

Re-considering the Relationship Between Indigenous People and Violence

Chris Cunneen and Simone Rowe

Introduction

The subject of Australian Indigenous people and violence has attracted intense focus and debate. Some two and a half decades ago, the Australian National Committee on Violence (NCV 1990: 165) stressed the need to understand the complex nature of the causes of violence in contemporary Indigenous communities. Yet debates continue to be dominated by colonising discourses of pathology, tribalism and barbarity, or simplistic interpretations of the impact of colonialism, which is usually reduced to frontier violence.

Indigenous activists and scholars have confronted the complex issues contributing to the high rates of violence occurring in Indigenous communities.¹ However, in mainstream debates, the silencing and invalidation of Indigenous voices, knowledges and experiences persists. Misguided policy solutions have followed that have advanced a restricted definition of violence, and contributed to a continuation of the dominant relationship between the colonised and the colonisers, the perpetuation of a 'deficit-based' approach to the 'Indigenous problem', and a persistent failure to address both the high rates of Indigenous violence, and the underlying causal factors. Understandings of the complex nexus between Indigenous people and violence, the causes of that violence, its nature and responses to it remain polarised between Indigenous-identified understandings and solutions and governmental interventions.

This chapter seeks to provide a more nuanced and critical interpretation of the complex relationship between Indigenous people and violence. Building on the work of a range of Indigenous writers (ATSISJC 2011; Dodson 2003; Moreton-Robinson 2011; Watson 2009), and postcolonial (Said 1994; Spivak 1988) and decolonial theorists (Blagg 2016; Santos 2007; Quijano 2000), our

1 The statistics on Indigenous violence are well documented (see, for example, Steering Committee for the Review of Government Services [SCRGSP], 2014). We will not rehearse the extensive data here other than to provide two examples: hospitalisation rates for family violence-related assault for Indigenous people are between 25.1 and 32.8 times the rates for non-Indigenous people (SCRGSP 2014: 4.88); homicide victimisation rates are five times higher than the non-Indigenous rate (SCRGSP 2014: 4.94).

discussion begins by re-centring the full meaning of colonial violence. Then, we consider how epistemic violence and the related disavowal of colonialism influences debates on Indigenous violence. Epistemic violence is the denial of a position from which the subaltern, the marginalised, and the oppressed can speak (Spivak 1988: 280-281). It is manifest in the West's persistent production of the colonial subject as Other,² a process that has obliterated the voice, consciousness and history of that Other and underpinned the colonial construction of the Indigenous Other as violent, pathological and inferior. We examine Indigenous-identified and critical understandings of, and responses to the nature and source of the violence occurring in contemporary Indigenous communities. The continued denial of Indigenous knowledge and understandings of violence is illustrated through an examination of The Northern Territory Emergency Response (the Intervention). We conclude with a consideration of the fundamental importance of reflexivity and of the need to foreground critical and Indigenous understandings of violence.

Re-centring the Meaning of Colonial Violence

Across academic, media, public and political spheres, debates on Indigenous people and violence centre almost exclusively on the high rates of violence and abuse occurring in Indigenous communities. In the 25 years following the NCV (1990) report, an abundance of literature covering issues such as family violence, domestic violence, child neglect and abuse, and homicide has sought to quantify, theorise, document and explore the extent and causes of Indigenous violence. It has included successive reports (eg ATSIJSJ 2011; Aboriginal and Torres Strait Islander Women's Task Force 2000; AIHW 2006; Wild & Anderson 2007; Blagg 2000; Gordon, Hallahan & Henry 2002; Memmott, Stacy, Chambers & Keys 2001; Victorian Indigenous Family Violence Task Force 2003); academic research and discourse (eg Atkinson 2002; Cowlshaw 2004; Cunneen 2001, 2007; Finnane & Richards 2010; Snowball & Weatherburn 2008, 2014; Sutton 2001; Watson 2009); and a contentious body of more polemical literature feeding off legal and anthropological 'evidence' (eg Jarrett 2009; Kimm 2003; Nowra 2007).

Knowledge gained from this body of work has contributed to current understandings of the nature and extent of the violence occurring in Indigenous communities. However, with the exception of Indigenous and some non-Indigenous writers, this work has sought to document the problem of Indigenous violence within a narrow positivist frame. Widespread acceptance of the dominant Western episteme continues to render inferior alternative

2 The concept of the 'Other' has been used by a range of social, political and psychoanalytical theorists in various contexts. We use the term, following Said (1994), to refer to the process by which colonised peoples are subordinated through the coloniser's ideas, beliefs and ideologies that construct their political, intellectual, social and moral inferiority.

understandings of Indigenous violence and masks the complex relationship between the epistemic and material features of colonisation on the lives of Indigenous peoples. A key purpose of our chapter is to re-centre the inextricable link between epistemic and material violence within the ongoing project of colonisation.

