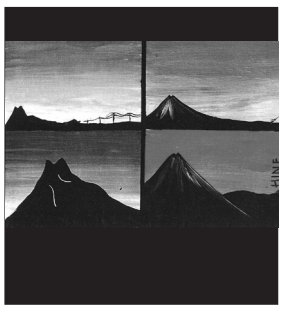
Young People Experiencing Behavioural Difficulties: Discourses Through the Decades



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ABSTRACT

History has informed the present, as surely as the present will inform the future. As an evolving society, we are continually reflecting on the events and experiences of the past, taking stock of the issues and realities of the present, and then adapting the parameters, definitions and constructs that serve to define acceptability and reason as we move forward into the future. Our society's perceptions about children – their learning, their rights, their status, and the disciplinary imperatives associated with these perceptions – have evolved and changed markedly over time. What was considered fair, right and just 100 years ago is now no longer deemed principled, relevant or appropriate. How has the passage of time during the last 150 years in Aotearoa New Zealand influenced and shaped current perceptions about, and responses to, children and behaviour? What legal, ethical and educational milestones have contributed to these current perceptions and responses? This article journeys through a timeline of societal, legal and educational events that have impacted on today's theoretical and practical notions.

Practice paper

Keywords: *Behaviour difficulties, discourse, manaakitanga*

INTRODUCTION

Our purpose in writing this paper has been twofold. First, we wanted to reflect on the historical events and perceptions associated with children and young people experiencing behaviour difficulties in their lives. Second, we wanted to critique and discuss present-day perceptions of this group of people and the provisions that are being designed for them.

Education provision has not always been grounded in a concern for equity of access for all children. Much of modern procurement has its roots in the special education rights movement and the subsequent passages of legislation that sought to provide legal protection for students with various disabilities. These laws and their revisions, coupled with the enthusiasm of many professionals within the field, have generated considerable research and advocacy focused on crucial topics such as human rights. Drawing attention to human rights has led to some positive sequences, including strategies that allow professionals not only to conduct non-discriminatory assessment practices but also to act as systems change agents for the benefit of these children and their whānau (families).

When considering the status (or position) of children in society, one should view this as being relational to other adults, and also occupying a less powerful position. It is also important to place children in an historical context when discussing their position and to consider the prevailing discourses and the respective influences that these discourses have had – and still have – on their position in society.

Life-course theory provides a useful framework to discuss the position of children in society as it takes into account the fact that the occurrences of various happenings at different stages of a child's life leads to a range of outcomes. There is an historical dimension as well as a contextual issue that this theory addresses, and this draws attention to the child in a specific "time and place". Life-course theory recognises that we live linked lives, where interdependency is a central focus, and lives are embedded in the family, friendships and the community. Elder (1995), an ecological contextual theorist who propounded these ideas, contends that we all make choices from a series of options as we construct our life course. According to Elder, (cited in Santrock, 1999) a developmental pathway or social trajectory is an important consideration because of particular emphases on the impacts of changes in adult perceptions on the one hand, and political decision-making on the other. These two imperatives are significant in terms of how the narratives for children's educational and social outcomes unfold. This paper will explore the unfolding of narratives over

time with special attention given to the discourse around the rights of the child; and it will close by outlining that professionals can be more effective agents for bringing these rights to bear - when provision at a national level is structured with conviction and integrity.

SOCIAL CONSTRUCTIONISM: ITS RELEVANCE FOR NOTIONS OF CHILDHOOD, CHILDREN AND THEIR RIGHTS

According to Bird and Drewery (2000), no matter how we view our own realities and those of others, that view 'is determined by the rules of our culture, and discourses provide some of these rules' (p. 69). Consider the definition of "childhood" as a structure that differs within each culture. In the western discourse of childhood, children are in the main seen as innocents, dependent on adults, free from adult responsibility, and needing the protection of society. This last point - protection - implies not only the provision of some attribute or support to the child but also unequal status.

