Holding Aboriginal Law:
A critical element in responding effectively
to family & sexual violence

Presenter: Dr Victoria Hovane
Tjallara Consulting; ANROWS Board

Facilitator: Dorinda Cox
Inspire Change Consulting Group
Holding Aboriginal Law: A critical element in responding effectively to family & sexual violence

Victoria Hovane (PhD/BA(Hons))
Tjallara Consulting Pty Ltd
E: ipas.vhovane@yahoo.com.au
M: 0417 928 216
Acknowledgement
Overview

- **Draws on:**
  - PhD research on understanding CSA in a regional community;
  - Practice;
  - Lived experience.
PhD Research
Aboriginal perspectives about CSA: Informing the cultural dimension in sex offending theories

- Qualitative phenomenological methodology
- Part 1: Semi-structured, in-depth interviews (11 women; 4 men)
- Results: Five Primary themes with secondary themes
## Results

<table>
<thead>
<tr>
<th>Primary themes</th>
<th>Secondary themes</th>
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<tbody>
<tr>
<td>Misusing Power</td>
<td>Imposition of White law and boundaries</td>
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<td>Misusing position of power</td>
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<td>Sense of powerlessness</td>
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<td>Surviving the System</td>
<td>Surviving history</td>
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<td>Surviving poverty</td>
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<td>Surviving the modern world</td>
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<td>Evolving Culture</td>
<td>Transmitting learnt behaviours</td>
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<td>Normalisation of unhealthy behaviour</td>
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<td>Providing unsafe home life</td>
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## Results

<table>
<thead>
<tr>
<th>Primary themes</th>
<th>Secondary themes</th>
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<tr>
<td>Fear of Repercussions</td>
<td>Fear of not being believed</td>
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<td>Fear of system responses</td>
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<td>Fear of threats and violence</td>
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<td>Fear of community scrutiny</td>
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<td>Fear of challenges to identity</td>
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<td>Avoiding Exposure</td>
<td>Active denial</td>
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<td>Promoting silence</td>
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<td>Ultimate silencing</td>
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<td>Shaming</td>
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• Part II: Aboriginal community forum
• Part III: Non-Aboriginal workers’ forum
• Addition of a sixth primary theme – Holding Aboriginal Law
• Results consistent with perspectives of community forum of 20 local Aboriginal women
• This applies to understanding FV too!
• The cultural context is critical!!
The Context: The Story of Aboriginal and Non-Aboriginal Relations

- First Nations People
The Context: The Story of Aboriginal and Non-Aboriginal Relations

- Colonisation, massacres, dispossession
- Colonial patriarchal violence
- Oppression e.g., forced removal of Aboriginal Children – Stolen Generations
- Ongoing racial inequality, systemic discrimination and White privilege
- Profound and complex trauma
Lesson: Aboriginal People have no value

“Those simply shot were fortunate. Many were cruelly tortured, maimed, blinded, burnt and castrated...They were shot for dog meat.

Women were chained to the huts of white settlers, used by the men, then tortured to death, some being forced to wear the heads of their murdered husbands...

Worst of all to the Aborigines was the perpetual theft of their children for sexual purposes, or if they were lucky, to be domestic servants” (Harris, 1994, p.89).
Lesson: Whitefella way is to sexually objectify Aboriginal Women & Children

“The sinister and deadly consequence of this widespread, continual and unrelenting sexual exploitation of Aboriginal women and girls was that venereal diseases reached epidemic proportions” (Harris, 1994, p.241).

“...women were ‘black velvet’; orgies were ‘gin sprees’; men particularly obsessed with Aboriginal women were ‘gin jockeys’; men who took the women by force were ‘gin busters’; the more discreet were ‘gin burglars’;...managers who tried to protect Aboriginal women and girls from sexual abuse were ‘gin shepherds’ and were despised” (Harris, 1994, p.239).
Gender

- Colonisation had a destructive effect on (Aboriginal) gender relations. Family organization, child rearing, political and spiritual life, work and social activities were all disordered by a colonial system which positions its own women as the property of men with roles which were primarily domestic.

- (Aboriginal) women claim an entirely different relationship, one embedded in beliefs about the land and the universe, about the spiritual significance of women and about collective endeavours that were required in the organization of society (Linda Tuhiwai Smith, 1999).
(Aboriginal) women would argue that their traditional roles included full participation in many aspects of political decision making and marked gender separations which were complementary in order to maintain harmony and stability.