Alongside Indigenous scholars (eg Moreton-Robinson 2009; Watson 2009; Smith 2012), postcolonial and decolonial theorists (eg Santos 2007; Quijano 2000) we argue that the 'formal' end of colonialism³ has not meant the end of colonial relations. Rather, 'the latter go on reproducing themselves as racist disqualifications of the Other' (Santos, in Dalea & Robertson 2004: 159). The social, political and economic structures that were established during colonial rule continue to inflect the cultural, political and economic life of neo/postcolonial states. Modernity is inseparable from various forms of colonial violence – both material and ideational (Mignolo 2007). A core concern is the way in which disciplines, institutions, public discourse, and policies and practices of the state, continue to reproduce divisions between the colonised and the coloniser, as evident in discussions about the relationship between Indigenous people and violence.

Colonisation is and was a violent process. However, there are several problems in the current dominant non-Indigenous literature on violence. One is the view that colonial violence is something that can be discretely recognised but confined to the past. Finnane and Richards (2010: 239) note that the evidence of frontier violence and the violence of dispossession is overwhelming, and 'the need to recognise the violent nature of Australian settlement [is] compelling'. Weatherburn (2014: 150) argues that colonisation and dispossession is of historical interest. The problem here is the lack of consideration of how colonial violence continues to shape current institutional processes, and Indigenous understandings of and responses to the contemporary colonial state. Colonial processes extended well beyond overt physical brutality, and these processes have a significant impact on understanding the contemporary position of Indigenous people.

Perhaps more fundamentally, such accounts neglect the foundational epistemic violence integral to the ongoing project of colonisation. Epistemic violence, or what Santos (2007) describes as 'epistemicide' – the active denial, delegitimation, suppression and eradication of other ways of knowing, leading in the West to 'epistemological blindness' – is the key to colonial processes.

The denial of the epistemic dimensions of colonial violence is of particular relevance to the present chapter. For example, Weatherburn's (2014: 65) claim

3 In the Australian context there was no single point in time when 'colonialism' finished. However, the piecemeal movement from the late 1950s and early 1960s onwards to dismantle racially discriminatory legislation aimed at Indigenous people, reaching a zenith with the introduction in 1975 of the Commonwealth *Racial Discrimination Act*, might be considered an end to the more overt forms of colonial control of Indigenous people.

that the causes of Indigenous violence and crime are 'entirely amenable to explanation in conventional scientific or western terms' negates the fundamental importance of both the colonial paradigm and of Indigenous ways of knowing to understanding the complex relationship between Indigenous people and violence. Here, science is the preserve of the Western intellectual and alternative knowledges are disqualified. It is reminiscent of the problem Foucault identified: 'the episteme is the apparatus which makes possible the separation not of the true from the false, but of what may not be characterised as scientific' (Foucault 1980: 197). This long-standing tradition of de-legitimisation is part of the foundational epistemic violence that continues to deny the voice of colonised peoples (Cunneen & Rowe 2014). In Moreton-Robinson's terms, 'defining Aboriginality continues to be a predominantly white patriarchal knowledge production activity ... [which] violates our subjectivity by obliterating any trace of our different ontological and epistemological existences' (2011: 414).

Furthermore, there is an inextricable link between the epistemic and physical dimensions of colonial violence, as the two are co-constituted. This connection is evidenced in the developing knowledge about 'Indigenous violence', its separation from colonial processes, and its reconstitution as caused by either traditional Indigenous culture (as 'known' by the West) or by 'deficit-based' views of Indigenous people. The relationship between the epistemic and physical dimensions of colonial violence also manifests in the simultaneous hardening of criminal justice responses and subsequent increasing incarceration rates of Indigenous people. Within this colonial episteme, Indigenous understandings, policy solutions and political demands are silenced.

Ultimately, we see the need to re-centre the above understanding of the nature of colonial violence, in its complex web of epistemic and material dimensions, as not merely a theoretical exercise. It has profound political implications for the ability of Indigenous people to live free of the violence and oppression they now endure. The substantial body of work written by Indigenous people in Australia on the problem of violence is rooted in experiences of domination and social injustice, but is largely suppressed, discredited, ignored or disqualified. However, we see their work as part of the decolonisation of knowledge – the development of a political 'counter epistemology' of modernity derived from the experience of the colonised – an Indigenous (and non-Eurocentric) social science coming not from the centres of power but from the margins.