We also see the child from a child-rearing perspective - the importance of which has changed over time. We speak of a psychological discourse in terms of what the child is able to do at certain ages and stages. Secondly, we are frequently guided by a medical discourse and ruminate about issues like maturity, obesity and particular illnesses that may ensue if attention is not paid to health and wellbeing. Thirdly, we may use a cultural discourse which leads to discussion that is specific to a cultural or ethnic group and is often very ethnocentric, as social factors of what affects choice are presented. Finally, we refer to different historical periods when the process of child-rearing is presented differently according to the economic, social and philosophical meaning of that era and time. To talk of child-rearing implies that society accepts childhood as a period of socialisation, of preparation for adulthood and a time to learn the values and normative behaviour of the community within which a child lives. As already stated, such an approach means unequal status and power being held by adults who may be parents, teachers, providers of professional services, or in later years, employers.

Over recent years the seminal work of Wright-Mills (1956) has become pertinent. He considered that in any society there are a few who determine the lives of many social members. He placed importance on the normative values of society and the coercive factors within societal structures. Those who form Wright-Mills' elite have an involvement in more of these social structures and these may be the church, the governmental institutions, the educational forums, social welfare agencies and other arenas of organisation and control. Power resides with those who have communication between these structures with their collection of norms and values, and the technology to support and introduce further development. As the social structures continue to interlock, decisions in one of these areas become related to other areas, and those who make the decisions form the "power elite" of Wright-Mills' theory. The outcome is a movement of private issues into the public domain as norms and values are not acceded to, and powerlessness overwhelms the individual or family group. This act frequently leads to addressing grievances in unacceptable ways because those involved recognise their inability to change economic deprivation, one's status in life or the manner in which the individuals view themselves.

THE EMERGENCE OF A "RIGHTS" DISCOURSE

A genuine consideration for children means addressing their rights. Although childhood is a construct of modern times, the social construction of childhood has been around for almost two centuries (Happold, 1937). Before considering the historic journey children have made in New Zealand, a brief reference to the United Nations Convention on the Rights of the Child (UNCROC) (1989) which we as a country are signatory to, places the destination in context. The rights outlined in this statute refer to three main types of rights: those of participation, protection and provision (McLeay, 1999). These rights arose from the passionate beliefs of a Polish doctor by the name of Korczak, who considered there was a need to protect the young - and what he termed - 'throw away' children. These were the children who were being abused and exploited throughout the world. His remarkable and (until the 1930s and 1940s) un-thought-of ideas, strongly influenced the writing of the 1989 UNCROC legislation (Lifton, 2005).

The UNCROC articles which refer to the rights of participation incorporate civil and political rights, including the right to be consulted and taken into account, the right to information, to freedom of speech and opinion, and to the right to challenge decisions made on the children's behalf. These rights also include that of having a name and an identity. The rights to protection espouse the right 'to be safe from discrimination, physical and sexual abuse, exploitation, substance abuse, injustice and conflict' (p.3). The rights of provision advocate 'minimum standards of family life and access to parental care, health, education, social security, physical care, play, recreation, culture and leisure' (McLeay, 1999, p.18). Implicit in these rights is the notion that there is a duty to provide

for the right of an individual, and that if the parents cannot provide for the child then the state should. The question must be asked "who is the state?" and this has been explored in the work of Wright Mills, where individual responsibility moves into the public domain and becomes a collective responsibility.

POLICY AND LEGISLATION

This section of the paper will present a chronology of events which relate to the formation of policy and legislation where this affects children and young people who live their lives in exceptional circumstances. Associated with these chronological events will be the prevailing discourses when the policies were written. This will place the children in an historical dimension so we can learn about how their position in the social order frequently does not sit comfortably with their experiences. From a political viewpoint, children's perspectives are important. They have had "socially ascribed" responsibilities over historical time and have generally fulfilled them. To this end we accept that they have been deeply embedded in the fabric of our society from an economic, political and leadership stance, and have a viewpoint depending on the social happenings of the time. How have these social constructions led to the formation of discourses that have become so powerful?

From an era where social determinants were largely ascribed, a groundswell of opinion to match what is happening in society arises. This opinion is often associated with leadership, power, economics or the needs of the country and the influence of nationalism or world events. This collective opinion is a discourse which arises from social constructions or ideas that have started to become entrenched in the environment. Relevant to this discussion is the parenting of adolescents and our idea that this may be a "problem period". Once this discourse becomes strong enough and noted by those with leadership qualities or power, social policy is devised to support, encourage and even introduce these ideas to other societal members who may not have met these ideas before. Support or rewards may be provided to encourage the implementation of social policy. From this policy legislation is enacted to legitimise the ideals contained in the discourse. Over time as economic, political, cultural and social changes occur in society, these discourses are modified or changed. International strife, for example war, may cause a sudden and dramatic change in ideas contained in discourses and people are made to socially construct the reality of their lives differently. It is to some of these (New Zealand) realities that we now turn.

