

Justice as Healing

A Newsletter on Aboriginal Concepts of Justice

Legacy of Colonialism

Editor's note: Following are some comments from Christine Stafford's article, "Colonialism, indigenous peoples, and the criminal justice systems of Australia and Canada: Some comparisons".¹

In May 1991 the Royal Commission into Aboriginal Deaths in Custody concluded that between 1 January 1980 and 31 May 1989, ninety-nine Aboriginal and Torres Strait Islander people died in the custody of prison, police or juvenile detention institutions. Of the eighty-eight males and eleven females, their average age was thirty-two years. All deaths were premature and that upon examination "... that facts associated in every case with their Aboriginality played a significant and in most cases dominate role in their being in custody and dying in custody."²

For each individual whose death was investigated, files had been maintained by the State which included records of contact with schools, community welfare, adoption agencies, medical agencies, police, prison, probation, parole and, finally, coroner's files. It was noted that these records documented each life to a degree that few non-Aboriginal peoples' lives would be recorded and the files often included the prejudices, ignorance and paternalism of those making the record.³ The investigation also determined that, of the ninety-nine, all were uneducated or under-educated (in the European sense); their standard of health was poor to very bad; their social position was marginal; eighty-three were unemployed prior to detention; forty-three had experienced childhood separation from their natural families through State intervention or missions; all had early and repeated contact with the criminal justice system (forty-three had been charged with an offence by age fifteen, seventy-four had been charged with an offence by age nineteen); and all misused alcohol to a grave extent (forty-three were in custody directly for reasons related to alcohol).⁴

The Commission concluded that Aboriginal inmates did not die at a greater rate than non-Aboriginal inmates but that the proportion of Aboriginal people in custody was totally unacceptable. Unfortunately, Aboriginal incarceration and deaths in custody have continued to increase in Australia.

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1. In Kayleen M. Hazelhurst (ed.), *Legal Pluralism and the Colonial Legacy* (England: Avebury, 1995) 217-241.
 2. Commissioner Elliot Johnston, Q.C., *Royal Commission into Aboriginal Deaths in Custody, National Report*, vol. 1, (Canberra: Australian Government, 15 April 1991) at 1.
 3. As quoted by Stafford at 220.
 4. *Ibid.* at 221.