

# Whakarāpopototanga | Matapatu Fakakatoatoaaga

Ko e kumikumiaga nei ne onoono ke he fakakikiveka, ekefakakelea mo e tiaki noa ne kua logona kelea ia lautolu ne kua taatu, laulahi ni kua nakai fai kakano, ke he Lake Alice Psychiatric Hospital ma e tau fanau ikiiki mo e tau fuata he vahālotō he mahina ha Aokuso 1972 ke he mahina ha Tesemo 1980.<sup>1</sup> Kua molea e 40 e tau tau, ko e tau manamanatuaga kua liu ki tua kia lautolu ne hao mai, he purapura ora, ne maali mo e mauloto agaia.<sup>2</sup>

Ko e fale nei ne kua fakatū ki loto he fale gagao Manawatu, ne ha hā ke he fonua ha gāti Apa. Ko e taha fale, na tuga ni e tau fale he vahā, fakatokatoka ke tului e tau fanau ikiiki mo e tau fanau fuata ne moua he tau manamanatuaga tupetupe poke tau manamanatuaga gagao. Ka kua kehe, kua eke mo taha fale ne ekefakakelea muaatu ke he tau lima he ekekafo ke he tau manamanatuaga, Dr Selwyn Leeks, ko e mahani haana kua fa ekefakakelea mo e nakai fai tonu kia taha, pihia ni kia lautolu he vaha. Ke he tokologa, ko Lake Alice ko e taha fale ne tūkinō - fakaatukehe, tiaki noa, matakutaku mo e fakamamahi.

Ne lagomatai he tau faahi gahua Department of Health mo e Social Welfare ke fakatū e fale nei mo e kua lagomatai he Department of Education ke fakatū e taha aoga i Lake Alice. Ko e magaaho ia, ko e tau mamatua, tau magafaoa, ko e papiliki mo e tau pulotu ke he tau malolo manamanatuaga ne kua talitonu ke he tau kupu molu ha Dr Leeks ne pehe ko lautolu ka fakafano ke he fale nei to moua e tau tului mitaki ke he tau manamanatuaga.

Tokologa he fale ne o mai he tau maaga ne nakai moua e tau momoui mitaki mo e kua nonofo ke he tau vala he maaga ne totou ko e tau timotua. Taha mai he tolu ia lautolu ne kua taatu ke he fale nei ko e tau Maui mo e tokologa ne o mai he tau fale leveki he Fakatufono, ko e taha puhala pauaki ke taatu a lautolu ke he taha fale ne leveki ke he tau malolō manamanatuaga ke tuga a Lake Alice. Ha ko e tau fakamauaga ne nakai katoatoa, tau fuafuaaga hepe mo e nakai mailoga ke he tau manamanatuaga kehekehe to pehē e naia to nakai iloa ko e fiha e numela tagata ne kua fakafano atu ke he fale ko e tau tagata ukiuki e tau alaga poke iloa e tau numela ko e tau Pasifika mo e tau tagata ne totou ke he tau motu kehe foki. Ke fakatatai foki ki ai, nakai fai vala tala a mautilu hāgaao ke he tau tagata mai he maaga Rainbow ne taatu ke he fale.

Ko e tau momoui he tokologa he tau fanau nei ne kua fitā e motu ha ko e nofogati mo e toe he nakai fai. Tokologa ne kua taatu ke he fale mai ni he ha lautolu a tau kaina, tau kaina ne leveki fakaku kia lautolu poke mai he tau fale ne leveki ki ai e Fakatufono. Ko e falu ne o mai he tau aoga pokua tamai he tau fale gagao, tau kiliniki he tau fanau poke tau fale nonofo poko. Fai ne moua ke he tau lekua ke he tau vagahau mo e tau mahani mo e fakakite ke he tau puhala ne kitia kua pihia ha ko e tau momoui uka ke maeke ke fehagai ke tuga e tau

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<sup>1</sup> Ki loto he tohi hokotaki nei, kua lagaki mai e kakano he fakakikiveka ne fakaaoga he Solicitor-General Una Jagose he taha fonoaga he tau tagata ha ko e fale nei.