Epistemological Blindness and the Disavowal of Colonialism

Australian Indigenous scholar Irene Watson (2009: 45) has argued that the 'foundation of the Australian colonial project lies within an 'originary violence', in which the state retains a vested interest in maintaining the founding order of things'. The key question the Australian state has yet to resolve is that of

its own 'illegitimate foundation and transformation into an edifice deemed lawful' (2011: 46; see also Reynolds 1996). The continuation of colonial violence (such as the Intervention, see further below) is not seen as violence because the violence is normalised within the very heart of the state's foundational principles, that is, in its right to exercise sovereign power over the colonised.

The imposition of state responses to violence in Indigenous communities can only be understood in the context of the sustained denial, control and attempted eradication of the law of the colonised. There was an overwhelming racially-defined ideology about Indigenous primitivism that underpinned the colonial project both in Australia (eg McGregor 1997) and other settler societies such as the United States (Williams 1989), despite Indigenous peoples' exercise of self-governance within the contexts of their own law before colonisation. The denial of other ways of seeing and knowing the world placed the colonised *a priori* outside the social contract and the developing institutions of modernity, that is, outside of the civilised world.⁴ In Australia, ideas about Indigenous people went through various stages. From the early 19th century they were seen as a 'doomed race' and certainly by the 1880s they were seen in a social Darwinian context as the lowest rung on an evolutionary ladder. Anthropologists sought to uncover the 'ape-like' or primitive characteristics of a 'race' of people held to be the most backward in the world (McGregor, 1997: 14, 39-41).

The 'customs' of Indigenous peoples were extraneous to the 'law' of government, which was considered powerful and binding. Law was seen as inherently linked to the institutions of the modern political state. By definition, then, the 'customs' of native peoples were seen at best as inferior. The de-legitimisation of the law of the colonised was part of the 'civilising' process designed to bring the superior political and legal institutions of the West to the native. The idea that Indigenous law was merely *customary* was essentially an imperialist concept used to invalidate the laws of Indigenous peoples.

The erasure of colonialism as an ongoing process with tangible effects can be seen in a range of texts from serious academic studies of Indigenous offending (Weatherburn 2014) to more overtly polemical texts relying on Indigenous 'cultural' explanations (Nowra 2007; Jarrett 2009). It is not that colonialism is 'unknown' to these writers, but rather, it is that they actively deny its importance. This denial of colonialism contrasts directly with the work of Indigenous academics and policy advocates who place the long-term colonial experience at the centre of explanations for violence. We discuss Indigenous perspectives later in this chapter.

We turn now to specific examples of how the effects of colonialism materially impact on the day-to-day conditions under which Indigenous people

4 For the 17th century social contract theorists, Indigenous people were outside the civilised world of the Enlightenment. For Hobbes the state of nature could be found in the 'savage peoples' of America, or for Locke, 'in the beginning all the world was America' (Santos 2007: 50).

continue to live. By the end of the 19th century, during the 'Protection era', Australian States were introducing comprehensive legislation that enabled extensive regulation of the lives of Indigenous people and their segregation from non-Indigenous society. Although legislation was couched in the language of 'protection', administration and maintenance of control involved criminal justice institutions (often through police as guardians or protectors) and penal sanctions. The extensive regulation of the lives of Indigenous people and the corresponding legislative denial of basic human rights became inextricably linked with the day-to-day administration of Aboriginal affairs.

Developments that we associate with the rise of the modern welfare state during the 20th century must be reconsidered against the backdrop of a range of racially-defined exclusionary practices that prevented Indigenous people from participation in, and enjoyment of, the social and political benefits of citizenship. Numerous legislative controls and restrictions existed on movement, residence, education, healthcare, employment, voting, workers compensation and welfare/social security entitlements. For example, Indigenous people were largely excluded from the right to social security: legislation explicitly disqualified Aboriginal people from receiving government entitlements claimable by non-Indigenous Australians, including old age, invalid and widow's pensions as well as child endowment and maternity allowances. These discriminatory restrictions on eligibility for social security benefits were not completely lifted until 1966 (Chesterman & Galligan 1997).

