

## Editorial Introduction

This paper explores the current over-representation of Indigenous Australians in suicide statistics, focuses on coronial recommendations provided to explain this and explores how they systematically medicalise the colonial condition. By considering Indigenous Australians as a problem to be solved, coronial recommendations classify Indigenous Australians as failing citizens, alcoholics and poor parents who must be raised to non-Indigenous people's standards. This ignores colonial policies' historical effect and the ongoing social, economic and cultural manifestations of this history in Indigenous Australians' lives. This brief demonstrates colonialism's presence in contemporary legal decision-making and that legal professionals must be alert to colonial ideologies' effect.

## Indigenous suicide rates and the colonial logic of legal decision making

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### Introduction

Suicide rates reflect the health of the social body; thus, a traumatised and damaged community is likely to have high rates of suicide (Tait & Carpenter, 2015). According to the Australian Bureau of Statistics (ABS), Indigenous Australians are more than twice as likely to commit suicide as are non-Indigenous Australians, with a ratio of 25.5 per 100,000 compared to only 12.7 per 100,000, respectively (ABS, 2017). Consequently, Indigenous suicide remains a focus of government policy and funding, with tens of millions provided in Australian federal government Budgets over the past five years to support projects that aim to make health programs for Indigenous Australians more effective (Liberal Party of Australia, 2019).

Research also continues at pace. For example, a recent systematic review of the global incidence of suicide among Indigenous peoples internationally has included 13,376 relevant papers (Pollock et al., 2018). This has led Whittaker (2018, p. 24) to conclude that Indigenous peoples are among the most researched in the world but that such levels of knowing do not equate to affect or change in Indigenous peoples' circumstances. In Australia, for example, government health initiatives that focus on reducing these rate disparities, such as 'closing the gap' campaigns, have had little tangible effect over the past 10 years—with 'mortality and life expectancy gaps actually widening' (Australian Human Rights Commission, 2018, p1).

We suggest that one of the reasons such campaigns continue to fail is that academic research and social and government policy portray Indigenous lives as a problem to be solved. This way of thinking positions Indigenous Australians as dysfunctional 'authors of their own misfortune' (Cunneen, 2018, p. 29) and ignores how these problems have emerged from colonial policies; thus, these problems require structural—not individual—solutions (Watson, 2011). Problems such as high infant mortality and higher suicide rates are not endemic to Indigenous Australians but rather are the creation of 'policies such as dispossession, forced relocation and the removal of children' (Cunneen, 2018, p. 30). This paper explores how coronial inquiries into Indigenous suicide 'fall into the same patterns of creating Indigenous subjects of disadvantage rather than doing the crucial work of interrogating colonial relations' (Whittaker, 2018, p. 33).

## Coronial Inquests

As a case in point, consider four inquests performed by coroners in Western Australia. These inquests occurred between 2008 and 2017 and involved investigations into the deaths of 45 Indigenous people in communities in the remote Kimberley region of the state. Of these deaths, 35 were found to be suicides, and 79 recommendations were offered by the presiding coroners. As inquests into more than one death are rare and recommendations are not obligatory, these inquests offer a singular and public insight into the 'soft law' of the coronial jurisdiction as a colonising force (Westerman, 2020). Three main themes have emerged from these inquest recommendations: a pathologising narrative of alcohol abuse; a paternalistic approach to parenting; and a focus on Indigenous people as 'deficit Indigenous' (Walter & Anderson, 2013, p. 21), the failing subjects of modernity who need to be raised to non-Indigenous standards, through an emphasis on 'closing the gap'.

## Alcohol as a Focus

Of the 79 recommendations that have been offered across the four inquests, 23 (almost 30%) place alcohol control at the centre of a suicide prevention approach, with a focus on legislation to decrease access to alcohol, increase policing and restrict access to welfare. This focus on alcohol abuse and control as a critical feature in the suicide prevention strategy for Indigenous Australians maintains a focus on the sick Indigenous body and works to discredit other discourses such as racism or colonialism.

