

Canada–Australia Indigenous Health and Wellness Racism Working Group

Discussion Paper and Literature Review

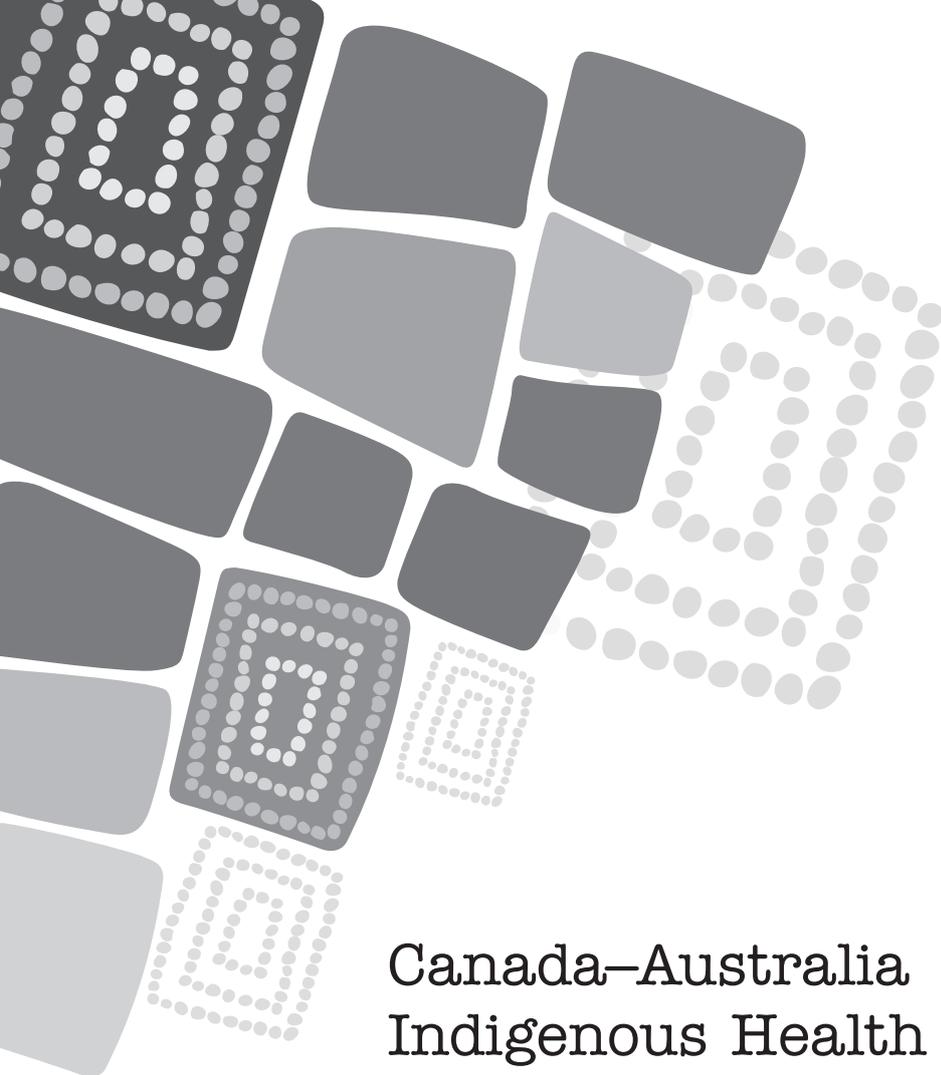
Prepared for the Canada-Australia Indigenous Health
and Wellness Working Group
by Associate Professor Chelsea Bond,
Dr David Singh & Helena Kajlich



CREATE CHANGE



Australia's National Institute for Aboriginal and
Torres Strait Islander Health Research



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The Working Group was established to progress initiatives from the Canada-Australia Roundtable on Indigenous Health and Wellness, held in Canberra in December 2016. The Roundtable was hosted in partnership by the High Commission of Canada and the Lowitja Institute, Australia's National Institute for Aboriginal and Torres Strait Islander health research. It was also supported by the Department of Prime Minister and Cabinet, Australian Government, the National Aboriginal Community Controlled Health Organisation (NACCHO), Winnunga Nimmityjah Aboriginal Health Service and Indigenous and Northern Affairs Canada. The event was co-hosted by His Excellency Mr Paul Maddison, High Commissioner for Canada in Australia, and Mr Romlie Mokak, CEO of The Lowitja Institute. The Roundtable brought together subject matter experts and community representatives from Canada and Australia to discuss fundamental approaches to, and initiatives in, Indigenous health and wellness in both countries.

The overall goal of the Roundtable was to identify two or three issues or areas in Indigenous health and wellness relevant to both Canada and Australia, for future work. The working group has membership from both Canada and Australia and meets quarterly with the aim of progressing the priorities identified at the initial Roundtable.

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While the Working Group guided the shape and provided comment on the content of the paper, the views expressed within do not necessarily represent the views of the Working Group members' organisations.



Executive Summary

This discussion paper was commissioned by the Canada-Australia Indigenous Health and Wellness Working Group. The aim of the Working Group is to identify priorities related to Indigenous health and wellbeing for bi-national collaboration and action. One of the main priorities identified for collaboration and action is the need to address racism. A sub-group was established to address this priority and to develop this discussion paper.

The aim of the discussion paper, which also functions as a literature review, is to share knowledge and influence bi-national action to address racism experienced by Indigenous peoples of Canada and Australia. Its objectives are:

- **to describe the evidence pertaining to the state of race relations between Indigenous and non-Indigenous peoples in Australia and Canada¹**
- **to identify and describe the factors that contribute to addressing racism in both countries**
- **to identify and recommend areas for further investigation.**

As a discussion paper and a literature review, this work privileges Indigenous peoples, stories and experiences of racism.

By seeking out literature produced by Indigenous researchers, organisations and writers, as well as through community engagement, the discussion paper aims to bring together the expertise of Indigenous peoples of both nations in understanding the differences and similarities between their experiences of racism. It also seeks to draw out measures by which racism in its various forms may be monitored, as well as strategies to address and evaluate racism.

This paper begins by providing definitions of essential concepts in relation to race and racism, in order to develop a shared understanding of key terms and debates in the field. Like most concepts in the social sciences, these terms are often debated and contested. Academics across disciplines and locations use and define terms slightly differently, and debates over the meanings of concepts can be an important part of the social and political struggles they explore and explain. An overview of the current state of scholarship on race and racism in both countries is also offered.

Critical race studies are yet to impact substantially on native studies and critical Indigenous studies. Specifically, where sociology has been the traditional disciplinary home of the study of race, Australian sociology has shown a marked reluctance to engage with either the sociology of race, race and ethnic studies, or critical race studies. In Canada, the stress has been on native studies programs, with the University of Alberta, for instance, hosting a highly regarded Faculty of Native Studies.

Recent Canadian academic debates have questioned whether the conceptual tools offered by critical race studies can grasp Indigenous ontologies. A similar debate, between the utility of cultural competency and race critical studies, continues to take place in the Indigenous Australian academy. This paper examines these debates, as conducted by Indigenous scholars, with a view to highlighting the tension between understanding race as a tool of discrimination and oppression, and Indigenous peoples seeing themselves as First Nations peoples for whom race is a settler concept that should be refused.

The discussion of the respective colonial histories, which follows, highlights contrasts and convergences in both countries and how they have historically addressed race and racism. The paper foregrounds the

1 The terms 'First Nations' and 'Indigenous' are increasingly interchangeable, depending on how Indigenous peoples wish to describe themselves. Where 'First Nations' and 'Indigenous' are used in this report, the context indicates the intended peoples. Occasionally, Métis and Inuit is added in the Canadian context.

long-established practice of inter-nation agreement-making among Indigenous peoples, before turning to consider early colonial Indigenous–Crown relations and the role of consent and treaties in the Australian and Canadian contexts. Early relations between the Crown and Indigenous peoples in Australia and Canada emerged through different historical processes and contexts. The colonisation of Canada and the subsequent treaty making pre-dates British settlement of Australia. These early agreement-making experiences in Canada informed the processes through which Indigenous–Crown relations were formed in the Australian context.

The forced assimilation of Indigenous peoples into settler societies through colonisation is critically examined, followed by a consideration of recent state attempts to redress historic injustices in Australia and Canada.

The chapter on constitutional arrangements and anti-discrimination legislation examines the ways in which both countries explicitly acknowledge race, either through constitutional or legislative arrangements, or both. Only Canada prohibits discrimination in its constitution—the right to freedom from discrimination is protected by the Canadian Charter of Rights and Freedoms. The Australian Constitution contains no protection against discrimination, nor does it contain any recognition of Indigenous rights.

In Canada, treaties negotiated with First Nations and the Canadian government go some way to recognising self-determination. In Australia the recent Uluru Statement from the Heart (Referendum Council 2017a) called for a constitutionally enshrined ‘First Nations Voice’ that would be able to speak to Parliament. It also called for the establishment of the Makarrata Commission, which would lay the foundations for a treaty between federal and state governments and First Nations. This paper examines these contrasts in state and Indigenous relations, together with the effectiveness of statutory legislation, with reference to the perspectives of First Nations academics and commentators.

This discussion paper also examines a sample of relevant grey literature that has been gathered by parties in both countries. Grey literature materials—which include reports, working papers, strategies and implementation plans—are a useful supplement to traditional academic and commercial publications. Prime examples of race-related grey literature include national anti-racism strategies. In the Canadian context, the Federal Government recently committed \$45m over three years (commencing 2019-2020) to develop and implement a new national anti-racism strategy (Government of Canada 2019). These projects will work towards the elimination of discrimination, racism and prejudice, with a priority for those supporting Indigenous peoples and racialised women and girls. Australia’s corresponding national anti-racism efforts have been principally channelled through the ‘Racism: It Stops with Me’ campaign (Australian Human Rights Commission 2015). These national campaigns, together with recent government appointments to anti-discrimination portfolios in both countries, signal a symbolic acknowledgment of the existence of systemic and demotic expressions of racism, and a practical commitment to anti-racism.

Taken as a whole, this discussion paper ambitiously attempts to provide an overview of the nature of racism as it affects Indigenous peoples in Canada and Australia. The paper can only provide a snapshot, however, as racism will inevitably adapt to reflect changing social, political and economic circumstances.

Recommendations

1. There is need for further research into the foundational operation of race at law in both countries. There is an assumption that legal institutions will be the mechanisms to address racism (such as through anti-discrimination laws) but there is need to interrogate how race/racism is maintained through these institutions and limit the possibilities for these sites to address racism.
2. That there be ongoing shared dialogue among First Nations peoples in Australia and Canada around treaty-making processes and further consideration of how racism may be enacted through treaties (particularly if a national treaty process is pursued in Australia).
3. That further research is commissioned to investigate the structural and quotidian operation of race and racism in both countries with regard to Indigenous peoples and specific welfare services including health and social services.
4. That further research is conducted regarding the ways Indigenous communities in both countries develop and deploy anti-racist strategies.
5. That an ad-hoc working group involving Indigenous and First Nations academics and activists be set up to continue discussions on race and racism in both countries with a view to sharing best anti-racist practice and exploring further research opportunities.



