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AN ANTHROPOLOGIST'S PERSPECTIVE ON CRIMINAL JUSTICE IN NORTH QUEENSLAND

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ABSTRACT

The vastly over-representative incarceration rates of indigenous adults and youth in Australia (especially in the North) are underpinned by ongoing profound cultural tensions which in turn drive economic marginalisation of indigenous populations. This paper outlines some explanatory frameworks that may help the law and justice community better understand how cultural difference (particularly with regard to economic personhood) and economic inequality drive criminalisation of indigenous people in North Queensland. The concept of the Possessive Individual is central to normative capitalist behaviour but is a mode of economic personhood alien to indigenous Australians. While I do not have case material to offer from Australia, I provide salient illustrations from neighbouring Melanesian cultures, which are similar in many respects. The economic marginalisation that ensues from cultural incompatibility with the dominant settler capitalist population exacerbates inequality, which is now empirically linked with a range of social problems, including mental illness, substance abuse, depression, suicide, violence and other conditions that are strongly correlated with criminality. I argue that greater cultural and social scientific literacy among the North Queensland law and justice community regarding these particular issues could greatly improve engagements with the indigenous community and ultimately reduce their representation within the custodial system.

I INTRODUCTION

The statistics on indigenous imprisonment rates in Australia generally, and in North Queensland especially, are alarming and demand detailed social analysis. The Australian Bureau of Statistics shows that indigenous Australians are vastly over-represented in the criminal justice system, particularly for violent crimes, including 'offences against justice', which presumably includes police (see Figure 1 on the following page). In Queensland, Aboriginal and Torres Strait Island people represent 4.6% of that population. This is a major and persistent problem with no clear solution in sight.

There are several lenses through which the problem can be viewed by social scientists. The first and perhaps most complex perspective, is cultural. Culture is complex because it is, on the one hand, a strong determinant of norms and behaviour, and on the other hand extremely variable given the diversity of circumstances of members of the indigenous population and the extent to which, for example, indigenous people are embedded in relations of reciprocity that make it difficult to behave in ways that maximise their success in a market economy that favours possessive individualism.[1]

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[1] See, eg, Crawford Brough Macpherson, *The Political Theory of Possessive Individualism* (Clarendon Press, 1962); Nicolas Peterson, 'Demand Sharing: Reciprocity and the Pressure for Generosity among Foragers' (1993) 95(4), *American Anthropologist* 860 - 874.

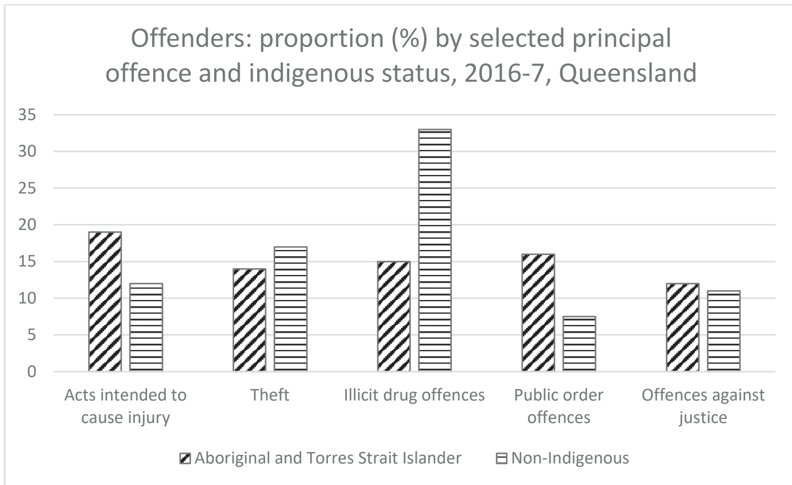

Figure 1. Proportion of five categories of crime committed by Aboriginal and Torres Strait Islanders and Non-Indigenous offenders in Queensland, showing the disproportionate representation of the former in the criminal justice system.

The second, more universal, perspective through which criminal behaviour can be understood is as a consequence of high, and rising, inequality. There is now an abundance of quantitative data across many nationalities and cultures that shows a very strong correlation between economic inequality and various dimensions of criminality, including male violence, substance abuse, and mental illness.[2] Inequality also correlates very strongly with rates of imprisonment and other forms of punishment, including (where it is practised) capital punishment.