<sup>2</sup> Te Rūnanga o Ngā Wairiki Ngāti Apa, *Taha tohi hokotaki hāgaao ke he tau lauiaaga he Lake Alice Psychiatric Hospital ke he tau malolo tino mo e tau malolo katoatoa he whānau, hapū and iwi of Ngā Wairiki and Ngāti Apa* (Grant Huwyler et al., 2022), p 46.

mahani fakaofuofu poke mahani vale.<sup>3</sup> Toko fiha ni ne moua e tau talahauaga mooli kua fai gagao kelea ke he tau manamanatuaga ati kua lata ke taatu ke he falegagao.<sup>4</sup> Tokologa e tau numela i Lake Alice ne nakai moua ke he tau gagao manamanatuaga mo e kua nakai lata ke taatu ki ai, pete ni ko e tau taliaaga ke he tau puhala taute he tau mena pehē nei he tau tau 1970. Ko lautolu ne takitaki ke he tau levekiaga ha lautolu ne nakai fa mahani ke fuafua kia lautolu mo e nakai maama ko e heigoa e uho ke he tau mahani ne kua tokutoku ko e tau mahani "kelea". Kua nakai fai lagomatai e tau tagata gahua ke he ha lautolu a tau fakamahaniaga.

Ko e tau poakiaga mo e tau puhala ke lata mae taatuaga, ko e laulahi ni ke ai iloa mitaki. Nakai iloa e tonu ko e fai malolō mooli nakai e Department of Social Welfare ke lagaki e tau fanau ikiiki mo e tau fanau fuata mai he ha lautolu a tau kaina mo e tului poke taofi hifo a lautolu he Lake Alice ka e nakai fai tonuhia fakamooli mai ia lautolu. Mooli, kaeke ko e taatu ha ko e tau kakano kehekehe mai ke tului ke he tau manamanatuaga gagao, tuga ke fakahala poke tukutuku hifo e tokologa ke he tau fale he social welfare, kua nakai mumui tua ke he tau matafakatufono a ia. Ko e heigoa ni e tūaga ke he tau mata fakatufono, nakai ko e faahi gahua, poke tau kautaha gahua, ne taute poke fakagahuahua fakamitaki e tau fifiliaga ke taatu ki ai. Ko e hepe tumau ni a lautolu he nakai moua mai e fakaatāaga ia lautolu ne kua taofi ke he fale poke fakatumau ke fakailoa e tau vala tala ke he tau magafaoa.

Ke he valu e tau ne gahuahua ai e fale, ne ekefakakelea poke kitia ke he tau mahani vale lahi - fai ne hoko ke he fakakikiveka mamahi - ne mafiti lahi ke mahani lahi ke he tau ekefakakelea nei, keli fakamamahi, fakapilo mo e ekefakakelea ke he tau loto, tiaki tokotaha, tau fakamatakutaku, tuku hifo mo e falu foki a tau puhala ke ekefakakelea. Ko e tau fakakikiveka ne lafi aki e tau faka soka aki e hila, laulahi ni ke nakai fai vai fakaligo, nakai ni ke he tau fagafaga le ka e ke he tau alaga, matapatu mo e tau mouiaga. Ko e tau fakakikiveka ne lalafi ki ai e tau huki mamahi lahi ne nakai maeke ke lutu e tino ne fakahigoa ko e paraldehyde, ne huki he tagata gahua ha ko e fakahala poke taha tuluiaga ke logona e kite mai he tau mahani kae nakai ke lata mae tau puhala kua tonu ha ko e tului ke he tau gagao mooli. Ko e tau fanau ikiiki mo e tau fanau fuata ne tuku atu ke he taha pa loka ke nofo tokotaha mo e nakai fai atāaina ke he ha mena taha, ke he loa lahi he falu magaaho. Ko e logonaaga ke he fale nei kua lahi mahaki e matakutaku.

