



**Understanding the role of Law and Culture in
Aboriginal and Torres Strait Islander communities in
responding to and preventing family violence:**
Key findings and future directions

ANROWS

AUSTRALIA'S NATIONAL RESEARCH
ORGANISATION FOR WOMEN'S SAFETY
to Reduce Violence against Women & their Children

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This is an edited summary of key findings from the ANROWS research project "Understanding the role of Law and Culture in Aboriginal and Torres Strait Islander communities in responding to and preventing family violence". Please consult the ANROWS website for more information on this project and the full project report: Blagg, H., Tulich, T., Hovane, V., Raye, D., Worrigal, T., & May, S. (2020). *Understanding the role of Law and Culture in Aboriginal and/or Torres Strait Islander communities in responding to and preventing family violence*, Ngarluma/Jaru/Gooniyandi (Hovane), Kimberley and Pilbara region, WA, Jabirr Jabirr/Bardi (Raye), Dampier Peninsula and Kimberley region, WA, Gooniyandi/Gija (Worrigal), Kimberley region, WA (Research report, 19/2020). Sydney: ANROWS.

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ANROWS research contributes to the six National Outcomes of the *National Plan to Reduce Violence against Women and their Children 2010–2022*. This research addresses National Plan Outcome 3—Indigenous communities are strengthened.

Acknowledgement of Country

ANROWS acknowledges the Traditional Owners of the land across Australia on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander Elders past, present, and future, and we value Aboriginal and Torres Strait Islander histories, cultures, and knowledge. We are committed to standing and working with Aboriginal and Torres Strait Islander peoples, honouring the truths set out in the [Warawarni-gu Guma Statement](#).

Understanding the role of Law and Culture in Aboriginal and Torres Strait Islander communities in responding to and preventing family violence

BACKGROUND

- Family violence within Aboriginal and Torres Strait Islander communities attracts considerable attention in policy, research and practice.
- Many Aboriginal and Torres Strait Islander peoples have advocated for community-led approaches to family violence that are culturally safe, involve Aboriginal or Torres Strait Islander justice models and recognise Aboriginal or Torres Strait Islander Law and Culture.
- This project used a strengths-based approach to explore the roles that Aboriginal and Torres Strait Islander Law and Culture play in prevention, intervention and healing in Aboriginal and Torres Strait Islander family violence, and how these can be supported. The project was grounded in an understanding of family violence as shaped by the impacts of colonisation.

KEY FINDINGS

- Aboriginal and Torres Strait Islander Law and Culture are features of everyday life in many Aboriginal and Torres Strait Islander communities, although the mainstream legal system and forms of governance undermine their practice.
- Responses to family violence in Aboriginal and Torres Strait Islander communities should move away from the mainstream legal system and be grounded in Law and Culture, including Aboriginal and Torres Strait Islander dispute resolution processes.
- Healing (including addressing trauma and restoring wellbeing) is fundamental to addressing family violence.
- Participants recommended interventions that worked at the family, rather than individual, level.

KEY RECOMMENDATIONS

- A greater focus on prevention, healing and diversion from the criminal legal system is needed.
- Men and women both need to be involved in the design and implementation of local family violence strategies.
- Policy and service responses are most effective when they acknowledge the link between violence and issues that stem from colonisation such as alcohol misuse and intergenerational trauma, rather than focusing solely on gender inequality and male power.
- An improved understanding within mainstream systems and services of the nature of Aboriginal and Torres Strait Islander family obligations and interconnections is needed.

Family violence in Aboriginal and Torres Strait Islander communities

Family violence within Aboriginal and Torres Strait Islander communities is increasingly being understood to be shaped by the specific context of colonialism, systemic disadvantage, cultural disruption, forced removal of children, and the intergenerational impact of trauma. This understanding recognises that family violence in Aboriginal and Torres Strait Islander communities has specific causes and complexities. There is growing consensus that policies should be distinct and tailored, and must be guided by the experiences and viewpoints of Aboriginal and Torres Strait Islander peoples.

Many Aboriginal and Torres Strait Islander peoples have advocated for a community-led approach to family violence. Despite colonisation, many Aboriginal and Torres Strait Islander people retain a connection to Aboriginal and Torres Strait Islander Law and Culture. A strengths-based approach embedded in Aboriginal and Torres Strait Islander Law and Culture does not mean returning to “traditional” ways, but is an approach that recognises the ways in which culture is living and dynamic, and adapts.