THE DEVELOPMENT OF CHILDREN'S RIGHTS IN AOTEAROA NEW ZEALAND

The earlier years (1860-1900)

In 1863 Governor George Grey endowed two denominational Industrial Schools which accepted destitute European children. These schools formerly had Māori students, but with the New Zealand Land Wars, Māori children left these institutions. The new pupils were unceremoniously described as "city arabs" because of their life style. By 1866 a connection was made between the number of children roaming the streets and juvenile crime by Branigan, Commissioner for Police, who had experience in Victoria, Australia with dealing with neglected and abandoned children. The Industrial Schools would provide a "proper" education and training for these neglected and vagrant children. An important point made was the need to separate the children from "their profligate relatives and other adverse circumstances" (Whelan, 1956, cited in Mitchell & Mitchell, 1985, p. 3).

Because of the destitute situation of many children in the colony, a *Neglected and Criminal Children's Act* was passed in 1867 linking poverty and neglect to crime. This enabled the establishment of Reformatory or Industrial Schools for children under the age of 15 years. The Act also marked the beginning of foster care placement in New Zealand as it authorised the schools to place inmates of these schools into the custody of a named person. The type of child who would be accorded this "care" included 'those found to be begging, wandering about and without any home or visible means of subsistence, residing in a brothel, dwelling with a person known to be a thief, prostitute or habitual drunkard, or represented by their parents as being unable to be controlled' (Mitchell & Mitchell, 1985, p. 4). In the history of children, gender must be considered and in 1873 an amendment to the Act allowed both sexes to be catered for in the Industrial Schools 'provided that the sexes shall be strictly kept apart in separate dormitories' (ibid., p. 6). Further inroads were made into the rights of parents as the Act provided the ability of resident magistrates to order parents who were of 'immoral and dissolute habits to cease to have rights of parental guardianship' (ibid., p. 7). This order could be overturned by the parents with a successful appeal application.

Ten years after the passing of the *Neglected and Criminal Children's Act 1867*, a system of free, secular and compulsory education was passed into law for all children between the ages of 7 to 13 in the *Education Act 1877*. Over this time there was a consolidation of laws relating to the education and custody of children in Industrial

Schools. These policies became law in 1882 with the passing of the *Industrial Schools Act*. A binary system appeared to be developing in New Zealand and this became very clear when under this Act 'a constable could take a boy or girl, *even without a warrant*, to a registered magistrate if the child had no means of subsistence; if the father were in indigent circumstances, if the child was found begging, wandering, frequenting hotels, sleeping in the open air, having no settled place of abode, residing in a brothel or associating with prostitutes or habitual drunkards' (Mitchell & Mitchell, 1985, p.10). The fact that parents of an "uncontrollable child" could take him/her to the magistrate and the magistrate was empowered to place the child in an Industrial School and "be detained" until 15 years of age was surely a denial of child rights. One important change in the system of care occurred in 1880 when the responsibility for the Industrial Schools moved from the Justice Department to the Industrial Schools branch of the Department of Education.

The last third of the 19th century saw the development of professionals in the study of children. One of these professionals was the founder of American psychology, G. Stanley Hall who initiated scientific studies in child development and pursued active parental education. He stated that 'the study of [children's] development is at the heart of understanding man' and he was regarded as an 'entrepreneur and evangelist of child study' (Kessen, 1965, p. 164). At the same time as the *Education Act* was passed in 1877, Darwin 'gave us the child as a legitimate source of scientific information about the nature of man' (ibid., p.117). He emphasised the use of baby journals to record behaviours and actions of children and the value of diaries and notebooks to record data. This was a considerable innovation in the study of children as he stressed observation, interpretation and commentary. The eugenics movement illustrated the commentary of the age.