**The basis of racism starts with the arrival of the colonizers on the shores of our territories.
Indigenous peoples have our own history and the story of colonization.
Sharon Venne (2008, 26), Cree Lawyer**

1 Definitions

A necessary starting point in any account of race and racism is a consideration of the concepts and terms used to explain the phenomena. Social sciences and popular discourse have a baffling array of competing terminologies and conceptual schema in terms of which race and racism are explained. Debates over conceptual meaning are often contentious and fraught with a sense that attachment to one term or another is indicative of a political position. It is important, therefore, to be clear about the terms.

Race

Race is a marker of difference that works to organise human populations into biologically distinct races and then ranks them hierarchically on the basis of defined physiognomies, social traits and mental capacities. It is a relatively modern concept that emerged recognisably between the 16th and 17th centuries (Bernasconi 2001; Miles 1989; Goldberg 1993). The compulsion to rank and curate difference was at the centre of European science at this time and was a particular feature of the natural and biological sciences, including medicine and philosophy. The racial typologies that resulted were used to justify colonialism and racial violence (Banton 1980; Goldberg 1993; Smedley 1998; Frederickson 2002).

As erroneous as the belief in race is, it has a widespread and enduring appeal that remains resistant to the idea that race is in fact a social construction. While race may not have a biological basis, it maintains its purchase because it is necessary to explain its structuring effects—that is to say, it offers an easily grasped rationale for the ways social, cultural and political structures are organised and the ways they produce and reproduce the outcomes that they do. In short, race adeptly explains social, political and economic inequality.

Racialisation

Racialisation is an increasingly popular analytical concept that seeks to explore how race is given meaning in particular social, political and economic contexts—that is to say, the socio-historical processes through which people are assigned or self-assign themselves to racial groups. Racialisation, then, focuses on ‘questions of how, why and with what effect social significance is attached to the racial attributes that are constructed in particular political and socio-economic contexts’ (Smith 1989:3).

Legislation and policy that is specific to First Nations and Indigenous peoples is racialised. What is important for our purposes is what kind of ‘race’ is at work when we refer to the racialisation of indigeneity through legislation and policy. Although racialisation of policy redistributes vital resources to groups recognised as having been discriminated against over many years, it can also work to shift focus from the structuring effects of race to the perceived capacity of individuals and communities. In short, racialisation can be token deficit, as well as redistributive.

Although it is clear that a group of people can be racialised by dominant groups, and thus transformed into a subordinate social group, inhabiting this social location can sometimes be a rallying point for solidarity. We can self-racialise in order to form or reinforce bonds of a coalition of opposition against racism, and from this position insist on a redistribution of resources to correct historical and continuing injustice.

Stereotypes

The practice of racialisation is greatly assisted by the use of stereotypes, which can be broadly described as generalisations and assumptions about people or groups of people. Racialised stereotypes are essential to the representation of race and racial difference.

Stuart Hall (1997) identifies three functions of general stereotyping that apply equally to racialised stereotypes. The first function reduces, essentialises, naturalises and fixes difference. So, here, a stereotype is one where a few ‘simple, vivid, memorable, easily grasped and widely recognized’ (Dyer quoted in Hall 1997:257) characteristics about a person are harnessed to reduce everything about that person to those traits—to *exaggerate* and *simplify* them, and fix them without change or development to eternity.

The second function of the stereotype is to divide between groups or, in Hall’s (1997:258) words, to distinguish the ‘normal and acceptable from the abnormal and the unacceptable’. This is a strategy of splitting, where everything that does not fit, which is different, is excluded or expelled. A feature of stereotyping, then, is its practice of closure and exclusion. It creates insiders and outsiders.

Third, stereotypes exist where there are gross imbalances in power, such as in the context of colonial societies, settler-colonial societies, or racially inequitable societies. Power is directed against the subordinate or excluded group where we apply the supposed norms of our own culture to that of others.

Stereotyping, in other words, is part of the maintenance of social and symbolic order. It sets up a symbolic frontier between the normal and the deviant, the normal and the pathological, what belongs and what does not or is other, between insiders and outsiders, us and them. It therefore facilitates the binding together of all of us who are normal into one imagined community, and it sends into symbolic exile all of *them*—the others—who are in some way different.

In the settler-colonial context contemporary racialised stereotypes principally draw on conceptions of Indigenous cultures, which serve as a euphemism for race (see Bond 2007; Moreton-Robinson 2016). This phenomenon can involve reconfiguring racist beliefs about racialised people as cultural or behavioural truths arising from group practices and choices—a phenomenon sometimes known as ‘cultural racism’ (Blaut 1992). While discussions about race necessarily involve conversations about power and racial hierarchies, addressing similar questions through a lens of culture can recode these as matters of simple difference and, in the case of Indigenous peoples, deficit or lack. The deviance and deficiencies of Indigenous people once ascribed to biological racial inferiority can be explained as the result of cultural factors and choices. Various inequalities can thus remain part of the natural order of things, not via biological notions of race, but through racialised imaginings of Indigenous cultural life (Bond, Macoun & Singh 2018).

Racism

Racism commands no universal definition. For some, the term is to be restricted to the realm of ideologies (Miles 1989)—for others it is a concept that is more encompassing and includes attitudes and beliefs, as well as ideologies and structures (Anthias & Duval-Davis 1992). Popularly, racism has come to be understood broadly as:

an attitude or theory that some human groups, socially defined by biological descent and physical appearance, were superior or inferior to other groups in physical, intellectual, cultural, or moral properties. (Van den Berghe 2007:10)

This attitudinal take on racism has spawned additional conceptions of racism, such as overt and covert racism, implicit bias and interpersonal racism.

Many academics, however, are worried by the conceptual inflation that attends recent definitions of racism and argue that the term has become all but analytically redundant. They remain insistent that racism is an ideology that:

ascribes negatively evaluated characteristics in a deterministic manner (which may or may not be justified) to a group which is additionally identified as being in some way biologically (phenotypically or genotypically) distinct. (Miles 1989:8)

Here the trace of biology is necessary if it is to be described as racism.

Recent scholarship has been sensitive to these debates and more nuanced positions have been taken up. This has resulted in definitions of racism that encompass both sides of the debate, such as Garner's (2007:17) definition:

racism is a multifaceted social phenomenon, with different levels and overlapping forms. It involves attitudes, actions, processes and unequal power relations. It is based on the interpretations of the idea of 'race', hierarchical social relations and the forms of discrimination that flow from this.

Understandings of racism that stress institutional or structural factors, as opposed to attitudinal components, retain strong appeal, especially where there are persistent patterns of racial disadvantage or where an egregious example of racism demands an explanation beyond individual motivation. The latter situation was the case with the 1999 Macpherson report in the United Kingdom (Home Office 1999). The Macpherson report followed the Stephen Lawrence inquiry, an investigation into the racially motivated murder of Stephen Lawrence on 22 April 1993. Presiding over the inquiry, Sir William Macpherson proposed what has now become an influential definition of institutional racism:

The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people. (Home Office 1999:para 6.34)

This definition highlights the role of racist attitudes that are given expression through people operating within institutions and who are embedded in the institution's collective behaviours and processes. In the Stephen Lawrence inquiry, Macpherson heard evidence that the Metropolitan Police had mishandled the investigation into the murder. He was concerned to hold the police to account through the demand that the Metropolitan Police acknowledge that 'unwitting prejudice, ignorance, thoughtlessness and racist stereotyping' (Home Office 1999:para 6.34) had severely impacted the criminal investigation.

The understanding of racism offered by the Macpherson definition of institutional racism has influenced scholarship in a range of fields, including health, education and housing. These institutionally or structurally framed understandings of racism are concerned to explain how racism can exist beyond the prejudiced individual. These more expansive conceptualisations of racism examine the ways in which institutions can encode and enact racial prejudice and discrimination in their systems without the need for individual racists to act intentionally. In this way, patterns of racialised outcomes (e.g. disproportionate imprisonment rates, employment outcomes or health indicators) can be identified as resulting from racism without specifically highlighting discrimination or attitudinal drivers (Bond, Macoun & Singh 2018).

Anti-racism

There are many ways to strike an oppositional stance against racism. We would collectively characterise such responses as broadly anti-racist or race critical: ‘those forms of thought and/or practice that seek to confront, eradicate and/or ameliorate racism’ (Bonnett 2000:4). Because race can assume a variety of imbricated guises—as religion, biology, culture or nation, for instance—it is a notoriously stubborn marker of negative difference. As a consequence, no one approach deployed in isolation may be effective, requiring instead a combinational praxis or strategy that adopts an amalgam in order to resist various manifestations of race. However, in practice, the focus, certainly with regard to federal and municipal anti-racist efforts, has largely been directed towards race/cultural awareness training and policies outlawing racial discrimination. This approach reflects a liberal stress on civil rights and is channelled through the widely held opinion that education and access to legal remedies are best placed to address attitudinal and institutional racism.

In one of the few academic monographs dedicated to examining anti-racism, Bonnett (2000:84–115) distinguishes six kinds of anti-racist approaches.

1. Everyday anti-racism—that is, opposition to racial inequality that forms part of everyday popular culture. Here Bonnett is referring to the self-organisation of ordinary people against racial oppression, which often takes place outside control of the state and is unaligned to political parties (e.g. community campaigns against racism).
2. Multiculturalism anti-racism—that is, the affirmation of cultural diversity as a way of engaging racism. Here multiculturalism, both as policy and facticity, is regarded as a bulwark against racism through its stress on integration. However, multiculturalism (as framed by liberal nation-states) often elides First Nations status and can, indeed, be actively deployed in opposition to Indigenous sovereignty.
3. Psychological anti-racism—that is, the identification and challenging of racism within structures of individual and collective consciousness. This approach seeks to engage with people’s attitudes, specifically the way people internalise and give meaning to racial and racist ideas, and the racialising optics through which they subsequently see the world around them. Lately, attention has been paid to the ‘unconscious’, in the form of ‘bias’—the Queensland Government (2018), for instance, defines unconscious bias as ‘attitudes beyond our regular perception of ourselves and others which are reinforced by our environment and experiences and form the basis of our pattern of behaviour about diversity’.
4. Radical anti-racism—this approach seeks to identify and challenge the structures of socio-economic power and privilege that foster and reproduce racism.
5. Anti-Nazi and anti-Fascist anti-racism—this approach seeks to confront those holding far right political sympathies, usually through public demonstrations and physical confrontations.
6. The representative organisation—that is, the policy and practice of seeking to create organisations that reflect the wider community. This refers to affirmative action programs such as those seen in the United States and the specification of certain positions as requiring ‘race’ as a genuine occupational requirement.

Bonnett’s useful typology can be supplemented by three further approaches that he did not identify but that are a feature of settler-colonial settings.

