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Critical Indigenous Criminology in Practice and Praxis

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Criminologists and policy makers often acknowledge the over-representation of Indigenous peoples in criminal legal systems as one of the significant issues facing the discipline and the policy sector. However, legislation, policies and interventions targeting this issue are too often based on theoretical and analytical frameworks that reify the individual as the focus of intercession, pathologise Indigenous peoples, and/or criminalise Indigenous cultural beliefs and practices. In this article we aim to provide an alternative to the criminalising tendencies of mainstream criminology by demonstrating the efficacy of Critical Indigenous Criminology to explaining and responding to Indigenous-centered issues. We contend that a critical Indigenous criminological approach contains several core conceptual and practice principles that distinguish it from 'the mainstream', components we believe empower practitioners to speak directly to Indigenous experiences, which in turn enables them to effectively support Indigenous self-determination. These include the privileging of Indigenous knowledge, methodologies, and experience, centering the colonial project within one's theoretical and analytical framework, and privileging Indigenous voices and experience within the evolving decolonisation project, amongst others. We seek to demonstrate the value and importance of a Critical Indigenous Criminology by utilising the approach to analyse three criminological issues: violence against women and the importation of all-women police stations as a response to gender violence, the continued (over) reliance of the policy sector and administrative criminologists of 'risk thinking' and comparing state-centered rehabilitation with Indigenous responses to social harm that focus on the concept of healing.

Introduction

Policymakers and criminologists often acknowledge the severe over-representation of Indigenous peoples in criminal legal systems as one of the significant issues facing the discipline and the policy sector. However, dominant explanations, policies, and interventions on this issue tend to rely on a narrow set of assumptions about individual offending and on theoretical and conceptual frameworks that pathologise Indigenous peoples and problematise Indigenous cultural beliefs and practices (Cunneen & Tauri, 2017). We argue in this essay that, in comparison, a critical Indigenous criminological approach begins by acknowledging the rights of Indigenous peoples to self-determination as established in the *UN Declaration on the Rights of Indigenous Peoples* (United Nations, 2007).

Further, we see several core conceptual elements and principles underpinning a Critical Indigenous Criminology. These include the recognition of Indigenous knowledges and methodologies, an understanding of the long-term, ongoing negative impacts of colonialism, the importance of an Indigenous voice within the evolving decolonisation project (both within and without the discipline), and the importance of Indigenous agency and self-determination, amongst others. We seek to demonstrate the value and importance of a Critical Indigenous Criminology by utilising the approach to analyse three criminological issues: the importation of all-women police stations as a response to gender violence, the continued (over)reliance of the policy sector and administrative criminologists of 'risk thinking' and comparing state-centered rehabilitation with Indigenous responses to social harm that focus on the concept of healing.

Before moving to discuss the aforementioned issues, we outline what we believe are some of the distinctive features of a Critical Indigenous Criminology, building on the core principles set out in our earlier publication, *Indigenous Criminology* (Cunneen & Tauri, 2017).

What are the Distinctive Features of a Critical Indigenous Criminology?

If an Indigenous criminology is desired, needed, and potentially valuable for both criminology and Indigenous peoples, then we need to ask the following questions: how does an Indigenous criminology differ from other 'criminologies', what makes it unique, and importantly, how can it be impactful?

In *Indigenous Criminology,* we outlined what we believed were some of this approach's crucial and distinguishing principles, which were as follows:

- Principle one: the necessity of 'committed objectivity' in research with/on Indigenous Peoples (see Agozino (1999) for an expanded discussion and definition of the concept of 'committed objectivity').
- Principle two: 'Speak truth to power'.
- Principle three: Indigenous criminological research with Indigenous peoples should be 'real'.

In the seven years since its publication, the Indigenous criminology lexicon has grown exponentially in terms of research on Indigenous experiences and perspectives, and critique of criminology and the criminal justice system (e.g., see Agozino, 2018; Goyes & South, 2021; Porter, 2019; Porter et al., 2023). Given the evolution in critical Indigenous scholarship, we believe it is essential to expand the range of principles to reflect the advancement

of critical scholarship produced by Indigenous scholars and non-Indigenous allies and the evolution of new "criminological issues" faced by Indigenous peoples. We propose the addition of the following principles:

- Principle four: Facilitating reciprocity.
- Principle five: Centering the colonial project.
- Principle six: Advancing the decolonisation project.
- Principle seven: Supporting and sustaining Indigenous self-determination.

We now look at each principle in more depth to demonstrate their significance to formulating an Indigenous criminology and to emphasise that which makes it "different" and meaningful (for Indigenous peoples) compared to other criminological approaches.

Committed objectivity

The Igbo/Nigerian criminologist Biko Agozino first advocated the principle of committed objectivity when he challenged criminologists who promoted a 'scientific approach' to research. Agozino argued the objective orientation is based on ensuring distance between the 'knowledgeable researcher' and the 'passive' research subject, and utilising 'dispassionate' methods to avoid contaminating data. In contrast, Agozino (1999, 2003) urged a researcher/participant relationship that rejects this false dichotomy between objectivity and commitment. Instead, Agozino (2003, p. 157) endorsed *committed objectivity* as a position that "capture[s] the inextricability of the articulation of the processes of commitment and objectivity" that are key to carrying out meaningful social inquiry.