This paper will explore these two drivers of criminal behaviour, firstly from a theoretical point of view and then in the context of the criminal justice system in North Queensland, and will make a case for finding ways to increase knowledge about these drivers within and beyond the criminal justice community, with a view to exploring preventative justice approaches that build on improved understandings of disadvantage within the indigenous community. I will use[3] an approach centred around the concept of Structural Violence, analysed in relation to the social determinants of health by anthropologist and medico Paul Farmer,[4] among others. I will also draw on some of the literature linking inequality with violence (including gender violence) in Melanesia,[5] along with my own experience working in that cultural region.

[2] See, eg, Michael Marmot, *The Status Syndrome: How Social Standing Affects Our Health and Longevity* (New York: Time Books, 2004); Richard G Wilkinson and Kate Pickett, *The Spirit Level: Why Equality is Better for Everyone* (London: Penguin, 2009); Richard G Wilkinson and Kate Pickett, 'Income Inequality and Social Dysfunction' 35(1) *Annual Review of Sociology* 493–511.
[3] In this paper I choose not to conform to the convention of writing in the third person / passive voice, because I believe in owning my arguments and supporting them with credible evidence.
[4] Paul Farmer, 'An Anthropology of Structural Violence' (2004) 45(3) *Current Anthropology* 305–325.
[5] Jo Chandler, 'It's 2013 and They're Burning Witches', *The Global Mail* (online), 15 February 2013 <https://web.archive.org/web/20150318071214/http://www.theglobalmail.org/feature/its-2013-and-theyre-burning-witches/558/index.html>; Margaret Jolly and Martha MacIntyre (eds), *Family and*

II Culture

Indigenous Australian societies are, by and large, relatively unstratified (i.e. they are egalitarian and there is little in the way of hereditary privilege and status). Economically they are based largely around relations of reciprocity, which differs fundamentally from forms of possessive individualism[6] common in European and many Asian societies. Possessive individuals achieve social status and recognition by accumulating material wealth, while reciprocating cultures achieve it by redistribution. This does not mean that members of reciprocating cultures are not competitive or enterprising. It simply means that the material products of their labour are converted to political and social 'capital' through sharing. In these societies, generosity is not just admired and rewarded, it is expected. This is the primary cultural underpinning of post-colonial practices pejoratively referred to as 'humbug' in Australia,[7] and 'wantokism' in Melanesia. Both sets of practices are regarded as problematic for people embedded in a globalised, market economy, in which possessive individualism is the favoured mode of economic personhood.

Being a researcher who has worked mainly in the 'Melanesian' cultural region (mainly Papua New Guinea and Solomon Islands) for the past two and half decades, I want to draw mainly from that experience to provide examples of the cultural conflict between reciprocity and possessive individualism. In doing so I hope to illustrate an important aspect of a cultural barrier that I believe contributes to the alienation of indigenous people within the dominant 'settler' society in North Queensland, which in turn contributes to the disproportionate rates of criminalisation they experience within this society.

Anthropological research on reciprocating cultures goes all the way back to Marcel Mauss's famous 1925 essay 'The Gift'.[8] Research on gift economies in Melanesia is rich and deep,[9] in large part because the people and their traditional culture have been relatively lightly impacted by colonialism and globalisation. Melanesian people were not dispossessed by Europeans and despite a century or so of colonialism and the creation of post-colonial nation states, their customary land rights remain largely intact and moreover strongly protected by contemporary state legislation.

Here I wish to illustrate the stark differences between the two above-mentioned modes of economic personhood — reciprocating and possessive individual — which are

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Gender in the Pacific. Domestic Contradictions and the Colonial Impact (Cambridge University Press, 1989); Margaret Jolly, Christine Stewart and Carolyn Brewer, *Engendering Violence in Papua New Guinea* (ANU Press, 2012).

[6] Crawford Brough Macpherson, *The Political Theory of Possessive Individualism* (Clarendon Press, 1962).

[7] Nicolas Peterson, 'Demand Sharing: Reciprocity and the Pressure for Generosity among Foragers' (1993) 95(4), *American Anthropologist* 860-874.

[8] Marcel Mauss, *The Gift* (W. D. Halls trans, Routledge, 1990).