### *a) Legislation*

All four inquests included recommendations to restrict access to alcohol, including the extension of Liquor Control Acts, the feasibility of a Banned Drinker Register, limited access to full-strength takeaway alcohol in the regions and the creation of involuntary treatment orders for alcoholism (see, e.g., Hope, 2008b, Recommendations 1, 3; Fogliani, 2017, Recommendation 9; Hope, 2011, Recommendation 1).

### *b) Policing*

The recommendations also support an increased police presence, including further resourcing of police to enforce legislative amendments, conferring increased police powers to seize and dispose of alcohol found in restricted communities and resourcing for an increased police presence to coordinate the alcohol and drug regulatory response for the Kimberley district (see, e.g., Fogliani, 2017, Recommendations 10, 11; Hope, 2008a, Recommendations 25–27; Hope, 2008b, Recommendation 1).

### *c) Welfare restrictions*

A focus on welfare restrictions in Indigenous communities invokes the paternalism of a colonial narrative, as well as positions Indigenous Australians as failing, incapable modern citizens, all overlaid with that inherent pathological frailty of the dysfunctional alcoholic body. Relevant recommendations include voluntary cashless debit cards for welfare recipients, compulsory income management and voucher systems for welfare payments to limit the amount of money available for the purchase of alcohol (see, e.g., Fogliani, 2017, Recommendation 22; Hope, 2008a, Recommendation 11; Hope, 2008b, Recommendation 2).

## Protection of children

Twenty recommendations (25%) have been made in response to concerns of children taking their own life, with a focus on parental responsibility, truancy and the need for government leadership in these 'failing' communities. Recommendations that are aimed at changing the behaviour of welfare recipients stigmatise Indigenous Australians as 'functionally inept and deficient' (Cuneen 2019, p38).

### *a) Parental Responsibility*

A focus on the alleged failings of bereaved Indigenous parents is apparent in the inquests, which recommend a range of monitoring and sanctions such as universal screening for foetal alcohol syndrome disorder and coercive measures such as fines and court-ordered parenting counselling for parents of children not attending school (see, e.g., Fogliani, 2017, Recommendation ; Hope, 2011, Recommendation 4).

### *b) Truancy*

The inquests' approach to reducing school absenteeism in Indigenous communities has been to increase surveillance and/or offer punitive sanctions—such as implementing income management, invoking responsible parenting orders and agreements, and monitoring the truanting child—against Indigenous parents (see, e.g., Hope, 2008a, Recommendation 13; Hope, 2011, Recommendation 3).

### *c) Government Leadership*

Recommendations here focus, in particular, on the perceived lack of leadership in Indigenous communities and the need for the government to step into the 'vacuum'. These recommendations include an increased presence of police and child protection agents in communities, the government

appointment of a special advisor on matters concerning Indigenous young people and children, as well as the appointment of an individual with the power and resources to make decisions and coordinate responses to the 'disaster' of Indigenous health in the region (see, e.g., Hope 2008b, Recommendation 3; Fogliani, 2017, Recommendation 7; Hope, 2008b, Recommendation 5).

### Closing the gap

A narrative of deficiency was evident in the inquests—17 recommendations (21%) centre on the deprivation of Indigenous Australians, focusing on housing, education and employment. This deficit-based approach presents Indigenous Australians as 'failing' citizens who need to be raised to the non-Indigenous standard. More problematically, culture is given not only as a recommendation for the prevention of suicide but also as the main explanation for the problem of suicide over-representation.

#### a) Housing

Recommendations in Inquest 1 (Hope, 2008a) focus on the poor state of public housing, which was determined to be the result of Indigenous Australians' inability to manage their domestic life. After previous assimilation policies were invoked, it has been suggested that occupants of public housing be 'adequately educated in respect of the need to look after the properties and any furniture provided' (Hope 2008a Recommendation 18) in order to 'maintain homes provided to them in a clean and hygienic state' (Hope, 2008a, Recommendation 19.1). Satisfactory completion of the program was the only way to access a new home (Hope 2008a, Recommendation 19.2).