1. Cultural competence: this is arguably an extension of multiculturalism and psychological anti-racism.’

‘Cultural competence’ is a term used widely in Australian health, education, social work and other human services fields to indicate an ability to operate and communicate effectively across cultures, often in relation to Indigenous peoples but sometimes within an overarching framework of multiculturalism or diversity more broadly. It is widely entrenched in many health domains and in policy frameworks. Emerging in the United States, the approach was initially framed by health professionals as encouraging institutions and colleagues to value diversity and develop an understanding of the cultural needs and practices of those from minority cultural groups. The approach principally involves self-assessment of institutional competence and practices when engaging with clients of diverse cultural backgrounds (Cross et al. 1989). This model relies on developing practitioner expertise in and appreciation of the differences in beliefs, customs and needs of members of other cultures (Bond et al. 2018).

2. Cultural safety: critical of the cultural competence approach, cultural safety is a health concept developed in 1989 at a nursing leadership hui (gathering) by Māori nurses, and detailed and developed by Irihapeti Ramsden (2002) in her doctoral thesis. This framework critiques concepts such as cultural awareness—or cultural competency—which operate through developing practitioner expertise in generalisations about customs and practices of encultured ‘others’ (Ramsden 2002:167–77).

Cultural safety is the responsibility of a health practitioner but is judged by the patient. The model emphasises the requirement for practitioners to identify ways their cultural, professional and institutional location shapes the care they provide (Papps & Ramsden 1996; Ramsden 2002; Williams 1999; Brascoupé & Waters 2009). Through this focus on identifying, acknowledging and addressing power differentials, cultural safety by necessity involves questions about race and racism (Papps & Ramsden 1996:495; Ramsden 2002). However, there still appears to be an underpinning assumption that greater reflexivity by practitioners about their own culture and location will result in benevolent adjustments to health practice.

3. Cultural humility: developed by the First Nations Health Authority (FNHA) in British Columbia (2019), cultural humility refers to the ‘process of self-reflection to understand personal and systemic biases and to develop and maintain respectful processes and relationships based on mutual trust’. Whereas cultural safety is outcome based, cultural humility requires health practitioners position themselves as learners in attempting to understand another person’s experience (FNHA 2019).

In terms of deciding which anti-racist approach to adopt in response to a given situation, it may be of benefit to consider Lentin’s (2004) conceptualisation of anti-racism as a continuum of ‘proximity-to-distance’. According to Lentin (2004:2), a ‘proximate’ anti-racist position would be one that is close to the Western nation-state and appeals to the liberal promise of ‘equality, tolerance, respect and dignity’. However, recognising that the state is often complicit in the very racism it decries, a ‘distant’ anti-racist position may be sought, where there is movement away from the state and its universalist claims. Where anti-racist movements move away from the state, Lentin (2004:2) argues that universalist aspirations are rejected in favour of notions of ‘empowerment, resistance, liberation and self-determination’. She further argues that this position of distance from the public political culture of the nation-state is ‘grounded in a belief in the importance of the self-organisation by the actual victims or potential victims of racism’ (2004:2). A position of proximity, by contrast, ‘habitually relies upon a discourse of human rights and meritocracy’ (2004:2) where the state, through the rule of law and discursive practices, claims to be the main guarantor. Lentin believes that anti-racists necessarily combine the two positions—which both have the nation state in common although from different perspectives.

Race scholarship

As human populations and social relations change, the study of race and ethnicity has traditionally sought to provide a conceptual language to describe racial and ethnic differences across populations. There has been a concurrent push to provide an adequate theoretical analysis of the ways the phenomena discussed above, such as race, work as relations of power to structure the location of racialised groups. Each year the number of scholarly texts and specialist journals addressing race appears to grow as questions about the nature of racialised difference move to the centre of popular and academic debate.

The field of race and ethnic studies was traditionally anchored by the disciplines of sociology and anthropology. Sociology was particularly concerned to examine the link between physical differences and their social significance, and instituted a ‘race relations’ problematic (Banton 1967) that still marks discussions of race in the United Kingdom, Australia and Canada today. Marxist perspectives would soon challenge the race relations problematic on the grounds that, because race was a scientific error, any use of race as an analytical category gave succour to those who would insist on race as a biological and cultural fact.

The emergence of critical race theory has attracted many researchers to the study of race. Critical race theory is an approach to understanding and studying race, racism and power that emerged from critical legal studies. Critical race approaches take race to be a fundamental social and political structure, central to existing institutions and modes of social organisation. According to Delgado and Stefanic (2012:7–10), critical race theory has a number of basic tenets:

- **racism is ‘ordinary not aberrational’ (Delgado & Stefanic 2012:7)—it is built into the fabric of institutions and everyday life for most people and yet not widely acknowledged due to liberal colour-blindness and so is difficult to address**
- **racism serves to entrench white dominance and so functionally furthers the material interests of both white elites (directly) and working-class whites (psychologically)**
- **race is socially constructed, which means ‘races are categories that society invents, manipulates or retires when convenient’ (Delgado & Stefanic 2012:8)**
- **dominant society racialises groups differently when convenient in response to political and economic needs, which means racial imagery and stereotypes shift over time (e.g. a group that in one era may be depicted as simpleminded and happy to serve whites may, in another, be depicted as menacing or brutish and requiring control and repression)**
- **no person has a singular or unitary identity; intersectionality and anti-essentialism mean that ‘everyone has potentially conflicting, overlapping identities, loyalties and allegiances’ (Delgado & Stefanic 2012:8)**
- **racialised status brings with it a unique voice and understanding of race and racism because of experiences of oppression within a system based around white racial dominance.**

There has been a reaction to the legal foundation of critical race theory, with others using terms like ‘critical race’ or ‘race critical’ more broadly to reflect a range of approaches concerned with race and whiteness as social and political systems (see Essed & Goldberg 2002).

Critical race studies are yet to gain traction in either the Australian or Canadian academy. Australian Indigenous studies, too, have been slow to teach race as part of its course offerings (Moreton-Robinson et al. 2011). In terms of research into race and indigeneity, one cannot point to a home-grown intellectual tradition. A trawl through Australian Indigenous journals reveals only an intermittent engagement with

race. As a consequence, many Indigenous postgraduates who wish to focus on race have to rely principally upon African-American or Black British race scholarship for theoretical insights. However, as important as these bodies of scholarship are, they take as their foundational moments enslavement and migration, not dispossession and sovereignty.

In Canada the stress has been on native studies programs, with the University of Alberta, for instance, hosting a highly regarded Faculty of Native Studies. Recent Canadian academic debates have questioned whether the conceptual tools offered by critical race studies can grasp Indigenous ontologies. A Métis scholar, Chris Anderson, has famously taken issue with American Indian studies professor Duane Champagne over Western academic disciplines' epistemological utility with respect to contemporary indigeneity. Champagne (2007) was particularly critical of race and critical race theories, which he felt did not conceptualise or centre collective Indigenous goals, such as the preservation of land, self-government and reclaiming culture. In response, Anderson (2009:94) argued that Indigenous people have long understood 'whiteness', a central component of race studies, 'thus teaching about whiteness, how whiteness frames Indigeneity and how Indigenous people know whiteness should stand as a central component of the discipline of Indigenous Studies'.

A similar concern in Australia, between the utility of cultural competency and race critical studies, has been a feature of verbal discussions involving postgraduates, researchers and two authors of the present report in their capacity as doctoral supervisors and as facilitators of research capacity-building workshops. Regardless, emerging bodies of scholarship have sought to connect critical race approaches (which have not traditionally engaged with Indigenous sovereignty) and critical Indigenous studies scholarship (which has emphasised culture, sovereignty and colonialism) in order to explore the racialisation of Indigenous peoples and the whiteness of settler colonialism (Moreton-Robinson 2008, 2015, 2016).



2 Colonial histories

In Australia and Canada, Indigenous scholars have made critical interventions to unsettle dominant colonial narratives that have been historically relied upon to justify the denial of Indigenous rights, laws and sovereignties in both countries (see Langton 2006; Watson 1997, 2005; Davis 2008; Borrows 2002; Henderson 2000 etc.). As these scholars and others demonstrate through their work, the ‘founding moments’ of colonial settler states are not stable, fixed and objective, but are contested sites of knowledge/power—and it is these founding moments that have long been relied upon to justify the exclusion and marginalisation of Indigenous peoples. Importantly, however, the legal apparatus of the settler state has not only excluded and marginalised Indigenous peoples but has served to racialise Indigenous peoples in particular kinds of ways. To this extent, more work that adopts a critical race lens is needed—such work can consider how race and racism function through the legal and political structures of colonial settler states and the implications for Indigenous peoples.

Although it is beyond the scope of this discussion paper to engage in detailed race critical analysis, this section aims to provide an initial survey of the respective colonial histories, as well as the constitutional arrangements and legislative mechanisms—highlighting contrasts and convergences between Australia and Canada—and how these have influenced both countries in terms of addressing race and racism. This analysis provides the framework to better understand the current state of race relations in both countries between Indigenous and non-Indigenous peoples and the factors that contribute to addressing racism.

Early Indigenous–Crown relations

Indigenous peoples in Australia and Canada have had, since time immemorial, laws governing societal relations and relationships to country—laws that regulate trade, resolve disputes and guide their relationships with other nations. Tanganekald, Meintang, Boandik First Nations law professor Irene Watson (2017:7) states:

We are ancient peoples who have shared relations with hundreds of other First Nations and we are by our names and connections to country evidence of those relations with each other. We are the First Peoples of places which originated inter-nation relationships. We are the first internationals—but different from those whom we know now as international states. And again, our inter-national cooperation with each other is unacknowledged, buried by the myths of terra nullius, another part of ignoring the fact of our existence as subjects in international law.

Any discussion of the unique relationship between the Crown and Indigenous peoples must begin with an acknowledgment that Indigenous peoples had vast experience in inter-nation relationships long before the British Crown arrived on Indigenous land. The fundamental difference, however, between these early Indigenous inter-nation relationships and the relationship between the British Crown and Indigenous peoples is that the latter is defined through an ongoing legacy of colonisation. The practices and processes of colonisation used strategies, techniques, and competing and contradictory policies, legislation and laws to legitimate the colonisers’ oppression of those Indigenous peoples whose lands were claimed for the Crown. In the context of Australia and Canada, these strategies, techniques and competing practices are evident in the ways indigeneity was constructed by the colonisers as a racial category—ways that render Indigenous peoples as subordinate and thereby legitimated the colonisers’ right to either not ‘treat with’ Indigenous peoples or to fail to honour the terms of the treaties that were negotiated.

From the initial moments of colonisation, the British recognised Indigenous peoples’ claim to their lands in both Australia and Canada. In relation to the ‘great southern continent’, the British Crown instructed

Captain Cook to only take possession of land 'with the consent of the natives' (Beaglehole 1968:283). James Douglas, President of the Royal Society and sponsor of Cook's voyage, was even more forceful about the legal status of Indigenous peoples. He maintained Indigenous peoples were:

in the strictest sense of the word, the legal possessors of the several regions they inhabit. No European nation has a right to occupy any part of their country or settle among them without their voluntary consent. (Beaglehole 1968:514)

These instructions reflected a similar approach by the British Crown in North America. In 1763 the British Crown issued a Royal Proclamation explicitly recognising Indigenous peoples of North America as autonomous political societies, though they were assumed, nonetheless, to be under British dominion. Anishinaabe, Ojibway and Chippewa of the Nawash First Nation law professor John Burrows (1994:17-18) observes that the proclamation:

uncomfortably straddled the contradictory aspirations of the Crown and First Nations when recognizing Aboriginal rights to land by outlining a policy that was designed to extinguish those rights.