Rather than seeking to detach from the context of social inquiry by employing what Deckert (2014, 2016) calls non-engaging methods, a critical Indigenous criminology supports researchers with the skills, knowledge, and, most importantly, the social capital to speak with empirical authority about the experiences and perspectives of Indigenous people. Building on the key principles of objectivity and 'standpoint' advocated by Agozino, 'speaking with authority' is predicated on *purposely standing in the social context* from which the Indigenous experience derives, because, as Deutscher (1983, p. 2) explains, "[e]very detachment is another kind of involvement – the idea of complete objectivity as complete detachment is a complete fraud."

Speaking truth to power

A critical element of Indigenous critical scholarship is that it is activist in focus and purpose, meaning that if practitioners and their work are to be relevant to Indigenous communities, then their research must challenge

systemic injustices and inequities in policy and practice. In other words, they and their work must speak truth to power. Actions that characterise this principle in practice include:

- Taking on the political role as agents of truth that speak back to power (see Awatere, 1984; Francis & Munson, 2017 & Mihesuah, 2003 for critical analysis of the Indigenous academic as a political actor/activist); and
- Working as organic (community-centred and politically involved) intellectuals involved in unmasking dominant/disempowering ideologies and colonising practices of the state, its crime control institutions, and the discipline of criminology (see Bogues, 2005; A. Smith, 2014; Tauri 2015).

Edward Said (1996, p. 11) perhaps best sums up the vital role of the (Indigenous) intellectual in this regard when he describes the role of the politically motivated researcher as one focused on "confront[ing] orthodoxy and dogma... whose *raison d'etre* is to represent all those people and issues that are routinely forgotten or swept under the rug."

Indigenous criminological research with Indigenous peoples should be 'real'

Some members of the Western academy have become adept at faking the appearance of respectful consultation/research (Tauri, 2018). Elsewhere, we have exposed the nature and extent of this problem as it recurs across much of the criminological research on the 'Indigenous problem' (Tauri, 2014). More importantly, the negative impact of 'faking it', in terms of meaningless Indigenous strategies and biculturalised interventions (for example, 'biculturalised' psycho-therapy interventions (Mihaere, 2015), and family group conferences in Aotearoa New Zealand (Tauri, 2021) is *very real* and often damaging for the Indigenous communities upon whom they are forced (See Victor, 2003 for discussion of the impact of the FGC in the Canadian context). Therefore, we must ensure that the knowledge about Indigenous peoples we assemble and disseminate reflects their experiences and positively impacts their lives. For this to happen, the work of an Indigenous criminology must be 'real', meaning it must come *from within* Indigenous peoples and their communities (L. Smith, 1999). According to Schmidt (2009, p. 52), there are two main criteria that researchers must observe if they wish to research or work *with* Indigenous peoples: (1) The process by which the research is carried out must contribute to community empowerment; and (2) The community must perceive the choice of research topic or question as relevant to their lived experiences.

Reciprocity

A persistent critique of Western approaches to research with Indigenous peoples is the lack of reciprocity, in particular the failure to 'give back' to the individuals and communities who have given their time, experiences, expertise and knowledge (L. Smith, 1999). Too often, the knowledge and experience extracted from Indigenous peoples are used to further individual academics' careers and shore up the discipline's hegemony over 'valid knowledge' on crime, policy, and social justice, as opposed to supporting the self-determination of the Indigenous communities from which the knowledge is extracted (Daniel, 2020; Tauri 2017).

A common requirement of Indigenous-inspired ethics is giving back to the communities from which knowledge is drawn (L. Smith, 1999, 2005; Tauri, 2014). However, the principle of reciprocity within an Indigenous framework is not confined to developing processes for sharing the results of research on Indigenous peoples. As Walters (2016) observes, to be able to reciprocate you need to engage, and do so extensively when required, building meaningful relationships, gaining the trust of the community, and demonstrating the ability to 'research well' with Indigenous peoples. The principle of reciprocity therefore applies to the act of establishing yourself as a person to be trusted with the knowledge and experiences of the community and be able to research in ways that engage with the community, as much as it is about sharing your data and findings after the fact (see Burnette and Sanders (2014) and Nicholls (2009) for elaboration of this issue).

The response of social scientists, including criminologists, to the ethical requirements of Indigenous peoples relating to research, reveals the problems Indigenous peoples often face when engaging with academic research, and explains in part the proliferation of codified Indigenous research ethics protocols over the past twenty years (for example see Kimberley Land Council, 2011; Mi'kmaw Ethics Watch, 2000). The response of criminology and the wider social sciences to Indigenous developed or centered guidelines, is instructive of the extent to which the western academy protects its hegemony over knowledge production, as exemplified in the following quote from Walters (2016, pp. 97–98):

> *So how do researchers respond to these guidelines? A minority actively resists. Rolls (2003, p. 2), for example, in explaining how non-Indigenous researchers cannot reasonably be expected to adhere to such guidelines, mocks the need to engage meaningfully with Indigenous communities: "[A[]nother of the protocols we must adhere to if we are to be given a smiley stamp is that we must receive appropriate (and ongoing) community permission before proceeding with our research".*

