

## Establishing the United Nations' *Declaration on the Rights of Indigenous Peoples* as the Minimum Standard for All Forensic Practice with Australian Indigenous Peoples

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In this article, Indigenous forensic practice is considered from a culturally informed perspective. Concerns are raised about forensic psychologists' continuing failure to operationalise all dimensions of modern Indigenous diversity in their day-to-day practice and research. Psychologists are also asked to contemplate the degree to which systemic factors from within their own discipline might be contributing to the ever-increasing over-representation of Indigenous peoples in the Australian correctional system. A radical restructure of practice is recommended in which the *UN Declaration on the Rights of Indigenous Peoples* is adopted as the minimum standard for restructuring what is suggested to remain a deeply assimilationist model of practice based on dominant culture and migrant management strategies, neither of which is relevant to forensic practice with Indigenous peoples.

**Key words:** culturally informed practice; unintended hurting while helping model; Indigenous human rights; Indigenous; institutional racism; multiple dimensions of indigenous diversity.

### What is already known on this topic

- 1 Aboriginal and Torres Strait Islander peoples are grossly over-represented in Australian correctional systems.
- 2 Mistrust remains between Indigenous communities and criminal justice professionals.
- 3 Progress has been slow in defining the technical parameters of culturally appropriate psychological assessment and treatment.

### What this paper adds

- 1 Psychologists have an ethical responsibility to implement the new Indigenous human rights conventions into their day-to-day practice.
- 2 Psychologists need to determine and acknowledge the manner in which the cultural diversity of their modern Indigenous clients differs to that of migrant diversity and practice.
- 3 This article suggests audits of practice are required to identify sources of bias that have been built into institutional practice.

An aim of this article is to begin a discussion regarding the methods that forensic psychologists will need to adopt to competently operationalise the affirmations of the *UN Declaration on the Rights of Indigenous Peoples*<sup>1</sup> in forensic practice. The article is divided into three parts. First is an overview of the disproportionate representation of Indigenous peoples in the Australian correctional system and the role that post-colonial, human rights and reconciliation models have to play in addressing this issue. Second is an examination of four Indigenous-informed histories with ongoing legacies that contextualise the use of the Australian correctional system with Indigenous peoples. Third is a brief introduction to an emerging model regarding the manner in which institutional racism within the discipline of psychology has the potential to negatively impact Indigenous forensic outcomes.

The primary picture that arises from this analysis is that the failure to appreciate and respond to the unique requirements of Indigenous forensic practice through much of last century and the ongoing use of dominant cultural methods and cross-cultural methods developed for use with migrants, is an example of institutional racism (Jones, 1997). Psychologists are reminded of what should be a self-evident truth: Indigenous peoples are not migrants; they remain at home with their own traditionally informed and modern cultural systems and conventions in place (Blagg, 2008) that must be accommodated in clinically accurate and culturally appropriate psychological practice. In addition, psychologists need to appreciate that Indigenous peoples have a shared but very different experience of life in Australia since colonisation to the mainstream population (McDaniel, 2009) and there is a need to respect the modern cultural conventions that have evolved over time to withstand the attacks on Indigenous identity and culture that have been delivered through the same dominant culture administrative, scientific, and legal processes that psychologists use to generate knowledge regarding appropriate forensic practice. These modern cultural understandings must also be accommodated and it is important to understand that the modern indigenous

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cultural understandings in question intersect the space occupied by psychologists knowledge making methods.

It is suggested that when Indigenous clients, with their own cultural institutions and social practices in place, are assessed using forensic models adopting a culturally neutral data collection framework, developed for dominant culture members whose connection to cultural institutions are implicitly understood or those now separated from their pre-existing cultural institutions by migration, an unacceptably assimilationist position is adopted. This process also continues the colonisation dynamic of extinguishing the collection of culturally relevant data from the client's experience during the formal assessment process and instead establishes forensic needs for Indigenous clients based on a restricted assessment template and cultural stereotypes held in the practitioner's mind. We must accept that our Indigenous clients have made no journey to a foreign land, currently retain modern cultural ways of being and doing, and have modern cultural and human rights requirements surrounding what constitutes appropriate service delivery that our ethical codes are increasingly requiring us to respect. Yet, to date, there has been little discussion regarding how we do this in a tangible manner and how our cultural competence performance and its effect on forensic outcomes might be formally evaluated.

### The Over-representation of Indigenous Peoples in the Australian Correctional System

In 1991 the Royal Commission into Aboriginal Deaths in Custody (RCIADC) established that Indigenous peoples were being held in lock-ups by police, arrested, held in prison for extended periods prior to trial, and were imprisoned at a disproportionate rate to non-Aboriginal people in Australia (RCIADC, 1991). Despite the recommendations of the Royal Commission, the situation has worsened since that time, and now approximately 25% of all Australian prisoners are Indigenous (Australian Bureau of Statistics (ABS), 2009). In Western Australia, the rate of over-representation is the most extreme (Behrendt, Cunneen, & Libesman, 2009). Indigenous youth are also more likely to be present in detention centres than non-Indigenous youth (Taylor, 2007) and under-represented in terms of their access to diversionary options (Allard et al., 2010).

Systemic bias and institutional racism across multiple points of service delivery have been described as contributing to the rate of Indigenous over-representation in the Australian correctional system by theorists working from a post-colonial theoretical framework (e.g. Blagg, 2008; Cunneen, 2011; Worrell, 2000). In the past, exponents of this position have focused attention on the criminalisation of Indigenous peoples by over-policing (Cunneen & White, 2007; Cunneen, 2007a, 2001), ethnocentric sentencing (Hinton, 1997), diversion practices (Cunneen, 2008), the failure to adequately engage with the ever-increasing number of Indigenous community-controlled forensic initiatives (Blagg, 2008), and the manner in which protection and rehabilitation needs dramatically change in remote communities (Worrell, 2000).<sup>2</sup> However, if the lens is directed inward, it must be recognised that psychologists have been loath to consider how systemic bias present in the justice and correctional systems should be accounted for in assessment

algorithms and if corrective scoring adjustments are required to increase the validity of test results. Nor have they considered or if their own assessments and non-Indigenous style interventions might also contribute bias and negatively influence forensic outcomes. Similarly, there is no evidence that psychologists have considered the circumstances that necessitated dynamic adaptations to traditional Indigenous cultural practices that have occurred since colonisation, and the modern cultural practices, understandings, and expectations that have resulted, and must also be accommodated in culturally appropriate practice. It is suggested that adopting a human rights approach can begin to remedy this situation (Also see Cunneen, 2007b for further discussion regarding human rights and criminology).

### Why a Human Rights Approach?

*In the words of the Universal Declaration, this moment [Australia's endorsement of the United Nations Declaration on the Rights of Indigenous Peoples] is a test for the nation of how truly we believe in the inherent dignity and the equal and inalienable rights of all members of the human family.*

Dr Tom Calma, ATSI Social Justice Commissioner—Human Rights and Equal Opportunity Commission (2004–2010).