There was already, at this early historical moment, an affirmation of Indigenous rights, while ensuring that these rights remained subordinate to the British Crown's interests.

Despite the clear instructions given to Cook (Beaglehole 1968) and without the consent of Indigenous peoples, after sailing the coast of Australia he declared the east coast of the continent for the British. The failure to obtain the consent of Indigenous peoples continues to be justified in terms of Cook's claims that the continent appeared to be 'sparsely populated', that Aboriginal and Torres Strait Islander peoples were not 'war-like' or interested in trade (Banner 2007). These assumptions meant that, for Cook and for the British Crown upon receiving Cook's observations, Indigenous peoples were not people with whom treaties needed to be negotiated. These were racialised stereotypes about Aboriginal and Torres Strait Islanders peoples that served to reduce, essentialise, naturalise and fix those perceived differences between Indigenous peoples and the British. These racialised stereotypes were used by the British to assert that the Indigenous peoples in Australia were racially inferior, lacking the basic human characteristics that give rise to territorial rights. As Lester-Irabinna Rigney (2001:4) states:

Indigenous Australian systems of knowledge, governance, economy and education were replaced by non-Indigenous Australian systems on the assumption that the 'race' of Indigenous people were sub-humans, and thus had no such systems in place prior to the invasion.

After British settlements were established in Australia, by the mid-1800s, racialised stereotypes about Indigenous peoples became further entrenched through Social Darwinism. Social Darwinism purported to give scientific validity to a notion of racial hierarchy (Butler 2016). Not only did the settler construction of indigeneity legitimate the denial of territorial rights, it also subordinated and devalued Indigenous knowledges. As Rigney (2001) states, 'the construct of "race" informs and legitimates "*terra nullius*"; it also informs the assumption by colonists and subsequent generations that Indigenous traditions of intelligentsia equate to "*Intellectual Nullius*"'.

Indigenous peoples in Canada had a very different early colonial history with the Crown. In contrast to Australia, where no treaties were historically negotiated, the British Crown in Canada negotiated treaties with some First Nations. Many of these were 'peace and friendship treaties' that regulated trade and military alliances between First Nations and the Crown (Morse 2004:53). These early treaties did not cede territory, but the British sought through these early agreements to promote their economic interests in

the fur trade, as well as to secure alliances with First Nations against competing French colonial powers in North America (Morales & Nichols 2018).

By the late 1700s the Crown sought 'land surrender treaties' that ceded Indigenous land to the British in return for compensation and certain reserved lands, and protected traditional hunting, fishing and cultural rights (Morales & Nichols 2018). Between 1871 and 1921, the Canadian government negotiated the numbered treaties. First Nations maintain that sovereignty was not surrendered in these agreements and that these agreements, like the peace and friendship agreements before them, were cooperative inter-nation agreements (Borrows & Coyle 2017). The numbered treaties have been litigated in the Canadian courts (McNeil 2017), and this litigation itself assumes that the Canadian legal system has authority to arbitrate these inter-nation agreements.

Policies of forced assimilation

Thinking and talking about our ancestors as native savages is in the past, but it became the fabric or the foundation of the colonial legal system. Now that same preoccupation with the native—still dysfunction—continues to resonate with colonial violence and remains the foundation of the contemporary Australian legal system. Acts of colonial violence remain ongoing. (Watson 2017:5)

After Canadian Confederation, the *Constitution Act 1867* vested power in the federal government to legislate with respect to 'Indians and Lands reserved for the Indians' (s.91(24)). Although the *Indian Act 1876* responded to the special status of Indigenous peoples recognised in the Royal Proclamation and the treaties negotiated, the primary objective was to eradicate Indigenous peoples as a people. The violence of the embedded racism in this legislative framework cannot be overstated. Under the guise of 'civilising the natives', the Indian Act controlled every aspect of Indigenous peoples' lives and, by assimilating Indigenous peoples into the colonisers' practices, sought to eradicate Indigenous law, culture, language and political systems. The explicit aim of the Act, as articulated by the Deputy Superintendent General of Indian Affairs, was to 'continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian department' (Miller 2004:35). The assimilationist legislation deemed Status Indians (i.e. Indigenous peoples registered under the Indian Act) to be wards of the state and regulated almost every aspect of their day-to-day lives. It denied First Nations' rights to vote in provincial or federal elections and it regulated marriage, education and employment.

Indigenous women faced racialised misogyny under the Indian Act, which undermined their political power, equal citizenship status and property rights (Ladner 2008). Indigenous women, under the Act, were unable to be involved in the band council system until 1951 and only gained access to equal citizenship in 1985 (Ladner 2008). The Indian Act discriminated against Indigenous women by 'institutionalizing heteronormativity and masculinist ideas of Indigenous nationhood, sovereignty and politics' (Ladner 2008:31). Though some amendments have been made over the past decades to address some of the overt discriminatory policies embedded through the Indian Act, the Act continues to be a form of structural racism (Long, Bear & Boldt 1982).

An early amendment to the Indian Act required that all Indigenous children be educated in settler colonial schools. As a consequence, the Indian residential school system was introduced in 1831 and the last school closed in 1996. The Aboriginal residential system removed Indigenous children from their communities and placed them in boarding institutions in an attempt to 'kill the Indian out of the child' (TRC 2015a:131-132). Indigenous children were forced to assimilate into European cultural practices and denied the right to practise their language, culture and knowledges. The residential school system removed more than 150,000 Aboriginal children from their families and communities (TRC 2015a:2).

In a powerful acknowledgment of the sheer violence of the system, the final report of the Truth and Reconciliation Commission of Canada opens by stating that:

For over a century, the central goals of Canada's Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada. The establishment and operation of residential schools were a central element of this policy, which can best be described as 'cultural genocide'. (TRC 2015a:1)

A few weeks after the establishment of the Truth and Reconciliation Commission of Canada, the then Prime Minister of Canada, Stephen Harper, issued a formal apology to those who suffered under the residential school system. In speaking of the harm children, families and communities suffered at the hands of the state, the Prime Minister acknowledged that:

The burden is properly ours as a Government, and as a country. There is no place in Canada for the attitudes that inspired the Indian Residential Schools system to ever prevail again... The Government of Canada sincerely apologizes and asks the forgiveness of the Aboriginal peoples of this country for failing them so profoundly. (Government of Canada 2008)

The final report of the Truth and Reconciliation Commission of Canada sets out comprehensive Calls to Action (2015b). Calls to Action speaks of the impact of colonisation through education, health, child welfare, language/culture, justice and reconciliation, and demands concrete and specific remedies to redress the historic and ongoing injustices faced by Indigenous peoples in Canada. In relation to racism, it calls out the need for anti-racism training, together with the development of broader intercultural competencies and rights-based training to raise professional capacities and address systemic, institutional and inter-personal racism (TRC 2015b).

Australia shares the shame of implementing policies that were acts of cultural genocide against Indigenous peoples. On 26 May 1997 the *Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (the Bringing Them Home report) was tabled in the Australian Parliament. From 1910 through to the 1970s, it is estimated that anywhere from one in ten to one in three Indigenous children were removed from their families or communities (HREOC, Dodson & Wilson 1997). The Bringing Them Home report was the first national public acknowledgment of the violence of the policy of forced removal and its ongoing impact. It found that forced removal was a gross violation of human rights (HREOC, Dodson & Wilson 1997). One key recommendation was that all levels of government, including the federal government, in addition to making appropriate reparations, should acknowledge the responsibility of their predecessors for the laws, policies and practices of forcible removal and negotiate to find suitable wording for an appropriate apology (HREOC, Dodson & Wilson 1997:Recommendation 5a). Under the then Liberal Prime Minister, John Howard, the government refused to make a formal apology for the harm done. The government insisted that it should not be held responsible for what it argued were historic wrongs. It was not until 13 February 2008, following the election of Labor Prime Minister Kevin Rudd, that the long overdue apology to Indigenous peoples was made. In his apology, Rudd (2008) emphasised that 'such injustices must never, never happen again'.

Canadian Indigenous scholar Sheryl Lightfoot has undertaken a critical study of the various recent formal state apologies made to Indigenous peoples in colonial settler states. From her analysis, she concludes that apologies can only be meaningful if they 'reset the relationship between the state and Indigenous peoples away from hierarchical and colonial power relations and toward one grounded in mutual respect' (Lightfoot 2015:17). To do this, she argues that they must, first, 'comprehensively acknowledge the wrongs' and, second, 'make a credible commitment to do things differently, to make substantial changes in...

policy behaviour, in the future' (Lightfoot 2015:17). In Australia recent legislative changes have questioned whether the government is genuinely committed to changing policy behaviour in relation to the forced removal of Indigenous children.

In November 2018 the New South Wales Government passed legislation that will allow for the forced adoption of Indigenous children (Whittaker & Libesman 2018). In a formal joint statement by SNAICC—National Voice for our Children, the National Family Violence Prevention Legal Services, and the National Aboriginal and Torres Strait Islander Legal Services (2018:1), the national non-governmental peak bodies representing the interests of Aboriginal and Torres Strait Islander children emphasised that the proposed legislation ran contrary to the recommendations of the Bringing Them Home report and would disproportionately impact Indigenous children:

The proposed legislation is based upon a misguided understanding of what stability means for Aboriginal and Torres Strait Islander children. It assumes that a permanent legal arrangement can generate a sense of safety and belonging for children in out-of-home care. Rather, permanence for Aboriginal and Torres Strait Islander children is developed from a communal sense of belonging; experiences of cultural connection; and a stable sense of identity including knowing where they are from, and their place in relation to family, mob, community, land and culture.

In contrast, Indigenous peoples in Canada have co-developed legislation that affirms Indigenous peoples' inherent right to exercise jurisdiction over child and family services (Government of Canada 2019b). This legislation supports communities making their own laws with respect to child and family services and advances self-determination. The new legislation implements parts of the United Nations Declaration on the Rights of Indigenous Peoples, the Truth and Reconciliation Commission of Canada's Calls to Action and the ratification of the UN Convention on the Rights of the Child (Government of Canada 2019b).

There is still a pervasive myth in Australia and Canada that assimilationist policies are relegated to historic Indigenous–state relations and no longer characterise contemporary policy or practice. Formal national apologies serve to allow the state to feel good about its commitment to reconciliation and moving forward together while failing to interrogate its complicity in structuring ongoing inequities (Lightfoot 2015). Formal apologies may excuse the state from examining the ways in which racist assumptions that underpin colonial imaginings about indigeneity (which informed historic assimilationist policy and practice) continue to inform contemporary policy and practice.

