

Towards a less aggressive culture

An opinion article by Judge FWM (Fred) McElrea* based on his address to a Waikato University graduation ceremony for School of Education graduands on Wednesday 9 May 2001

It is an honour to address the capping ceremony for graduands from the School of Education of this distinguished university. It has a growing reputation for pioneering work, as evidenced in its conduct of the recent government-funded pilot scheme for restorative conferencing in schools, Te Hui Whakatika, in which John Winslade and Wendy Drewery from this School were closely involved. I was also delighted last October to have Dr Winslade as one of the leaders on a travelling seminar on restorative conferencing skills.

I have no claims to learning in matters of education, but I can offer some comments as a Youth Court and District Court Judge who has to deal with large numbers of those whose incomplete education and other handicaps make them prime candidates for unemployment, criminal offending and the courts. In particular I am interested in the parallels between exclusion from schooling (using "exclusion" in its broadest sense) and the ultimate form of exclusion in this country, imprisonment.

In both cases we exclude a minority for the sake of the majority, we justify this in terms of behaviour management, the exclusion is seen as an exercise of "authority", fairness is measured by procedures rather than long-term outcomes, no real attempt is made to look beyond the individual for responsibility for the offending, and the wider costs of exclusionary policies are largely overlooked because they fall on some other agency or agencies.

Statistics published in April showed that since the introduction of the Education (Suspension) Rules in July 1999, "stand-downs" (removal from school for up to 5 days a term or 10 days a year) increased by 6% in the year to December 2000 compared to the year to June 2000, and suspensions increased by 5% in the same period. That doesn't sound too bad until you realise that the first six months of 2000 was common to both periods, and so the real comparison is between the last six months of 1999 and the six last months of 2000. I calculate a 17% increase in stand-downs and an 18% increase in suspensions in that space of time. So even under the new rules the trend is strongly upwards.

What is also disturbing is that the new rules seem to have been accompanied by a large increase in the use of exclusionary processes when compared to 1998. The Ministry report makes the point that previous statistics are not comparable, and this will be because there have been changes both in who makes decisions and how it is done. Even so, it is noteworthy that there are many more stand downs under the new rules (16,921 in 2000) than there were "specified suspensions" of 1-3 days under the old rules (7,890 in 1998) That represents an increase of 114%. Similarly while there were 4039 "indefinite" suspensions 1998, there were 5,108 suspensions in 2000, an increase of 26% in two years. (What has remained constant is the figure of about 85% of suspended students

who returned to their own school or were accepted at another school.)

On the face of it, then, the 1999 rules have been accompanied by a worrying increase in the rate of stand downs and suspensions, although this may have been offset to some extent by a reduction in the use of “kiwi suspensions” which the new rules were meant to proscribe and which, being illegal, were not able to be counted.

The comparisons I have made are blunt and crude, and I hope that duly qualified statisticians are trying to make more precise comparisons, eg by looking at the number of student days out of education before and after July 1999. The Ministry of Education agreed in 1999 that suspension figures had been too high. There must be some attempt made to see whether the new rules have helped retain young people in the education process, not just for their sakes but in the wider public interest. Present indications are that they have not done so and that under the new rules the trend continues upwards.

Ministers of both the previous and present governments have recognised the need to make changes to try and reverse this trend. In fact the exclusionary trend has been evident since the Tomorrow’s Schools reforms of 1989 were introduced. (See the statistics at pages 5-7 of Keeping Young People at School, the Resource Book for Schools issued after the July 1999 Summit Conference on Truancy, Suspensions and Effective Alternatives.) The Government’s new Suspensions Reductions initiative announced at the time of the latest statistics will hopefully start to reduce the unacceptably high proportion of Maori students being suspended from schools (currently 47% of students suspended).

As the rate of suspensions is continuing to rise, we have to ask whether this is due to deteriorating standards of student behaviour or to an increased unwillingness by some schools to persist with difficult students, or both. On the first count, crime rates in the community have not been rising in recent years, and the level of police apprehensions of 14-16 year olds has been at about the same figure for five years. However for the two types of offences of most concern to schools, cases involving violence and drugs, there have been increases both in police apprehensions and in cases proved in the courts, and this pattern is likely to be reflected in schools. On the second count – schools’ attitudes to exclusion - there are certainly structural factors that work against the retention of “difficult” students. These include the lack of any appeal system, a competitive or “market” influence that sees schools as competing for good students, and funding issues (including the lack of adequate financial incentives to retain problem students).

We know from the widely differing suspension rates between often similar schools that they are as much a reflection of school management behaviour as they are of student behaviour. As I reported in Keeping Young People at School page 7, while Mangere and Otara schools in 1998 suspended students at about half the national average rate, five secondary schools there made “unspecified” (or indefinite) suspensions and one did not, two intermediate and middle schools did so while three did not, and three primary schools did so while 24 did not.