James Anaya, the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous peoples, has addressed the issues of why a special declaration of human rights was required for Indigenous peoples. He concluded that:

*It is precisely because the human rights of Indigenous groups have been denied, with disregard for their character as peoples, that there is a need for the Declaration. In other words . . . the Declaration exists because Indigenous peoples have been denied equality, self-determination and related human rights. It does not create for them new substantive rights that others don't enjoy. Rather, it recognises for them rights that they should have enjoyed all along as part of the human family, contextualises those rights in light of their particular characteristics and circumstances and promotes measures to remedy the rights' historical and systemic violation.*

James Anaya (2009, p. 63)

When Australia became a signatory to The Declaration in 2007, its affirmations were accepted as the minimum standards for all interactions with Australia's first people in all settings, and it was agreed that the country's institutions and service providers would become responsible for implementing its articles (see UNDRIP Articles 42 and 38). The Declaration is not intended to only be a consciousness-raising mechanism that draws attention to areas in which human rights have been denied; it has also been structured to correct the systemic denials that have occurred historically and necessitated the evolution in cultural practice referred to above. In addition, its affirmations are written in a form that is transferable into contemporary professional standards. The appropriateness of The Declaration as the minimum standard for all scientific work in the social sciences has already been affirmed (Boatshed Declaration, 2009), and the ethical principles arising from The Declaration are currently being added to the human rights standards in the *Psychologists' Code of Ethics* (APS, 2007) and the *Guidelines for the Provision of Psychological Services for and the*

*Conduct of Psychological Research with Indigenous People of Australia* (Australian Psychological Society [APS], 2003 under revision). One needs to read The Declaration carefully to appreciate the wide-ranging rights that have been affirmed and consider their implications for practice.<sup>3</sup>

Reconciliation Australia was established in 2001 as an independent body to facilitate a continuing national restoration of the relationship between Indigenous and non-Indigenous Australians, and to promote critical awareness of the social values, priorities, and cultural assumptions held by Indigenous Australians. During the *Decade of Reconciliation*, public and private services across Australia began developing Reconciliation Action Plans (RAPs) to facilitate the auditing, identification, monitoring, and correction of “invisible” systemic discriminatory processes in their organisations. However, in regard to the profession of psychology, it was initially necessary for Dudgeon and Pickett (2000) to caution that a successful reconciliation process could not be imposed by non-Indigenous psychologists working alone and that psychologists must develop the willingness to listen to Indigenous members of the profession.

Sufficient empowerment of the Indigenous voice has occurred within the APS in recent years for this process to begin, and the first RAP has just been launched by the Australian Psychological Society at its 2012 Conference.<sup>4</sup> The work to implement the RAP has been led, as is appropriate, by the Australian Indigenous Psychologists Association (AIPA) and the Senior Executive of the Australian Psychological Society. However, the reconciliation audit and action plan approach was originally implemented nationally to fulfil a recommendation by the Royal Commission into Aboriginal Deaths in Custody (RCIADIC, 1987–1991). Given the link between forensic work and the origins of these methods, it is surprising that the APS College of Forensic Psychologists at the time the report was first published, or since, has not begun to at least seek Indigenous advice, subject itself to a preliminary review of Indigenous forensic practice and think about its reconciliation needs. Forensic psychologists who have made the transition to establishing Indigenous partnerships to facilitate an effective forensic framework or consider Indigenous-specific approaches appear to be small in number (Allard et al., 2010; Day, 2003; Day, Jones, Nakata, & McDermott, 2011).

In addition, in 2011 the Forensic College produced an electronic edition of all forensic articles originally published in the three main APS journals between 2001 and 2011.<sup>5</sup> The overall article count was 22. However, only one (4%) of the total forensic papers published in APS journals in the decade considered an Indigenous-specific topic. During the same time period, only 29 (1%) of the international articles indexed by the search term “forensic” and 39 (1%) of the articles indexed by the search terms “crime” or “criminal” identified Indigenous-specific forensic topics in searches conducted on the APS-recommended database (EBSCOhost)<sup>6</sup>. In the corresponding period, Indigenous peoples comprised up to one quarter of the convicted adult population and just under half of the convicted juvenile population. This rate of professional consideration of Indigenous-specific needs and issues hardly constitutes adherence to the “best practice model” psychologists claim to adopt.

In addition, the poor response rate of forensic psychologists to two major ancestrally-based disproportionate outcomes that regularly confront forensic psychologists is astounding: the

over-representation of Indigenous peoples in the Australian correctional system and the Australian Indigenous population having the worst health status of any Indigenous peoples on earth (United Nations Permanent Forum on Indigenous Issues, 2009). Why these issues have not adequately penetrated practice is incomprehensible when the parameters of inequity seem, on face value, to be harbingers of crisis, but also within a post-colonial theoretical framework, harbingers of potential assessment error and institutional racism (Jones, 1997).

In addition, the adoption of imposed top-down models of forensic practice with Indigenous clients that are devoid of cultural validation (Andary, Stolk, & Klimidis, 2003), practising “as if” Indigenous culture is no longer culturally and historically unique, and assuming that cultural considerations can be organised at the point of service delivery in an ad hoc fashion are also potent examples of the historical and ongoing violations of the rights of Indigenous peoples referred to by Anaya (2009). They are also specifically inconsistent with the affirmations of The Declaration and incompatible with accepted Australian Indigenous cultural practice.

A more systematic approach to implementing the affirmations of The Declaration in forensic and clinical practice is needed, and forensic psychologists cannot wait for methods to be developed overseas. It is here, at home, that the outcomes are among the most disproportionate. It is Australian forensic psychologists, working in partnership with Indigenous stakeholders, who should be leading the world with innovation in assessment and intervention with Indigenous peoples, not waiting to import them from New Zealand, Canada, or America where the track record for culturally competent practice is similarly poor from an Indigenous perspective.

## The Context

To appreciate how the “historical trauma paradigm” (Atkinson, Nelson & Atkinson, 2010) has implications for understanding Indigenous criminality, the social and emotional well-being and mental health problems that beset Indigenous peoples in the criminal justice system (ACRRMH, 2009; Baldry, Dowse, & Clarence, 2011), and the trust, transference and engagement issues that pervade forensic practice, a solid grounding in the historical underpinnings in areas relevant to forensic practice is required.

### History 1: Criminalisation of Indigenous Australians

*Indeed, there is something hauntingly unreal about a scholarly discipline dedicated to the study of crime, the criminal and the criminal law that focuses almost exclusively upon the actions of lawbreaking individuals, while turning a blind eye to the mass terrorism imposed upon innocent people by slavery, colonialism and their continuing legacies*

Stephen Pfohl, Foreword to Counter-Colonial Criminology: A Critique of Imperialist Reason.