The recent tragic death of Ms Dhu, a 22-year-old Yamatji woman, demonstrates just how deeply embedded racist imaginings of indigeneity—and the violence of these imaginings—are in settler colonial society. Ms Dhu, a young woman who was dearly loved by her family, was arrested for unpaid outstanding fines and died after failing to be given adequate medical care while being held in police custody (Coroner's Court of Western Australia 2016). She complained to police that she was in pain while she was held in custody, but medical personnel failed to diagnose the underlying cause of her pain, which stemmed from broken ribs inflicted in an earlier domestic violence assault. Police officers repeatedly dismissed Ms Dhu's pain. When she was finally taken for medical treatment, medical staff failed to provide adequate care, failing even to take her temperature. As a result, her broken ribs and developing septicaemia and pneumonia went undiagnosed. As the police officers testified at the coronial inquest, they did not think her calls for help were genuine. Police testified that they assumed that she was 'faking it' and one police officer declared at the time that Ms Dhu was 'a junkie, she's faking, she's full of shit' (Burgess testimony quoted in Blue 2017:300). Assumptions about her drug use and 'behavioural issues' resulted in medical staff failing to undertake a thorough examination that would have revealed the underlying cause of her pain and resulted in essential treatment that would have prevented her death.

It has been more than 25 years since the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) tabled its *National Report* in 1991 (Commonwealth of Australia 1991). The inquiry made 339 recommendations, but the key finding of the report was that Aboriginal people died in custody at the same rate as non-Aboriginal prisoners, but were far more likely to be in prison and held in custody than non-Aboriginal people (Commonwealth of Australia 1991). The RCIADIC was concerned to understand why Aboriginal and Torres Strait Islander people came to be in the criminal justice system, rather than examining the ways the criminal justice system discriminates against Indigenous peoples. The RCIADIC did not consider the ways Indigenous peoples are policed, particularly in relation to minor crimes and public order offences; the police tendency to caution, charge and arrest Indigenous peoples, rather than issue warnings or court attendance notices; and the use of discretionary powers and court prison versus non-prison sentencing (Davis 2018b). It is alarming to note that Indigenous incarceration and police custody rates have actually increased since the report was tabled—in the past decade, Indigenous incarceration has increased by more than 45 per cent (ABS 2018).

In Canada the ongoing National Inquiry into Missing and Murdered Indigenous Women and Girls (2017:1) is dedicated to supporting ‘Indigenous women and girls to reclaim their power and place’. After decades of Indigenous women being reported as missing or having been murdered, the National Inquiry seeks to gather evidence, examine and report on the systemic causes of all forms of violence against Indigenous women and girls in Canada. In contrast to the RCIADIC, the National Inquiry considers colonisation, racism and sexism and the ways these systems of oppression overlap, and Indigenous women’s experiences at these points of intersection.



3 Constitutional arrangements and anti-discrimination legislation

Renewed constitutionalism

Both Canada and Australia are at a critical juncture in the legal and constitutional framings of the relationship between Indigenous peoples and the state. While Canada is currently debating how to better define and give certainty to those Aboriginal and treaty rights enshrined in the Canadian Constitution, in Australia the federal government dismissed outright the Referendum Council's final recommendation to establish a 'First Nations Voice to Parliament' and 'Makarrata Commission' that would supervise an agreement-making and truth-telling process between governments and Aboriginal and Torres Strait Islander peoples (Referendum Council 2017b). It could be assumed that Canada is leading the way in terms of redressing injustice arising from colonisation because it appears that so much of what is being advocated for in Australia has already been implemented in Canada, but Indigenous peoples in Canada have identified significant failings with current Canadian Indigenous-state relations. The Canadian experience serves to highlight important limitations in any settler state recognition framework, even one that has constitutionally protected rights for Indigenous peoples.

Formally, the Canadian government remains committed to reconciliation and a renewed relationship with Indigenous peoples. Canadian Prime Minister Justin Trudeau has unequivocally acknowledged the historic and ongoing injustices perpetrated against Indigenous peoples as a result of colonisation, as well as the state's culpability in these ongoing injustices. On the 150th anniversary of the Canadian Constitution on 21 September 2017, in an address to the United Nations General Assembly, the Prime Minister set out a deep appreciation for the complexity of Indigenous-Crown relations and laid out a clear path forward (Trudeau 2017). For the Prime Minister, Indigenous peoples' self-determination was central to any attempts at redress. He stated

Indigenous Peoples will decide how they wish to represent and organise themselves. Some may choose to engage. Some may choose to engage with our government based on historic nations and treaties, others will use different shared experiences as the basis for coming together. The choice is theirs. This is precisely what self-determination demands. Though this path is uncharted, I am confident that we will reach a place of reconciliation. That we will get to a place as a country where nation-to-nation, government-to-government, and Inuit-Crown relationships can be transformed. (Trudeau 2017)

Decades earlier, Justin Trudeau's father, Prime Minister Pierre Trudeau, had first proposed dismantling the Indian Act and removing the special status of Canada's Indigenous peoples. In 1969 Pierre Trudeau issued a federal government White Paper that, under the guise of seeking full and equal rights for all Canadians, characterised group-specific rights as being the source of inequality and, ultimately, injustice for Indigenous peoples. A fierce liberal, Pierre Trudeau sought to advance individual liberalism and regarded Indigenous rights and nationhood as a threat to the primacy of individual rights. Indigenous peoples throughout Canada rejected his proposal outright and forced Trudeau to reassess his understanding of the relationship between the state and Indigenous peoples.

In the late 1970s and early 1980s, Canada sought to substantially reform its Constitution. Part of the amendments included the addition of section 35(1) in the Constitution Act, 1982, which states that 'existing Aboriginal and treaty rights of the Aboriginal peoples are hereby recognised and affirmed'. The reforms also introduced the Canadian Charter of Rights and Freedoms, which forms part of the Canadian Constitution and included section 25:

[t]he guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada.

Despite these strong constitutional guarantees that uphold and protect Indigenous rights, the courts continue to be the apparatus through which these rights are affirmed.

In addition to treaty rights, Aboriginal rights in Canada have been held to exist in relation to land through the common law concept of Aboriginal title (*Calder v British Columbia* [1973]). Significantly, Aboriginal title only exists where the courts determine these rights have not been extinguished. The concept of Aboriginal title in Canada was referred to when the High Court of Australia later held that the concept of native title continued to exist in Australian common law (*Mabo v Queensland (No. 2)* [1992]).

Since the *Calder* decision in Canada, the federal government has sought to enter into modern treaties with Indigenous peoples through the comprehensive land claims process. The Crown has approached modern treaty making with a ‘thick version of Crown sovereignty’ (Morales & Nichols 2018: 8). Such an approach leaves no room for the broader recognition of Indigenous sovereignty and self-government (Morales & Nichols 2018:11). Instead, the comprehensive treaty process relies on a ‘quasi-municipal’ model of Indigenous governance (Morales & Nichols 2018:11).

The Australian Constitution does not recognise explicit rights. Instead, it vests legislative powers in the federal government to make laws with respect to various subject matters. The Constitution includes what is often referred to as the ‘race power’—that is, at Federation the government was given explicit power to legislate with respect to the people ‘of any race... for whom it was deemed necessary to make special laws other than the Aboriginal race in any State’ (section 51(xxvi)). This exclusion of Aboriginal people from the ‘race power’ meant that responsibility for legislating for Aboriginal peoples resided with state governments. The 1967 referendum is often celebrated as having given rights to Indigenous peoples, whether they be citizenship rights or voting rights, when, in fact, it did neither. The 1967 referendum did two things: first, it removed the exclusion of Aboriginal peoples from the ‘race power’ so that the federal government could legislate with respect to Indigenous peoples and, second, it amended the Constitution so that Indigenous peoples would be counted as part of the population through the census (*Constitution Alteration (Aboriginals) Act 1967* (Cth)).

The *Racial Discrimination Act 1975* (Cth) (RDA) was the first human rights and anti-discrimination legislation enacted in Australia. The RDA makes it unlawful to discriminate against an individual based on race, colour, descent, or national or ethnic origin or immigration status. The legislation was introduced as a means of giving legal force to Australia’s commitments under the *International Convention on the Elimination of all Forms of Racial Discrimination* (UN General Assembly 1969). The RDA does not define race, but Australian courts have interpreted the term broadly and determined that it ‘should be understood in the popular sense’ (Australian Human Rights Commission 2009, 21). They have determined that race does not involve a biological test:

the real test is whether the individuals or the group regard themselves and are regarded by others as having a particular historical identity, which relates to their colour, race or ethnic or national origin. (Australian Human Rights Commission 2009, 22).

Due to the lack of constitutional protection from discrimination, the RDA is also highly vulnerable to legislative changes. The RDA has been suspended on three occasions, and each time it related to Indigenous people (that is, the *Hindmarsh Island Bridge Act 1997* (Cth), *Native Title Act Amendment Act 1998* (Cth) and the *Northern Territory National Emergency Response Act 2007* (Cth)). In fact, the Constitution contains two provisions that *permit* racial discrimination. Section 25 provides that the states may deny people the vote in state elections on the basis of their race. The High Court of Australia has also held that

the ‘race power’ may be used in a way that is to the detriment of racialised peoples (*Kartinyeri v Commonwealth* (1998)). The failings of the Constitution to protect Indigenous peoples from racial discrimination highlights the importance of ongoing advocacy for constitutional reform in Australia.

In Canada constitutional and legislative mechanisms uphold the rights of Indigenous peoples to be free from racial discrimination. The *Canadian Human Rights Act 1977* (Cth) protects Indigenous peoples from discrimination on the grounds, for example, of race, age or sexual orientation. Additionally, the Canadian Charter of Rights and Freedoms protects the right to be treated equally under the law. Not only are there explicit rights protecting Indigenous peoples from discrimination in the Constitution and in legislation, but the federal government in Canada has recently pushed to have Indigenous rights define all state–Indigenous relations (Prime Minister of Canada 2018).

In February 2018 Canadian Prime Minister Justin Trudeau proposed to table legislation on a Recognition of Rights Framework for Indigenous rights with the intent that the new legislation would ‘make the recognition and implementation of rights the basis for all relations between Indigenous peoples and the federal government going forward’ (Prime Minister of Canada 2018).

Although the federal government has made a strong statement committing to ‘decolonizing Canadian laws and policies’ and to endorse without qualification the full implementation of around the *United Nations Declaration on the Rights of Indigenous Peoples* (Prime Minister of Canada 2018), Indigenous academics and advocates remain cautious. Gina Starblanket and Joyce Green (2018) state:

Beware of federal politicians bearing beads and trinkets... The feds [sic] are proposing a framework that functions like a cage, containing Indigenous nations and governments within a legal apparatus that assumes all sovereignty and jurisdiction belong to the federal and provincial governments.

Starblanket and Green (2018) note that absent from this framework is a discussion about land and that this is particularly critical—they cite the Supreme Court of Canada finding that there continue to be cases where Aboriginal title has never been extinguished.

