

The National Standing Committee on Bicultural Issues provides regular commentary on bicultural issues. It aims to explain their implications for the activities of psychologists, and for the practices and policies of the Society.

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Codes and cultures: a resulting ethical dilemma

In discussion, two Pakeha psychologists: Marianne Lammers, University of Waikato, and Raymond Nairn, University of Auckland explore an effect of codes of practice when working cross-culturally. Prepared in consultation with members of the NSCBI. [We do not consider this as the last word on this situation or the issues and hope it will provide a starting point for further discussion.]

[Ray] Kia ora Marianne, I heard you say you'd had an ethical dilemma that had a cultural basis. Can you tell me a bit about it?

[Marianne] Yes Ray, I was working in a counselling service in a tertiary institution, when I was assigned a young Maori man. He was experiencing episodes of paranoia and hallucinations, which lead to thoughts of suicide and homicide to end the fear in his life. He had contacted a psychiatrist before coming to me but had been quoted fees that were prohibitive, while our organisation would cover the fees. His condition deteriorated suddenly and he ended up in a psychiatric ward. I kept in touch with him in the hospital and discussed with him whether he wanted me to contact his parents to let them know where he was, but he declined.

Because of his age he was not under his parents' jurisdiction. So I adhered to the Code of Ethics' general principle of autonomy, to respect people's right to make decisions that affect their own lives, to choose whether to consent to anything that is done to them or on their behalf and to maintain their own privacy.

[Ray] That seems straightforward, where did the dilemma come in?

[Marianne] I got into conflict with my Maori colleague over this decision. The client had been assigned to me by the service and I explained, when we first met, that we had a Maori counsellor and

offered him the chance to be transferred to her. He declined, on the grounds that he felt comfortable with me. But, without disclosing his identity, I had been consulting her because he was Maori. When she heard that my client had ended up in the psychiatric ward of the hospital and that I had not contacted his parents, she saw that as being in conflict with Maori values and responsibility to the whanau. For her, whanau rights overrode individual rights. They had the right to help and support my client. But my client said that he did not want his family to know. I wanted to respect Maori customs and values, but I could not go against the New Zealand Association of Counsellors (NZAC) Code of Ethics. I felt uncomfortable so I talked to a couple of senior colleagues, both said that I must work within the Code.

[Ray] That puts you bang in the middle. The code and senior colleagues say X and your Maori colleague says not-X. Maybe we can unpack the situation a bit? You mentioned the principle of autonomy - that's from the NZAC code? What does it say?

[Marianne] Under the principle of autonomy it says that: "Counsellors shall respect the dignity and worth of every individual, the integrity of families/whanau and the diversity of cultures. This implies respect for people's right to make decisions that affect their own lives, to choose whether or not to consent to decisions that affect their own lives, to

choose whether or not to consent to anything that is done to them or on their behalf and to maintain their own privacy. Exceptions to the principle of autonomy occur when there is clear danger to the client, counsellor or the public at large and when the individual's competence to make a decision is clearly limited."

[Ray] That would be consistent with the Code of Patient's Rights.

[Marianne] Basically this principle prevents me from contacting his whanau against his expressed wishes, because the way I read it, whanau is seen as separate from the individual.

[Ray] Yes. That phrase you quoted, "integrity of family/whanau" puts whanau as a translation of family and, consistent with the dominant view that individuals are members of a family but their family is not part of them as individuals, it separates the individual from the family grammatically. And it's clear in the rest of the principle where it speaks only of the person as if they were an isolated being.

[Marianne] I have been looking at how this NZAC code compares to the NZPsS code, where, under "4. Confidentiality" it states: "A psychologist does not disclose information obtained professionally to any third party without informed consent of the client or research participant." As with the NZAC code it allows exceptions or limitations to this principle on the grounds of incapacity, emergency, client or public safety and where warranted by law.

[Ray] That's it. These codes come from a cultural base that prioritises individuality. Although the NZAC code requires the practitioner to "respect the integrity of families/whanau" it still separates the family from the individual (who is a member of the family) and does not acknowledge the family/whanau within the body of the principle. So, as with the NZPsS code, the whanau is a "third party", effectively no different from a boss, a workmate, or some departmental officer. As I see it that means that any Maori person coming into therapy is explicitly required to step into this world of separated individuals - the codes of practice don't give them a choice.

[Marianne] The key is how we see whanau - as different from the individual, in other words a "third party" - or part of the individual. It needs to be looked at carefully, maybe there is no one answer.