How can these variations be justified? And how best can we ensure that stand downs and suspensions are directed at those likely to respond as intended, rather than being another alienating step against already alienated students who need a more community based response such as restorative conferencing where the school can call on wider community resources? Te Hui Whakatika has been one step in this direction. Restorative justice conferencing at Sacred

Heart College, Wanganui is another. The strong attendance and interest of school representatives at the travelling seminar last October suggests there are many more schools keen to take this more inclusive approach.

It is also appropriate to ask whether the education that is being offered in schools is sufficiently meaningful and relevant to command students' interest and support, especially if they come from troubled and deprived backgrounds where education may not be highly valued. Did we persist for too long with a single and largely academic curriculum that offered little to a significant minority of students? The new national curriculum is designed to be responsive to diversity, but is it being put into practice? How many teachers are willing and able to change? Were we better off when there was at least a choice between High School and Technical College? The law is a very blunt instrument. It can make school attendance compulsory in theory but it cannot make students enjoy the experience. If we really wanted to try a market model in education we could provide much more diversity in the curriculum and then reward financially the schools which can attract and hold the "difficult" students.

My own view, for what it is worth, is that we do need that diversity in the curriculum, but we also need to encourage a major culture change that some educationalists are calling for. At the travelling seminar last October Dr Winslade spoke about the shift in thinking that is needed –

from focussing on young people as individuals to seeing them as members of communities, including school communities;
from teachers as authorities to teachers as human beings (who themselves can be victims);
from monologues to conversation and dialogical thinking;
from processes of exclusion and incapacitation to processes of inclusion and holding;
from behaviour management to relationship management;
from restoring the rules and the systems to restoring people - and, I would add, restoring justice.

This brings me back to the parallels in the justice system. Similar shifts in thinking are behind the growth of restorative justice initiatives in the criminal justice system both here and in many other countries. Instead of having the State through the courts impose a solution that may be unwanted by any of the parties most directly affected by crime, victims are given a central place, dialogue is encouraged, restitution is expected for harm done, the community is involved, meaningful change is expected, relationships are built up, and mana is restored to both victim and offender. Properly handled, the results of restorative justice have been reduced costs and reduced crime, as both Wellington's youth justice system and Timaru's Project Turnaround for adults have proved.

One major difference between the education and justice systems so far as exclusionary processes are concerned is the question of appeals. A sentence of imprisonment can be appealed to a higher court but there is no appeal from a decision to suspend or exclude a student in New Zealand. The only legal redress is to apply to the High Court for judicial review, which can cost tens of thousands of dollars. Britain has exclusion appeal boards, and some have argued for an Education Review Tribunal for this country. Certainly the lack of any meaningful form of challenge or redress for an excluded student is a structural problem in New Zealand, but for myself I fear that the review tribunal option would introduce an adversarial and rights-centred atmosphere which would be unhelpful. Another possibility is to have a limited ability to appeal to the Youth Court which could have the power to direct a school community conference of the type successfully trialled here in the Waikato by your School of Education and which previously proved highly popular in Queensland trials. The Youth Court could then adjudicate in those cases not resolved by that more community based and forward-looking process.

One can only guess at the connections between rising crimes of violence, the amount of violence as entertainment on television, this country's shocking youth suicide rate, our strong preference for the use of prisons (those last two figures being amongst the highest in the western world), our high imprisonment rate of Maori and our high exclusion rate of male Maori students from schools. In too many ways we seem to be a very violent society, and it starts at a young age. The 1997 Ministry of Education publication Mathematics and Science Performance in Middle Primary School states that of 26 countries surveyed, the level of theft reported by New Zealand students was higher than for any other country, and fear of being hurt was amongst the highest. We are talking here about eight and nine year olds. What sort of learning environment is that?

It would be wrong to be too pessimistic when there is such wonderful work being done by the Peace Foundation with its Cool Schools programme of peer mediation, and by those working with youth mentoring, full service schools, anti-bullying programmes and such adult community involvement as in Tu Tangata. Another excellent practice I came across recently and wish to commend to you is that of Wellington principals who, under the encouragement of Youth Justice Co-ordinator Allan MacRae and Youth Aid Sergeant Tony Moore, involve the Police Youth Aid section as soon as offending other than trivial offending occurs in school. The school is then invited to attend the family group conference as a victim and this produces a very good school/police partnership relation. Because a family group conference is also an opportunity to involve other agencies or community groups that can contribute to a solution, the school becomes part of a community-based solution without the young person's education being suspended. Where Strengthening Families networks are available they can also make a contribution. All that is needed to start this process is a phone call to Youth Aid.

These more inclusive initiatives are not yet mainstream, but if we are to escape the eroding effects of violence, that sort of thinking and practice must become commonplace. A culture of partnership, of peace making and peace building – rangimarie - must take hold in our homes and schools, or else the courts and corrections agencies are like King Canute trying to hold back the tide.

So to all of the new graduates in education I offer my warmest congratulations - and my hope that you will all be leaders in building a much less aggressive and more constructive culture in this much blessed land of ours.

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