Examples of problematic approaches to criminological research related to Indigenous peoples that ignore or avoid the principles of reciprocity, include a continued reliance on what Deckert (2016, p. 46) calls 'silencing research methods', which are "any research method that totally – not just partially – omits voices of the researched community". Deckert (2016, p. 47) further extrapolates on the nature of silencing methods when she states that:

> *A classic example of a silencing research method is the exclusive use of secondary data, e.g., governmental statistics and personal health records. Likewise, the observation of research subjects, without subsequent interviews about the significance of the observed experience, constitutes a silencing research tool.*

It is through the process of engagement and negotiation that the actions required to make reciprocity possible, are established. Therefore, we argue that for researchers to be able to meet the requirements of the reciprocity principle, direct relationships must be developed with Indigenous individuals, entities, and/or communities from whom knowledge is being drawn, a common 'requirement' of the Critical Indigenous Studies movement (Mbah, 2022; L. Smith, 1999)

A significant body of literature from Indigenous scholars and critical allies offers direction on how criminological research can better meet the ethics of knowledge construction and dissemination as identified by Indigenous peoples (L. Smith, 1999; Tauri, 2018). Indigenous ethical protocols often call for a collaborative or participatory relationship approach to research (Denzin & Lincoln, 2008). Foundational to a collaborative and/or participatory research relationship is the expectation that research will benefit and empower Indigenous participants (Ellis & Earley, 2006). As Louis (2007, p. 131) writes, "[i]f research does not benefit the community by extending quality of life for those in the community, it should not be done." The Indigenous approach to, and understanding of, the concept of reciprocity in the context of social research is revealed in the following quote from the University of Victoria (Canada) *Protocols and Principles for Conducting Research in an Indigenous Context* (2003, p. 3):

> *Where Indigenous people are major participants in research or they have a major interest in the outcome of a research project focused on an issue of relevance to Indigenous people, then working relationships based on collaboration and partnership should be established between the researcher and these participants. This would include the mutual sharing of research skills and research outcomes.*

Centering the Colonial Project

One significant criticism made by Indigenous scholars of criminology is the lack of attention exponents give to the colonial project when theorising Indigenous over-representation in settler-colonial criminal justice (see Cunneen & Tauri, 2017; Monchalin, 2016; Saleh-Hanna, 2020). The term 'colonial project' refers to the intersecting strategies, policies and interventions created and deployed by colonial states to facilitate the subjugation of Indigenous peoples and bring about the ascent of the coloniser (Woolford, 2013). Critical scholars have long identified criminal justice as one of the key strategies employed by the state to bring about its hegemony over Indigenous peoples (Proulx, 2003). Other scholars have highlighted the colonising traits of administrative and authoritarian strands of criminology and their support for the settler-colonial state, and its colonial project (Tauri, 2014).

A rudimentary glance at mainstream criminological musings on Indigenous peoples and crime control demonstrates that the role of colonialism is either ignored entirely or inadequately researched (Cunneen & Tauri, 2019). As Martin (2014) has demonstrated, leading criminological publications rarely analyse the connection(s) between the colonial project and contemporary issues of crime and criminalisation experienced by Indigenous peoples (for example, see Weatherburn, 2014). In comparison, many Indigenous scholars working in criminology and related disciplines, such as law and social work, centre the colonial project in their theoretical and epistemological frameworks because it forms the basis of the contemporary Indigenous experience of crime control (see McGuire, 2023; Watson, 2016).

It is impossible to explain the extent of Indigenous over-representation in criminal justice or the depth of Indigenous distrust of crime control policy and practice without considering a range of formative processes involved in the colonial project, including the role of the police in the colonial states' surveillance and suppression strategies (Cunneen, 2001; Richards, 2008), and the intersection of colonial policing and child welfare practices targeting Indigenous family formations and child-rearing practices (Beardall & Edwards, 2021; Dhillon, 2015; Stelkia, 2020).

Advancing the Decolonisation Project

If centering the colonial project in theorising and analysing Indigenous over-representation in criminal justice is an essential feature of an Indigenous criminology, then its critical scholarship must support the decolonial project that is currently evolving within the academy. Indigenous criminology needs to be a part of the decolonisation project because, as Tuck and Yang (2012) demonstrate, decolonisation is not a metaphor, it is a necessity because, as Anthony et al (2021, p. 2) argue:

> *Inequality is countenanced in everyday colonial institutions that dispossess Indigenous peoples of their land, destroy sacred sites, steal Indigenous children, kill Indigenous people in custody, condone racist policing, deny Indigenous people basic rights and silence Indigenous critiques and systems of knowledge.*

Just as colonisation was and is a very real, disempowering, and at times genocidal project for Indigenous peoples, then so must the decolonisation project be 'real' and infused with Indigenous experiences, research, knowledge, and praxis. This approach is essential to dismantle a criminal legal system borne within the institutional frameworks and dynamics of colonialism which relies on surveillance and repressive strategies and practices for controlling Indigenous peoples (Crosby & Monaghan, 2016; Cunneen, 2021; Tauri, 2014)

Supporting Self-determination

Elsewhere, we have argued that much criminological research and engagement has failed to ensure that Indigenous peoples benefit from this activity or involve them meaningfully (Bargallie et al., 2020). One reason why so much criminological activity is meaningless to Indigenous peoples is that many criminologists fail "to understand or conceptualise the historical and political context within which Indigenous research takes place" (Ibid., p. 48). They also often fail to understand the fundamental significance of Indigenous self-determination to Indigenous wellbeing (Battiste, 2000; L. Smith, 1999).