In 1898 the Inspector of Hospitals and Charitable Institutions presented views on his area of concern to the Minister of Education. This concern was that the charitable aid and hospital system was using taxation not only as a revenue gathering exercise but as "an instrument of social reform" and he aired this in the House of Representatives. By the turn of the century the policies and legislation referred to the superiority of various types of people and to the degeneration and incompetence of others. During this time special permission was granted to principals to keep back children in classes to levels below their age mates. This was the period of the work of Galton and his so-called ability to assess individual variation and do it in a precise way. His motivation was purely eugenic. This was illustrated in a speech in the House by the aforementioned mentioned Inspector where he claimed that 'any community that attempts to concede the right of the degenerate to procreate without restraint is merely subsidising the survival of the unfit' (AJHR, 1898, H.22, p.1-7).

Into the twentieth century (1900-1950)

At this time the study of intelligence and gathering of information on the child's ideas on everyday occurrences was in vogue. A pre-eminent psychologist, Watson, over a period spanning 1913 to 1920, "invented a new kind of child" and there was a change from the science of the mind to a science of behaviour. Watson's contribution to behaviourism was the emphasis he placed on specific environmental experiences being important in a child's development as opposed to considering heredity as the determining factor (Kessen, 1965).

While the psychological world wrestled with the development of children's minds and the relationship between the environment and the child's activities, Hogben, the Inspector-General of schools, continued to work out how best to deal with destitute children. He recommended a review of the *1882 Industrial Schools Act*. He felt there was a need to understand the causes of juvenile crime before one could adequately treat the problems delinquent children presented. The neglect and bad example of parents was still on the list of issues that were responsible. These parents were weak and needed to control themselves as genetically they were passing on to their children a low physical and moral nature. The parents he referred to lived in bad hygienic surroundings where there was overcrowding which led to poor physique. There was stress associated with the struggle to live and this lowered the ability to fight temptation and the lure of petty crime. By the 1900s attendance at school had become an issue and with the *School Attendance Act* of 1901 the Education Boards were empowered to establish truant schools where irregularly attending students could be enrolled or to which they could be sent by a magistrate. In 1906 the Juvenile Offenders Act was passed, an act with implications for all offenders under the age of 16. There was a restriction placed on access for those attending court and not directly concerned, and the magistrate was given powers to discipline the offenders (Mitchell & Mitchell, 1985).

By 1907 Dr Truby King was commencing his ascendancy in organising the lives of New Zealand families and in particular the lives of the children. He had an eccentric personality and skilful propaganda spread his message, but he also "tapped the humanitarian and political concerns of

the age and harnessed them to infant care" (Milne, cited in Kedgeley, 1996, p.48). In his speeches he claimed the need for an informed motherhood because the "national bodily fitness" depended on it and if there was a decline in the health of the family, a breakdown of society and social order would follow. By following his regime the main supplies of the population for 'our asylums….. gaols and slums would be cut off at the sources' (Truby King, 1913, p.152). The historical context of this discourse may be illustrated by the following quote from an address given in 1909 to a meeting of the Society for the Prevention of Health of Women and Children:

> We hear now days about national defence, but we must not put our whole trust in the 'reeking tube and iron shard'. The safety of the nation is not the question of the gun alone, but also the man behind the gun, and he is mainly the resultant of the grit and self-sacrifice of his mother. If we lack noble mothers, we lack the first element of racial success and national greatness (Snowden, 1951, p.40).

The result was that Truby King persuaded the government that child-rearing was too important for individual mothers to be responsible for and the state stepped into the homes to see that mothering was done "properly". The concern over this time was with the "moulding" of the character of the future generations of children. This was mirrored in *The Education Amendment Act 1909* when authorisation was gained to detain inmates of the Industrial Schools beyond the age of 21 years in situations 'where the inmate of a school is morally degenerate or is otherwise not [in the public interest] a fit person to be free of control' (Mitchell & Mitchell, 1985, p. 15). The following year saw the passage of the Education Amendment Act which gave the Minister of Education the power to direct children to certain institutions when certain deficits were noted and they could remain there by the states order. By this time the emphasis was on providing a "proper education" for children with all manner of physical and intellectual deficits. Regarding behaviour, the First World War had some positive outcomes as Hanna, Minister for Education, reported to parliament. The impact of the loss of life in the war effort led to this statement:

> In view of the fact that so many of our finest men have been killed or disabled during the war we should make every effort possible to save this small army of children, most of whom, if the state stood aside, would not only be lost to the state as citizens, but would become a hindrance or menace to the public well-being" (AJHR, 1917, E-1A, p. 5).