Various Australian governments put in place legislative and administrative controls over the employment, working conditions and wages of Indigenous workers. These controls allowed for the non-payment of wages to some Aboriginal workers (which amounted to forced labour and bordered on a type of slavery), the underpayment of wages to other Aboriginal workers (for example, in 1901 in Queensland the minimum wage for Aboriginal and Torres Strait Islander workers was less than one eighth of the 'white' wage), and the diversion of wages into trust and savings accounts. In addition, negligent and, at times, corrupt and dishonest practices led to the withholding of money from Aboriginal wages paid into savings accounts and trust funds (Cunneen 2013). In December 2006, the Australian Senate Standing Committee on Legal and Constitutional Affairs (the Standing Committee) released the report of its inquiry into what had become known as Indigenous 'Stolen Wages'. The inquiry took a broad view of 'wages' to include wages, savings, entitlements, and other money due to Indigenous people. The Standing Committee vindicated Indigenous concerns and found that there is:

compelling evidence that governments systematically withheld and mismanaged Indigenous wages and entitlements over decades. In addition, there is evidence of Indigenous people being underpaid or not paid at all for their work. These practices were implemented from the late 19th century onwards and, in some cases, were still in place in the 1980s. (Standing Committee 2006: 4)

The Senate Inquiry into stolen wages found that Indigenous people had been ‘seriously disadvantaged by these practices across generations’ (Standing Committee 2006: 4), and subsequently this created a cycle of poverty through the denial of wages.

Given the depth of contemporary Indigenous detriment across all social, educational, health and economic indicators (Steering Committee for the Review of Government Service Provision 2011), and the active role played by the state in controlling Aboriginal access to wages and entitlements, we describe the outcome of this colonial process as one of *immiseration*: the forcible imposition and maintenance of structural conditions of extreme poverty. Writing of the situation in Western Australia, historian Anna Haebich begins to capture some of the long-term impacts:

Aboriginal people were subject to a disabling system which denied them proper wages, protection from exploitation and abuse, proper living conditions, and adequate education and training. So while other Australians were able to build financial security and an economic future for their families, Aboriginal workers were hindered by these controls. Aboriginal poverty in Western Australia today is a direct consequence of this discriminatory treatment. (cited, Standing Committee 2006: 68)

The effect of stolen wages, and the subsequent social and economic marginalisation, is fundamental to understanding the contemporary situation of Indigenous people. Over-crowded housing, low incomes, chronic health issues, lower life expectancies, poor educational outcomes, child protection concerns – factors we know are associated with higher levels of violence and offending – can be related in various degrees to the state-enforced policies of immiseration. The long-term impact of government policy in the realm of financial controls over Indigenous people has been devastating.

The Stolen Generations provides a second example. Much has been written about the policies of forced removals of Indigenous children from their families and communities and we will not rehearse that evidence here (see NISATSIC 1997). However, it is important to recognise the contemporary multiple effects of these policies. Indigenous people who were removed as children were twice as likely to report having been arrested and reported significantly poorer health (NISATSIC 1997: 15). Almost one in ten boys and just over one in ten girls reported that they were sexually abused in children’s institutions; one in ten boys and three in ten girls reported they were sexually abused in a foster placement (NISATSIC 1997: 163). There has also been a range of complex trauma-related psychological and psychiatric effects that have been intergenerational. These relate to issues such as poorer educational and employment outcomes, loss of parenting skills, unresolved grief and trauma, violence, depression, mental illness, and other behavioural problems including alcohol and other substance abuse. A large-scale survey conducted by the Aboriginal Legal Service in Western Australia of Aboriginal people who had been forcibly removed found that one-third had also had their children

removed (NISATSIC 1997: 226). The links between early removal and later juvenile and adult criminalisation were clearly articulated in the reports of the Royal Commission into Aboriginal Deaths in Custody (eg Wootten 1989), which is not surprising given the relationship between many of these (inter-generational) factors and subsequent offending.

A final example is the contemporary experience of racial discrimination. We see racial discrimination as an ongoing manifestation of the historically excluded position of Indigenous people as colonised Others. We also see racism as a violent act. It is the active denial of the humanity of the affected person and their collective cultural identity, with negative impacts on social and emotional wellbeing. Recent research in the Northern Territory, Queensland and Victoria found between one in three and one in four Indigenous people identified experiencing racial discrimination over the previous two years in a range of areas from abuse in public places to denial of access to goods and services, including employment and housing (Allison, Cunneen, Schwartz & Behrendt 2013; Cunneen, Allison & Schwartz 2014a; Schwartz, Cunneen & Allison 2013). Relating to a shorter period of time (12 months), the National Aboriginal and Torres Strait Islander Health Survey found that 16% of Indigenous adults felt they had been treated badly because they were Indigenous (cited in Paradies, Harris & Anderson, 2008: 6).