Indigenous criminology seeks to overcome the limitations and biases of mainstream approaches by labouring to remove existing barriers to Indigenous self-determination. For this reason, Indigenous criminological work should support Indigenous peoples' endeavors to reduce engagement with the agents of crime control, reduce rates of Indigenous imprisonment, eradicate biased sentencing practices, and support the implementation of Indigenous-led responses to social harm (Cunneen & Tauri, 2017).

In the following section we utilise discussion of three criminal justice-related issues, violence against women, 'risk thinking', and rehabilitation vs healing, to highlight the efficacy of a critical Indigenous criminology.

How Does a Critical Indigenous Criminology Approach Particular 'Problems'?

In this section, we focus on the issue of violence against women as an example of how a Critical Indigenous Criminology might approach a significant criminological issue.

An Indigenous criminological analysis of violence against Indigenous women

Over the past few years, debate has arisen about how best to respond to violence perpetrated against Indigenous women. The debate underlines core differences between how 'mainstream' criminologies and Indigenous formulations engage with significant issues. In Australia, and elsewhere in the Anglo-speaking world (Walklate & Fitz-Gibbon, 2021), a substantial amount of criminological, policy, and advocacy work has been directed at the issue of *coercive control*. This term, and related approaches developed as understandings of what actions and behaviors constitute "domestic violence" (DV) evolved from considerations of discrete acts of physical violence (Laing et al., 2013) to embrace the fact that DV also involves a range of non-physical actions such as "psychological or emotional abuse, or patriarchal or intimate terrorism" (Pitman, 2017, p. 144).

Many Indigenous scholars support the evolution of a more sophisticated understanding of the range of issues involved in DV (Hoeata et al., 2011; Hook, 2009; Ingram, 2016). However, conflict and disagreement sometimes arise between Indigenous scholars and critical, non-Indigenous allies and 'mainstream' and administrative criminologists due to the reliance many criminologists working in settler-colonial contexts have on state-centered criminalising and penal responses to the problem (see Andriunas, 2021; McMahon & McGorrery, 2016). Recent critique by Indigenous scholars of what has become known as 'carceral feminism' and its adherents' advocacy for increasing the use of the law, courts, and police to respond to the issue reveals significant fault lines between 'whitestream' criminological work, and critical Indigenous approaches in this area of policy. The substantial roles Indigenous scholars give to the colonial project, and the state's continual perpetration of violence against Indigenous women, are key reasons for the schism that exists (see Buxton-Namisnyk, 2021; Palacios, 2020).

In some instances, supporters of the criminalisation of coercive control acknowledge that the process has the potential to disproportionately impact Indigenous peoples. For example, Andriunas (2021, pp. 189–190), writes that:

> *An offence of coercive control is unlikely to escape the issues that existing domestic violence law face regarding criminalisation of Aboriginal and Torres Strait Islander people. It may, in fact, exacerbate these issues and act as a further measure for marginalised groups to enter the criminal justice system. This includes Aboriginal and Torres Strait Islander women who may be wrongfully identified as perpetrators of violence.*

Supporters of coercive control often reference other work which has identified the barriers for Indigenous women to reporting DV to police, including resistance to police intervention due to past experiences of police racism and bias (Nancarrow et al., 2020), general mistrust of the criminal justice system (Cook et al., 2001), repercussions from the offender, family, and wider community, and the potential removal of their children (ANROWS, 2015).

However, a significant divergence between those advocating for criminalisation and Indigenous scholars often arises due to the level of trust carceral feminist scholars place in criminal justice actors, the police in particular, to alter the way they engage with Indigenous individuals, families, and communities. Andriunas (2021, p. 190) advances a classic example of the type of state-centered response that draws criticism from Indigenous scholars, when she writes that:

> *An offence of coercive control needs to accept differences that exist in Aboriginal and Torres Strait Islander communities and should be implemented alongside policy reform to address these differences in needs. Negative implications can only be mitigated through extensive consultation with members of the community... alongside this, before criminalising coercive control there must be specialised training for police regarding family violence in Aboriginal and Torres Strait Islander communities, so that police can change their responses to victims of family violence and engage in strategies to support them in a culturally appropriate way.*

The central themes contained in this passage from Andriunas, permeate carceral feminist scholarship and social media comments on the ability of police in Australia to 'safely' implement the intervention. All too often the focus is on the need to strengthen *consultation* and *cultural sensitivity training* which it assumes can result in meaningful practices for Indigenous peoples. This belief in incremental change to police culture is supplemented in the belief that through *innovative practice*, police stations can become a safe space for Indigenous women who have experienced domestic violence (see Carrington, et al 2022; Rodgers et al., 2022).