For the neglected and delinquent children under the care of the State there was the recommendation that these youngsters be kept in as natural home conditions as possible and that admission to an institution be done as a last resort. He also recommended trying to influence the parental role as well as addressing the needs of the children (AJHR, 1917, cited in Mitchell & Mitchell, 1985, p. 20).

The Child Welfare Act of 1925 saw the "care of neglected, indigent and delinquent children" placed in the Child Welfare Branch of the Department of Education with emphasis placed on the fact that 'children [were] not to be permanently maintained in institutions, save in "exceptional" circumstances' (p. 23). Separate Children's Courts were to be established with jurisdiction over persons age 17 by 1927, and juvenile probation officers and boarding out officers became child welfare officers. The idea that the state had some responsibility for support and the well-being of families with dependent children was accepted with the passing of the *Family Allowance Act, 1926*. This placed New Zealand amongst the first countries in the world to accept this principle.

Through the next two decades there was a growing recognition of the concept of individual differences, and surveys and policies reflected this ideal. By 1944 Mason, Minister of Education, was reporting on this theme, the Thomas report spoke of catering for children's "widely differing abilities", of discovering talent and providing these children with the best possible conditions for development. At this time the first psychologist, Dr Ralph Winterbourn, was appointed, the psychological services were developed and a visiting teacher service was started in primary schools for teachers who were having difficulties 'in coping with problems which had their source outside the school itself' (AJHR, 1959, E-1, p. 9).

The post-World War Two years (1950s-1960s)

Support services, policy and legislation became overwhelmingly involved with development for physical, intellectual as well as hearing and sight issues through into the 1950s. "Homes" or institutions were set up to provide specialist education and social services, with the emphasis on professional care. This rise in specialist care was possibly exacerbated by the polio epidemic of 1947 but it was also associated with the Second World War and returning servicemen who required skilled rehabilitation.

By this time a committee was set up by the New Zealand Educational Institute to look into the emotional maladjustment of New Zealand school children. The recommendations included

the setting up of Child Guidance Centres in the main urban areas as well as looking at teacher's work and their training. Health camps were recognised as being valuable facilities for emotionally maladjusted children as well as for those who traditionally used them to aid "under-nourishment".

The 1950s witnessed an interest in the activities of adolescents world-wide. The media brought music, literature and films that caused concern. This was reacted to by the appointment of a special committee set up to study moral delinquency in children and adolescents and the results were presented in the Mazengarb Report (1954). While primarily being interested in the sexual morality of children and adolescents in New Zealand, it also made interesting recommendations regarding parents. Firstly, if children were summoned to court their parents should be required to attend with them. Secondly, the courts should have the power to require the parent or guardian of an attending or delinquent child to be responsible for the child's future good behaviour. Furthermore, the children's courts were "empowered" to compel the parents of persons having custody if any child was charged with an offence, to appear before the court to be examined in respect of the child's upbringing and control (Mazengarb Report, 1954, pp. 64-66). At this time more visiting teachers were appointed. By the 1960s developmental centres were set up to review children with social, emotional and/or developmental deviations who could be assessed and treated by staff trained in psychiatric skills. At the same time as there was a growth in assessment and treatment of children with mental health issues, the universities were developing specialist courses and post-graduate training in educational psychology to meet the needs of these centres. In 1959, when the focus was on children labelled as "delinquent" the government approved the establishment of a Juvenile Crime Prevention Section by the Police Department in areas other than Christchurch where the idea had been on trial. The definition for a juvenile offender to be referred to this section was clearly outlined. In 1968 the crime prevention section changed its name to the Youth Aid Section but there were no significant changes in the aims and responsibilities of the assistance they offered (Mitchell & Mitchell, 1985, p. 64).

Hard *Acts* to follow (1960s–1989)

The Education Act 1964 brought all the previous Education Acts and their amendments into one document. It defined special education as including children for whom there was difficulty in education in a number of areas of "handicap" and included the phrase 'or of some educational difficulty, [which] require[ed] educational treatment beyond that normally obtained in an ordinary class in a school providing primary or secondary education' (p. 5).