Kua talahau a Dr Leeks ko e manako a ia ke fakatū e taha maaga ke moua e tau tuluiaga he Lake Alice. Kae, kua lata ke onono mo e gahua mo e tau tama ke he ha lautolu a tau manako mo e tau lololele ke he tau manamanatuaga ne nakai maaliali ka onono ki ai, ka ko e mena ne tupu ko e amaamanakiaga ha Dr Leeks ke fakahako e tau mahani "holifono" mo e tului ke he tau mena ne kua kitia e ia ko e tau lekua ke he tau manamanatuaga, kua tumau ke he tau puhala tului ke he haana kitekiteaga kua lata tonu ke kite mo e ua liu foki. Ne tote lahi e tau fakakiteaga ke he takatakaifale e tau lagomatai ne talahau e Dr Leeks ko e lali a ia ke feaki.<sup>5</sup>

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<sup>3</sup> Te Rūnanga o Ngā Wairiki Ngāti Apa, *Taha tohi hokotaki hāgaao ke he tau lauiaaga he Lake Alice Psychiatric Hospital ke he tau malolo tino mo e tau malolo katoatoa he whānau, hapū and iwi of Ngā Wairiki and Ngāti Apa* (Grant Huwyler et al., 2022), p 32.

<sup>4</sup> Te Rūnanga o Ngā Wairiki Ngāti Apa, *Taha tohi hokotaki hāgaao ke he tau lauiaaga he Lake Alice Psychiatric Hospital ke he tau malolo tino mo e tau malolo katoatoa he whānau, hapū and iwi of Ngā Wairiki and Ngāti Apa* (Grant Huwyler et al., 2022), p 32.

<sup>5</sup> Ko e tohi fakamooli (affidavit) ha Dr Selwyn Leeks, CRL0100116 (22 September 1995), p9.

Ne manatu ni a Dr Leeks kua fai ataina a ia ke taute ni ha mena kua manako a ia he fale ha kua matahavala lahi e tokologa ke lata mo e tau fale he Department of Social Welfare mo e mahani moumou koloa ke lata mo e Department of Education.<sup>6</sup> Kua fakahigoa e Dr Leeks a lautolu ko e "tau fanau mai he kelekele-he-paelo". Ne kua talahaua e fale nei ha ko e tau mahani fili ni ke he tau tagata ne fahia, fakavihia ke he tau tagata Maui mo e tau tagata Pasifika mo e fakavihia ke he tau tagata ne manako ni e taane ke he taane poke fifine ke he fifine. Ko e mahani vale ne ha ha i ai ke he fale fili tagata nei, ne tokologa ke he tau tagata taane Palagi ne kua hufia lahi ke he tau tagata oti pihia mo lautolu e tau tagata ne nakai lauia ke he tau matematekelea ka e logona foki e lautolu e tau matematekelea nei ha kua kitia mata e lautolu e tau mahani vale ne kua eke aki e falu.

Ke fakaaoga he tau kupu kua lata, ne pule okooko a Dr Leeks ke he tau nosi mo e falu foki e tau tagata gahua, falu ne hoko ni kua fakaaoga hehe e tau pule kia lautolu ne leveki atu ki ai. Ne ha ha ki ai e taha aga hoholo ne fakaata mo e eke mo fakamahani ke he tau mahani vale mo e fakakikiveka. Ko e tau mahani fakapilo, fakamamahi ke he tau tino, ekefakakelea ha ko e tau agamotu mo e fakamamahi loto ne lahi e holopi noa mo e nakai fai ne taufakakia ke he fale nei.

Kua kafo e tau manamanatuaga mo e tau agaaga he tau fanau ikiiki mo e tau fanau fuata ha kua utakehe a lautolu mai he tau maaga, tau magafaoa mo e tau kapitiga. Ne nakai ni ke utakehe mai a lautolu e tau fanau ikiiki mo e tau fanau fuata Maui mo e tau fanau ikiiki mo e tau fanau fuata Pasifika he tau aga fakamotu ka e kua fakauka a lautolu ke he tau amuamu fili tagata mo e mahomo atu e tau eke fakakelea ha ko e ha lautolu a tupumaiaga. Ha kua nakai fai iloaaga poke lalafiaga he kakano fakaagaga ke he tau tului ne fakamalolo ke he tau manamanatuaga kua fakahiku ni ke molea e tau vai he kua fakainu aki, fakahigoa ko e sevolo mo gagao, mo e auatu foki e fakahala faka kelea.