The work of Deslandes et al (2022) is representative of critical Indigenous analysis of carceral feminism in general, and the marketing of the 'all women police stations' intervention, in particular. Deslandes et al utilise a Critical Indigenous Criminological framework to contest claims made by carceral feminists such as Carrington and Andruinas about the suitability of all women police stations to meet the specific justice needs of Indigenous women and their communities. Their analysis reveals several significant shortcomings in advocacy for this solution, including the lack of research with Indigenous

women on the efficacy of these stations in South America and - to date – the lack of engagement with Aboriginal and Torres Strait Islander women (apart from those working for various Australian police services). There is also:

> *Minimal, if any, evidence from the academic and policy literature on women's police stations that Indigenous women and communities have been well served by the women's police stations that operate in Latin America. There [also] appears to be no research on the experiences of Indigenous women, racialised and minoritised women and communities* (Ibid, pp. 10-11).

Deslandes et al also critique the fact that research used to support arguments that all women's police stations would benefit women in Australia, was based on a cohort drawn from officials working in the stations, while the experiences of victims/survivors is absent from the analysis. Arguably the most damaging critique is Deslandes et al's conclusion that:

> *A final shortcoming we wish to highlight here is the study's ahistorical and apolitical analysis of domestic partner violence and policing. Perhaps due to the absence of interviews with victims/survivors and members of the lay public, the findings of the study are bereft of discussion or analysis in terms of age, class, race, gender identity, sexuality, disability, Indigeneity, and cultural and linguistic diversity. The authors give no account of the history of policing in Argentina, the context of settler colonialism, or the ongoing effects of the rise and relatively recent demise of military dictatorship in this nation. Again, attention to such issues as race, Indigeneity, and class would seemingly be pertinent to a study into the effectiveness of women's police stations in responding to gender-based violence* (Ibid, p. 14).

Deslandes et al's critique of carceral feminist support for the criminalisation of coercive control, and importation of all-women police stations, highlights key differences that can occur between institutional and Indigenous-centered analysis of significant criminological issues experienced by Indigenous communities. This is in part might explain why the experiences of Indigenous women, analysis of the impact of centuries of racism towards Aboriginal and Torres Strait Islander peoples (Davis, 2006), the targeted, purposeful criminalisation of Indigenous women by criminal justice agencies (Deslandes et al., 2022), and the fact that police themselves are a significant source of violence that occurs in Indigenous communities (Norris & Tauri, 2021; Porter & Cunneen, 2020) are all missing from the research and commentary of those supporting the importation of all women police stations into the Australian context.

How does a Critical Indigenous Criminology Respond to the Policies and Institutions Underpinning the Criminal Legal System?

In this section, we consider some of the core ideas that underpin the criminal legal system, how these are operationalised, and how a critical Indigenous criminology challenges these approaches at a theoretical and institutional level. We begin by contrasting state policing with Indigenous community safety, followed by analysis of 'risk thinking' and risk assessments as phenomena that reinscribe racist outcomes for Indigenous people (as well as Black and other people of colour), and finally, we contrast the concept of state-centered rehabilitation with Indigenous approaches to 'healing social harm'.

Policing and community safety

Unaccountable state violence, bloated police budgets, corruption, and repression became the subject of public protest globally in 2020. There were many shared themes among anti-police demonstrations. One common denominator was that most people killed by police are Black, Brown, Indigenous, or from other minoritised or disempowered groups. Certainly, in parts of Latin America and countries like Canada, Australia, and Aotearoa New Zealand, police killings and other deaths in custody of Indigenous peoples were at the forefront of protest movements (Broadfield, 2022; Holmes, 2020). Despite the sheer scale of violence by police, the international protest movement highlighted that police violence and abuse go largely unpunished – there is a lack of effective accountability for police violence, and police can kill with apparent impunity (Cunneen, 2023, pp. 6–14).

As we have noted elsewhere, on a per capita basis, the racial/ethnic group most likely to be killed in the United States are Indigenous peoples. In Australia and Canada, despite various commissions of inquiry (including the Australian Royal Commission into Aboriginal Deaths in Custody in 1991 and the Canadian Royal Commission on Aboriginal Peoples in 1996), Indigenous deaths in police and correctional custody continue to demonstrate the unnecessary use of arrest, violence, and ill-treatment, and basic neglect of a duty of care to Indigenous people held in custody (Cunneen & Tauri, 2019, p. 363). The message of protest movements during 2020 stood in stark contrast to the notion of the police as a fundamentally *democratic* institution — established to serve the public, to promote community safety, and to enforce the law for "the people"— a view which continues to dominate 'administrative' narratives about policing.

In comparison, a Critical Indigenous Criminology turns our gaze to the context of colonial policing as integral to understanding the nature of contemporary policing and resistance to it. The core purpose of colonial policing was the defense of the colony. The legal order enforced by the police

represented a legal system that excluded colonised peoples from protection. The exercise of police power did not involve the need for political legitimacy or consent by the 'native'. Policing aimed to ensure colonial efficiency, stability, and profitability. In the colonial setting, we see police power and violence in its most naked form – through the gaze of the colonised. We see police power stripped bare of all its niceties and marketing slogans (Cunneen, 2023, pp. 25–41).