Nine years later, Inquest 4 has focused more on the provision of public housing that is 'culturally appropriate' (Fogliani, 2017, Recommendation 13), with such recommendations invoked to help solve the 'problems' of overcrowding and transient populations in Indigenous housing in the area.

#### b) Education

Recommendations that focus on the role of education in addressing the alleged deficiencies in Indigenous citizenship include remedial teaching (Hope, 2008a, Recommendation 4) and education campaigns in secondary schools to alert students to the dangers of consuming alcohol during pregnancy (Fogliani, 2017, Recommendation 6). Culture has also been recommended as vital to prevent suicide and includes Indigenous languages being taught, Indigenous-specific early childhood programs (Fogliani, 2017, Recommendation 35) and support of projects that connect troubled youth to culture and tradition (Fogliani, 2017, Recommendation 39).

#### c) Employment

Recommendations addressing employment invoke a colonial narrative of deficiency or paternalism, or both. Recommendation 3 in Inquest 1 maintains that 'positive action should be taken, where practicable, to employ Indigenous people [noting that] this may require upskilling', while Recommendation 4 proffers that 'Indigenous leadership should be encouraged where suitable leaders can be found' (Hope, 2008a). In Inquest 4, Recommendations 12 and 21 advocate for 'efforts to continue to be made' to employ Indigenous people in a range of government services, while Recommendation 19

supports cultural competency training to 'involve local Indigenous people' (Fogliani, 2017).

### Conclusions

Three issues are worth reiterating. First, a focus on alcohol abuse and control as the main feature in a suicide prevention strategy suggests that Indigenous Australians 'possess an inherent pathological frailty'. By positioning Indigeneity itself as a pathology, inquests transform the colonial condition into a medical one (Razack, 2011, pp. 374, 353). Second, this medicalising discourse not only maintains a focus on the sick Indigenous body but also suggests that Indigenous Australians have a 'tenuous hold' on modern life and are unable to govern themselves and are incapable of managing their money, their families or themselves (Razack, 2011, p. 352). Such an approach frames Indigenous identity as deficient and dysfunctional (Bielefeld, 2018, p. 752). Finally, there is a contradiction in the focus on culture as both key to the prevention of suicide and the central explanation for the problem. Coroner Fogliani (2017) encapsulates this when she identifies a mismatch between Indigenous culture and the modern world at the heart of the suicide problem: 'Indigenous people are caught between trying to connect with their culture and trying to fit into the western world' (pp. 299, 361).

In the context of the unacknowledged power relations of colonialism, such efforts to 'normalise' Indigenous Australians position them as the problem. An inability to 'close the gap' in suicide rates between Indigenous and non-Indigenous people becomes 'tied to the behavioural deficits of Indigenous people' rather than to 'the failure (or lack of) government



policy' (Walter & Anderson, 2013, p. 22). With the inquests focusing on culture as both the cause and the solution of high suicide rates, Indigeneity itself becomes the disabling condition, evident through 'a mysterious incapacity to cope with modern life' (Razack, 2015, p. 4).

For a colonial approach to be countered, inquests cannot rely on the belief that Indigenous suicide is the result of individual pathology and that it can be prevented through increased surveillance, governmental intervention and policing (Gray, 2016, p. 92). In doing so, coroners obscure the effect of violent and traumatic histories of colonial policies and practices on Indigenous Australians. Practical options to counter colonial narratives might be as simple as ensuring that communities set the agendas of the inquest, inquests are proactive rather than reactive, and these same Indigenous communities receive something from their investment in the investigation (Whittaker, 2018, pp. 32–33).