The Assembly of First Nations has developed a detailed response to the government’s Recognition of Rights Framework for Indigenous rights. Responding directly to Canada, nation-to-nation, the Assembly of First Nations (2018) outlined significant issues, including the failure to allow for meaningful consultation, lack of transparency, failure to understand what First Nations were saying and, perhaps most fundamentally, assuming that Canada has sovereignty and jurisdiction over First Nations. As Starblanket and Green (2018:1) question, ‘The feds are holding consultations, but are they listening?’

Australian Indigenous law professor Megan Davis has relentlessly advocated for constitutional reform in Australia. As a member of the Prime Minister’s Expert Panel on the Constitutional Recognition of Indigenous Australians and a member of the Prime Minister’s Referendum Council, she was involved in extensive community consultation that resulted in the *Uluru Statement from the Heart* (Referendum Council 2017a). Davis (2018b) has called for a constitutionally enshrined norm of ‘a politics of listening’. Such an approach calls upon the government to hold a referendum to enshrine a First Nations Voice to Parliament. She and other Indigenous legal scholars refute the claim that such reform needs bipartisanship before it is put to a referendum (Davis 2018a; Reid 2018). They reject the claim that its structure and form must be known prior to holding a referendum so that its details can form part of the referendum debate. Instead, they maintain that the power of possibility for constitutional reform lies in raising public understanding around why a Voice to Parliament is needed and gaining support for it, in principle—that is, for non-Indigenous Australia to recognise the structural, institutional and personal racism that silences Indigenous voices and the importance of creating formal national space where Indigenous peoples can speak to and advocate for issues. Details should be negotiated only after the

principle is enshrined in the Constitution so that its specificities can be dynamic and responsive to the needs of Indigenous peoples as defined by Indigenous peoples. The silence of the Australian Government on the recommendations of the Referendum Council is not unique, but there is a long history of deafness to the demands of Aboriginal and Torres Strait Islander peoples seeking to engage with the Crown or the Australian Parliament seeking more equitable and just relations.

4 Grey literature

It was the intention to foreground First Nations, Métis, Inuit, and Aboriginal and Torres Strait Islander written experiences of racism and anti-racism. However, on trawling the literature in both countries, it became clear that the number of examples where Indigenous peoples in both countries had documented their experiences and anti-racist activities were limited. Michael Hart, Vice Provost Indigenous Engagement, University of Calgary, and his colleague Gladys Rowe, University of Manitoba, in email communications (15/11/2018 & 22/11/2018), both indicated they had difficulty in locating Indigenous-led anti-racism initiatives. Hart notes that of those few reports that are Indigenous-specific, most focus on healthcare and cultural safety training. Of the literature he identified as being concerned with anti-racism more broadly, with only compartmentalised mention of Indigenous people, the majority has been produced by various tiers of government: federal, provincial and municipal.

It is very much the same situation in the Australian context, with federal, state and local councils leading the way and largely locating discussion of racism and anti-racism within a multicultural and diversity context. Quite why this should be the case is a question worth exploring further. It may be that Indigenous communities, peoples and organisations routinely encounter racism on such a scale that it has become a normative experience. In this scenario, where entreaties to government have had no effect, it would make little sense to document racism when there are other basic needs to attend to, such as healthcare, housing and education. Whatever the reasons, it is an alarming situation that the work of the Canada–Australia Health and Wellness Racism Working Group is seeking to address.

For the purposes of this discussion paper, where we have been charged with ascertaining the nature of racism faced by First Nations, Métis, Inuit, and Aboriginal and Torres Strait Islander peoples, we have had to rely on the grey literature, especially that produced by government, education and health organisations. We have selected a few choice examples, but it will be seen that even here, results in terms of capturing and privileging Indigenous experiences of racism and anti-racism were mixed.

A great deal of grey literature, especially that generated by various levels of government, addresses racism and anti-racism. Various reports, strategies, implementation or action plans, and toolkits abound, all taking their mandate from a particular legislative injunction or set of recommendations following a formal inquiry into an egregious set of racist practices or disproportionate racist outcomes. Typically, a strategy will seek to identify the nature and scope of racism, followed by a set of recommendations and an implementation plan, perhaps involving key performance indicators, targets and an identification of those responsible for implementation.

Recalling Bonnett's (2000) anti-racist typology, discussed earlier, it will be seen from a cursory trawl that many such strategies fall under the heading of 'Multiculturalism anti-racism' and its close relatives 'Psychological anti-racism' and 'The representative organisation'. Valuing diversity through some kind of race awareness training and appointing a workforce reflective of the community it serves are usually the drivers impelling the development and implementation of an anti-racist strategy. The obvious drawback to this approach, however, is that unless there is an equal or stronger stress on historical and contemporary racism faced by Indigenous or First Nations peoples, they are effectively sidelined while 0-resourced anti-racist efforts take place elsewhere. With notable exceptions, this is largely the case in Australia and Canada, where it is has been extremely difficult to identify dedicated anti-racist strategies in respect of Indigenous and First Nations peoples.

Canada

At the federal level in Canada, as previously highlighted, the Minister of Canadian Heritage recently announced a national anti-racism strategy, with the promise of \$45 million over three years towards

community-led projects that will work towards the elimination of discrimination, racism and prejudice (Canadian Heritage 2018). Projects addressing support for Indigenous peoples and racialised women and girls are prioritised. A future exercise could be a trawl through Indigenous-specific applications to glean a sense of the kinds of racism afflicting First Nations, Métis and Inuit communities. A sense of gender-based racial violence, an under-researched area, is also vital to our understanding of contemporary racisms.

The Truth and Reconciliation Commission of Canada: Calls to Action (2015b) is an important milestone that makes explicit recommendations in respect of mitigating the effects of racism against Aboriginal peoples. The ‘Calls to Action’ are appended to the final report of the Truth and Reconciliation Commission of Canada, which offered a detailed account of Indigenous children who were physically and sexually abused in government boarding schools. The Commission published 94 calls to action urging all levels of government—federal, provincial, territorial and Aboriginal—to work together to change policies and programs in an effort to repair the harm caused by residential schools and to move forward with reconciliation. The actions typically call upon academic and professional training schools, governments and the corporate sector to correct poor understandings of the history of Aboriginal peoples and Canada’s colonial history. Suggested remedial measures include cultural competency training, conflict resolution, and human rights and anti-racism training. The following example of a call to action (TRC 2015b:30) is directed towards all tiers of government and their human resources training programs:

57. We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills- based training in intercultural competency, conflict resolution, human rights, and anti-racism.

At the provincial level, the Government of Alberta (2018) runs an Anti-Racism Community Grant Program, which supports initiatives that raise awareness and understanding of racism and its impact on all Albertans. The program seeks to foster cultural awareness and cross-cultural understanding in communities across the province, and the grant guidelines state that the program outcomes are to:

- address the causes and consequences of racism in communities across Alberta
- increase an organization’s capacity in supporting individuals who are impacted by racism
- increase access to services, information, and advice concerning racism
- increase opportunities for people to learn, discuss and address the impacts of racism in their community
- encourage participation of individuals, businesses, institutions, and governments to collaboratively support anti-racism in their community
- increase an organization’s ability to address the systemic causes and consequences of racism (Government of Alberta 2018)

There are two funding streams: Community Anti-Racism and Indigenous Anti-Racism. The grant guidelines make a point of highlighting streams specific to initiatives that impact Indigenous communities and organisations. Those (presumably Indigenous) groups, ‘will be able to access funding to determine how best to address racism in their communities’ (Government of Alberta 2018). The guidelines further state that organisations must clearly demonstrate how projects will address racism in specific geographic regions, or in particular communities of racialised/marginalised people.

Projects can be standalone initiatives, new programming or resources, which may include some of the following features:

- **Training and education**, including awareness initiatives, such as workshops, roundtables, conferences, community conversations, or social media initiatives
- **Developing resources**, including information, fact sheets, posters and toolkits that address racism, bias or hate crime in Alberta
- **Support services**, such as peer groups/organisations supporting Albertans directly impacted by racism in their community when they need it
- **Capacity-building activities**, such as sharing practices, research and information, developing strategies and aligning tactics to address the incidents of racism and hate crimes in the community, or evaluating existing initiatives to assess their effectiveness (Government of Alberta 2018)

The Government of Ontario's (2017) *A Better Way Forward: Ontario's 3-year Anti-Racism Strategic Plan* is a comprehensive effort if detail is to be measured. Of particular interest, under an overarching strategy addressing culturally and linguistically diverse communities, as well as Indigenous peoples, is the promise to develop an Indigenous-specific anti-racist strategy. The strategy, it is claimed, will combat racism experienced by Indigenous communities and people, and includes a public education and awareness campaign, youth-leading-youth program and a professional training toolkit. The development of the toolkit is particularly welcome—it stresses that it will be directly informed by Indigenous perspectives and will be relevant across professional sectors, including child welfare, justice, health, education and other social services.

At the municipal level not a great deal was found in respect of Indigenous-specific initiatives. The Edmonton Centre for Race and Culture is an example of a progressive, anti-racist organisation active at the municipal level. It is unclear, however, at least from the organisation's website, whether Indigenous peoples are a target group of the centre's anti-racist activities beyond the offering of Nehiyaw (Cree) language classes; nor is it clear whether Indigenous community groups are involved in the centre in any way. Certainly, the organisation has fostered an anti-racist expertise that is demonstrated by its key objectives:

- To educate about racial prejudice and discrimination through seminars, workshops, public forums, and conferences.
- To conduct research, compile data, and disseminate results about racism or ethno-racial disparities, to increase understanding and awareness about existing rights of racial minorities.
- To establish and maintain programs for individuals, groups, and organizations that have experienced discrimination by providing information, follow-up, support, and referral to counselling or legal services.
- To work towards the eradication of racially motivated violence through public education, research, programs and activities.

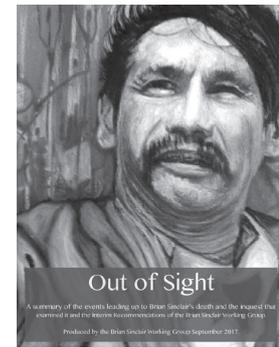
Of interest would be the ways such a centre, so obviously at the forefront of anti-racist practice, connects with Indigenous community groups and people and how cultural programs adopt an anti-racist perspective, if at all.

Health

As Michael Hart noted in a personal email communication (22/11/2018), health is an area where sustained attention is given to racism faced by First Nations, Métis and Inuit people in a bid to better understand the social determinants of health. Egregious examples of discrimination in healthcare settings compel a consideration of racism. One such example is the devastating case of Brian Sinclair, a 45-year-old Indigenous man who died while waiting for treatment in the emergency department of Winnipeg's Health Sciences Centre in 2008 (Brian Sinclair Working Group 2017). Sinclair was left unattended for 34 hours and subsequently died from complications arising from a treatable bladder infection.