Unsurprisingly, developing Indigenous community safety at the local level seeks to establish processes that either avoid involvement by state police or attempt to circumscribe their role. Indigenous activism has been fundamental to challenging how state police operate, and it has also been at the forefront of developing various autonomous or semi-autonomous modes of Indigenous community safety. There is a perception among many Indigenous peoples that Western criminal justice interventions are "extremely poor at dealing with the underlying causes of criminal behavior and make a negligible contribution to addressing the underlying consequences of crime in the community" (Aboriginal and Torres Strait Islander Social Justice Commissioner, 2004, p. 21). Indigenous communities have a right to security, and practices of maintaining social order are required to legitimately support, ensure, and maintain community safety and harmony. While Indigenous people deserve and want a satisfactory level of community safety, "what remains an issue is the way this security is provided: how it is structured and administered; how it is embedded culturally; how, and to whom, it is made open and accountable" (Blagg, 2008b, p. 91).

Developing and extending Indigenous modes of community safety has become an important part of Indigenous governance and capacity-building, which often operate at a localised level. For example, contemporary Indigenous community safety patrols question the way state policing is built on bureaucratic state authority and the threat or use of violence. Indigenous patrols represent a different vision of community engagement and authority to state-based police: the external authority of the state is replaced by local cultural authority, and bureaucratised state-centered methods of crime control are replaced by an organic approach to community need which focuses on assistance, prevention, mediation, and persuasion rather than reactive external force (Blagg, 2008b, p. 114). The work of community patrols requires us to rethink the concept of policing as it is understood within dominant criminological and legal discourses (Porter, 2016). The colonial logic of policing founded in the constant potentiality of state violence and imprisonment is replaced with a different logic of care, thoughtfulness, and sensitivity to community and individual needs. Community patrols are a form of counter-policing (Porter, 2016). This different logic is consistent with decolonising and abolitionist calls to replace current policing practices with community control and interventions promoting harm reduction, individual and community well-being, and social justice.

Risk thinking

Risk factors, risk assessment, prediction, and management pervade contemporary criminal legal systems. Criminal justice classification, program intervention, supervision, and the use of imprisonment are operationalised through the measurement and management of risk. The Indigenous critique of risk thinking focuses on how risk logics result in supporting more punitive responses to Indigenous and other racialised peoples. As argued elsewhere, risk *masks* race in its practices and *marks* race in its outcomes. It provides a proxy for racialised decision-making and a means of achieving racist outcomes in a period of "race blindness." At the same time, risk assessment technologies embody and privilege assumptions about Whiteness and class – particularly in the expectations of what constitutes the law-abiding, socially conforming, and economically engaged citizen (Cunneen, 2020).

Colonised and racialised peoples' understanding and explanations for their predicament have no purchase within these "objective" tools that completely disavow the effects of colonisation and systemic racism. Risk assessment technologies remove the history and contemporary impact of colonialism and reduce the world of racialised oppression to a series of pre-conceived, measurable, and individual dysfunctions – thus reproducing the colonised subject as non-conforming and dangerous (Ugwudike, 2020) and, through endless datasets and other statistical representations, as collectively crime-prone. For example, risk assessment tools identify statistically generated characteristics drawn from aggregate populations of offenders to predict the likelihood of re-offending. These include drug and alcohol problems, school absenteeism, rates of offending and reoffending, living in crime-prone neighborhoods, single-parent families, domestic violence, prior child abuse and neglect, parental values, peer relations, unemployment, and levels of formal education. These characteristics are presented as discrete "facts" devoid of historical and socio-structural context (Blagg, 2008a).

Risk technologies mask entrenched social and economic disadvantage, institutional racism, over-policing, and the outcomes of discriminatory colonial policies such as child removal. For example, Indigenous young people are disadvantaged by family relationship risk scores because mass incarceration and penal practices contribute to high rates of family disruption and parental imprisonment. Indigenous young people in detention in Australia report having a parent previously incarcerated at nearly twice the rate of non-Indigenous youth (Remond et al., 2023). Having a parent, family member, or relative in prison or with previous convictions elevates the risk scores while disavowing histories of systemic racism and criminalisation (Cunneen, 2020, p. 529). Risk-based models of assessment and intervention are often deficit-based – in short that individuals require "fixing." The approach feeds into the correctional logics of individual interventions rather than providing holistic support and programs that facilitate structural change (Stubbs et al., 2023).

Risk-based interventions usually draw on the Risk-Need-Responsivity (RNR) model, which prioritises addressing a narrow range of individual "needs," including antisocial personality, antisocial attitudes and cognitions, antisocial associates, and a history of antisocial behavior (Andrews & Bonta, 2006). These typically give rise to prioritising individual behavioral change through participating in cognitive behavioral programs. As argued elsewhere, there have been substantial criticisms of the RNR model in its application to Indigenous peoples for failing to address significant structural barriers that cause the ongoing immiseration of Indigenous peoples within settler colonial societies, including elevated levels of criminalisation and imprisonment. Further, the model ignores strengths and protective factors such as connection to culture (Cunneen & Tauri, 2017; Stubbs et al., 2023).