Pete ni kua fakatu he Department of Education e taha aoga fakaako fakamahani gahua he fale nei, toko gahoa ni ne moua e tau fakaakoaga kua lata ke he tau faahi tapu poke tau mahina ne gahua atu a lautolu ki ai. Fai ne lahi mahaki e logonaaga ke he soka he hila mo e falu foki ke he tau puhala eke faka kelea ati kua uka lahi a lautolu ke manamanatu fakahokulo, fakaako ke he tau mena fou mo e manatu e tau mena tutupu.

Kua mamao ligo mo e pehe ko e uta ke "tului", ko lautolu ne taatu ke he fale nei ne kua logona ke he matematekelea ha ko e mamafa ke he tau manamanatuaga, tupetupe, fakama, fuafuakelea, matakutaku, fakaatukehe mo e loto ita. Ko e tau tagata Maui ne kua hao mai ne kua tutala hagao ke he lauiaaga he tau mena nei ke ha ha lautolu a mana (lilifu) mo e mauri (moui olaola), mo e whakama (tokutoku) ha kua nofo atu ke he fale nei. Laulahi ne hokulo e tupetupe ke he tau loto mo e tokologa ne kelea agaia ni e logonaaga ha ko e mamahi nei.<sup>7</sup> Ko e tau logonaaga kelea nei ne kua logona ke he tau atuhau ne mumui mai, ti moua mai e tau lauia kelea ke he tau tagata he maaga.

Ko e fakahikuaga he tau eke fakakelea, ne kua logona poke kitia mata, ne kua kelea lahi e tau mena tutupu ke he tau malolo manamanatuaga ha lautolu ne kua hao mai he tau matematekelea nei. Ko e falu, ne nakai fai tupetupe ke he tau manamanatuaga to taatu ke he fale nei, kua fai fuafuaaga ainei ne kitia kua fai lekua ke he tokaaga he tau malolo manamanatuaga. Ko e tau fakamailoga leva kia lautolu ne kua hao mai he fale nei ne kitia ko

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<sup>6</sup> The Dominion, "Psychiatrist Stands by Shock Decision", 12 July 1977.

<sup>7</sup> *Talahauaga ke he tau kitiaaga ha Alan Hendricks*, EXT0016825 (RCAIC, 2021), para 48.

e ita fua, nimoia, onoono tumau neke fai lekua mo e matakutaku mau neke liuaki a lautolu ki Lake Alice, pete ni e iloa e lautolu kua leva e pa e fale gagao ia. Tokologa ne hao mai ne hokotaki ha kua tua lahi ke he tau vai kona mo e kava, mo e kua pihia tali mai he tote, ke utakehe aki e tau loto mamahi mo e fakagalogalo aki e tau manamanatuaga mamahi ki tua. Tokologa ne kua moua e tau fakahala ha ko e fakaholo ke he tau peleō afi ka e konahia ke he kava mo e fakaaoga ke he tapaka kona.<sup>8</sup> Fai ne logona e mamahi mo e nakai fahia ti nakai kia e lautolu ha puhala foki kae fakamamahi ni e lautolu ha lautolu a tau tino mo e fakaoti e ha lautolu a tau momoui.<sup>9</sup> Ne hahamo foki e lautolu ne hao mai e tau kalavalava ke he tau tino mo e tau fakamailoga, tuga e mamahi e tau ulu ha ko e tau fakasoka, mamahi e tau tua mo e tau kafokia nofomau ke he tau manava fakavao ha ko e tau mahani fakapilo.