In a submission to the Study on the Right to Health undertaken by the United Nations Expert Mechanism on the Rights of Indigenous Peoples, law academic Brenda L. Gunn (n.d.[2017]) sets out the circumstances of Brian Sinclair's death and the official responses that followed. Gunn explains that almost five years after Brian Sinclair's death, an inquest was finally held and comprised two phases: the first examining the circumstances of death, and the second examining what could be done to prevent similar deaths from happening in the future. Gunn notes that the inquest's presiding judge would later rule out an examination of race and racism as part of the proceedings for the second phase, thereby leaving untouched the role systemic racism may have played in Brian Sinclair's death.

Gunn also contributed to the work of the Brian Sinclair Working Group, a group of experts who were concerned to examine the systemic issues that the judge and state authorities had excluded from a consideration of the circumstances surrounding Brian Sinclair's death. The group released *Out of Sight* (Brian Sinclair Working Group 2017), which included the overall recommendation that all stakeholders in the healthcare system should adopt anti-racist policies and implementation strategies. Report cards on the ongoing experiences of Indigenous people seeking care at healthcare institutions in Manitoba were also recommended (Brian Sinclair Working Group 2017:10). The recommendation concludes by cautioning against the embrace of anti-racist and cultural safety training without the 'adoption and implementation of policies and practices aimed to change structures in order to eliminate (anti-Indigenous) racism in healthcare and healthcare delivery' (Brian Sinclair Working Group 2017:10).



The report *First Peoples, Second Class Treatment: The Role of Racism in the Health and Well-being of Indigenous Peoples in Canada* by Allan and Smylie (2015) provides a broader but no less instructive analysis of race and health in Canada. It provides an overview of the historical and contemporary contexts of racism that have shaped, and continue to negatively shape, the life choices and chances of Indigenous peoples in Canada, and examines 'the ways in which racism fundamentally contributes to the alarming disparities in health between Indigenous and non-Indigenous peoples' (Allan & Smylie 2015:1). The paper strikingly foregrounds the role that colonisation and attendant policies have had in spawning and legitimating a range of racialised stereotypes about Indigenous peoples; and how these stereotypes have shaped the perceptions of a number of agencies including child welfare, healthcare providers and the police. Such stereotypes include the 'drunken Indian', 'the hyper-sexualized "squaw"', Indigenous parents as 'bad mothers' or 'deadbeat dads' (Allan & Smylie 2015:3). These all serve to forcibly essentialise Indigenous peoples, reducing them to a few stock characteristics that 'justify acts of belittlement, exclusion, maltreatment or violence at the interpersonal, societal and systemic levels' (Allan & Smylie 2015:3).

A series of papers produced by the National Collaborating Centre for Aboriginal Health further explores the nature of racism and its impact on Indigenous peoples. The first paper, *Understanding Racism* (Loppie & Reading 2013), explores the concept of race and the various forms it can take; the second

paper, *Aboriginal Experiences with Racism and its Impacts* (Loppie, Reading & de Leeuw 2014), explores how Aboriginal people experience racism and how it affects their wellbeing; and the final paper, *Policies, Programs and Strategies to Address Aboriginal Racism: A Canadian Perspective* (Loppie & Reading 2014), explores how policies, programs and strategies attempt to address racism at the embodied and systemic levels, with particular reference to the topics of anti-racist media, anti-oppressive education, cultural safety within healthcare and systemic policies. Taken collectively, the papers constitute a strong intervention in debates about the nature and extent of racism experienced by Aboriginal peoples in Canada. The critique offered by the authors can be extended to other settler-colonial contexts, in particular the stress on the continuing impact of colonisation and the role of racialised stereotypes that serve to reinforce deficit discourses centring on Indigenous capacity.

A recent development that bodes well for anti-racist outcomes within the Canadian health system has been the announcement in the Canadian Federal budget 2019 of increased funding for Indigenous children and young people's health. This includes:

- \$1.2 billion over three years for Jordan's Principle² to help ensure that all First Nations children can access the health, social and education supports and services that they need, when and where they need them.
- \$220 million over five years to support Inuit Children.
- \$15.2 million over three years for Indigenous Youth and Reconciliation (Children First Canada 2019).

Education

In keeping with the difficulty of locating literature specific to the experiences of racism and anti-racism of First Nations, Métis and Inuit peoples, not a great deal of literature was found in respect to racism and education. There are concerns however. The journalist and author, Tanya Talaga, outlines those concerns in her book, *Seven Fallen Feathers: Racism, Death and Hard Truths in a Northern City*, which explores the circumstances surrounding the deaths of seven Indigenous students in Thunder Bay, Ontario between the years 2000 and 2011. In an interview with the Canadian Broadcasting Corporation in 2107, she maintains that their deaths were symbolic of Canada's general failure to care for Indigenous students, specifically the outcome of intergenerational trauma, broken treaties, inadequate funding leading to poor services in health, and education and social services. Also, the apathy surrounding the missing and murdered Indigenous girls and women in Winnipeg (Canadian Broadcasting Corporation 2017).

One exception to the general paucity of literature concerned with Indigenous experiences of racism in education concerned the area of higher education. The document, *Aboriginal Institutions of Higher Education: A Struggle for the Education of Aboriginal Students, Control of Indigenous Knowledge, and Recognition of Aboriginal Institutions—An Examination of Government Policy* produced by The Aboriginal Institutes' Consortium (2005:2) and published by the Canadian Race Relations Foundation, is a comprehensive report that takes as its starting point the need for educational programs that are responsive to 'Indigenous worldviews, histories, contemporary circumstances, social systems, and knowledge systems'. Although both the federal government and, in this case, the Government of Ontario, have provided funding for Aboriginal-specific programs and services for students attending provincial colleges and universities, concerns regarding traditional knowledge and appropriate methodologies prompted Aboriginal communities to develop their own post-secondary institutions. Although these institutions are not formally recognised in federal or provincial law or policy as educational entities in the same manner as provincial colleges or universities, they play a vital role in ameliorating systemic

2 Jordan's Principle is named after a five-year-old Manitoba boy who died in hospital in 2005 while waiting for the federal and Manitoba governments to resolve the question as to who would pay for the care he needed. The Principle establishes that when a jurisdictional dispute arises over paying for services for First Nations children, the first government to be contacted should pay, with formal responsibility to be established later.

racism by meeting the unique cultural, language, social, economic and political needs of Aboriginal peoples—and thereby improve access, retention and success rates of Aboriginal people in post-secondary institutions (2005:7).

That such institutions remain unrecognised is, the document maintains, racially discriminatory and ‘creates barriers that have negative impacts on Aboriginal persons, communities, and Nations; ultimately, this impacts upon Canada’s economy and labour market’ (2005:11). What is striking here is that when an economic imperative is cited as a justification for separate provision, there is clearly a limit to the extent that governments will authorise a racialised redistribution of resources.

Australia

As with Canada, it has been similarly difficult to identify Indigenous-led anti-racism initiatives in Australia. This difficulty extends to identifying references to Aboriginal and Torres Strait Islander experiences of racism. Where direct reference is made, it is usually as part of a wider discussion of racism faced by culturally and linguistically diverse communities. A consequence of the uneven attention afforded Indigenous experiences of racism has been a general ignorance of the continuing impact of colonisation and dispossession on Indigenous life chances and the unique ways racism is experienced by Indigenous peoples. The official policy of multiculturalism here elides First Nations’ experiences as much it celebrates contemporary diversity, compounding one particular kind of racism as it seeks to combat others.

Federal

Racist Violence: Report of the National Inquiry into Racist Violence in Australia, produced by the Human Rights and Equal Opportunity Commission (HREOC 1991), is one of the few official instances where racist violence has been examined. The inquiry was initiated by HREOC following concerns that the incidence of racially motivated violence was on the increase in Australia. The report makes clear that racist violence is the most serious expression of racism. It dedicates a chapter to racist violence against ‘Aborigines’, stating that ‘racial violence has been the basis of the treatment they have received from white Australia and is an integral part of their lives’ (HREOC 1991:69). The chapter goes on to document evidence submitted to the inquiry, including racist attacks directed at Aboriginal organisations such as Land Councils and community centres; racist attacks perpetrated against Indigenous people using public spaces such as parks and streets; and widespread complaints in relation to the use of hotels, particularly concerning refusal of service, verbal racist abuse, and actual and threatened racial violence.

A significant feature of the evidence presented by Aboriginal people in relation to racial violence was complaints against police officers. Police violence emerged as the most important issue in all states and territories of Australia. Senior police officers stationed at violence ‘hotspots’ confirmed the existence of the problem and referred to ‘problems of training young police officers who reflect the values of the white communities from which they were recruited’ (HREOC 1991:79). A principal target of police violence are Aboriginal women and girls, who were routinely sexually threatened and abused by police officers. The report lists anecdotal evidence of serious sexual assault and threats of rape and racist abuse of Aboriginal women and girls (HREOC 1991:88-90). The chapter concludes by making a crucial link between contemporary policing practices and the colonial role of the police:

essentially the link between over-policing and racist violence is one of structural racism. It draws its legitimacy from the conditions of colonialism and the history of the role of the police as an instrument in the maintenance of colonial relations. (HREOC 1991:91)

A more recent example of a federal effort to address racism, with Aboriginal and Torres Strait Islander people an identified target group among culturally and linguistically diverse communities, is the National Anti-Racism Strategy (AHRC 2012). In 2011 the Australian Government made a commitment as part of its

official multicultural policy to a comprehensive National Anti-Racism Strategy. The strategy was launched in August 2012, along with a nationwide public awareness campaign, Racism. It Stops with Me. The aim of the strategy was to promote a clear understanding in the Australian community of what racism is and how it can be prevented and reduced. Its objectives were to:

- create awareness of racism and how it affects individuals and the broader community
- identify, promote and build on good practice initiatives to prevent and reduce racism, and
- empower communities and individuals to take action to prevent and reduce racism and to seek redress when it occurs. (AHRC 2012:2)

The strategy did not have an explicit link to Indigenous Australians other than through a tangential connection to the Australian Government's efforts to close the gap on Indigenous disadvantage. Central to those efforts, the government maintained, was a commitment to building stronger relationships with Indigenous people, based on mutual respect—as such, the implementation of the anti-racism strategy supported that commitment and would include messages on systemic racism and encourage and engage young people in talking about racism, particularly in relation to Indigenous Australians.

State level

At the state level it is again difficult to identify anti-racist initiatives specific to Aboriginal and Torres Strait Islander peoples. Most state and territory governments make explicit policy commitments to their respective Indigenous communities and people through a Reconciliation Action Plan (RAP). These are typically developed by organisations to give practical expression to the drive to improve relationships between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians. The approach to reconciliation encompasses rights as well as symbolic and practical actions, which are typically brought together in a RAP. Among other objectives, the plans should ideally open up debate on discrimination and racism, but often there is no mention of either. For example, the *Queensland Government Reconciliation Action Plan 2018–2021* (Queensland Government n.d.[2018]) contains 18 actions and 69 targets, each seeking to ensure equality, equity, recognition and advancement of Aboriginal peoples and Torres Strait Islander peoples. However, there is no mention of racism or anti-racism at all within the document. Instead, a stress is placed on the need to recognise and respect Aboriginal and Torres Strait Islander cultures and histories as an important driver for social cohesion (Queensland Government n.d.[2018]:12). Clearly, culture as understood by the Queensland Government's RAP serves as a euphemism for race, which is not helpful if the RAP is to have an anti-racist utility that fosters social cohesion. There is no such concern with the *Queensland Multicultural Policy* (DLGRMA 2018), which, in contrast, has an entire section dedicated to a discussion of racism, with unequivocal commitments such as, 'Celebrating our multiculturalism, supporting strong, connected communities and building a narrative of inclusion and respect will help change attitudes and reduce the negative impacts of racism' (DLGRMA 2018:20).