It was common in other British colonies for native courts to be established at the time of colonisation, where day-to-day

legal issues could be managed in the traditional manner, and those with tribal authority were reinstalled by colonial governments to oversee local management across their traditional lands (Merry, 1992). Treaties were also negotiated. However, Australia was settled at a very specific time in history, after Britain lost America in a war fought obsessively to provide race rights. To ensure no further lands were lost due to race rights issues, British colonial management practices were restructured at the time of the settlement of Australia.

The Colonial Office (the Colonial Administrators) became part of the War Office (the military) and were co-located for effective co-management (Gillies, C. K., unpublished data). All footholds for those being colonised that might later allow colonial power to be challenged were eliminated from settlement planning and early practices. No native courts or treaties were established, and the pre-existing lines of authority acknowledged in other colonies were rendered invisible. In addition, new geographic boundaries were imposed over traditional—up to 50,000-year-old cultural regions and traditional communication pathways between regions were displaced. In later periods, cultural groups were systematically intermingled and children removed from their parents and denied knowledge of their people and country.<sup>7</sup>

The colonising method was to render invisible all markers of culture, authority, link to land and community. This method simply involved refusing to acknowledge that links existed, refusing to discuss or report on the matters, and using the justice system to control dissent. This approach has remained over the centuries in methods retained in our current practice. Today there is a strongly held modern philosophical understanding in many Indigenous communities that the same colonising objectives remain in situ in administrative, political, clinical and scientific practices that are still impervious to Indigenous understandings. Such processes are conceptualised in the theoretical construct of ‘ongoing colonisation’, which is seen as an ongoing form of modern cultural suppression by culturally blind professional practice.

This philosophical perspective, gives meanings to many modern Indigenous people, and shapes the attitudes, values, beliefs, ideas that underlie modern Indigenous cultural practices, participation and the products of Indigenous society. In other words, this perspective features strongly in the culture’s modern view of the world that psychologists must also respect in culturally appropriate practice. However, it is also critical to recognise that what is required in this domain of culturally appropriate practice also intersects with the very manner in which knowledge is generated scientifically and interventions are chosen as appropriate. Many methods accepted in the mainstream are seen as still silencing the collection of culturally relevant information in formal processes and as leaving the cultural competence of the practitioner free from formal evaluation.

As psychologists attempted to use culture-free tests developed for use with migrants separated from their cultural links, they engaged in “ongoing colonisation” with Indigenous peoples when they again adopted the coloniser’s method of removing all markers of culture at the point of data collection in tests and formally structured interviews. However, they retained the authority, be it uninformed authority, to make the decisions regarding what needed to be implemented culturally

when their knowledge of such matters was all but non-existent. This is not a formula likely to produce a reliable and culturally appropriate practice, however, it is a method still firmly entrenched in modern forensic practice.

However, the context of forensic practice is also shaped by other historical factors. By 1991, it was recognised as necessary to conduct region-by-region accounts of the historical interaction between Indigenous peoples and the Australian correctional system as part of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC, 1987–1991). Using the example of Western Australia, it was reported that “the history of Aboriginal people and the criminal justice system in Western Australia has been marred by discrimination, over-regulation and unfair treatment,” and that “. . . past government policies and laws have shaped Aboriginal people’s contemporary perceptions of the justice system” (RCIADIC, 1987–1991, 5.1.1 cited in Law Reform Commission of Western Australia, 2005, p. 94) and that “. . . the relationship between Aboriginal people and the police was significantly damaged by the role that police officers played in removing children from Aboriginal families and enforcing discriminatory legislation” (McRae, Nettheim, & Beacroft, 1991, p. 239).

To understand why the Royal Commission and Law Reform Commission of Western Australia arrived at these conclusions, it is helpful to consider the following historical instances from Western Australia as an example of what was occurring nationally to varying degrees. As recently as the late 1950s—that is, in the memory of Elders still alive today and in the memory of adult children who were parented in the presence of the trauma states created in their parents from living under such conditions—it was unlawful for Indigenous peoples to possess alcohol, to move freely across Aboriginal reserves (missions) or to move freely between reserves. Aboriginal peoples were not permitted to enter townships unless they were gainfully employed, nor were they permitted to leave their place of employment without the permission of the Native Affairs Commissioner. Children were lawfully removed from their parents, community, and culture by police and welfare officers, and any Aboriginal person, who was required to give evidence in a legal case, in any capacity, would be incarcerated until the case was heard. The public execution of Indigenous peoples also continued after it was abolished for white people in three states of Australia (Finnane & McGuire, 2001). In NSW, if employment was arranged for an Indigenous person in a town by the protector and they were accompanied by their family, their children could be expelled from any department of education school upon the request or complaint of any non-Indigenous parent who felt uncomfortable about having an Indigenous child present in their children’s classroom (Fletcher, 1989 on NSW). Similar systems were likely to have existed in other states.

These laws led to a fracturing of trust towards those who were required to enforce the law (i.e. policing, criminal justice, welfare, and the education systems), the remnants of which remain strong today. Many of these practices continued even after the laws were rescinded, and the capacity to expel students from NSW Department of Education schools solely for being Aboriginal was only removed from the statutes in 1996.<sup>8</sup>

## History 2: Protracted Struggle for Indigenous Human Rights in Australia

Indigenous responses to the conditions described above were never passive, despite the very slow replies of successive governments to their expressed concerns. Formalised activism to gain greater autonomy and the right to culturally appropriate treatment and lifestyle commenced in 1925 (see Attwood & Markus, 1999). Consider the campaign to gain *The Apology*, necessary for community healing and to restore relations with mainstream service providers before full engagement with services can occur. While only recently provided, lobbying began in 1937. To gain relief from this very slow domestic pace of response, Indigenous peoples turned to international lawmaking processes of the United Nations. However, this mechanism also required reform, since the United Nations was also originally a tool for the dispossession of Indigenous lands and provided only limited support for Indigenous aspirations (Anaya, 1996). Nonetheless, Aboriginal delegates contributed to the Working Group of Indigenous Populations (the forerunner to the Expert Mechanism on the Rights of Indigenous Peoples) and after the 1970s, the United Nations Permanent Forum on Indigenous Issues. Change occurred very slowly over time.

As non-government organisation observers, Indigenous representatives were able to sit on the UN Economic and Social Council, allowing them access to various UN forums and the capacity to provide submissions to The Human Rights Committee, thus contributing to the setting of international standards (see Davis, 2008 for a full discussion).

There are 183 member states of the UN worldwide with surviving colonised populations contributing to the UN Permanent Forum on Indigenous Peoples (2009). These countries contain 370 million Indigenous peoples living under the aftermath of colonisation who wish to remain separate from Western culture. Australian Indigenous peoples are very firmly one such group. The primary goal for many Indigenous peoples is to maintain, revitalise, and restore their separate culture, and the right to do so is a primary aspiration affirmed in The Declaration that Australia has officially endorsed, and is being written into policy. Thus, practice guided by the “as if” problem—that is, “as if Indigenous culture is completely Western now”—is the hallmark of culturally incompetent practice that fails to appreciate the existence of bicultural identity and bicultural determinates of behaviour.

