

Localised Correctional Approaches towards Indigenous Offender Responsivity

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Introduction to the problem

- In the 1990s, three principles for the classification and treatment of offenders emerged from the correctional literature:
- **Risk:** Offenders to be classified and receive treatment in terms of the level of risk they pose to the community
- **Need:** Treatment should target an offender's 'criminogenic needs'
- **Responsivity:** Identify possible variances within and between offenders that may affect the delivery and reception of treatment.
- What should correctional agencies do once they identify that there *are* variances or differences among the offenders that they seek to treat?
- This paper addresses some of the ambiguity that surrounds the practical implications of the responsivity principle in the following three ways:
 1. it outlines how Victorian correctional agencies have approached the principle of responsivity in relation to Indigenous prisoners,
 2. it discusses the localised conditions that have allowed for Victoria's approach to responsivity to have taken the form that it does, and
 3. it considers the implications that this localised approach to responsivity has for practicing this principle in other jurisdictions.

Indigenous Offender Responsivity in Victoria

- According to the official documents of the Victorian Department of Justice, Indigenous offender responsivity occurs when :
 - [The Victorian Department of Justice will] make mainstream and positive justice-related services more responsive and inclusive of the needs of the Koori community. This will be measured by the:
 - Proportion of people accessing positive criminal justice system-related services who are Koori; and
 - Number of Koories employed in criminal justice system-related agencies.
 - (*Victorian Aboriginal Justice Agreement: Phase 2 (AJA2)*. Melbourne: Indigenous Issues Unit, Department of Justice, p.20)
- According to Koori staff working at Justice in the areas of Indigenous issues, services and policy, Indigenous offender responsivity is about:
 - “setting up all these Koori Specific ones”;
 - “I think responsive would be the fact that you can actually get them to participate in the programs, because it means that you’ve got something right, in that you are giving them something that they are interested in, and that they want to participate in”; and
 - “I think it’s about getting people to do the programs”
- Victoria’s approach to Indigenous offender responsivity is about developing Koori specific programs, getting Koori offenders to attend these programs and participate in them, and employing Koori staff to deliver programs.

The position of Koories in the Social and Political Sphere of Justice and Corrections

- Victorian Department of Justice has four major documents that are focused on Indigenous offenders and offending
 - *The Implementation Review of the Royal Commission Into Aboriginal Deaths in Custody;*
 - *The Victorian Government Response to the Implementation Review of the Recommendations of the Royal Commission Into Aboriginal Deaths in Custody;*
 - *The Victorian Aboriginal Justice Agreement: Phase 1;*
 - *The Victorian Aboriginal Justice Agreement: Phase 2;*
- These documents speak of ‘Indigenous disadvantage’, and ‘Indigenous over-representation’, or discuss the ‘underlying issues’ that are ‘associated’ with the Koori community, with such frequency and repetition that they appear as the *only* way to speak of Koori people.
- Interestingly, these defining characteristics of the Indigenous offender are not tied to the object of offending behaviour
- How has this come to be in Victoria?

The Royal Commission Into Aboriginal Deaths in Custody

- Each of Victoria's official document about Indigenous offenders and offending is a chronological descendent of the RCIADIC
- And, each document is also a descendent of the RCIADIC explanations of Indigenous offending and the problems that Indigenous offenders face
- For example:
 - In the same way that many of the Inquiries into the various deaths in custody stated that disadvantage, over-representation and underlying issues were the common factors behind the actual circumstances of death, and that recognising and addressing these common factors is important for our whole society,
 - we now see the Victorian documents inform us that it is disadvantage, over-representation and underlying issues that are bringing Indigenous peoples before correctional agencies more frequently, and that addressing these will be important to the broader approach and goal of reconciliation.
 - In the same way that many of the Inquiries noted that the individual men that died represented the experiences of all young Aboriginal men,
 - we now see the Victorian documents inform us that there are common patterns of disadvantage, underlying issues and over-representation that span across the offender and non-offender Koori population.
- RCIADIC provided the conditions for Justice to discuss Indigenous offenders and offending in terms of a difference that was not directly related to offending behaviour.

The acknowledgements of government

- But this was not the only conditions that the RCIADIC provided:
 - It forced government agencies to not only respond to a problem, but more specifically to a problem that they were entirely responsible for.
- One of the most striking features of the Victorian official documents about Indigenous offenders and offending is the clear association that is drawn between the Victorian Government ‘recognising’, ‘acknowledging’, ‘understanding’, ‘accepting’ or ‘agreeing’ about their role in the creation of Indigenous disadvantage, over-representation and underlying issues and presenting how they will now redress this.
- This trope of acknowledgment or recognition is used by the Victorian Department of Justice in three ways:
 1. to create a distinction between the current Victorian Government and past government agencies;
 2. to clarify what this current Victorian Government does, and through implication, does not, choose to recognise in relation to the Koori community; and
 3. to establish some boundaries around what positions the Koori community can occupy now that they have been allowed to share certain rights with the rest of the population.
- Establishes that the level and type of ‘differences’ that Koori people experience are subject to the level and type of ‘acknowledgement’ of the Victorian Government at a given time, and that at this time, the Victorian Department of Justice seeks to redress and not create difference

