Chapter 12

De-colonisation or re-colonisation? Contemporary social work and Indigenous Australians

Linda Briskman and Terri Libesman

Chapter summary

Introduction

Child welfare: From protection to assimilation

Bringing Them Home

Contemporary approaches

State and Territory child welfare

The Aboriginal and Torres Strait Islander Child Placement Principle

Principles of self-determination and participation

The Northern Territory Intervention

Stronger Futures

Criminal justice

Legal reforms

Conclusion: Moving forward

Key learning points

Questions for consideration

Additional reading

Websites

References

Notes

Chapter summary

Laws have a cumulative and pervasive impact on the lives of individuals and communities. Drawing on the examples of 'the stolen generations', the child protection system and the criminal justice system, this chapter explains how legal and policy provisions have failed to provide effective solutions to the problems faced by Indigenous peoples and have contributed to cumulative disadvantage. It is suggested that it is important to re-frame social work as a rights-based profession and to identify ways in which social workers can engage in practice that enables Indigenous Australians to participate fully in society while recognising their cultures, aspirations and the impact that history has had.



Additional reading

- Behrendt, L, Cunneen, C and Libesman, T, 2008, *Indigenous Legal Relations in Australia*, Oxford University Press, Melbourne.
- Bennett, B, Green, S, Gilbert, S and Bessarab, D, 2013, Our Voices: Aboriginal and Torres Strait Islander Social Work, Palgrave Macmillan, Melbourne.
- Gray, M, Coates, J and Yellow Bird, M (eds), 2008, Indigenous social work around the world: Towards culturally relevant education and practice, Ashgate Press, Aldershot.
- Libesman, T, 2013, Decolonising Indigenous child welfare comparative perspectives, Routledge, London.
- Several journals are of particular use including the *Indigenous Law Bulletin* and the *Australian Indigenous Law Review* (previously the *Australian Indigenous Law Reporter*), both published by the Indigenous Law Centre, UNSW, Sydney <www.austlii.edu.au>.

Websites

No claim is made as to the accuracy or authenticity of the content of the sites suggested in this chapter. Site addresses change – if the address is no longer accurate, search using keywords or the title of the organisation concerned.

Australian Human Rights Commission <www.humanrights.gov.au>
Australians for Native Title and Reconciliation <antar.org.au>
Coalition of Aboriginal and Torres Strait Islander Social Workers <www.atsisw.org>
Secretariat of National Aboriginal and Islander Child Care <www.snaicc.org.au>

References

- AASW, 2010, Code of Ethics, Australian Association of Social Workers, Canberra.
- ABC, 2006, Lateline, 'Prosecutor reveals sexual abuse and violence in NT Indigenous communities', television program, 15 May <www.abc.net.au/lateline/content/2006/s1639133.htm>.
- Aboriginal Child Sexual Assault Taskforce, 2006, Breaking the Silence: Creating the Future Addressing child sexual assault in Aboriginal communities in NSW, New South Wales Attorney General's Department, Sydney <www.lawlink.nsw.gov.au/acsat>.
- AHRC, 2009, 'United we stand Support for the United Nations Indigenous Rights Declaration a watershed moment for Australia', Australian Human Rights Commission, 3 April http://www.hreoc.gov.au/about/media/media_releases/2009/21_09.html.
- AHRC, 2012, 'Stronger Futures in the Northern Territory Bill 2011 and two related bills', Australian Human Rights Commission, 1 March http://www.hreoc.gov.au/legal/submissions/2012/20120206_stronger.html.
- AIHW, 2012, *Juvenile detention population in Australia*, Juvenile Justice Series No 11, Australian Institute of Health and Welfare, Australian Government, Canberra.
- Altman, J, 2007, 'The Howard Government's Northern Territory Intervention: Are Neo-Paternalism and Indigenous Development Compatible?', Keynote Address at the Australian Institute of Aboriginal and Torres Strait Islander Studies Conference: Forty Years On: Political transformation and sustainability since the Referendum and into the future, Canberra, 7 November <www.anu.edu.au/caepr/Publications/topical/Altman_AIATSIS.pdf>.
- Anaya, J (UN Rapporteur from the Human Rights Council), 2010, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people, UN Doc A/HRC/15/37Add.
- Armitage, A, 1995, Comparing the policy of Aboriginal Assimilation: Australia, Canada and New Zealand, UBS Press, Vancouver.
- Atkinson, J, 2002, Trauma Trails: Recreating Song Lines, Spinifex Press, Melbourne.
- Australians for Native Title and Reconciliation, 2012, Media Release.