Australian representatives to the UN attracted much criticism during the negotiations of The Declaration. Australia was one of the last countries with an Indigenous population in the world to support The Declaration and attracted criticism during the negotiations. Australian non-Indigenous representatives worked hard to reduce rights affirmed at home but also the rights for the other 370 million Indigenous peoples who comprise the poorest people on earth (Corry, 2007). Australia was also the subject of a UN Early Warning and Urgent Action Procedure regarding the level of discrimination occurring in Australia at the time. Psychologists need to seriously consider the possibility that their Indigenous clients live in a shared but very different Australia to that which they enjoy, and that serious academic evaluations of Indigenous day-to-day life and exposure to racism are poorly articulated in our scientific literature.

## History 3: An Aboriginal History of Australian Psychology

Indigenous peoples do not access and engage with health and rehabilitation services in the same way as non-Indigenous Australians (Dudgeon, Grogan, Collard, & Pickett, 1993; Garvey, 2000; Westerman, 2004). This practice can undermine genuine compliance with forensic programming, and contextualises the importance of the *Indigenous vouching system* to gain programming compliance. Failure to seek formal help when problems are present is not a uniquely indigenous behaviour; however, there are unique antecedents to the problem with Indigenous Australians that also intersect our profession’s “disremembered” history.

Post disciplinary-specialised psychologists have been criticised for failing to correct accounts of Indigenous peoples’ inferior intelligence broadly published in the media (rather than in the scientific literature) in Australia (Human Rights and Equal Opportunity Commission, 1997), later for not highlighting the impact of child removal on bonding capacity (also, see Davidson, 1995, 1998), and for allowing the justifications for the pre-1970 management approaches to remain unchallenged in a meaningful way (Ranzijn, McConnochie, & Nolan, 2009).

Certainly, the different objectives for punishment and internment of Indigenous peoples in Australia do not appear to have been challenged by psychologists when general discipline practices were publicly challenged at the AGM of the South Australian Psychological Society (1967, cited Cooke, 2000) or in later enquiries of the Working Party into Punitive Techniques (Clark, 1970). Today, senior psychologists monitor conditions in detention centres for refugees, but again the conditions that Indigenous children and adults experience in mainstream correctional facilities are not monitored despite the poor recidivism management outcomes. It has been acknowledged that “psychology has been complicit in colonisation” (Rickwood, Dudgeon, & Gridley, 2010, p. 14), “enlisted as an agent that supported assimilation and oppression” (Dudgeon & Pickett, 2000, p. 86), and even provided “the ‘scientific’ rationale for negative race theory and legitimising a succession of oppressive policies, which almost destroyed Indigenous cultures and populations” (Ranzijn et al., 2009, p. 186).

Indigenous Elders sometimes tease Indigenous psychologists about their profession’s lack of knowledge regarding their own “disremembered” history of association with the eugenics movement that contributed to the conditions and ongoing fears Indigenous peoples endured and partly retain. The author has certainly been asked, “How can we trust professionals who don’t even know their own history to make expert decisions about us?” The influence that remains known in Indigenous oral history, and still shapes perceptions of psychological services in some Indigenous people, requires a broader mapping of the history of ideas and archival research, which is well underway (Gillies, C. K., unpublished data). However, to give an example, Dr Kenneth Cunningham (1890–1976) was the founder of the Australian branch of the British Psychological Society (Victorian Branch), foundation chief executive officer and then director of The Australian Council of Educational Research (ACER: 1939–1954), and chair of the Social Science Research Council of Australia (1930–1954); but he was also a member of the Eugenics Education Society, a eugenics

organisation in Victoria modelled on the British organisation of the same name dedicated to educating the population and officials about the usefulness of sterilisation as a method of eliminating poor breeding stock from the human population.

Dr Cunningham was also a pre-war member of the organising committee of a separate organisation, The Eugenics Society (Victorian Branch formed 1936), and was so committed as to remain its president post-war after others quickly distanced themselves from such affiliations following the discovery of the eugenics-inspired Jewish Holocaust. His fellow members included the president of the Royal College of Physicians and the chief justice of the supreme court of Victoria (Jones, 2011). This triumvirate should, under normal circumstances, have played roles in developing each of their professions' safe and just practices for Indigenous clients appearing before the court, while in custody and in educational settings, and establishing a vibrant research agenda to identify appropriate recidivism and health-care requirements. However, the paucity of research published in these years regarding appropriate interventions with Indigenous peoples still influences the inadequacy of our current best practice literature.

While the field of psychology essentially remained grounded in philosophy until WWII and ACER did not represent the profession as a whole (Cooke, 2000, p. 8), it is important to recognise that our early disciplinary history still intersects the Indigenous theories of attempted genocide and social hegemony. A goal of establishing the first psychology clinics in Australia was to conduct the testing to establish the levels of "feeble-mindedness" present, using intelligence quotient (IQ) measures, which the members of the Eugenics Society lobbied to have accepted as grounds for voluntary sterilisation in state legislation in Victoria. It was in this context that early research with Indigenous clients occurred and early studies of Indigenous IQ were conducted in association with the more extreme members of the eugenics movement most of whom were medical doctors specialising in the field of anatomy, wrongly remembered today as anthropologists. (Gillies, C. K., unpublished data). Biased test results that underestimated IQ had much more sinister implications in this period and also validated the use of segregated education with a restricted curriculum with Indigenous peoples nationally. Other groups such as the poor and mentally ill were also targeted by eugenicists, but it is important to recognise that Indigenous peoples were not free to make their own decisions in this period. Unlike other groups, any decision about the usefulness of sterilisation would have been made on their behalf by the State Aboriginal Protector and mission managers, several of whom already practised eugenics principles in their day-to-day management of Indigenous people.<sup>9</sup>

Dr Cunningham also arranged the funding to send professionals who were establishing our public health and medical services, to eugenics programs in the USA and Britain to learn how to duplicate the service models used in our fledgling public services. The services developed did not recommend themselves to Australian Indigenous peoples, scientifically classified at the time as among the lowest on hierarchical developmental scales of mankind,<sup>10</sup> and therefore the group implicitly recognised as most in need of eugenics attention.<sup>11</sup> Today, programs developed with Indigenous peoples in community consultation simultaneously allow the programs to be developed in a culturally appropriate

manner in the absence of a healthy literature regarding such matters, but also allow the program to be reviewed by Elders, and its safety vouched for to the wider Indigenous community. Trust for mainstream health professionals remains low. Indigenous clients may attend compulsory programs without vouching in place, but that does not mean that genuine engagement with the program will occur. A significant indicator of cultural incompetence with Indigenous clients is assuming that trust will be automatically given to health professionals and service providers who have not been the subject of vouching. The right of Indigenous communities to be consulted about all programs developed for Indigenous peoples, including those in the correctional system, and to have culturally appropriate non-assimilationist programming provided, are rights now affirmed in The Declaration. In addition, the degree to which the Indigenous community monitors the safety of programs and influences compliance, even in urban environments, should not be underestimated. Thus, referring clients to programs without knowledge of the community's involvement in developing and vouching for the program is an example of culturally incompetent practice and is likely to significantly undermine recidivism outcomes.