At the other end of the spectrum are the more institutionalised attacks on Indigenous people, most recently shown in the Andrew Bolt case where the media commentator was found guilty under s 18C of the *Racial Discrimination Act 1975* (Cth). Bromberg J was 'satisfied that fair-skinned Aboriginal people... were reasonably likely ... to have been offended, insulted, humiliated or intimidated by the imputations conveyed by the newspaper articles' (*Eatock v Bolt* [2011] FCA 1103 at 17). Bolt has used his position in the media for a considerable time to attack what he sees as 'light-skinned' Indigenous people who have no right to claim their Aboriginality (Langton nd). Bromberg J was especially concerned with the 'intimidatory effect ... in particular [on] young Aboriginal persons or others with vulnerability in relation to their identity' (*Eatock v Bolt* at 24).

In the context of the current discussion on Indigenous violence, racial discrimination is part of the deeply ingrained and ongoing experience of the colonised. Discrimination has material outcomes in the denial of goods and services, such as access to housing and employment, and the further entrenchment of social and economic marginalisation. Research also suggests that discrimination can directly contribute to Indigenous anger and violent offending (Day et al 2008: 98). Finally, discrimination also has direct effects on poorer physical and mental health. Public health literature has revealed a strong association between direct personal experiences of racism and ill health: 'The most consistent finding in this body of research is the association between racism and mental health conditions such as psychological distress, depression and anxiety' (Paradies et al 2008: 3).

The ‘violence of colonialism’ extends far beyond the early years of the wars of dispossession. Colonial processes are directly relevant for understanding the current position of Indigenous people in Australia, and the nature and extent of violence (both in its epistemic and material manifestations) within and against Indigenous communities. As Pat O’Shane (1995: 27) poignantly expressed, ‘the psychological impact of these experiences of dispossession, racism, exclusion, extermination, denigration and degradation are beyond description. They strike at the core of our sense of being and identity’.

Colonial Construction of the Violent Other

Despite compelling evidence of the ongoing impacts of colonial violence, in debates about Indigenous people and violence, blindness to the effects of colonisation persists, which has given rise to the pervasive image of Indigenous Australians as inherently violent, pathological and inferior. The invalidation of Indigenous perspectives, inside and outside of the academy, constitute what Indigenous scholar Aileen Moreton-Robinson (2011: 428) describes as ‘discursive racism’, a form of racism ‘propped up by systemic white ignorance’.

We see discursive racism, and the closely related concept of epistemic violence, as fundamental to understanding how the dominant image of the violent Other is created and perpetuated. The unquestioned acceptance of this racism has profound political implications for the ability of Indigenous peoples to live free of the violence and oppression they endure. Decolonising the colonial construction of violence, where Indigenous men and women continue to be blamed for the violence and abuse occurring in Indigenous communities, is thus to a large extent an epistemic concern. We see two different approaches emerging that define the ‘violent’ Indigenous Other: one is a culturalist explanation; the second relies on a deficit-based model of Indigenous pathology.

A contentious body of literature has emerged in recent years (eg Kimm 2004; Jarrett 2009; Nowra 2007), re-installing images of the violence of ‘traditional’ Indigenous culture. Indigenous scholars (eg Atkinson 2006; Cripps 2004) have exposed the various flawed assumptions, epistemological and ideological biases underlying this body of work. Whether such images are consciously or unconsciously created through discursive racism, the same process ensues: the assumed superiority of the Western episteme asserts colonial power and privilege in a process that has deleterious effects on the lives of those they objectify and scrutinise.

Jarrett’s (2009) provocatively titled report: *Violence: An Inseparable Part of Traditional Culture*, provides a recent example. For Jarrett, ‘traditional Aboriginal culture is the main cause of the seemingly intractable violence that harms many Aboriginal lives’ (2009: 3). The report begins with the words of Michael Dodson, who, together with many Indigenous activists, researchers and scholars (eg ATSIJS 2011; Cripps 2004; Watson 2009) asks non-Indigenous Australians to understand that ‘most of the violence, if not all, that Aboriginal

communities are experiencing today is not part of Aboriginal tradition or culture' (Dodson, 2003: 2). For Jarrett (2009: 1, 9, 48), it is precisely this type of 'denial of the pre-contact origins of Aboriginal violence' which impedes the development of effective responses. She discounts the voices of Indigenous men and women already working to address the issue of violence (Jarrett 2009: 40) and claims that Indigenous people are incapable of generating their own solutions; rather, she suggests that what is required is 'a process of integration' that aims to 'effectively move Aboriginal people away from the hitherto resilient culture of violence'.