- Bennett, B, 2013, 'The importance of Aboriginal and Torres Strait Islander history for social work students and graduates', in Bennett, B, Green, S, Gilbert, S and Bessarab, D (eds), Our Voices: Aboriginal and Torres Strait Islander Social Work, Palgrave Macmillan, Melbourne
- Blackstock, C, 2011a, 'The Canadian Human Rights Tribunal on First Nations Child Welfare: Why if Canada wins, equality and justice lose', 33 *Children and Youth Services Review* 187–94.
- Blackstock, C, 2011b, 'The emergence of the breath of life theory', 8(1) *Journal of Social Work Values and Ethics*, White Hat Communications http://www.socialworker.com/jswve/spr11/spr11blackstock.pdf>.
- Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, 2007, Little Children Are Sacred – the Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, Northern Territory Government www.nt.gov.au/dcm/inquirysaac/pdf/bipacsa_final_report.pdf>.
- Borg, T and Paul, A, 2004, *Indigenous Parenting Project*, Secretariat of National Aboriginal and Islander Child Care (SNAICC), Melbourne.
- Briskman, L, 2003, The Black Grapevine: Aboriginal activism and the stolen generations, Federation Press, Sydney.
- Briskman, L, 2007a, Social work with Indigenous communities, Federation Press, Sydney.
- Briskman, L, 2007b, 'A tale of two racisms', in Babacan, A and Gopalkrishnan, N (eds), *Racisms in the New World Order: Realities of culture, colour and identity,* Cambridge Scholars Publishing, Newcastle.
- Burgmann, V, 1993, *Power and protest: Movements for change in Australian Society*, Allen & Unwin, Sydney.
- Chesterman, B and Galligan, B, 1997, Citizens without Rights: Aborigines and Australian Citizenship, Cambridge University Press, Cambridge.
- Committee on the Rights of the Child, 2012, 60th session, Concluding Observations of the Committee on the Rights of the Child: Australia, CRC/C/AUS/CO/4, United Nations.
- Coombs, HC, 1978, 'A decade of progress?', in Coombs, HC, Kulinma: Listening to Aboriginal Australians, ANU Press, Canberra.
- Cunneen, C, 1997, 'Address to the Secretariat of National Aboriginal and Islander Child Care', *Proceedings of the SNAICC Survival Conference*, Secretariat of National Aboriginal and Islander Child Care, Townsville.
- Cunneen, C and Libesman, T, 2000, 'Postcolonial trauma: The contemporary removal of Indigenous children and young people from their families in Australia', 35(2) *Australian Journal of Social Issues* 99–115.
- Cunneen, C and Libesman, T, 2002, 'Removed and Discarded: The Contemporary Legacy of the Stolen Generations', 7(4) *Australian Indigenous Law Reporter* 1–20 <www.austlii.edu.au/journals/AILR/2002>.
- Cunneen, C and Luke, G, 1995, 'Discretionary decisions in criminal justice and the criminalisation of Indigenous peoples', 14(3) *Youth Studies Australia* 38–46.
- Edwards, C and Read, P, 1992, The lost children, Doubleday, Sydney.
- Gamble, S, 2005, 'Criminal justice initiatives for Indigenous offenders', 6(14) *Indigenous Law Bulletin* 8–9.
- Haebich, A, 2000, *Broken Circles fragmenting indigenous families 1800–2000*, Fremantle Arts Centre Press, Fremantle.
- Harris, M, 2004, 'From Australian courts to Aboriginal courts in Australia Bridging the gap?', 16(1) *Current Issues in Criminal Justice* 26–41.
- HREOC, 1997, Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, Human Rights and Equal Opportunity Commission, AGPS, Canberra.
- Human Rights Law Centre, 2009, 'ICCPR: UN Human Rights Committee Releases Concluding Observations on Australia', HRLC, Melbourne.
- Hunyor, J, 2009, 'Disgrace: The death of Mr Ward', 7 (15) Indigenous Law Bulletin 3-8.