#### History 4: Statisticians and Epidemiologists

The history of the scientific development of statistical methods is also inseparable from the development of eugenics theory. Statisticians played a unique role in colonising Australia. Karl Pearson, of Pearson-*r* fame, from one of his many official appointments at the University College London (Galton Chair of Eugenics), advocated the withholding of any form of aid to the dispossessed Indigenous peoples of the British empire. He declared Australia as the best example of "masterful human progress . . . where the lower race had given way to a great civilisation" (Pearson, 1901, p. 41). Prior to the establishment of a training school for administrators of Aborigines in Australia at the University of Sydney School of Anthropology, British administrators who established careers in Australia were mostly trained at affiliates of the University College London where Pearson taught. Indigenous peoples were forced to endure the conditions that were established in this early period and which remained unchecked until the early 1970s.

By 1921, we also find the Australian Commonwealth Statistician of the Commonwealth Bureau of Census and Statistics, the forerunner of the ABS, well versed enough in eugenics to be appointed as the Australian Prime Minister's representative at the World Congress of Eugenics held at the American Museum of Natural History NY (1921), and then subsequently nominated Congress Vice-President by Charles Davenport of the Cold Spring Harbour—American sterilisation movement and Major Leonard Darwin, president of the British Eugenics Society (now called the Galton Society, in memory of Charles Galton, it's founder). So blatant was the habit of colonising by rendering Indigenous matters invisible, it was necessary to seek the right to collect national census data about the circumstances of Indigenous peoples for the first time in Australia in the 1967 referendum, which also affirmed Indigenous peoples' right to vote.

However, initially, the existing measures and data collection methods used in the census were found to be culturally inappropriate, causing assessment error. The ABS has had to run

many projects and adopt alternative data gathering methods to achieve valid and reliable results, and Indigenous academics and community consultants have worked tirelessly to 'decolonise'<sup>12</sup> Australia's statistical and population data collection framework known as the Social Determinants of Health Framework by slowly introducing measures that capture the Indigenous understanding of Social and Emotional Well Being. The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples (ABS cat. no. 4704.0) now provides a comprehensive national statistical overview of Aboriginal and Torres Strait Islander health and welfare and is evaluated by the ABS and the Australian Institute of Health and Welfare (AIHW). However, the decolonisation process has been ongoing since the 1970s and can only advance in accordance with the level of test development undertaken to produce measures that capture Indigenous cultural understandings. The same is true for the work of psychologists in clinical and forensic settings.

Indigenous decolonisation and reform of forensic databases has slowly begun to occur, generally via a process of Indigenous advisory groups and the implementation of recommendations made in Indigenous health consultations (e.g., Swan & Raphael, 1995). For example, Indigenous input of culturally relevant criteria in forensic statistical collections has resulted in data collection regarding matters such as Stolen Generation status, and highlights the high proportion of Indigenous prisoners who were forcibly institutionalised as children. However, whilst some database custodians have shown a keen awareness of Indigenous issues this work is far from complete. Studies using forensic databases for research can only produce valid results if the template used for measurement is broad enough to collect all relevant information, and the measures include variables that are conceptually equivalent in Indigenous culture. Yet, forensic databases have not been "decolonised" to the same extent as other data collection frameworks, and Indigenous Steering Groups are not always used to resolve issues of conceptual equivalence and restricted item template interpretations in research using this information, despite policy commitment to do so being in place.

With the long history of statistical methods and scientific racism<sup>13</sup> walking hand in hand, only methods with strong face validity should be used in Indigenous research. The use of statistical methods to re-norm tests with restricted templates and samples that are devoid of cultural meaning cannot be endorsed. In addition, proceeding in forensic work without Indigenous consultation and respect for Indigenous cultural integrity now occurs in breach of several affirmations of The Declaration.

There are many issues to consider: What are the acceptable indicators of validity and reliability in Indigenous research? What are appropriate "non-Western criteria measures" for validating non-Western concepts of mental health adopted by Indigenous peoples? How should culturally informed samples be constructed, and what sample descriptors should be used? What level of statistical analysis should be used in samples that measure across cultural groups and are therefore heterogeneous? Critically, for risk assessment: Are our mainstream actuarial predictors for forensic work, derived from state and national data collections, also "actuarial fictions" in the Indigenous arena, as has been identified in Canadian Indigenous suicide risk prediction work (Chandler & Lalonde, 1998)? In this work, national risk indicators were found to vary across Indig-

enous culturally derived regions in terms of the level of human rights, self-determination, and cultural restoration returned to the community in which the client lived, and not the broad Western construction of the client's ethnicity.

These are vexed questions beyond the scope of this article, but certainly topics requiring careful consideration in light of the understanding that many of the culturally inappropriate, unacceptable methods implicitly accepted by mainstream psychologists are yet to be challenged but are clearly on the need to be decolonised radar of Indigenous spokespeople. In addition, The Declaration affirms the right of Indigenous peoples to restore traditional community names, cultural practices and their integrity as culturally based people. This has implications for the manner in which knowledge is constructed and the methods currently in use.

## Psychology and Human Rights

In June 2009, the APS submission to the National Human Rights Consultation stated that psychologists "supported the strengthening of the Human Rights culture and legal framework in Australia" (Australian Psychological Society [APS], 2009, p. 1). This view is consistent with the profession's *Code of Ethics* (Australian Psychological Society [APS], 2007) and, in particular, reflects the *General Principle, Respect for the Rights and Dignity of People and Peoples and Standard A.2.1*. The *Guidelines for the Provision of Psychological Services for and the Conduct of Psychological Research with Indigenous People of Australia* (APS, 2003), which as previously noted are being revised to include our specific ethical obligations to Indigenous peoples. The degree to which forensic psychologists embrace this process and engage with self-determination will be a true test of sentiments expressed in our profession's ethical code.

To assist psychologists in conceptualising the way forward, it is suggested that the culturally and linguistically diverse framework used in migrant psychology is inadequate to conceptualise the multiple domains of Indigenous diversity to be considered for a colonised people now restoring their human and cultural rights and engaged in decolonising professional practices used with Indigenous clients. It is important to understand that cultural practice is not static, and it is only by working within these modern cultural requirements that successful interventions will be provided, and Indigenous clients will feel safe enough to truly engage.

An emerging model regarding the multiple ways in which an Indigenous framework is diverse is provided below to assist psychologists preparing for consultations and forensic and clinical practice. However, this information is provided with the following non-negotiable caveat. The notion of *pan-Aboriginality*<sup>14</sup> is not accepted by many Indigenous Australians, and as a result, there can be no single authoritative account of what is needed across all Indigenous cultural groups. The information provided can support psychologists to prepare for local consultations with the appropriate representatives of their local Indigenous communities and be able to consult in a meaningful manner. The local perception of events and requirements must always be confirmed with appropriate representatives of the community in which one works and to which ones clients will return after incarceration. Cultural consultants can also be consulted and can be found in the departments of health in most capital cities (Table 1; Gillies, C. K., unpublished manuscript-a).