[9] See, eg, James G Carrier and Achsah H Carrier, *Wage, Trade, and Exchange in Melanesia: A Manus Society in the Modern State* (University of California Press, 1989); Christopher A Gregory, *Gifts and Commodities* (Academic Press, 1982); Christopher A Gregory, 'South Asian economic models for the Pacific? The case of microfinance' (1999) 14(2) *Pacific Economic Bulletin* 82 – 92; Christopher A Gregory, *Gifts and Comodities* (HAU Books, 2nd ed, 2015); Keir Martin, 'Your Own Buai You Must Buy: The Ideology of Possessive Individualism in Papua New Guinea' (2007) 17(3) *Anthropological Forum* 285-298. Marilyn Strahern, *The Gender of the Gift: Problems with Women and Problems with Society in Melanesia* (University of California Press, 1988).

conflicting in complex ways in Melanesia just as they are for indigenous Australians trying to survive within an all-encompassing, utterly dominant market economy.

Case study 1 — The Flying Pigs of Lihir

Between 1997 and 2006 I worked as a consultant conducting social and economic impact studies of the large gold mine on Niolam Island in the Lihir island group, off the north coast of the island of New Ireland in Papua New Guinea (PNG). It is important to note that the Lihirian people were almost universally in favour of the development of the gold mine, and generally saw the economic benefits (which were substantial) as outweighing the various negative social, economic and environmental impacts of the mine.[10]

At Lihir, as is the case throughout Melanesia, people traditionally compete for status by redistributing prestige food items, most significantly pigs (*Sus scrofa*) and yams (*Dioscorea alata*) in the context of funerary feasts, which can be quite large events attended by many people. Individuals, and by association their clans, achieve elevated status if they are able to 'out-give' competing individuals and clans in terms of number and size of pigs and yams at the feast. The gifts are displayed on the ground at the feast so that everyone can see exactly who has given how much, and the details are announced loudly by the givers, and noted carefully by all present. Ultimately all the pigs and yams are cooked and shared at the feast (which may run over a few days), and everyone eventually departs, often with a parcel of take-aways if there was a surplus of food. Those men who gave away the most at the feast are left with nothing in the way of material wealth, but their status in the minds of those who attended has been elevated. They are also subsequently able to 'call in favours', for example in the form of labour for the clearing of a new garden, from those feast attendees who gave less. It's important to note that these exchanges are in fact more complex than what I am describing here.[11] They are a component of a suite of rituals that, in addition to facilitating competition for prestige and status, also reinforce social cohesion and harmony within and between clans, strengthen cultural identity, and honour ancestors and spiritual connections to lineage and land.

From the time the mine began to be constructed in 1995 and began producing gold in 1997, a lot of cash started to flow throughout the Lihir island group in the form of wages, royalties and compensation. What did the Lihirian do with all this money? An Asian or an Australian might have astutely invested their windfall into the development of a business, for example buying stock for a trade store, or perhaps a boat or a vehicle for a transport service. One of the first acts of many Lihirian men who came into money from the mining operation was to buy pigs that they could redistribute at the next feast. The supply of pigs in the Lihir group was quickly depleted as the feasting cycle became accelerated and expanded. Men started flying to other parts of PNG to purchase pigs, and they would happily (and easily) pay the high cost of air freight to fly the pigs back to Lihir to add to their stock in preparation for the next feast, at which the pigs would all be given away. This practice even had the effect of causing pig inflation on

[10] See, eg, Martha Macintyre and Simon J Foale, 'Global Imperatives and Local Desires: Competing Economic and Environmental Interests in Melanesian Communities' in Victoria S Lockwood (ed), *Globalisation and Culture Change in Pacific Islands* (Pearson Prentice Hall, 2004) 149–164; Martha Macintyre and Simon J Foale, 'Politicised Ecology: Local Responses to Mining in Papua New Guinea' (2004) 74(3) *Oceania* 231-251.

[11] Nicholas A Bainton, 'Men of Kastom and the Customs of Men: Status, Legitmacy and Persistent Values in Lihir, Papua New Guinea' (2008) 19(2) *The Australian Journal of Anthropology* 194–212.

neighbouring New Ireland, which of course 'mainland' New Irelanders complained about bitterly.

I provide this anecdote to illustrate a mode of economic personhood which is fundamentally different to possessive individualism, and which profoundly underpins identity, social cohesion and a multitude of vital social functions. Lihirians responded to a sudden and violent intrusion of the global market by deftly incorporating market-based economic flows into their ceremonial economy, contra to western expectations that they would instantly transform themselves into 'successful' capitalists. However, the subsequent impacts of the mine have been steadily corroding their social and economic system, as people have gradually been forced to transform themselves more and more into possessive individuals, and as cultural identity, continuity and social harmony have slowly given way to increased individualism and inequality.