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## References

- Australian Bureau of Statistics. (2017). Leading causes of death in Aboriginal and Torres Strait Islander People; Australian Bureau of Statistics: Canberra, Australia. Retrieved on March 20, 2020, from <https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/3303.0~2017~Main%20Features~Leading%20causes%20of%20death%20in%20Aboriginal%20and%20Torres%20Strait%20Islander%20people~9>.
- Australian Human Rights Commission. (2018). *Close the Gap – 10 year review*. Retrieved on March 20, 2020 from <https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/close-gap-10-year-review>
- Bielefeld, S. (2018). Government mythology on income management, alcohol, addiction and Indigenous communities. *Critical Social Policy*, 38(4), 749-770. doi:[10.1177/0261018317752735](https://doi.org/10.1177/0261018317752735)
- Cunneen, C. (2018). Indigenous challenges for southern criminology. In Carrington, K., Hogg, R., Scott, J. & Sozzo, M. (Eds) *The Palgrave Handbook of Criminology and the Global South*. (pp. 19–41). London: Palgrave Macmillan. [https://doi.org/10.1007/978-3-319-65021-0\\_2](https://doi.org/10.1007/978-3-319-65021-0_2)
- Cunneen, C. (2019). Institutional Racism and (In)Justice: Australia in the 21st Century, *Decolonization of Criminology and Justice*, 1(1), 29-51.
- Fogliani, R. (2017) *Inquest into the deaths of Thirteen Children and Young persons in the Kimberley Region, Western Australia*. Ref : 25/2017. Retrieved on March 30, 2020 from <https://nacchocommunique.files.wordpress.com/2019/02/13-children-and-young-persons-in-the-kimberley-region-finding.pdf>.
- Liberal and National Party of Australia (LNP) (2019) Press release. Retrieved on April 11, 2019 from <https://www.liberal.org.au/latest-news/2019/04/13/support-youth-and-indigenous-mental-health>.
- Pollock, N., Naicker, K., Loro, A., Mulay, S., Colman, I. (2018) Global incidence of suicide among Indigenous peoples: a systematic review. *BMC Medicine*, 16(145), 1-17.
- Pope, A. (2008a) Record of Investigation into Death in Western Australia Ref: 37/07. A summary of this inquest in the Annual Report 2007-2008 was retrieved on May 20, 2021, from <https://coronerscourt.wa.gov.au/files/ar2007-08.pdf>
- Pope, A. (2008b) Record of Investigation into Death in Western Australia. Ref: 13/08. A summary of this inquest in the Annual Report 2008-2009 was retrieved on May 20, 2021, from <https://coronerscourt.wa.gov.au/files/ar2008-09.pdf>
- Pope, A. (2011) Record of Investigation into Death in Western Australia. Ref:23/11. A summary of this inquest in the Annual Report 2011-2012 was retrieved on May 20, 2021, from [https://coronerscourt.wa.gov.au/files/Coroners\\_Court\\_Annual\\_report\\_12.pdf](https://coronerscourt.wa.gov.au/files/Coroners_Court_Annual_report_12.pdf).
- Razack, S. (2011a). Timely Deaths: medicalizing the deaths of Aboriginal people in police custody. *Law, Culture and the Humanities*, 9(2), 352–374. <https://doi.org/10.1177/1743872111407022>.
- Razack, S. (2015) *Dying from Improvement: Inquests and Inquiries into Indigenous Deaths in Custody*. Toronto: University of Toronto Press.
- Tait, G., Carpenter, B. (2015) Suicide, statistics and the coroner: a comparative study of death investigations. *Journal of Sociology*. 51(3), 553–565.
- Walter, M. & Andersen, C. (2013) *Indigenous Statistics: a quantitative methodology*. Los Angeles: Left Coast Press.
- Watson, N. (2011). The Northern Territory Emergency Response: The More Things Change, the More They Stay the Same. *Alberta Law Review*, 48(4), 905-918. doi:10.29173/alr139.
- Whittaker, A. (2018) Dragged like a dead kangaroo: why language matters for deaths in custody. *The Guardian*. 8<sup>th</sup> September. Retrieved on November 10, 2020 from <https://www.theguardian.com/commentisfree/2018/sep/07/dragged-like-a-dead-kangaroo-why-language-matters-for-deaths-in-custody>. Retrieved 10<sup>th</sup> November 2020.