[Ray] As I said, I think the professional codes prejudge the issue. There probably are differences among Maori but, and I can't get away from this, the codes require the practitioner to respond to all clients, including Maori, in terms of the dominant, individualised understanding. That creates serious problems because the codes also say things like: "[psychologists] obtain training, experience, or advice to ensure competent service...relating to such [culturally diverse] persons." (1.5, Code of Ethics, NZ Psychological Society, 1986). And yet, on this point of

confidentiality, prohibit acting as advised if the individualised notion of a person is challenged.

[Marianne] There is also the issue of whether, as a clinician, I think my opinion, that having his family being involved is going to be helpful to him, is superior to my client's. If I was a client I would think that I would know better than anyone else what is helpful to me, as we are all individuals who operate differently from one another, but, again this is an individualistic view. It makes it very complicated and we haven't even taken the Treaty into consideration.

[Ray] Perhaps we should tackle the Treaty later. Look at our language. All the time we speak of individuals. We acknowledge there are differences but we tie differences to individuality and that seems so obvious that it masks the fact that individuality is a valued cultural construction and not a characteristic of all peoples. It seems the codes force us into asking who knows best the practitioner or the client?

[Marianne] I had already thought about that at the time. I had told my client that I could help him with some of his problems but that my knowledge of things Maori was very limited. So I asked him if he felt okay about letting me know if, at any point, I was being insensitive to things Maori through ignorance. He had no problem with that. I also asked if he thought Maori spiritual guidance might be helpful for his recovery and if he felt okay about me contacting someone. He was happy about the suggestion and two Maori elders came to have a talk with him the following week.

[Ray] Presumably they worked from a more collective notion of people. Someone like Rangimarie Pere (*Te Wheke*, 1991) who gives **Whanaungatanga** a central place in a person's being emphasises the necessity of a Maori learning "whence he or she came" (p50) and that that learning is mediated by the whanau. Mason Durie (1994) puts it more strongly when he says (p73):

"The much-lauded state of self-sufficiency or self-realization does not convey a sense of health to Maori. Quite the reverse, since an insistence on being overly independent suggests a defensive attitude, while a failure to turn to the family when the occasion demands is regarded as immaturity, not strength."

Perhaps this is the point to look briefly at the Treaty. Like the NZAC code the Treaty provides some principles, it doesn't spell out how they are acted out in a given situation. It is clear Te Tiriti gives Maori people two distinguishable kinds of rights. Under Article 2, where hapu and iwi are affirmed in their rangatiratanga, Maori people can claim the right to services grounded in a Maori reality. Under Article 3, where Maori people are offered "all the Rights and Privileges of British Subjects", a Maori person can lay claim to any or all services offered to any citizen (Nairn, 1997, 132-3). I think that means that if your client had been asking for Article 2 rights you would have to

understand his whanau as a part of him, not as a third party.

[Marianne] Neither of us spoke of rights under the Treaty. I don't even know whether I was familiar with or understood the details of the Treaty. All that I was thinking of was to respect the rights of confidentiality he asked for.

[Ray] Even if you had spoken of them your client would have been entitled to change his choice at a later point. When you asked him if he would prefer your Maori colleague in part you were offering him access to a Maori world and it may be that in preferring to remain with you he was asking for Article 3 rights. But I keep wondering whether he was the right one to ask? Did you get any indication of why he didn't want his whanau to know what had happened?

[Marianne] I found out much later, when he was in hospital, that he had been embarrassed about being in a psychiatric ward especially, because of the way he had been picked up. And he didn't want his family to know.

[Ray] That's why this is a dilemma. There are two distinct responses depending on what understanding of a person is brought to bear. Clearly you, as the professional codes of practice and your senior colleagues require, were operating within an individualised understanding. It seems to me that your client's concern about shaming his whanau signals that, to him, they are more than a third party.

Is that how it ended, or did something else happen?

[Marianne] It was resolved without me doing anything. He went to see another student service in our institution, where he happened to talk about his problems, and they were concerned for his and other's lives. They contacted our service and, as I was not at work, another counsellor made the decision to call the psychiatric emergency team. He was picked up from his flat and a relative who was there told his whanau who came to see him in hospital. They were very supportive and he was happy with the outcome of that although he had been very unhappy about being picked up from home. Had I been part of the process I would have asked the team for his address and the right to first go and see him before they arrived. That way I could have supported him and accompanied him to the hospital.

In this case my Maori colleague was right, as it turned out to be beneficial for my client to have his whanau know about his condition. I do not think we can generalise to all cases of Maori clients. There may be very good reasons at times, why it would not be in the best interest of a client to have his or her whanau around. I am thinking here of something like sexual abuse within the whanau.