**Table 1** Multiple Levels of Indigenous Diversity in the Aftermath of Australia's Colonisation

Focus of attention	Think local	Conceptual parameter	Cultural respect method
Indigenous Human Rights in Action When Preparing for Indigenous Partnerships in Clinical Work and Research			
1. Ancestrally diverse 50,000 years of separate and discrete Indigenous cultural regions known as 'language groups' are not distinguished by imposed state and local government boundaries. The use of imposed boundaries privilege the pan-Indigenous concept that has not been demonstrated empirically as accurate and prevents Indigenous formulations from being evaluated (see note 13).	Across language groups, communities may vary in terms of: — custom and protocol — first contact pattern — ongoing colonisation style — density of cultural continuity intact — capacity to exercise self-determination.	Demographic profiles should include the 'subject's country and ATSI regional classification to allow culturally valid interpretation and comparison to Indigenous Social determinates of health data. Samples collected across cultural regions are heterogeneous. Samples based on state and national boundaries may be "actuarial fictions", have no cultural meaning and may blank out main statistical effects.	Respect: — self identification — in and out of country status — cultural authority to represent the community — correct terminology (Indigenous peoples (plural) or a (cultural group) man or woman (singular)).  (e.g. a Rumindjeri man).
2. Cultural, custom and protocol diverse Culturally defined: — obligations — reciprocity — decision making — problem solving — mediation strategy — spirituality — hierarchy of management imperatives.	Traditional practice Modern cultural practice Local cultural recovery Retelling of suppressed history Local SEWB profile	Consult Indigenous ways of being and doing theory. Must work with both static & dynamic (modern) cultural understandings and practices. Indigenous people own their own cultural knowledge and the partnership established for working together should be reflected in joint publications.	Respect: — Welcome to country protocol — Elder & gender roles — Indigenous kinship — bi-directional acculturation process. — cultural recovery process — advice at consultation Also consult professional cultural consultants.
3. Engagement & retention diverse Mainstream services may be an unacceptable option or are only used as a crisis option. May wish to be seen by an Indigenous worker, even if less qualified.	Unique trust, transference, and counter transference issues may be present in sufferers of historical trauma. Appropriate referrals may be made to a "vouched for staff members" not the service itself.	Indigenous help-seeking hierarchy will be followed. Indigenous engagement & retention programs are required to make services suitable.	Arrange: — formal partnerships — Indigenous engagement strategy — Indigenous retention programs — Indigenous staff — Indigenous reference groups and steering committees. — joint publication.
4. Historically diverse Indigenous culture has a historical orientation. Past wrongs must be put right to move forward. Suppressed histories mask Indigenous people's lives in Australia and denial makes moving on difficult.	Local barriers to service use include their historical associations with racist practice, the services current acknowledgment of past wrong, the provision of a fully informed apology & the current capacity to accommodate cultural needs.	Consult historical trauma theory including the role of trans-generational transmission of trauma effects.	Cultural, historical analysis and case study are needed to understand the context of assessments.
5. Linguistically diverse Distinguish Aboriginal English (home language) from standard Australian English (school language). Appropriate question formats need to be established for interviewing and testing.	Different local traditional language structure may underpin Aboriginal English in ancestrally discrete areas.	Use interpretative assistance for assessment in broad Indigenous English dialect speakers. Language acquisition developmental sequences may be different.	Formally assess client's capacity to control for standard Australian English questioning under conditions of cross examination, psychological testing and interview.
6. Healing Model Diverse — Use culturally informed healing models — Indigenous psychotherapy — Trauma informed therapy — Structure of service provision in accordance with the culturally defined help seeking hierarchy — Services associated with historical trauma may be triggers for anxiety states.	Respect human rights in therapy. Non-acculturating and non-assimilation models are essential. Encourage cultural recovery & continuity. Use models of healing as they are understood to be culturally appropriate in the community in which the program is conducted.	Healing services have an Indigenous engagement strategy, Indigenous retention strategy and culturally competent staff and are run in settings audited for institutional racism. Have the involvement of the community to which the person will return.	Use culturally informed programs and formal partnership agreements to develop clinical services. Holistic models in which individual and community healing are targeted simultaneously is a very culturally appropriate model — strategies for managing historical trauma are included.



**Table 1** Continued

Focus of attention	Think local	Conceptual parameter	Cultural respect method
<p>7. Assaults on cognitive functioning across the life span diverse</p> <p>Interview to determine the need for cognitive screening for accumulative cognitive syndromes resulting from intrauterine growth retardation; poor maternal nutrition; exposure to teratogenic agents in-utero, exposure to volatile substances; chronic alcoholic syndrome and Korsakoffs syndrome only in those who have substance abuse histories; the cognitive effects of the diseases of poverty; early onset dementia and past head injury; psychotic disorders (distinguished from spiritual presentations).</p>	<p>Respect requests not to be assessed using tests historically linked to scientific racism. (Those tests purporting to measure Indigenous IQ are a particular issue).</p> <p>Elders may have only been provided with segregated education resulting in an impoverished fund of western knowledge at testing that does not necessarily reflect impaired pre-morbid functioning.</p> <p>Local cultural understandings regarding the meaning of cognitive states and the way they are described should also be collected to inform interpretation of test results.</p>	<p>Control for Indigenous specific test taking issues:</p> <ul style="list-style-type: none"> <li>— cognitive style</li> <li>— test taking skills</li> <li>— method of demonstrating intelligence</li> <li>— use of contextualised time.</li> <li>— incapacity for accurate interpretation of non-verbal behaviour and emotional regulation deficits in first and second generation trauma and child/parent separation victims. Provide training to prevent the adoption of criminal trajectories and antisocial behaviour if right frontal lobe syndrome is present.</li> </ul>	<p>Recognises that assaults on brain function are more numerous across the lifespan in Indigenous people. Differences at testing may also reflect Indigenous specific developmental sequence and impoverished education not deficits.</p> <p>Assess for trans-generational transmission and manage trauma states in children immediately to ensure concentration and memory functioning is restored rapidly to prevent long term reductions in cortical volumes.</p>
<p>8. Knowledge making and research model diverse</p> <p>The top-down expert driven knowledge making is rejected. Indigenous partnership in knowledge making is essential. Build skills in Indigenous research reform.</p> <p>Knowledge transmission to develop a “what works” literature will occur from community to community along traditional communication lines. Forensic psychologists will only be involved when the correct partnerships are formed.</p>	<p>Use Indigenous reference groups and non-tokenistic consultation.</p> <p>Report on the degree to which consultation advice was followed.</p>	<p>Consult Indigenous research reform literature for strategies to develop Indigenous informed knowledge. Full transparency should occur in reports regarding what advice was provided by Indigenous &amp; non-Indigenous informants and the rational driving decision making for what was acted on and what was not.</p>	<p>Use participatory action research paradigm and genuine research partnerships to formulate the research question, gather the community perception of needs, develop the program or further study, conduct the evaluation and interpretation, write-up and publication. Budget for steering committee cost.</p>
<p>9. Clinical model diverse</p> <p>A whole of life model is endorsed incorporating physical, emotional, spiritual, historical and social factors which are evaluated simultaneously and assumed to interact with each other. Causality is may be cyclical and the focus is on cumulative and collective effects expressed in traditional and modern historically and culturally bound idioms of distress which are yet to be articulated in the relevant selections of the DSM (Gillies, unpublished data-a). Mainstream measures do not always capture Indigenous understandings of mental health and wellbeing, or the unique presentation style of clinical states. The presence of conditions may be missed with standard screening tools and interview technique. Bi-cultural presentations are common in urban, regional and remote settings.</p>	<p>Assess for local: idioms of distress; regional modes of adjustment arising from the local style of imposed Western acculturation; Local obligations pattern and frustration of obligation performance; acculturation both ways and bicultural identity may be seen. Use cultural formulations guided by local understanding. Include the family in the assessment if requested.</p> <p>Local idioms of distress need to be established in consultation with the community. Aboriginal culture is a non-western culture and DSM formulations may not be accepted by some.</p> <p>It may not be culturally appropriate to reveal certain information.</p>	<p>The client's lack of knowledge about how “colonisation dynamics” might be impacting their current presentation does not mean the dynamics are not doing so.</p> <p>Use an Indigenous specific protocol for assessment for: stolen generations; historical traumas, compound grief; culturally bound syndromes: diversion and parole planning; childhood trauma, local idioms of distress; psychosis (and spiritual presentation); social determinates of health, cultural sickness and suitability of healing program needs.</p>	<p>Seek advice from professional “cultural consultants” and elders.</p> <p>Undertake multiple types of cultural competence training, master classes, e-learning and personal reading.</p> <p>Examine your personal attitudes and do not rely on the media as your source of information.</p> <p>Learn how clinical presentations are altered by third world health status in remote, regional, and urban populations.</p>