THE ANROWS RESEARCH PROJECT

“Understanding the role of Law and Culture in Aboriginal and Torres Strait Islander communities in responding to and preventing family violence” by Harry Blagg, Tamara Tulich, Victoria Hovane (Ngarluma, Jaru and Gooniyandi), Donella Raye (Jabirr Jabirr and Bardi), Teejay Worrigal (Gooniyandi and Gija), and Suzie May

This project used a strengths-based approach¹ to explore the roles Aboriginal and Torres Strait Islander Law and Culture play in prevention, intervention and healing in Aboriginal and Torres Strait Islander family violence, and how these can be supported. The project is grounded in an understanding of family violence as shaped by the impacts of colonisation, rather than gender inequality.

This study involved:

- a review of criminological and legal literature, policy, and practice in relation to Aboriginal and Torres Strait Islander Law and Culture and family violence (with priority given to Aboriginal and Torres Strait Islander scholars, organisations, and respected community members)
- place-based interviews and yarning groups² in sites across Western Australia, the Northern Territory and Queensland (Tiwi Islands; Darwin; Kununurra; Martu country [Newman]; Mornington Island; and Fitzroy Crossing).

The qualitative research was local, place-based, and embedded in communities. The team formed partnerships with key Aboriginal community organisations in each region. This model supported considerable local ownership of the research process and grounding in the local environment. Partners informed the definition of areas of inquiry and took a leading role in ensuring that cultural protocols were adhered to; organised community meetings on sites of their choice; and provided interpreters and local researchers who could relate to the community members through shared experience, language and Culture. The partners also led in providing cultural security for participants.

The focus, identified in discussions with partner communities, was on aspects of Law and Culture that promote social integration and offer pathways towards greater community safety and healing. A total of 161 men and women participated in the research.

Quotes appearing in this paper come from interviews and yarning groups, and also appear in the full report.

See anrows.org.au for the full report.

¹ The approach in this research was to identify the strengths of, and opportunities afforded by, Aboriginal Law and Culture.

² Yarning is a traditional Aboriginal and Torres Strait Islander peoples' form of knowledge sharing where, in conversation, the participant is able to frame the agenda for discussion.

Key findings

There was an almost universal belief among participants that Law and Culture are the only way forward for communities to take ownership of addressing family violence. The key message was that those in mainstream systems need to talk to, listen to and work with senior members of Aboriginal and Torres Strait Islander communities.

The mainstream legal system and forms of governance undermine the practice of Aboriginal and Torres Strait Islander Law and Culture

Devaluing of Law and Culture is creating social dysfunction

Opinions varied across the sites on the extent to which Aboriginal forms of Law continue to operate, however, in all sites, it remains a prominent feature of daily life. Participants expressed a shared belief that Culture is the core of Aboriginal society.

People across all research sites agreed that Aboriginal communities struggle to maintain Law and Culture and that mainstream law undermines the authority of Elders. An Elder from Fitzroy Crossing stated, “It’s not that Culture is dying on its own, *gardiya* [white] law is killing it.” In relation to family violence, the mainstream legal system discourages or punishes Elders for enforcing Law. For example, in a remote community in the Northern Territory an Elder punished a young male following a family violence incident, and was charged by the police and sent to jail.

Participants were anxious to stress that violence against women and children is not an acceptable part of Aboriginal and Torres Strait Islander Law and Culture. Participants said that in actuality, it is the discouragement of Culture, the inability to carry out cultural obligations, and interruptions in passing values and expectations down to younger generations which causes social dysfunction and violence. Health and wellbeing are also compromised when cultural obligations are not fulfilled.

Communities have been disempowered through de-funding of community-controlled services and programs

There was a consistent belief across all of the sites that Aboriginal organisations have been steadily stripped of resources, which have been reinvested in a mix of religious or affiliated organisations. These organisations have no roots in communities and little knowledge of Aboriginal Law and Culture. Community members in Darwin and Fitzroy Crossing noted that the programs run by such organisations are not culturally safe.

Responses to those who use family violence should move away from the mainstream legal system toward responses led by Aboriginal and Torres Strait Islander peoples

Diversivory programs are important and should be expanded

There was unanimity across research sites that governments need to increase the range of programs aimed at diverting people away from the criminal legal system, as well as involve communities in designing and delivering the programs. The groups consulted referred to a number of programs operating in their areas that assist with diverting men, women or youth away from the criminal legal system and back onto country to undertake cultural activities. Participants acknowledged that these programs could be better supported.

Responses to family violence should be integrated into a community health and wellbeing space

The majority of groups consulted would like to see more of a health focus included in responses to family violence. Additionally, when someone—using and/or experiencing violence—does come into contact with the legal system, health-related issues should be assessed (for example, trauma; disability, including fetal alcohol spectrum disorder; addictions; and mental illness). This includes thinking through the long-term health and wellbeing impacts of being unable to fulfill cultural obligations.