[Ray] And your client's perception of himself in relation to the whanau pushed him in a similar direction but it seems that, in his case, that was a misperception.

[Marianne] What I am trying to say is that we need to explore each case to see what is going to be best for a

client. In retrospect I could have chosen to explore his refusal to have his whanau informed at a much earlier point, perhaps when we talked about contacting Maori elders, and we may have got to a point where he would have changed his mind. As the family lived a day's drive from the campus I had not considered that an option but I would certainly explore it in a similar situation.

[Ray] Yes. That would enable you to anticipate the value of whanau without violating the Code but it is very easy to overlook the role of values in shaping our practice. Values such as individuality make sense within Western culture and psychologists have resisted acknowledging that they are not universally applicable. This is not just a fine point of professional ethics; many Maori are seen by psychologists and counsellors who are trained to practice as these individualising codes of practice require. It means that Maori clients, at a time when they are troubled, have to fit with our values and beliefs rather than relax into being Maori.

Marianne, I want to thank you for being willing to talk publicly about this dilemma. It can't have been easy.

References

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A personal reflection on preparing this column

- by Raymond Nairn

Marianne and I talked and wrote and then we consulted members of NSCBI. I am shocked at how easily, under my leadership, we fell into that pattern. As a consequence we shaped the project, it embodied our interests, values, and silences. Maori had no chance to direct attention to these aspects of the work until confronted with an (apparently) finished draft. Such a document implicitly encourages comment on the detail rather than the scope and direction of the project. Fortunately, several commentators resisted this pressure, noting that although the column was about an interaction between a Pakeha practitioner

and Maori people there was no Maori voice or perspective on the situation. We were encouraged to own the piece and to identify our own questions about the situation.

First, the issue of Maori clients being seen by non-Maori practitioners. This an area of controversy that we did not name explicitly. Marianne sought advice from her Maori colleague and from the Maori elders yet, as she was constrained by the code that senior practitioners advised her to conform to, she could not act on the advice she received. Similarly, apart from mentioning to NSCBI members that Marianne and I were working on the project I did not seek advice or assistance until we had a "product" to show. I feel strongly that my failure in this regard is a reminder that intentions and sensitivity are not proof against over-confidence and/or habit.

In talking together Marianne and I, with considerable help from our friends, did identify the role of the codes (of practice) and their universalised, deculturated individual as the key to the dilemma. It is easy to overlook the importance of this recognition. These codes guide the training of professionals and their subsequent practice, setting boundaries beyond which, even if strongly advised by appropriate cultural advisors, the practitioner may not go. This is a prohibition that is reinforced by the role of privacy case-law derived from the same understandings as our codes in disciplinary hearings.

An immediate consequence of the individualised understanding of the person is that privacy and confidentiality are foregrounded. There have been some very public complaints, for example the Horton family, that because of these rights, practitioners have failed to inform families and carers depriving patients of adequate care. Rights to privacy and confidentiality are deeply entrenched in health and psychological practice and the authorised violations are carefully controlled, encouraging us to see this as client friendly practice. However we should recognise it as the imposition of Western values upon every one we see and that is a form of **cultural racism**.

In Appendix III of **Puao-Te-Atatu** (Ministerial Advisory Committee on a Maori Perspective for the Department of Social Welfare, 1986) cultural racism is identified as: "... entrenched philosophy and beliefs. ... the assumption that Pakeha culture, lifestyle and values are superior to those of other New Zealand cultures...".

But that is not the only cultural rock that we met. Knowledge is also understood and handled rather differently in different communities, and, in failing to consult early and appropriately, I obscured that. When doing my research I read, investigate and write about media depictions and develop a detailed understanding of the topic. In doing so I treat knowledge as a public commodity. I choose to acknowledge some of the work of others but the context in which those citations are placed is constituted by what I understand as the accepted commonsense about the particular issue. Like other researchers I locate my contribution in relation to this established knowledge and, at the same time, warrant the authority of my interpretation.

In the earlier drafts of the column, working on that cultural model of knowledge, I chose to speak out of my experience of Maori discussions about health and people. But in Maori terms I was appropriating knowledge grounded in the authority of the tupuna of their whanau, hapu and iwi. And, in doing so was claiming for myself the authority to interpret Maori experience and understandings rather than pointing to appropriate Maori authorities.

Learnings

- Consult throughout a project. Do not wait until it has a finished look.
- Good intentions and sensitivity are not proof against over-confidence and/or habit.
- The individualised person is a cultural construct not a universal.
- Knowledge is a cultural construct and different peoples identify, authorise and deploy it in different ways.