Case Study 2 — How to be a successful shopkeeper in Melanesia

Having spent a lot of time working in rural villages in PNG, Solomon Islands and Fiji, I have had the opportunity to observe in detail one pervasive aspect of engagement with the global marketplace there, and that is the humble village trade store. These stores, which sell things like soap, matches, rice, instant noodles and tinned fish and meat, are generally run by village residents, who are by implication members of local kinship groups that are enmeshed in networks of reciprocity. Many (if not most) of them have a sign somewhere pre-emptively declining demands for free goods. They are usually worded as follows:

1. PNG: Nogat dinau
2. Solomon Islands: No kauni / No credit
3. Fiji: Sa sega na dinau

They all mean 'no credit'. Dinau is a Fijian word that was adopted into Tok Pisin (the lingua franca) in PNG. 'Kauni' is a pijinised version of 'account'.

These signs all indicate that 'demand-sharing', something that is also common in indigenous Australian societies,[12] is pervasive in Melanesia. Demand-sharing is a custom that is fundamentally rooted in reciprocating cultures where generosity is valued and socially rewarded. Conversely stinginess is often punished quite harshly – people can be ostracised, sorcerised or their stores may be vandalised or looted.[13] The trouble is that in many post-colonial contexts the social pressure to *return* the gift is somewhat attenuated, which means that store owners, if they want their business to continue, must resist the demands. The signs are simply a tool to help them in that mission, which is essentially anathema to enduring and powerful social norms.

Across Melanesia and the Pacific there are Chinese diaspora[14] who typically fill the economic niche of 'trader' in societies where being a trader is culturally problematic. Many of the capitalist enterprises operated in the Pacific are operated by Chinese, Indians, or less commonly Europeans. While they mostly function well there are deep,

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[12] Nicolas Peterson, 'Demand Sharing: Reciprocity and the Pressure for Generosity among Foragers' (1993) 95(4) *American Anthropologist* 860-874.
[13] George N Curry, 'Markets, social embeddedness and precapitalist societies: the case of village trade stores in Papua New Guinea' (1999) 30 *Geoforum* 285-298.
[14] Judith A Bennett, *Wealth of the Solomons: A History of a Pacific Archipelago: 1800-1978.* (University of Hawaii Press 1987) 206-209.

ongoing tensions between these groups and their host societies which occasionally flare up into violence.

I give these examples to try to illustrate the strength and importance of the cultural differences between indigenous and European modes of economic personhood in the contemporary Australian context, and to suggest that a richer understanding of these differences can perhaps help the law and justice community to interact with people, many of whom are embedded in networks of obligation that make it difficult for them to 'succeed' in the market economy that now surrounds them.

III Inequality and its Many Social Impacts

It should come as no surprise, given the foregoing analysis, that indigenous Australians have been profoundly marginalised by the economic system of the Europeans who invaded this country by force 230 years ago[15]. As such, they experience vastly elevated levels of inequality, which has many negative social impacts[16], some of which I would like to outline here.

Anthropologists have been writing about inequality and its social impacts for a long time now[17] but it has not been until relatively recently that the relationship has obtained a significant profile in (some) policy circles. The work of a group of medical researchers and epidemiologists has helped to achieve this profile. This group includes Michael Marmot,[18] Richard Wilkinson and Kate Pickett.[19] These researchers have combined sociological and psychological research with a 'big data' approach to demonstrate strong correlations between economic inequality and a range of social and health-related problems, and have also convincingly described causality in each case. Their work shows that depression, anxiety, mental illness, substance abuse, violence, homicide and crime in general all correlate strongly with inequality. Highly unequal societies also have poor education outcomes and limited social mobility.

Using Tomas Pikety's historical inequality data[20] and US government data on executions we can see that the annual execution rate in the USA varies remarkably closely with the level of inequality through the course of the twentieth century.

But it is not just violent behaviour, substance abuse and crime that are exacerbated by inequality. A number of factors such as various health indicators, educational performance, and teenage pregnancy rates that can trap people in poverty and predispose a significant proportion to violence or other criminal behaviours.