(Aboriginal) women hold an analysis of colonialism as a central tenet of an (Aboriginal) feminism (Linda Tuhiwai Smith, 1999).
The Context: The Story of White privilege

‘Privilege is not something I take and which I therefore have the option of not taking. It is something the society gives me, and unless I change the institutions which give it to me, they will continue to give it and I will continue to have it, however noble and egalitarian my interests’ (Brod 1989)
Benefiting from privilege does not inherently make you a bad person - you can’t, after all, choose how society treats you. Privilege is a reflection of the inequalities inherent in our society. But you do have an obligation, as a bearer of privilege, to be conscious of how it has affected your life and be careful of the assumptions you’re making from your privileged position (Malin & Ngarritjan-Kessaris, 1999).
Privileged White voices have influenced the conversation about FV and sexual assault, thereby asserting power and claiming the platform to decide solutions … solutions which may end up being destructive and harmful to (Aboriginal) people and people of colour.
Implications
Reframing is required

- It is about taking greater control over the ways in which (Aboriginal) issues and social problems are discussed and handled.
- One of the reasons why so many of the social problems which beset (Aboriginal) communities are never solved is that the issues have been framed in a particular way (Linda Tuhiwai Smith, 1999).
• It is about making decisions about its parameters, about what is in the foreground, what is in the background, and what shadings or complexities exist within the frame.
• It is related to defining the problem or issue and determining how best to solve that problem (Linda Tuhiwai Smith, 1999).
Moves to attack (Aboriginal) culture or (Aboriginal) men as a group are resisted because for us, the issues are far more complex and the objective of analysis is always focused on solving problems. In the end, (Aboriginal) men and women have to live together in a world in which both genders are under attack (Linda Tuhiwai Smith, 1999).
“We have ceremony. We have Law. We have leaders who stop bad things from happening and we (Law men & women) don’t do it for the money. We have our Law People and a system for good things and bad things. These laws and punishments have worked in our communities in the past, they work today and they will work in the future.” (The Elders Report into Preventing Indigenous Self-harm and Youth Suicide 2014, p.53).
Law and Culture at the centre

- Two highly interrelated and readily available concepts:
  - Law; and
  - Culture.
Law continues to provide guidelines for everyday living (KALACC, 2006). It is given to us by our ancestors and we don’t have the right to change it. It is stable and enduring.

“…the unchanging legacy of creative ancestors who formed the world in the Dreamtime…and established the all-encompassing moral and practical rules by which succeeding generations of Aboriginal people have lived for thousands of years” (KALACC, 2006, p.15).
“...a complex system of governance which regulates people’s social, political and economic lives...it also defines the kinship structures, cultural traditions and spiritual beliefs of all Kimberley peoples and governs the restricted esoteric practices of its initiated members...(it) provides the basis for traditional medicine, education and specialised training. This knowledge is encoded within the Dreaming stories, ceremonies, song cycles, cultural activities and dances of all language groups in the region” (KALACC, 2006, p.16).
Dreaming stories contain the moral and spiritual rules that govern human interaction and ensure harmony between all living things and the country that gives them life. The religious aspects of Law are therefore interwoven into every aspect of Aboriginal people’s existence (KALACC, 2006, p. 38, Presenter’s emphases).
Culture or the ways in which people apply Law may be subject to change in response to western influences (KALACC, 2006).

“It’s how you live, how you talk, how you just present yourself... So, our young people these days don’t realize culture not only means ceremonial time...” (KALACC, 2006, p.49).
“...it’s tied up with relationships, skin groups and kinship. It also keeps us together, and that’s one of the intangible things, one of the things we can’t see but we feel. It binds us together and makes us know who we are...It helps us try to do the best things, to look at how life can be lived with the proper dignity”  (KALACC, 2006, pp. 49-50, Presenter’s emphases).
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<tr>
<th>Values</th>
<th>Principles</th>
<th>Practices</th>
<th>Traditions</th>
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<td>Law</td>
<td>4Rs</td>
<td>Traditions</td>
<td>Language</td>
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<tr>
<td>Culture</td>
<td>Reciprocity</td>
<td>Work</td>
<td>Ceremony</td>
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<td>Spirituality</td>
<td>Respect</td>
<td>Learning</td>
<td>Customs</td>
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<td>Ancestors</td>
<td>Responsibility</td>
<td>Training</td>
<td>Story-telling</td>
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<td>Land</td>
<td>Relationships/Interconnectedness</td>
<td>Following Rules</td>
<td>Dance</td>
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<td>Language</td>
<td>Courtesy</td>
<td>Caring</td>
<td>Song</td>
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<td>Community</td>
<td>Dignity</td>
<td>Sharing</td>
<td>Art ...</td>
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<td>Family &amp; Kinship</td>
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<td>Recreation</td>
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Women & Men have equally important roles and responsibilities

“(W)e’ve got it strong boss womans. They got authority to say whatever, whatever we doing” (KALACC, 2006, p.26).

“…I can’t speak for woman. Brother and I, we work for woman, we do things for woman, but we can’t touch their ground” (KALACC, 2006, p.26).
We prefer to collaborate with work on restoring bonds with our men … asserting our sense of identity, and reclaiming our sense of being as a people (Lauren Chief Elk, 2014).
Thank you

Questions?