Rehabilitation versus healing

Dominant theories of rehabilitation within Western contexts focus on the criminalised individual, and the utility of individualised penal interventions. This approach contrasts significantly with the collective healing approaches advocated for within a Critical Indigenous Criminology. There are a wide variety of justice approaches that are organic to Indigenous communities and include, among others, reintegration and diversionary projects, holistic healing programs, various anti-violence strategies, Indigenous sentencing courts, community justice groups, justice reinvestment projects, community patrols, and safe houses. These justice strategies seek to enable more effective responses to sanctioning, community reintegration, social and emotional well-being, and trauma-focused healing (Blagg, 2016; Cunneen, 2021; Cunneen & Tauri, 2017). They draw their legitimacy from Indigenous culture and the collective right to self-determination.

Thus, Indigenous approaches fundamentally differ from the various professionalised and individualised behavior modification programs and risk/need paradigms in offender management, which are constructed upon narrowly defined individual deficits (Ward & Maruna, 2007). These deficit approaches attribute blame to the individual for their failings. and either punish or seek to rehabilitate the "offender" accordingly. In contrast, critical Indigenous approaches often use healing, Ubuntu, reparation, restorative, and transformative justice concepts. We are not suggesting that these five concepts are all the same – they are not. For example, there are distinctions between restorative and transformative justice (Kaba, 2021). However, they are reinforced by a *different motivation* for repairing harm compared to the institutional demands for retribution *and* rehabilitation. With Indigenous approaches, the motivation for and process of change is both individual and collective: the process relies on inter-relationality rather than individualism and enables communities to respond holistically to harm. It brings into account the needs of all parties and the community affected by harm to repair the effects of trauma in its various individual, structural, and historical manifestations.

Critical Indigenous approaches advocate for processes that overturn the material practices and discursive concepts that surround the individualised 'responsible' penal subject and contemporary approaches to punishment more generally. As noted previously, dominant non-Indigenous modes of punishment are not considered by many Indigenous peoples as effective for resolving harm. Indeed, too often they are seen to exacerbate harm both at an individual and community level (Gordon & Webb, 2023). Rather than punishing and imprisoning individuals, Indigenous approaches to healing seek to transform the conditions that make harm possible. Individual harms and wrongs are understood and responded to within a context of collective experiences (e.g., racism, institutional violence, dispossession, forced removal) and are connected to the broader processes of decolonization (Lasco, 2022; Porter, 2019). By affirming a collective understanding of the individual experience, Indigenous approaches open the door to observing and analysing the historical, structural, and material conditions of trauma and oppression as they impact the life experiences of people, both individually and collectively (Curly et al., 2022).

We are left with the question of whether Indigenous approaches to justice (and the ontologies and epistemologies embedded within them) are commensurable with dominant non-Indigenous practices of justice. Blagg, writing about White society and Indigenous people in Australia, argues that "there exist regions of Aboriginal experience and ways of seeing the world that remain incommensurable to white society... there is no stable, reliable meeting point between these worlds; no necessary equivalent..." (2016, pp. 41–46). At a practical level, Blagg discusses the hybrid initiatives that exist between the non-Aboriginal domain of policing, courts, and so forth, and the Aboriginal domain of law, culture, kinship, and ceremony. These include developments like Aboriginal courts, community patrols, and justice groups, which are intercultural hybrid formations that are neither colonial nor Indigenous. As we have suggested elsewhere, these might be comprehended as part of an incomplete and imperfect decolonising process (Cunneen & Tauri, 2017). However, the question of incommensurability remains. For example, the focus on localised community safety and support predicated on a logic of relationality, care, and responsibility for others appears fundamentally different from the concept of policing predicated on law en*force*ment in the service of the abstract political entity of the state. Similarly, the focus on the collective healing experience comes from a different logic than ideas of individual responsibility and punishment (Cunneen & Tauri, 2017, pp. 128–131).

The Political Challenges of a Critical Indigenous Criminology

In this last section, we consider the major political challenges posed by a Critical Indigenous Criminology. One clear contemporary effect and outcome of colonialism, and especially *settler* colonialism, is the ongoing demand by Indigenous peoples for political recognition of self-determination

and sovereignty. At its core, this demand constitutes the right to decide about Indigenous futures. These demands challenge how state power and nationhood are conceptualised and, thus, by extension, the nature of criminal law and criminal legal institutions.

First Nations political theorist Bruce Duthu (2013, p. 1) has argued that a core problem confronting Indigenous peoples is that political and legal theories and models of sovereignty see "the nation state and its institutions as the only legitimate sources of law" within their boundaries. The political challenge is to overcome legal centralism and reconsider institutional arrangements to allow for the co-existence of divergent societies within common territories or "nations within nations." While Duthu is writing specifically about the situation in the United States, his argument has more general applicability. "[It] requires us... to confront and address fundamental questions about the nature of legitimate government, about political power and about respect for differences among societies and individuals" (2013, p. 5). These questions of political legitimacy and law go to the heart of criminology as a discipline, which so often proceeds as if these are simply uncontested matters.