Tote mai e tau fakamailoga, ka e mamahi agaia ni, e tau lauiaaga kia lautolu ne hao mai ne lalafi ki ai e lololele ke he tau matutakiaga ke he tau magafaoa mo e tau matutakiaga ha ko e tau agamotu. Tokologa ia lautolu e tau tagata Maui ne kua hao mai, tau tagata Pasifika ne kua hao mai, ne kua fai lekua ke he tau matutakiaga mo e ha lautolu a tau magafaoa mo e tau aga fakamotu he magaaho ne fakatoka mai a lautolu he fale nei. Tokologa ne hao mai ne talahau ko e ha lautolu a tua atu ke he falu ne kua galo fakahaga. Kua laulahi ia lautolu ke nakai tua atu kia lautolu e tau pule gahua mo e uka lahi ke fai moua mo e taofi mau ke he tau fehagaiaga tata. Ko e tuahā kelea nei ke he tau pule gahua, lalafi ki ai e tau fakaaoga ne kua nakai katoatoa, mo e uka lahi kia lautolu ne hao mai ke moua mo e taofi mau ke he tau gahua tupe. Taha ne hao mai ne toka e ia haana a gahua ha ko e tau leo logona ke he tau masini gahua ne fakalagalaga e tau manamanatuaga haana ke he masini ECT ha Dr Leeks ne fakaaoga hehē - ko e fakakiteaga ke he loto mamahi haana ne kua toka ke he loto ti hoko atu ke he vahā kua lahi a ia.<sup>10</sup>

Ne nakai fuafua tumau he Department of Social Welfare ko e lata nakai e takatakai kaina ma lautolu ne kua taatu ki ai. Ne tote lahi poke nakai fahia e tau fanau ikiiki mo e tau fanau fuata, mo e ha lautolu a tau magafaoa ke ta hokotaki ha ko e tau puhala ne kua eke fakakelea kia lautolu he fale. Kua nakai tali atu fakamitaki he Department of Social Welfare mo e Faahi Fakaako Tama e tau hokotaki. Kua fai kaupāaga e levekiaga mai ia lautolu ne ha hā i ai ki fafo he fale. Ko e tau tagata tivi mo e tau tagata ahiahi pauaki ke he falegagao ne gahua ni ke he tau pu gahua ne fai kaupāaga mo e tau gahua magaaho ni. Ne nakai fai mena taute a lautolu ne taofi aki e tau mahani ekefakakelea.

Ne nakai fai ke he tau faahi gahua papiliki ne moua e tau ta hokotaki foou mo e he tali mai ne fai tauteaga mitaki ke kumikumi mo e taute ai e tau mena kua lata ia lautolu ke taute kia lautolu ne kua taute e tau mahani eke fakakelea. Ko e tau tau loga mo loga ne mumui mai kua lagaloga e lali a lautolu ne hao mai ke ta hokotaki kia Dr Leeks, tau kau gahua mo e tau faahi gahua. Kumi a lautolu ke moua e tau totogi mo e fakahako e tau mena kelea ha ko e tau fakakikiveka, tau mamahi mo e nakai fai levekiaga ki ai ne kua matematekelea ha ko e tau hopo, tau fakatutala he lali ke moua e taha taliaaga, tau manako he papiliki ke kumikumi ki ai ko e tau ta hokotaki ke he tau Leoleo.

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<sup>8</sup> *Witness statement of Bryon Nicol*, WITN0350001 (RCAIC, 2021, para 43; *Witness statement of Leota Scanlon*, WITN0355001, (Royal Commission of Inquiry into Abuse in Care, 23 June 2021), para 75.

<sup>9</sup> *Talahauaga ke he tau kitiaaga ha Leota Scanlon*, WITN0355001, para 77.

<sup>10</sup> *Talahauaga ke he tau mena kua kiatia ha Mr JJ*, WITN0329001 (Royal Commission of Inquiry into Abuse in Care, 23 March 2021), para 47.