The decade of the 1970s witnessed considerable attention to the legislation and policy associated with children and young persons. These included the *Education Amendment Act 1974*. The main thrust of this Act was the placing of obligation on the principals of schools to provide guidance and counselling to pupils, to communicate with parents over any concerns the school has with the progress of their children and any situation which is affecting the relationship the pupil and peers or the pupil and teachers. *The Children and Young Persons Act 1974* considered the previous child welfare legislation and revised and consolidated the contents of this legislation. It reviewed the prevention and social work services available for children and young persons whose parents or families were not meeting their needs. It also referred to those young people who were "at risk" of becoming 'deprived, neglected, disturbed, ill treated or offenders' (p. 3) in law. At this stage a Children and Young Persons Court was set up to 'deal with complaints that a child or young person was in need of care, protection or control or with allegations that a young person was offending' (ibid., p. 8). An informal, non-judicial group named a Children's Board would listen to the problems before going to the court. This Act was amended in 1977 and provided a definition of what it meant to be a child in need of care, protection and control. Also in 1977, the Report of the New Zealand Council of Social Service Working Party on Facilities and Services for Emotionally Disturbed Children addressed the fragmentation of services and recommended that there be improved coordination between the Department of Health, Social Welfare, Education, Māori Affairs, local bodies and voluntary agencies. Emphasis was placed on encouraging the dissemination of information on how parents and agencies could be helped to deal with emotionally disturbed children (ibid., pp. 69-70).

By the 1980s attention to children's environments was starting to elicit some new aspects to the storying of behavioural issues. In 1983 a national symposium on child abuse for the first time openly addressed the issue of abuse in New Zealand. One of the principles discussed included what constituted the interests of children and young persons, especially their rights to live as normal a life as possible, taking into consideration their age and cultural background. It included various aspects of their right to representation in court and their rights in their living conditions. For example, issues concerning their confinement, discipline and punishment in Social Welfare homes. Various

aspects of regulations and orders, authority and power were defined relative to specific circumstances in the lives of these children.

Another report published in the same year was presented by the Advisory Committee on Youth and Law. In this report there was a consideration of the life experiences of youth in a multicultural society. For the first time the United Nations Rights of the Child was addressed and this included an emphasis on esteem-building and individuality when in institutional care. Parental training for parenthood was also recommended (ibid., p. 88). One interesting aspect of the report was the suggestion that the support provided for children with physical disabilities may be a guide as to how "social casualties" were handled. The result was the linking of young people with behavioural issues and maybe criminal tendencies together with those with a disability. There were also widespread changes recommended in how the Children and Young Persons Courts were operated.

The Children and Young Persons and their Families Act 1989 is regarded as innovative legislation both in New Zealand and overseas. Child Protection and Youth Justice operate within a system which encourages and strengthens the ties of kinship (CYF, 2001). This system works on the principle that the parents, families and whānau know their children and should be the people who are able to find the best outcomes for them. In 1995 more than 40 changes were made to the Children, Young Persons and their Families Act and this resulted in an amendment being passed. One of the main alterations was the mandatory reporting of child abuse being changed after much debate over the effectiveness or otherwise of voluntary reporting. Extensive consultation led to the laying of foundations for education or principles of protocol, ethics, definitions and reporting of abusive situations. An emphasis was placed on the importance of inter-agency communication to break the cycle of child abuse. *The Education Act 1989* (Ministry of Education, 1989a) provided the rights of enrolment and education at state schools for all children.

Spotlight on parents

It is not unusual practice prior to general elections in this country for political statements to be issued reaffirming in our minds that the family is still a valuable institution in our nation and requires its own portfolio. The present day discourses cover all these topics and more. As the journey of children's behaviour continues, some of the spotlight has been directed toward the role of parents. In New Zealand an amendment to the prevailing Education Act has increased the fine for abusing, insulting or intimidating school staff in front of students, within or without the school grounds from $40 to $1000 (Gray, 2006). This was a way of signalling to parents that there was a correct way to deal with issues they had with teachers. We hear on the television and read in the newspapers of bullying and truancy, suggestions of 'behaviour schools for parents' (Eames, 2005) and penalties where families pay for the children's offending (Berry, 2005). It has been suggested time and time again, in pre-election party policy, that if parents do not take the steps specified by the youth courts to change their children's behaviour they will be fined if they ignore the order. Still other policies suggest that parents should also be "forced" into drug and alcohol programmes. The disadvantages faced by children brought up in families who survive on a welfare benefit have been further topics of discussion. A noted longitudinal study has recorded that the behaviour of young children is the best indicator we have of problems in adulthood (Fergusson et al., 2005). The children in this study were considered a "high risk" population. While it was considered that home visits and parenting programmes were able to reduce many childhood problem behaviours, the researchers conceded that this level of assistance may not reach many of the parents most in need.