Jarrett's assertions rest on historical and anthropological 'evidence' that have been widely critiqued by both Indigenous and non-Indigenous scholars (eg Nakata 1998; Said 1994). As the Indigenous researcher Kyllie Cripps (2004: 117) writes: 'For some time now Indigenous people and others, have been speaking back and challenging the disciplines such as anthropology, critiquing and interrogating their works and asking different questions'. However, '[t]he consistency and persistence of epistemic violence within disciplines, institutions and public discourse [remains] an integral part of the conditions under which Aboriginal people live' (Moreton-Robinson 2011: 428). Indeed, arguments such as Jarrett's (2009) continue to reproduce the assumed cultural superiority of the coloniser over the colonised. Inspired by Jarrett's report, the *Sydney Morning Herald* journalist, Elizabeth Farrelly (2011) endorsed the argument that Indigenous violence is not 'our fault'; rather, 'although alcohol exacerbated, it is endemic to pre-contact Indigenous culture'. In Farrelly's (2011) terms, '[i]f violence is endemic, self-determination emerges as an error of tragic proportions'.

Less scrutinised is the more sophisticated literature that contributes to the image of the pathological Indigenous Other. Weatherburn's (2014) recent work provides an example. By actively refusing to recognise the link between colonisation and the contemporary marginalisation of Indigenous Australians, and the validity of Indigenous knowledges and perspectives, one is left with a 'deficit-based' approach to the Indigenous 'problem'. For Weatherburn (2014), addressing unemployment, education, alcohol and other drug abuse, and child abuse is the key to reducing Indigenous violence and offending levels. Few would disagree with the necessity of addressing these issues. However, by viewing social and economic marginality within a narrow frame, this approach pathologises Indigenous people and communities, while also ignoring their political demands for recognition and self-determination. Denial of the fundamental role of colonial processes in creating and maintaining Indigenous marginalisation leads Weatherburn (2014: 65) to conclude that 'there is something rather perverse in the idea that the all-too-real world of Indigenous violence is something other than what it is appears to be'. We would argue that there is something far more perverse in denying the ongoing effects of colonisation, its links to the violence occurring in Indigenous communities, and its fundamental role in creating problems that need to be addressed.

For most Indigenous writers, the fundamental question is one of power and powerlessness arising from their position as colonised peoples:

From the fact that we are yet to be recognised in the Australian Constitution; that governments seldom work in true partnership with us; and that we are the most disadvantaged group on a range of social indicators; it is clear that the power balance remains unequal. (ATSISJC 2011: 65)

Indigenous and Critical Perspectives on Violence

Watson (2009: 56) notes how, 'alternative views of violence in Aboriginal communities have not been given much of an airing'. Recognition and respect for the perspectives of Indigenous people opens up an entirely different view of the problem of violence. In the words of two victimised and criminalised Aboriginal women:

There is no accidental relationship between our convictions for violent offences, and our histories as victims. As victims we carry the burden of our memories: of pain inflicted on us, of violence done before our eyes to those we loved, of rape, of sexual assaults, of beatings, of death. For us, violence begets violence: our contained hatred and rage concentrated in an explosion that has left us with yet more memories to scar and mark us. (Aboriginal Justice Inquiry 1990, in Wesley 2012: 23)

Contrary to the perspectives of researchers and scholars working within a narrow positivist frame, Indigenous and critical writers consistently stress the complexity of the factors contributing to the violence occurring in Indigenous communities (eg ATSISJC 2011; Baldry & Cunneen 2014; Cripps 2004; Memmott et al 2001: 11; Watson 2009), a key part of which involves recognition of the central role colonial processes had, and continue to have on the relationship between Indigenous people and violence. As the Aboriginal and Torres Strait Islander Social Justice Commissioner (ATSISJC) has noted in discussing violence:

Colonisation robbed groups of their power, autonomy and land. Living in a world where they are constantly portrayed as second-class citizens at best, but often not even citizens at all, it is not surprising that colonised groups have struggled to maintain their own identities and confidence in their abilities. Their anger and frustration about the injustices has manifested itself in violence, not 'vertically' towards the colonisers responsible for oppression, but 'laterally' towards their own community ... [to] those closest to us who do not represent the potent threat of the colonisers. (ATSISJC 2011: 57)