Sovereignty in the context of Indigenous political claims can refer to the historical assertion that Indigenous people have never relinquished sovereignty – particularly pertinent in countries without written treaties between Indigenous peoples and colonial authorities. It is also utilised by Indigenous people to refer to the residual and unextinguished rights to self-government and autonomy, which were recognised to varying degrees through treaties (for example, in New Zealand and North America). Claims to sovereignty, self-determination, and self-government have given rise to what has been framed as contemporary "Indigenous nation-building," which can be distinguished as a practical process for forging Indigenous sovereign spaces within existing nation-states. This process builds an understanding of how authority is exercised in the legal orders of Indigenous nations and how Indigenous legal traditions shape decision-making, dispute resolution, and relationships with the human, physical, and spiritual world (Dziedzic & McMillan, 2016). Despite colonisation, Indigenous legal systems have persisted. There has been interest in how these legal systems have adopted various "forms of resistance, cultural preservation and solidarity" in the settler colonial states of Australia, Canada, and the United States (Dziedzic & McMillan, 2016, p. 343; also Borrows, 2010; Cornell, 2015; Jones, 2014).

There are similarities with plurinational and pluriversal approaches in Latin America designed to address the rights of Indigenous peoples, social and gender rights, and the rights of nature and to develop a new type of citizenship that is non-racist, dialogic, and intercultural. The concept of 'pluriverse' originated with the Indigenous Zapatista movement, which called for "A World Where Many Worlds Fit" (Mezzanotti & Marie Kvalvaag, 2022,

p. 476). Indigenous nation-building based on Indigenous laws and values can generate positive outcomes for Indigenous peoples (for example, see Vivian et al., 2017) and is central to achieving improved social and economic outcomes and meeting the political and cultural aspirations of Indigenous peoples. Importantly, it challenges colonialist assumptions of universality, validates Indigenous law and governance, and does not rely on a deficit view of Indigenous people as a *problem*.

A fundamental difficulty that arises then is whether criminology can deal with Indigenous demands for self-determination and sovereignty and whether it can go beyond a state-centric, universalist view of 'justice' and its individualised focus on dysfunction. In other words, to what extent can it 'decolonise'? As we noted previously in this essay, Indigenous peoples have considerable experience of settler colonial states as *penal states,* and this is as true today, with mass incarceration, as for any time in the past. Penal strategies and the prison in its various guises have been central to the development of the colonial state. In this context, we see important intersections between a Critical Indigenous Criminology and Abolitionism. While abolitionist theory offers an understanding of the nature of the *carceral* state, a Critical Indigenous Criminology provides insights into the colonial state's establishment, continuance, and penal selectivity. Their intersection allows us to better understand how state formations are both carceral and colonial. Both Abolitionism and Critical Indigenous Criminology challenge the legitimacy of the state's sovereign power and its focus on prison, punishment, and carcerality. Both abolitionist and Indigenous critiques of policing, prison, and punishment emerge from a radical *disbelief* in the ability of colonial state penalty to achieve positive long-term changes for either individuals or communities (see Cunneen, 2021). A Critical Indigenous Criminology intersects with Abolitionism to provide a broad transformative program intended to realise social rather than criminal justice.[1]

Conclusion

A Critical Indigenous Criminology offers a cogent analysis of broad collective harms, including genocide and systemic racism; it reaches beyond bounded methodologies relying on 'Western' sources of knowledge and privileges Indigenous epistemologies and methodologies for understanding the Indigenous experience of the world. Most importantly, it moves beyond a narrow approach to nation, law, legitimacy, and accountability to one that recognises the legitimacy of Indigenous cultures, laws for responding to social harm, and the political right to Indigenous self-determination and empowerment.

1 Indeed, we consider 'criminal justice' a contradiction in terms: systems of criminalisation cannot lead to justice.

A Critical Indigenous Criminology is a *praxis* - bound to Indigenous political activism – that determinedly contests state power and the colonial project that sustains it. The colonial project in its various guises is neither static nor complete: it is constantly re-enacted through multiple modalities, including criminal legal systems; it is an ongoing historical and contemporaneous condition. Indigenous people dispute the singular source of sovereignty vested in the colonial state, and they continue to challenge the political and moral legitimacy of the state. Indigenous people raise essential questions about the meaning of citizenship and the terms of engagement between themselves and colonial society. The assertion of Indigenous sovereignty demands a re-imagining of how we conceptualise sovereignty and re-thinking of the institutional and governance arrangements required to give it effect. Indigenous peoples continue to assert their sovereign powers in practice.

Born of the fight for Indigenous self-determination, Critical Indigenous Criminology replicates the sovereignty movement's challenge to the state edifice, while directing the same critical gaze upon the discipline of criminology. Western criminology, especially formulations practiced in settler-colonial contexts, has a long history of complicity with the settler state in subjugating and criminalising Indigenous peoples (Cunneen & Tauri, 2017; Tauri, 2017). Critical Indigenous Criminology challenges the hegemony of Western criminologies, and those criminologists who work within them for 'telling the Indigenous story', often done without engaging with Indigenous peoples directly and often constructing a self-serving narrative that demands more policing, surveillance and punishment. A Critical Indigenous Criminology demands better; it asks that our non-Indigenous allies stop their reliance on non-engaging methodologies and the importation of crime control policies and interventions from high-crime, Western jurisdictions. It demands that the Western academy openly recognise the legitimacy of Indigenous knowledge and responses to social harm. It remains an open-ended question as to how and whether these demands are met or whether criminology simply remains handmaiden to colonial systems of power.

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