So, how different are our "street kids" of 2010 from the "city arabs" of 1863? What is the difference between Branigan's 1866 report on the relationship of the numbers of children roaming the streets of colonial Auckland and the juvenile crime reported on in today's media? Some of these present day headlines include ones such as 'truancy strikes me as an apprenticeship for crime, anti-social behaviour and a life on benefits ... [and] our social fabric is encouraging more potential applicants for this road' (Vincent, 2003, p.6). Perhaps the *1901 School Attendance Act* is of as much use today as it was last century. How different is the idea behind the headline to remove violent pupils from school to be "educated separately" - as suggested by a principal of a secondary school in a large metropolitan newspaper (Trevett, 2006a) - from the *1882 Industrial Schools Act*? A century and a half ago the power a magistrate had to direct a child to an Industrial School and to be detained there until the age of 15 years, seems to relate comfortably to ideas that are sometimes now being propounded, namely that schools are becoming welfare agencies and that stronger government interventions are necessary. The suggestion made in a recent newspaper report that "We aren't writing them off – they can still get an education but in a context that works for them" (Trevett, 2006b) has a ring of déjà vu. This looking forward into the past was further illustrated by another newspaper article concerning children from transient homes and the impact this lack of stability

has on school achievement. The article held the statement 'if a kid has no stable home life and has had no chance to put down roots it's better to provide special education for him (sic) outside of school' (Hamilton This Week, 2006, p.4).

The issue in this (punitive) discourse is that "we" as a society are calling for harsher measures and in doing so are denying the young people so affected their basic human right to educational opportunity. This creates a double-edged sword because 'we' are creating a pool of young people who are outside the education system and are at risk of moving into the criminal justice system, with all the associated costs to the community. A new (agentic) discourse is necessary, to take us out of the shadows, in to the present, and on to the future.

ON INTO THE PRESENT

The emphasis from the 1960s onwards has been on the rights of the child, particularly as outlined in the United Nations Convention of the Child Report of 1989. It is one of the most powerful discourses in the world today and grew out of the social movements involved with discrimination against ethnicity and culture, women, minority and disability groups. Its influence relates directly to power and economics politically, and to progress of young people, educationally. An 'agentic' discourse, it is argued, is the way forward.

While many of the regulations within the legislation passed more recently in the New Zealand parliament have been designed to meet the educational needs of students with specific health problems and disabilities, children with behavioural issues are included in all aspects of the legislation and the guidelines which were eventually developed. In like fashion, the National Education Goals (Ministry of Education, 1989b) and the National Administration Guidelines (Ministry of Education, 1989c), affectionately called the NEGs and the NAGs, have clauses that are applicable to all students, including of course those who are experiencing behavioural difficulties. In more direct fashion, the Special Education Guidelines (revised in 1999) contain principles which have implications for professionals when dealing with behavioural issues on more regular bases. Policy components include the discerning roles of the RTLB (Resource Teacher: Learning and Behaviour), the BST (Behaviour Support Teacher), and the allocation to schools of a Special Education Grant (SEG). With the introduction of these and allied resources to schools come the expectations for better outcomes as a consequence of interventions that are gained through access to professional development courses and opportunities for specialised qualifications. Higher up the chain – in terms of severity - is the government's Severe Behaviour Initiative (SBI), an advocacy directed at assisting schools to respond to crises and includes the Behaviour Support Teams that are part of the Ministry of Education's Special Education (SE) service (Macfarlane, 2007).