Similarly, Michael Dodson, noting the limitation of Western theories on Indigenous violence, stressed the need to understand that Indigenous violence and abuse has a commonality with that found 'in all communities who are impoverished and marginalised both socially and economically' (2003: 4). However, for Indigenous people, the roots of marginalisation lie in the processes of colonisation. To neglect the significance of the colonial model – the

enduring impact of physical and epistemic violence on Indigenous people – is thus to collude with the reproduction of colonial discourses. As Bhaba (1983, in Moreton-Robinson 2011: 421) writes: ‘The objective of colonial discourse is to construe the colonised as a population of degenerate types on the basis of racial origin, in order to justify conquest and to establish systems of administration and instruction’.

Repeatedly, critical and Indigenous writers have highlighted that the pressing priority in any campaign against violence in Indigenous communities is the implementation and resourcing of many more Indigenous controlled programs and mechanisms (eg Blagg 2000, 2008; Memmott et al 2001; ATSIJC 2011). As the ATSIJC (2011: 26) recently noted, there are already significant processes and networks in many Indigenous communities. Some examples include: the Aboriginal community controlled health sector; Aboriginal and Islander child care services; community justice groups; women’s groups; and night patrols. In the health, child protection and criminal justice sectors, evidence shows that providing a ‘voice’ for disenfranchised peoples through participation in decision-making and governance leads to improved outcomes, as do holistic Indigenous programs aimed at family well-being, and culturally informed Indigenous-designed treatment, rehabilitation and diversionary programs (Kelaher et al 2014: 1-9; AIHW 2013: 1; SNAICC 2013: 9-11; SCRGSP 2014: 11, 39-40). Yet:

For more than thirty years Aboriginal strategies such as alternative justice models, and rehabilitation and healing centres modelled on Aboriginal cultural knowledge have largely been ignored or if they have been supported it has been in a tokenistic manner. (Watson 2009: 51)

Likewise, Dodson (2003: 7) notes ‘there has been no centralised national policy direction and commitment within a framework of shared responsibility’. Rather than responding to Indigenous calls for long-term, bipartisan commitment to ending the violence occurring in Indigenous communities, governments continue to adopt a deficit-based approach, a point to which we now turn.

The Violence of State Intervention

Violence in Indigenous communities has become a major rationale for significant shifts in criminal justice and social policy. The Northern Territory ‘Intervention’ provides a useful example to consider these shifts. The government’s legislative and policy response to violence against women and child abuse which underpinned the Intervention brought together a particular form of racialised and gendered understandings of Aboriginality: ‘traditional’ Aboriginal men were particularly to blame for abuse and violence, and Aboriginal women and children were seen as passive and helpless victims. Legislation was introduced to restrict the courts from taking customary law into consideration in bail applications and when sentencing. The legislation drew an incontrovertible

link between Indigenous culture and gendered violence.⁵ A raft of other legislation was introduced, criminalising alcohol possession, alcohol consumption, and possession of pornography in designated Aboriginal communities, as well as bringing an increased police presence in many communities.

The construction of Aboriginal culture in the Northern Territory as supporting violence and sexual abuse was the re-invention of a well-established colonial trope of Indigenous barbarism (Cunneen 2007). Aboriginal people in the Northern Territory were placed outside the framework of civil society: their most important legal protection against racial discrimination (the *Racial Discrimination Act*) was suspended by parliament to allow the racially discriminatory aspects of the Intervention to occur without challenge to the courts. In a further sign of Aboriginal removal from civil society, the Australian military was used to support the Intervention. In addition to new forms of criminalisation, various extensive forms of surveillance and control were introduced over a range of matters from medical records to school attendance to social security entitlements, all of which impacted on Indigenous women, men and children.

The immediate rationale for the federal government intervention in the Northern Territory was the *Little Children are Sacred* report (Wild & Anderson 2007) on Aboriginal child sexual assault. Similar reports, mostly written by Indigenous taskforces, had emerged around the same time in New South Wales, Queensland, Victoria and Western Australia on Aboriginal child sexual assault and family violence (Cunneen 2007). What these Inquiries had in common was that they reiterated the importance of a number of factors: Indigenous self-determination and the development of negotiated responses to violence and abuse; the trauma and grief consequent to colonisation, dispossession and the stolen generation in understanding current problems of abuse and violence; the need to strengthen Indigenous culture; developing and extending Aboriginal law as the answer, not the barrier, to improving the situation in relation to violence; the need to trust Indigenous families and communities to look after their own children; and the need to re-engage Indigenous men in solutions (Cunneen 2007: 44; Allard 2010: 4-5).