Ko e tau kautaha gahua mo e falu foki ne kua ole ki ai ke fai tauteaga ko e Ombudsman, ko e kumikumiaga, ko e tau Leoleo, ko e Medical Association, ko e Medical Council, ko e lā Niu Silani he Royal Australian and New Zealand College of Psychiatrists, Faahi Gahua Malolō Tino, Faahi Gahua Fakaako Tama, ko e Department of Social Welfare, Cabinet, Crown Law, ko e Health and Disability Commissioner mo e ACC. Pete ni kua lali laga loga, ko e tau tagata mahani kolokolovao ne nakai moua e tau hatakiaga mo e nakai moua foki ia lautolu ne hao mai ke he tau tauteaga kua lata ke liuaki e lilifu katoatoa kia lautolu.

Kua tau taofi e tau kumikumiaga ki ai ha ko e temotemoai he tau vala tala mahuiga pihia mo e tau koloa fakaaoga. Kua totoko ki ai ke he tau hopoaga pete ni, he talahau he Solicitor-General ko Una Jagose, "ko e tau fakamooli a ia ne ha hā ki ai he tau fakamauaga".<sup>11</sup>

Ne ha hā ki ai e kautū, tuga e tau palepale ke lata mae tokologa ne kamata aki e 95 ia lautolu ne kua hao mai he tau 2001 he mole e tau fakatutalaaga mo e tau fakamalolō mo e Fakatufono, ka e mule mo e gahoa. Ko e tau mena nei foaki fakalataha mo e tau kupu fakamolemole mai i loto mo e tau laliaga lololele ke fakahako ke he tau hepe mo e hoko atu foki ke he tau tupe ne kua totogi kia lautolu. Kua nakai fai manamanatuaga a lautolu ke he tau manako he tau tagata Maui ne kua hao mai poke tau tagata Pasifika ne kua hao mai.

Ko e tau kumikumiaga he tau Leoleo ne kua nakai leva e mole ne fai laliaga ke fakahakohako e tau hepehepe ke he tau kumikumiaga ne tolu kua mole. Ne tā ai e tau hokotaki ke he taha he tau tagata gahua, ha kua levaleva kua tomui tei ke tā e hokotaki kia Dr Leeks mo e falu foki ne tuahā ki ai, ne ligaliga kua fitā e mamate pokua momotua lahi mo e nakai fahia ke fakafehagai aki e tau tā hokotaki.

Ko e tau 2020 (ha ko e taha hokotaki mai ia Paul Zentveld) mo e 2022 (ha ko e taha hokotaki mai ia Malcolm Richards) kua moua he United Nations Committee Against Torture kua nakai mafiti a Aotearoa Niu Silani ke taute e taha kumikumiaga kua tonu mo e tu tokotaha ha ko e tau talahauaga ke he tau mahani fakakikiveka he fale poke taha tauteaga ke he taha puhala ke fakahakohako e tau hepehepe ne kua tutupu.

Ko e tau fanau ikiiki mo e tau fanau fuata he fale ne kua onoono kua galo mo e nakai fai manamanatu ki ai, mo e kua tokologa ia lautolu ne kua fakakikiveka mo e fakamamahi. Ko lautolu, ha lautolu a tau magafaoa ne lauia ke he tau matematekelea lalahi, ne kua tokamau ke he tau momoui ha ko e tau pulotu ka e nakai fai tuahā ki ai. Kua hepe lahi ha kua nakai fai tagata ne kua tali atu ke he tau mena nei mo e kua fakatali agaia ni a lautolu ne hao mai ke moua e taha fakafiliaga kua hako. Ko e tala ke he fale i Lake Alice mae tau fanau ikiiki mo e tau fanau fuata ko e taha veveheaga fakamā ke he tau fakamauaga tuai ha Aotearoa Niu Silani, ne kua lata ke fakafeleveia fakahako ni mo e nakai fai fakamolemole poke fakamaamaaga mo e taha laliaga ke taute e taha mena kua tonu ke fakahako aki mo e fakamooli ke nakai liu e tau mena matematekelea pehē nei ke tupu foki.

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<sup>11</sup> *Ko e tau fakamauaga ke he tau talahauaga ha Una Jagose QC, TRN0000025 (Royal Commission of Inquiry into Abuse in Care, 2020), p 26.*