Printed with permission from Gillies, C. K., (unpublished materials-a. Copyright © Christine Gillies 2012). A reference list for concepts introduced in the table is available from the author upon request.

## Day-to-Day Practice: Ways Forward?

Beyond the multiple domains of Indigenous diversity tabulated above, there is a need for psychologists to also develop focused cultural competence in the specific areas in which professional opinion is sought. This is critical because of the low level of resource support for Indigenous-specific assessment and program development that we find ourselves left with in the aftermath of science having different historical objectives for Indigenous. Practice remains mostly dominated by the use of mainstream risk assessment protocols that adopt the culturally neutral position inadvertently continuing the colonisation dynamic of suppressing the measurement of culturally relevant data during the formal assessment stage of interviews. It follows then that assimilation bias may also then be inadvertently introduced into our clients' records as a result of practitioners reverting to the day-to-day use of dominant culture and migrant management procedures with Indigenous clients in the absence of having appropriate resources to use. This process is seen as an example of institutional racism. That is unintentional racism resulting from inadequate resource development and practitioners having no alternatives but to adopt an assimilationist stance.

The type of framework that is needed to guide day-to-day practice is a culturally informed holistic framework. An example of such a framework is proposed called the Unintentional Hurting while Helping Framework. Under this framework and in a separate analysis multiple service provision transmission points across those stages of the forensic system that include input from psychologists were identified, and the likelihood of ill-informed cultural practice occurring was reviewed. Twenty assessment and programming issues were identified, that if performed in a culturally incompetent manner could contribute to slowly accumulating bias in assessment and programming across multiple service delivery points, eventually negatively impact forensic outcomes (Gillies, C. K., unpublished data). Potential transmission points for accumulating bias were classified in a five-domain model. The philosophy driving the model is that the practitioner must be culturally competent in the specific domain in which professional opinion is being sought in order to provide a reliable and valid opinion that meets the court's standard of evidence as being "beyond reasonable doubt." As noted above the model is called the "Unintended hurting while helping model," to reflect two foundational understandings of Indigenous psychology. First, from institutional racism theory (Jones, 1997), is the recognition that professional racism is not guided by malice and racist intent but rather by being ill-equipped to change practice, having no alternative but to revert to dominant cultural practice and only having access to measurement tools with inherent error and assimilationist bias. Second is that all major historical abuses carried out against Australian Indigenous peoples have been implemented by helping professionals, police, and educators undertaking their required day-to-day duties in the belief they were helping, "doing their best" with what they had and that this was sufficient (Gillies, 2007). These approaches have resulted in disastrous outcomes in the past, and in an Indigenous cultural security and affirmed human rights environment, is not sufficient. We must ensure that psychological risk assessments carried out by practitioners adopting the "doing our best" philosophy using dominant culture and migrant management techniques

without mechanisms in place to scale the impact of the institutional racism in the client criminogenic record is not the mechanism through which unexamined bias formally accumulates and directs inappropriate outcomes for Indigenous peoples in the forensic setting.

The items evaluated in the model include content related to Indigenous-specific needs with regard to mitigation; fitness to enter a plea; judgements about the client's respect for the law; capacity to adhere to non-custodial orders; and capacity to appropriately withstand cross-examination in speakers of Aboriginal dialects. Also, the cultural requirements for diversion and parole plans and the appropriateness of healing program models now on offer and those used in past rehabilitative efforts are considered. The level of engagement with Indigenous hybrid initiatives and community participation in the client's program are also considered. At a technical level, appropriate modification of clinical profiles to accommodate the presence of third world health status, some non-western presentations in clinical conditions and the management of Indigenous-specific transference issues are considered. The size of the database available to address the specific issues under consideration, the cultural knowledge of the assessor, and human rights considerations are also considered. These items are classified under the five domains outlined in Figure 1.

Since Indigenous Australians are among the most incarcerated people in the world, and psychologists play a significant role in generating information that is used to clarify issues during trial and sentencing, quantify the level of support provided at parole, and develop recidivism management programs, it is essential to ensure these functions are correctly performed. This is particularly necessary as some mainstream assessment tools are being found to have doubtful predictive ability with Indigenous clients but have been used to establish risk of relapse that results in the client being retained in jail even after their sentence has been completed under the preventative detention legislation. There should be little doubt that this raises human rights concerns and puts the reputation of psychologists at risk. In addition, the validity of the measures have already been questioned in legal cases (see *Woods v The Director of Public Prosecutions* [WA, 2008]).