In 2009, the Ministry of Education released details of the rollout of a Positive Behaviour for Learning Action Plan in response to priorities agreed by a *Taumata Whanonga* - a behaviour summit attended by leading educationalists in the field. The Plan includes programmes and initiatives for parents and teachers, school-wide programmes, improved behaviour crisis support for schools and improved intensive behaviour programmes for individual students with severe behaviour problems. Also in 2009 the Advisory Group on Conduct Problems (AGCP) was commissioned by the Ministry of Social Development (MSD) to provide cross-departmental advice to government officials on the identification, treatment and management of childhood conduct problems. The group recently completed a report, *Conduct Problems: Best Practice Report* (Ministry of Social Development, 2009). This report sets the background for the development of policy relating to childhood conduct problems, goes on to look at programmes and interventions to manage these problems and then examines issues that arise in the translation of evidence into policy. Although published by MSD, the report has the authority to make recommendations which cross government departments.

At almost a corresponding time the Ministry of Education launched *Ka Hikitia - Managing for Success: The Māori Education Strategy 2008-2012* (Ministry of Education, 2008). The Ministry is committed to realising Ka Hikitia's strategic intent of 'Māori enjoying education success' (Ministry of Education, 2008, p.18) and the four broad Māori learner outcomes articulated in Ka Hikitia. The Strategy sets out the Ministry of Education's strategic approach to achieving education success for and with Māori. Ka Hikitia focuses on areas of evidence that will be most effective to bring about change. Ka Hikitia concentrates on evidence that will achieve a transformational shift in the performance of the education system and identifies five key levers that are demonstrated to bring about change. The Ka Hikitia document is both timely and well-meaning, but must consider that the thinkers and the actors in the education realm will be the ones charged with complementing the Ka Hikitia philosophies by offering a range of strategies that will enhance the likelihood of positive change for Māori learners and whānau.

How will this be done? Such questions are fair questions too – persist. What is it about diversity that makes the education mix more challenging? How can a national strategy such as Ka Hikitia inform practice? What are existing theories and discourses that might expand on current practices? How can these be implemented culturally responsively?

In 2010 a group of academics and practitioners from four New Zealand universities and a leading Australian educator (Angus Macfarlane, Valerie Margrain and Margaret Thorsborne) commenced working on the authorship of a book, along with other contributors, for restorative practices in schools. This group considers restorative practices are responses to behaviour, within the philosophy of restorative justice, which are based upon social reciprocity and the universal human ethic of respect (Brantlinger, 2003). Although key elements of restorative practices include acknowledgement that misconduct violates people and relationships, and violations create obligations, this philosophy is discrete from retribution and punishment seeking rather to heal, put things right and restore harmony (Thorsborne & Vinegard, 2004; Zehr, 2004).

The direction and subsequent success of education delivery for youngsters experiencing behaviour difficulties in New Zealand will continue to be fully dependent upon the smooth and efficient transition from previously accepted to currently preferred practices (Moore et al., 1999). In practical terms this has required a clear shift of focus, from the traditional emphasis on exclusion and segregation (the functional limitations paradigm) to that of inclusion and participation (the ecological paradigm). In philosophical terms the process of "constructing inclusion" (Thomas & Loxley, 2001) has been contingent on a paradigm shift which has required educators to challenge previously-held beliefs and assumptions about how and where students' learning and behaviour needs are best able to be addressed (Fuchs & Fuchs, 1995; Kauffman, 1993; Moore et al., 1999). The critical nature of this required paradigm shift must not be underestimated as prior beliefs are challenged.

THE "LAST RIGHTS"

Rights are closely related to citizenship, which in turn is related to who is included and who is excluded from decision-making. Rights are about freedom, self-esteem, respect, opportunities in life and the ability to take part in decisions which influence one's own path through life. Rights include being able to access legal support and protection within the laws of our country. There are however, "moral rights" and "legal rights" and the distribution of these are in the hands of the community or society in the form of interactions and decisions made by those in power. The journey taken by young people experiencing behavioural difficulties in New Zealand has been traced (in this paper) through the colonial period and the first half of the 20th century with two World Wars impacting on family life and political ideals, through to a modern era. While our policies and legislation speak of the "rights" of young people and the discourses and actual reality of many lived lives do not sit comfortably together, progress is happening. The journey has taken us to the present, to now, where the discourse for many previously under-served groups is poised to take on a new and more promising meaning – provided that it is a discourse that is genuine about locating manaakitanga (an ethos of care) at the centre.

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