Not just words - the embodiment of Victoria's approach

1. The creation of two observable spaces within head office, where the problem of 'difference' could be enclosed: the Indigenous Issues Unit (IIU), and the Indigenous Policy and Services Unit (IPSU).
 - Purpose was to respond to the disadvantage, over-representation and underlying issues that Indigenous peoples experience in policy and services
2. The employment of Koori and other Indigenous peoples to occupy these Units and take control of the management of Indigenous offenders
3. The regular examination of Justice and its approaches towards Indigenous offenders before the Koori community
 - Quarterly Aboriginal Justice Forums

Occupying spaces with new perspectives and experiences

- Indigenous staff of the Victorian Department of Justice brought context and meaning to the umbrella terms of disadvantage, over-representation and underlying issues:
 - *People forget how recent this stuff is. So in 1962 work permits were established, and before that Aboriginal people had to get signed approval to apply for a job, and Aboriginal people were not welcome in schools. So when you are facing those things only occurring a generation ago, it's very hard to make that change now*
 - *People are lacking with knowing their identity, the stolen generation stuff. Obviously a prisoner does not have to be from the stolen generation to not know who they are, because their mother, farther, grandmother, whatever, would have been affected by the past government policies and stuff*

Practicing Indigenous offender responsiveness in Victoria

- Victoria's approach to Indigenous offender responsiveness is about developing Koori specific programs, getting Koori offenders to attend these programs and participate in them, and employing Koori staff to deliver programs.
- Marumali Program
 - *The common issues [facing Indigenous offenders], and its one of the reasons why we have Marumali ... are the dispossession and the fact that the restriction to education, the discrimination, all those factors come into the reason why they are there.*
 - *But after undergoing a program, for example like Marumali, the comments, the general comment back, and feedback from them, is that if they had have know all this about themselves all these years ago they wouldn't be in the position they are in now.*
 - *So you know that that program is actually working. So if they take nothing else back out with them, they are going to take the stuff that they have learnt about themselves, and about the reason why some of their family members are the way they are, its because of what's happened. So it also gives them a bit more understanding of how they fit into their family, and hopefully gives them a bit of an idea about where they can go to from there when they get out*
- Fundamental because it allows Koori offenders to learn and locate themselves within the history of disadvantage, over-representation and underlying issues that have come at the hands of Australian governments.

Practicing Indigenous offender responsiveness in Victoria

Koori Cognitive Skills Program

- Like all cognitive behavioural therapy (CBT) programs for offenders, it aims to address the lack of problem solving skills that may be leading to an offending lifestyle.
- However, what makes this CBT program Koori specific are some key adaptations, including:
 - A Talking Stick was introduced as a tool to assist communication, connection and participation of all group members in discussions and debriefing.
 - A traditional, gender-based culturally relevant activity, was integrated into the program. Such as inscribing a shield for the men, and basket weaving for the women.
 - Changed content of role playing scenarios to reflect issues and concerns more likely to arise in the Aboriginal community.
 - The final session of the program incorporate some elements of a 'rite of passage', including a ceremonial burning of the contents of the boxes, and the formal presentation of certificates for graduation.
- Finally talking about offending behaviour (not the common history of disadvantage), and at every stage that the Koori offender is asked to talk about their offending and more importantly talk about how to move beyond that behaviour, they are provided with a connection (however trivial) to culture .
- Allows the Koori offender to learn how to reengage with Indigeneity and culture, and in doing so, take back the responsibility for their governance

Importance of Koori staff

- *We know that the key is Aboriginal people working in those areas. One of the big flagships for that is our Koori Cognitive Skills Program, where mainstream Cog Skills Program run in prisons and CCS for years and very few Aboriginal prisoners attend, all of a sudden we have a Koori Cognitive Skills Program, and while the model and the program manual is different, the prisoners don't know that before they walk in the door, all they see is that the program now instead of being delivered by a Corrections Psychologist is co-facilitated by an Indigenous person. We ran it in four prisons this year, and just because of that one factor of having an Aboriginal person involved, at three of those prisons we had to turn prisoners away because we had too many people wanting to be in the group. So it's just this amazing turn around just by involving Aboriginal people in these programs*

Understanding Victoria's Approach and its implications

- The approach that the Department of Justice takes towards the principle of responsibility in relation to Indigenous offenders is consistent with (and an extension of) the approach the Department takes towards Indigenous offenders in general.
 - At the most superficial level it is about identifying possible variances within and between offenders that may affect the delivery and reception of treatment, but on a deeper level it is about continuing to respond to local issues and the local history of Indigenous and government relationships.
 - What lies at the heart of all of Victoria's approaches towards Indigenous offenders is Victoria's history
- There is a want or need in contemporary correctional agencies to develop programs and approaches that are based on evidence based success, or to search for 'what works' and to adopt that approach, but this may be problematic.
 - Important to base practice on what is believed to 'work' so that offenders are not subjected to the whims of correctional bodies
 - But equally important to recognise that 'what works' over there is not picked up and transplanted in attempt to make it 'work' over here.
- Need to balance the what works literature with accounts of localised practice