Forensic classification and risk assessment systems should be regularly validated in any under-researched groups (Holsinger, Lowenkamp, & Latessa, 2003; 2006). Yet, revalidation studies to regularly revalidate measures with Indigenous clients and broaden the assessment template used do not occur routinely, and the development of Indigenous-specific risk indicators need profiles (SPCRNs) and responsively guidelines (ISRRs) are in its infancy. In an attempt improve assessment in this area, two forensic Unintentional Hurting while Helping scales are under construction that operationalised the five-domain, 20-item Unintended Hurting while Helping model. Scale 1 will allow the level of institutional racism in past assessments to be estimated, and Scale 2 will provide a structured interview form to augment formal risk assessment and collect culturally appropriate information during formal assessment.

## Conclusion

In this article, a space has been claimed to call for a more serious evaluation of culturally informed perspectives regarding Indigenous forensic practice. An attempt has been made to show that



**Figure 1** The Unintended Hurting While Helping Model: The Progressive Directing of Indigenous Peoples towards Adverse Outcomes during Professional Practice. Reproduced with permission from Gillies, C. K., (unpublished materials-c. Copyright © Christine Gillies 2012).

what constitutes appropriate practice is mediated by traditional cultural requirements and modern cultural requirements arising from one's historical and cultural positioning in the ongoing colonisation dynamic—found in administrative, scientific, and professional practices—that while installed at an earlier time, continue unchallenged today. It is suggested that such matters established impenetrable barriers to successful forensic assessments, programming, and outcomes that we must work hard to remove. It has also been emphasised that neither the good intentions of psychologists working without appropriate structural supports, nor treating Indigenous clients “as if” they are migrants, constitutes a sufficient response. Since it is timely to consider the level of expertise we bring to the evaluation of Indigenous clients, six strategic goals are suggested in order for us to develop the competencies to limit our potential contribution to the over-representation of Indigenous people in the correctional system and begin complying with The Declaration: (1) a high quality Indigenous-scientific “best practice catch-up” grounded in human rights and Indigenous self-determination approach be conducted; (2) a Centre for Research Excellence for Indigenous Assessment be established that is Indigenous-led, adopts culturally informed methodology, has the capacity to develop Indigenous-specific assessments and provides cultural consultation for forensic research being undertaken nationally at other centres; (3) minimum standards for establishing the reliability and validity of assessment tools for Indigenous clients be developed, requiring a more comprehensive use of test construction and translation methods, culturally informed variable definitions and normative samples, and facilitates the development of measures that allow the formal collection of culturally relevant data during assessments; (4) post-colonial, historical trauma, and Indigenous theory and healing models be introduced into the psychology curriculum (Australian Psychology Accreditation Standards, 2010) and into master classes for those developing recidivism programming and diversion and parole plans; (5) the Forensic College introduces symposia developed

in partnership with Indigenous stakeholders regarding effective models for consultation and working in partnership with communities and adopting Indigenous terms of reference to develop a culturally appropriate forensic practice; and finally, (6) the accumulative effect of institutional racism on forensic outcomes be evaluated and a corrective mechanism for scoring procedures be developed, if found to be warranted.

## Notes

1. United Nations General Assembly (2007). *Declaration on the Rights of Indigenous Peoples* (UNRIP: first adopted by the United Nations General Assembly. Thursday 13 September 2007. Adopted in Australia 2009.
2. It is not universally accepted that the over-representation of Indigenous peoples in the correctional system reflects the presence of Institutional racism. See the debate between Weatherburn, Fitzgerald, & Hua (2003) and Cunneen (2006), summarised in Blagg (2008, pp. 9–11).
3. Australian Human Rights Commission. UN Declaration on the Rights of Indigenous Peoples. Fact Sheets: 1:[http://www.hreoc.gov.au/social\\_justice/declaration/fact\\_sheet1.html](http://www.hreoc.gov.au/social_justice/declaration/fact_sheet1.html) Retrieved 27 August 2012. 2:[http://www.hreoc.gov.au/social\\_justice/declaration/fact\\_sheet2.html](http://www.hreoc.gov.au/social_justice/declaration/fact_sheet2.html) Retrieved 27 August 2012.
4. See RAP@ <http://www.Psychology.org.au/reconciliation> Retrieved 27 August 2012.
5. Electronic edition, forensic articles from *The Australian Psychologist*, the *Australian Journal of Psychology*, and *Clinical Psychologist*. 2001–2011. Forensic College APS.
6. Databases: Psychology and Behavioral Sciences Collection, PsycINFO, PsycARTICLES.
7. Each Indigenous group in Australia refers to their unique and discrete cultural region as “their country” in the same way as Europeans refer to their discrete cultural regions as countries.
8. Personal communication (2010). Indigenous Adviser, Indigenous Development Unit, Department of Education NSW.

9. For example, the goal of eugenics was to control birthing rates, offspring “type,” and environments. While strategies were applied in an ad hoc fashion determined by the administrator’s academic affiliations rather than via broad strategic planning, and the approaches adopted at one mission might be at odds with the methods used at other locations and even at odds with other eugenics approaches, local approaches, when applied, were comprehensively applied. For example, the selection of Indigenous peoples’ marriage partners and work programs were controlled by protectors and mission managers. For some, racial mixing was prevented. For others, racial “whitening” was promoted. In the latter case, by continuing to send fertile women on work placements with mainstream families where rape was common (despite well-documented missionary and parliamentary criticism, see Choo, 2001) and then subsequently preventing the resulting lighter skin offspring from marrying anyone with darker skin (Glowczewski, 2008), the skin of many Aboriginal people was deliberately lightened over several generations. In the language of modern genocide theory, this was a form of multi-generational ethnic cleansing.

10. See “Great Chain of Being,” Ranzijn et al. (2009).

11. Due to the exclusion of Indigenous people from higher education until very recently the concerns regarding Australian and German pre-war eugenics programmes by Indigenous people can only be established by the symbolic gestures made at the time. Despite the restrictive living conditions at the time the first International delegation to complain about the treatment of Jewish people in Germany in the World War II era was attempted by an Aboriginal delegation. William Cooper, Yorta-Yorta man and leader of the delegation to the German Embassy in Melbourne has been formally commemorated by the people of Israel for his efforts.

12. The term “decolonise” in this context means the process of peacefully removing pernicious colonial practice that continue to distort or occlude genuine cultural practice (see the Decolonisation Movement).

13. Scientific racism refers to the use of unsound scientific techniques and hypotheses to justify racial profiling and attributions of superiority or inferiority based on race. The origins of adopting scientific racism to guide measurement in psychology can be traced to Frances Galton who developed his methods and founded eugenics using a method first developed by a criminologist. Galton was also one of the first to write about the control of marriage as a eugenics strategy. Scientific racism is associated with pseudo science, racially motivated hypothesis reflecting stereotypes, confirmatory research design, racial typography, and profiling.

14. Pan-Aboriginality amalgamates all Aboriginal cultures into a single group, thereby erasing crucial aspects of identity specific to discrete Aboriginal peoples, whereas Aboriginal peoples see themselves as culturally unique and different to their Aboriginal neighbours (Glowczewski, 2008). Pan-Aboriginality is an imposed construct that assumes a heterogeneity that has not been demonstrated empirically.

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