Municipal level

As at the state level, local government directly addresses resident Aboriginal and Torres Strait Islander communities and peoples through RAPs. Logan City Council is one such administration. Located in south-east Queensland, just outside Brisbane, the city is home to a significant Aboriginal and Torres Strait Islander population (Logan City Council 2019). The council's 2015–17 RAP (Logan City Council 2015) is considered to be a strategic document involving all areas of the organisation and includes a range of practical measures that seek to promote reconciliation within the city. The RAP is complemented by a cultural awareness guide (Logan City Council n.d.) that serves as a set of guidelines to engage with Aboriginal and Torres Strait Islander peoples. The council feels that engagement is particularly important in building trust, reciprocal relationships and partnerships, and is also considered to be an important step

in the reconciliation process. Mention of racism or anti-racism in either of these documents is restricted to support for the national Racism. It Stops with Me campaign. There are no reported local initiatives under the RAP, community project grant program or community safety program. In keeping with the cultural competency approach, however, the city does boast 'cultural intelligence' training for all staff and a half-day on-country experience for all its directors and managers. The council's stated aim of the training sessions is to 'build the foundation of knowledge of Council staff to enhance cross-cultural competence and engagement' (Logan City Council 2017).

Health

In keeping with the evidence presented by the Canadian grey literature, Indigenous health in Australia is one of the few areas where the operation and effects of racism are being researched and discussed.

The Australian Government's *National Aboriginal and Torres Strait Islander Health Plan 2013–2023* includes as a key objective 'a health system free of racism and inequality' (Australian Government 2013:8), identifying this as crucial to improving the health of Aboriginal and Torres Strait Islander peoples, achieving Closing the Gap targets, and delivering on Australia's obligations under the United Nations Declaration of the Rights of Indigenous Peoples. However, the context for this goal (Australian Government 2013:14) identifies the relationship between racism and health as primarily a behaviourist one: encounters with racism have a debilitating effect on Aboriginal and Torres Strait Islander peoples' confidence and self-worth, impacting individuals' mental health and the likelihood they will make health-risking lifestyle choices.

Racism further encountered in the health system can present a barrier to accessing appropriate health services, resulting in what the National Aboriginal and Torres Strait Islander Health Plan (Australian Government 2013:51) defines as 'systemic racism'—'the failure of the health system to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin'.

This compounds a legacy of disadvantage arising from past colonial and discriminatory practices (see Australian Government 2013:14). In the health plan, then, racism is implicitly understood as a question of individuals' prejudices or attitudes, which adversely affect Aboriginal and Torres Strait Islander health behaviours, resulting in a failure by the health system to provide services equally and appropriately. This understanding of racism can compound rather than ameliorate, working as it does to relegate colonialism, discriminatory government policies or practices, and other types of racially based violence to history. Any kind of demand for accountability made on this basis, then, can be dismissed as a form of special pleading.

The Lowitja Institute, Australia's National Institute for Aboriginal and Torres Strait Islander Health Research, has long advocated for a stronger focus on racism in Indigenous health research, and has invested in several national symposiums and commissioned research papers to further this field of inquiry (Paradies, Harris & Anderson 2008). However, a preliminary analysis of the National Health and Medical Research Council's investment in Indigenous health research reveals that between 2001 and 2015, only five (0.69%) out of 733 Indigenous health research grants examined racism either exclusively or as part of a broader research agenda.

In terms of specific anti-racist initiatives in health, culturally safe healthcare practice is widely accepted as effective in addressing the racial discrimination that contributes to poor health outcomes for Aboriginal and Torres Strait Islander Australians. The Nursing and Midwifery Board of Australia and the Congress of Aboriginal and Torres Strait Islander Nurses and Midwives (2018) have released a joint statement expressing a commitment to addressing racism and demonstrating leadership to nurses and midwives to ensure they value the needs of Aboriginal and Torres Strait Islander peoples, and to promote and provide culturally safe care. Although this approach may be vital to improving healthcare outcomes for Aboriginal

and Torres Strait Islander peoples, it also has significant limits in that adopting a purely attitudinal approach to race and racism leaves deep structural racism in healthcare largely unexamined.

Education

In Australia there has been little discussion of dedicated Indigenous universities because seemingly major strides have been made in improving access and retention of Aboriginal and Torres Strait Islander students in higher education. Various government reviews have sought to improve Indigenous experiences of higher education, in particular the *Review of Higher Education Access and Outcomes for Aboriginal and Torres Strait Islander People* (Behrendt et al. 2012). The review's task was to provide advice and make recommendations to government on:

- achieving parity for Aboriginal and Torres Strait Islander students, researchers, academic and non-academic staff
- best practice and opportunities for change inside universities and other higher education providers (spanning both Indigenous-specific units and whole-of-university culture, policies, activities and programs)
- the effectiveness of existing Commonwealth Government programs that aim to encourage better outcomes for Indigenous Australians in higher education
- the recognition and equivalence of Indigenous knowledge in the higher education sector. (Behrendt et al. 2012:10)

The review is a textbook example of positive racialisation, and its various recommendations have provided effective levers for change within the higher education sector. However, the concern that Indigenous higher education is yet to be regarded as core business is evidenced by a number of universities relying almost exclusively on supplementary funding to make provision for Aboriginal and Torres Strait Islander students (Moreton-Robinson, et al. 2011).



5 Conclusion

The grey literature on race and racism from both Canada and Australia has a number of striking similarities that speak to the ways both countries were colonised. Racialised stereotypes appear pervasive and draw on a reservoir of negative images that can be traced back to colonisation. Such stereotypes are the lifeblood of contemporary racism and serve to compound the trauma of colonial dispossession and violence. In these circumstances, it is reasonable to question what Indigenous peoples are being asked to reconcile themselves to when we speak of reconciliation.

Another similarity, related to colonisation, is the process of racialisation. As discussed, racialisation has been necessary in redirecting resources. This redirection has not come about without the pressure of Indigenous communities, as well as state concern to make good on liberal promises of equality for all. Thus, ascribed racialisation and self-racialisation have worked in productive tension to deliver increased resources in a bid to improve various outcomes, not least in health. It is important, however, that positively ascribed racialisation does not become eclipsed by the compulsion to negatively racialise, where biological and cultural conceptions of race emerge to justify more punitive measures, such as policing. A government can at any one time hold both positions, thereby endangering any trust that may have built up through a more equitable redistribution of resources. Any anti-racist measure in a settler-colonial context must surely always insist on the provision of a historical context, as highlighted by some health approaches discussed in this discussion paper, before the introduction or continuance of any governmental practice in respect of Indigenous peoples. In this we can see the crucial nature of Indigenous-led anti-racism as opposed to an anti-racism that has a celebration of diversity as its principal aim.

Future research directions

The review of constitutional arrangements and legislative mechanisms that structure current race relations in Australia and Canada reveal key issues that require further investigation. In both jurisdictions, there continues to be conceptual avoidance to explicitly locate racism in the founding colonial–Indigenous relations. More work is needed that adopts a critical race lens to trace the ways assumptions about race and racial superiority are embedded through founding legal concepts.

Although outside the scope of this discussion paper, social media is a critical forum in which an extensive and dynamic network of Indigenous academics, activists and community members engage with critical race. Often these exchanges foreground events and issues that cannot be addressed in the slower-to-print academic journals. An initial brief survey of the literature indicates that social media, as a site of extensive Indigenous knowledges and anti-racism practice, would yield critical insights (Carlson et al. 2017; Akama et al. 2017).

Finally, emerging as an area of future research is an examination of community-based campaigns that erupt in protest against institutional and structural racism. In both Australia and Canada, there have been powerful movements led by the family and community members of those who have died as a result of institutional racism. The nature and impact of these protests in shifting public consciousness needs further exploration, as well as a consideration of these movements as a form of anti-racism praxis against the violence of institutional racism.

Researcher biographies

Associate Professor Chelsea Bond is a Munanjahli and South Sea Islander woman and Senior Research Fellow within the School of Social Science at The University of Queensland. She has worked as an Aboriginal health worker and researcher in south east Queensland for well over two decades and has a strong interest in interpreting and privileging Indigenous knowledges and perspectives in relation to health and the health system, as well as the operation of race and racism within it.

Dr David Singh has recently joined the UQ Poche Centre for Indigenous Health as a Research Fellow. Previously he was a lecturer and researcher at the Indigenous Research and Engagement Unit at Queensland University of Technology.

Ms Helena Kajlich is currently a Research Officer at the UQ Poche Centre for Indigenous Health and a PhD candidate in the School of Political Science and International Relations at the University of Queensland. Her PhD project is concerned with racism in the colonial justice system. She completed her BA(Hons)/LLB at the University of Queensland and completed her MA in Political Science at the University of British Columbia, Canada. Her master's thesis critically interrogated recognition/redistribution through the British Columbia Treaty Commission process. She was previously a solicitor of the Supreme Court of Queensland and practised native title law.

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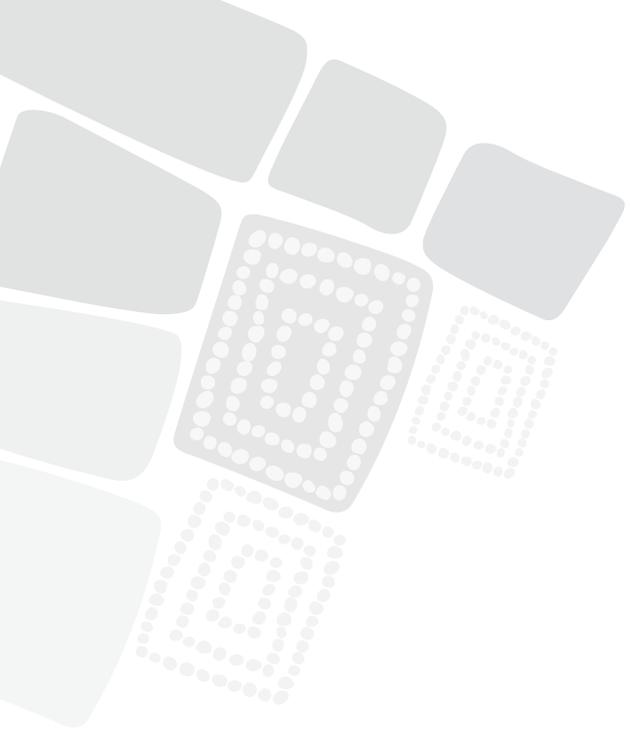
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