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[15] Henry Reynolds, *This Whispering in our Hearts* (Allen and Unwin 1998) 284.

[16] Steering Committee for the Review of Government Service Provision, 'Overcoming Indigenous Disadvantage – Key Indicators 2003 – Overview' (2003) 8(3) Australian Indigenous Law Reporter 97-104.

[17] Andre Beteille (ed) *Social Inequality* (Penguin, 1969); Louis Dumont, *Homo Hierarchicus: The Case System and its Implications* (Oxford University Press, 1966); Peter Lawrence, *Road Belong Cargo: A Study of the Cargo Movement in the Southern Madang District New Guinea* (Melbourne University Press, 1969); Peter M Worsely, *The Trumpet Shall Sound: A Study of 'Cargo' Cults in Melanesia* (MacGibbon and Kee, 1957).

[18] Michael Marmot, *The Status Syndrome: How Social Standing Affects Our Health and Longevity* (New York: Time Books, 2004).

[19] Richard G. Wilkinson and Kate Pickett, *The Spirit Level: Why Equality is Better for Everyone* (Penguin, 2009).

[20] Thomas Piketty, *Capital in the Twenty-First Century* (Arthur Goldhammer trans, The Belknap Press of Harvard University Press, 2014).

In PNG, there is limited evidence for a causal relationship between increased inequality due to uneven distribution of benefits from mining projects and violence, particularly violence by young men against women.[21] Much of this fits into a response commonly described in social literature (particularly in nursing literature) as 'lateral violence'.[22]

Indigenous people who are already alienated from the market economic system in part due to a cultural inclination (and/or cultural pressure) to share rather than accumulate wealth (in addition to a wide range of other factors including entrenched structural violence and prejudice), are more likely to experience the negative social impacts of economic inequality and thus more likely to come into conflict with the criminal justice system.

This is especially the case for young men in the lowest socio-economic strata, for whom the main available means of achieving respect is through violence. This response is analysed in some detail by Wilkinson and Pickett,[23] as well as by anthropologist Philippe Bourgois in his ground-breaking and celebrated study, In Search of Respect.[24] These scholars emphasise the central role of economically margnialised men's efforts to maintain *dignity* in the face of insurmountable structural barriers to improving status by economic means, and thus their frequent resort to violent and criminal behaviour in the absence of socially acceptable means of achieving this.

IV Concluding Remarks

North Queensland is a part of Australia where the 'frontier' – that zone of contact between two very different cultures - is far more present, along with its many accompanying traumas and conflicts, than it is in the more populous and urbanised south of the country. This places a greater burden on those of us who live here in terms of dealing with those traumas and conflicts, many of which remain raw, and seemingly irresolvable.

I don't have any instant solutions and I don't believe there are any. Many scholars have been thinking about these issues for a long time now. What I want to contribute to this forum is to perhaps illuminate some of the profound contributions from a century or more of anthropological and sociological research, some of which might help the Townsville Criminal Justice community to address the clear and persistent over-representation of indigenous people and particularly indigenous youth in the system.

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[21] See, eg, Jo Chandler, 'It's 2013 and They're Burning Witches', *The Global Mail* (online), 15 February 2013 <https://web.archive.org/web/20150318071214/http://www.theglobalmail.org/feature/its-2013-and-theyre-burning-witches/558/index.html>; Martha A Macintyre, 'Gender Violence in Melanesia and the Problem of Millennium Development Goal No. 3' in Margaret Jolly, Christine Stewart and Carolyn Brewer (eds.) *Engendering Violence in Papua New Guinea* (Australian National University Press, 2012) 239 - 266; Laura Zimmer-Tamakoshi, 'Troubled Masculinities and Gender Violence in Melanesia' in Margaret Jolly, Christine Stewart and Carolyn Brewer (eds.) *Engendering Violence in Papua New Guinea* (Australian National University Press, 2012) 73–105.

[22] Karen M Stanley, Mary M Martin, Yvonne Michel, John M Welton and Lynne S Nemeth, 'Examining Lateral Violence in the Nursing Workforce' (2007) 28(11) *Issues in Mental Health Nursing* 1247–1265.

[23] Richard G. Wilkinson and Kate Pickett, *The Spirit Level: Why Equality is Better for Everyone* (Penguin, 2009).

[24] Phillippe Bourgois, *In Search of Respect: Selling Crack in El Barrio* (Cambridge University Press, 2003).