SOCIAL WORK IN THE SHADOW OF THE LAW

- Libesman, T, 2007a, 'Indigenising Indigenous Child Welfare', 6(24) *Indigenous Law Bulletin* 17–19.
- Libesman, T, 2007b, 'Can International Law Imagine the World of Indigenous Children?', 15(2) *International Journal of Children's Rights* 283–309.
- Libesman, T, 2008, 'Indigenous Children and Contemporary Child Welfare', in Geoff Monahan, G and Young, L (eds), *Children and the law in Australia*, LexisNexis Butterworths, Australia, 329–51.
- Libesman, T, 2011, Cultural Care for Aboriginal and Torres Strait Islander Children in Out of Home Care, Secretariat of National Aboriginal and Islander Child Care, Melbourne.
- Libesman, T, 2012, 'International Human Rights Law and the Needs of Indigenous Children', in Sheehan, R, Rhoades, H, and Stanley, N (eds), *Vulnerable children and the law*, Jessica Kingsley Publishers, London and Philadelphia, 181–98.
- Libesman, T, 2013, Decolonising Indigenous child welfare comparative perspectives, Routledge, London.
- Marchetti, E and Daly, E, 2004, 'Indigenous courts and justice practices in Australia', 277 *Trends and Issues in Crime and Criminal Justice* 1–6.
- McDonald, D, 1999, 'Australia: The Royal Commission into Aboriginal deaths in Custody', in Havemann, P (ed), 1999, *Indigenous peoples' rights in Australia, Canada and New Zealand*, Oxford University Press, Auckland.
- McGlade, H, 2012, Our Greatest Challenge: Aboriginal Children and Human Rights, Aboriginal Studies Press (Australian Institute of Aboriginal and Torres Strait Islander Studies), Canberra.
- Mendes, P, 2013, 'Social workers affecting social policy in Australia', in Gal, J and Weiss-Gal, I (eds), *Social Workers affecting Social Policy: An international perspective on policy practice*, The Policy Press, Bristol.
- National Association of Community Legal Centres, Human Rights Law Resource Centre and Kingsford Legal Centre, 2008, Freedom Respect Equality Dignity: Action, NGO submission to the UN Committee on Economic, Social and Cultural Rights www.hrlrc.org.au/files/MP9JMGYX55/Final.pdf>.
- Neill, R, 2002, White Out: How politics is killing black Australia, Allen & Unwin, Sydney.
- Nicholson, A, Watson, N, Vivian, A, Longman, C, Priest, T, De Santolo, J, Gibson, P, Behrendt, L and Cox, E, 2012, Listening but not hearing A response to the NTER stronger future consultations June to August 2011, Jumbunna Indigenous House of Learning, University of Technology, Sydney.
- Putt, J, Payne, J and Milner, L, 2005, 'Indigenous male offending and substance abuse', 293 Trends and Issues in Crime and Criminal Justice 2–6.
- Robertson, B, 2000, *The Aboriginal and Torres Strait Islander Women's Task Force on Violence Report*, Queensland Department of Aboriginal and Torres Strait Islander Development, Brisbane, available at www.women.qld.gov.au/?id=109>.
- Royal Commission into Aboriginal Deaths in Custody, 1991, *National Report: Overview and recommendations*, Australian Government Publishing Service, Canberra <www.austlii.edu.au/au/other/IndigLRes/rciadic/>.
- Sarre, R, 2005, 'Police and the public: Some observations on policing and Indigenous Australians', 17(2) *Current Issues in Criminal Justice* 305–13.
- Smith, L, 1999, Decolonizing Methodologies: Research and Indigenous peoples, Zed Books, London.
- SNAICC, 2012, Submission in relation to General Assembly Resolution A/RES/66/141 on the Rights of Aboriginal and Torres Strait Islander Children in Australia, 30 April, Secretariat of National Aboriginal and Islander Child Care, Melbourne.
- SNAICC, 2013, UN Committee calls for Aboriginal decision-making on Aboriginal issues, 1 March, Secretariat of National Aboriginal and Islander Child Care, Melbourne http://www.snaicc.org.au/policy-advocacy/dsp-landing-policyarea.cfm?loadref=46&txnid=20&txnctype=post&txncstype>.
- Stand for Freedom, 2012, 'What is Stronger Futures?' http://standforfreedom.org.au/about/>.

CONTEMPORARY SOCIAL WORK AND INDIGENOUS AUSTRALIANS

The Sydney Morning Herald, 2011, 'UN chief slams racist Australia', *The Sydney Morning Herald*, 26 May http://www.smh.com.au/world/un-rights-chief-slams-racist-australia-20110526-1f4yy.html.

Zdenkowski, G and Johnson, D, 2000, Mandatory Injustice: compulsory imprisonment in the Northern Territory, Australian Centre for Independent Journalism, Sydney.

Notes

The following is a non-exhaustive list of recent State and Territory reviews: Allen Consulting Group, 2003, Protecting Children: The Child Protection Outcomes Project, Final Report for the Victorian Department of Human Services, Melbourne, available at <www.allenconsult.com.au/resources/Protecting%20Children%20FR.pdf> (Victoria); Crime and Misconduct Commission, 2004, Protecting Children: An inquiry into abuse of children in foster care, Crime and Misconduct Commission, Brisbane (Queensland); Gordon, S, Hallahan, K and Henry, D, 2002, Putting the Picture Together: Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities, State Law Publisher, Perth, available at <www.slp.wa.gov.au/publications/publications.nsf/Inquiries?Open View&Start= 1&Count=30&Expand=9#9> (Western Australia); Government of South Australia, 2002, Child Protection Review, Discussion Paper, May 2002, Government of South Australia, Adelaide, available at <www.dfc.sa.gov.au/childprotectionreview/> (South Australia).