In responding to the Intervention a coalition of Aboriginal organisations called for governments to identify, support and extend community capacities to respond to the issue of violence. In particular, the organisations stressed the need to support existing community-driven, but largely underfunded, initiatives such as Indigenous night patrols, safe houses, safe family programs, community justice groups, and mediation services (Cunneen 2007: 45). These demands by Aboriginal organisations in the Northern Territory were largely ignored.

A consistent criticism of the Intervention has been its suspension of human rights and its neo-paternalism (Altman 2007), a colonial strategy harking back to earlier approaches of direct and unambiguous racialised control of

5 See the Commonwealth *Crimes Amendment (Bail and Sentencing) Act 2006*.

Indigenous peoples. However, the effect of a re-invigorated colonial approach extends well beyond discrimination. In fact, government policy has created a range of new problems. Following the Intervention, imprisonment rates grew by 34% between 2008 and 2012 (ABS 2012: 56). It is clear that the increase in imprisonment was *much greater* for Aboriginal women than men.⁶ The removal of Aboriginal children from their families by child protection agencies also escalated in the years following the Intervention (Northern Territory Government 2010: 21).

The Intervention introduced significant changes to social policy governed by increased state regulatory processes, such as housing tenancy leases, requirements around anti-social behaviour, school attendance, and social security income management. The Intervention generated a raft of new legal and social problems for Indigenous people in the Northern Territory. With inadequate resources (including English literacy skills, problems associated with remoteness such as meeting reporting requirements, and limitations on access to legal advice), Indigenous people were ill-equipped to respond to these new demands. Research has indicated that Indigenous women in particular have been negatively impacted upon because of these changes (Cunneen et al 2014b).

The Intervention showed clearly the denial of Indigenous knowledge and understandings of violence in their communities. It consistently subjugated the voices of Indigenous people and their demands for appropriate responses to Indigenous victims and offenders. Finally, it actively re-inscribed systems of domination and control through criminal justice and social policy that further marginalised, institutionalised and criminalised the very victims it ostensibly set-out to save (Indigenous women and children) and with the added consequence of increasing the likelihood of violence through the criminogenic effects of the criminal justice system (Cunneen 2008: 37-46).

Conclusion

Since the release of the NCV report some two and half decades ago, a substantial body of literature has documented the violence occurring in Indigenous communities but there has been minimal evidence of progress to resolve this concern. As this chapter has demonstrated, there are a number of reasons for this failure. In particular, there is a need to re-centre the problem of colonialism. This re-centring involves a fundamental epistemic questioning of the

6 Australian Bureau of Statistics data is available on the number of Aboriginal men and women in Northern Territory prisons for 2010-12. During this period the number of Aboriginal men imprisoned increased by 24%; for Aboriginal women the increase was 59%. While imprisonment was increasing significantly for Indigenous women across Australia during this period, the rate of increase nationally was 15% – much lower than in the Northern Territory (ABS 2010: Supplementary Data Cubes, Table 13; ABS 2012: Supplementary Data Cubes, Table 13).

dominant explanations for violence, particularly those based on culturalist and pathologising discourses. Re-centring also requires an understanding of the manner in which colonial processes directly impact on the material conditions of Indigenous people today. While particular aspects of marginalisation are understood as singular causes of violence (for example, child abuse, unemployment), there is little appreciation of how these material conditions have been created and continued through colonial processes.

There is a pressing need to challenge the manifestations of epistemological violence discussed in this chapter. We see reflexivity as central to this process. Indigenous peoples continue to express their willingness to work in partnership with non-Indigenous peoples. Therefore non-Indigenous activists, scholars and researchers should participate in addressing the violence occurring in Indigenous communities. However, there is a need to understand the consequences of one's relative power: institutional, personal and ideological. These problems are writ large when we consider authoritarian state interventions that directly negate Indigenous understandings and responses to violence. Therefore, most fundamentally, there is a critical need to foreground Indigenous voices, knowledges and experiences. In the words of the ATSIJSC: 'Governments continue to see Aboriginal and Torres Strait Islander disadvantage from a deficit-based approach [to] addressing the "Indigenous problem". Governments need to move to seeing us as capable and resilient and work in an empowering way' (2011: 9).

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