Aboriginal and Torres Strait Islander people need to lead in partnerships with the mainstream legal system and services

There was a consistent view that Elders need to work in partnership with (but not in subordination to) police and courts, and be involved in decision-making. In Fitzroy Crossing, the women Elders noted, “We always have to fit into *gardiya* ways. We want to be driver of the vehicle. Our values, rules, all of that.” Similar views were expressed by a female participant in the Northern Territory (Tiwi) who said:

When someone does something wrong in the community the white policeman would take that person away and they told us we weren’t allowed to get involved in the process ... we don’t know what they are saying or doing with that person ... they go to jail ... we don’t see them ... we want to be involved ... we want to know what is happening with people ...

On the Tiwi Islands, skin group systems remain strong—people know which skin they are and generally conform to the rules governing relationships. The Cultural Elders Group runs a process called “*Ponki*”, which works with the police to intervene with skin group members who come into contact with mainstream law. Relevant authority figures from skin groups work with the police to identify a diversionary alternative to court. Working through skin groups ensures that the necessary authority is brought to bear on wrongdoers. Elders on Tiwi wanted to see greater recognition of the *Ponki* system by the mainstream legal system, including having these Elders in court sitting with magistrates.

Aboriginal and Torres Strait Islander dispute resolution processes should be prioritised as a response to violence

In all research sites there was a uniform belief that Aboriginal and Torres Strait Islander dispute resolution processes should be employed first, and mainstream systems second. The majority of participants favoured the use of community-endorsed practices run by Aboriginal Elders, for example temporary banishment from community, or being taken to a remote outstation or island for a period of time. Using cultural mechanisms that carry legitimacy in the community can provide safe resolution more effectively than a criminal justice response.

Healing of trauma is fundamental to addressing family violence

Addressing intergenerational trauma through healing is key

Community members in Fitzroy Crossing spoke about the centrality of trauma in the violence that is happening in the community. They noted that “the trauma, it’s affecting the younger ones ... we need Culture and healing rehabilitation for children”. To break the cycle of intergenerational trauma, healing should be integral to work at all levels of intervention, from preventative work in schools through to work with offenders and victims/survivors.

There was a common view among participants that governments should support more work around healing or counselling *before* people get into trouble. Elders emphasised the need for preventative programs directed at young people that teach them about how to be strong in Culture, and about understanding their roles, responsibilities and place within their families and communities.

Healing is best done on-country

Community sense of alienation and disempowerment extends to the lack of involvement of Aboriginal people in land management and decisions. An Elder in Kununurra said, “If country is not looked after, people get sick.”

Participants recommended healing camps and space where people could receive proper mental health support. The Darwin men’s group said:

Bush camp’s best option, learn about bush medicine, go through Law, learn about skin groups. We separate couples who fight and take them bush ... Elders need resources

to take families on-country away from all the shit. This will help build respect for Law and Culture. Darwin Aboriginal Men's Shed does great work with men, takes them fishing and camping, then yarning together. This is the best way for men.

Similarly, women Elders in Fitzroy Crossing spoke about the strategies they are using to strengthen Law and Culture:

They doing Bunuba and Ngarinyin Culture camps, to do intergenerational teaching. There's no agenda, just gathering together to do healing. We need to do healing first before we can go forward. Younger women had a say. Older women had cultural input. Language, knowledge, Culture is going to be passed down. We worked out a cultural model ... We setting up women's groups, out on-country is our classroom, our pharmacy, our IGA, our healing, our wellbeing.

Addressing the "Four G's"

There was a widespread belief that current family violence policies downplay the significance of inherited traumas, jealousy, alcohol and other addictions on people's behaviour. On the Tiwi Islands they spoke of the "Four G's" of "grog, gunja, gambling and gossiping" as being the major cause of fights and conflicts in families. For example, a female participant on Tiwi said that

There are a lot of issues that the community have to deal with on a daily basis so we decided to come together to [talk] about them ... after a lot of talking the community identified the four major issues causing problems with family fighting or conflicts ... we decided to refer to them as the four G's ... grog, gunja, gambling and gossiping ... all of these things affect both men and women on Tiwi ... they are not part of our Tiwi Culture ... they are very destructive ... if we deal with these things then the community can restore Culture back to what it was ...

According to a number of men and women, alcohol has been the principal factor in the destruction of Law and Culture. It is also a major factor in family violence. The Martu peoples call grog "wama" or "poison" and say it was brought here by white men and is killing their communities. A Fitzroy Crossing Cultural Elder said that "alcohol has no country" and "alcohol has no Culture".

There were some differences of opinion regarding blanket bans on alcohol. Restrictions were generally welcomed but total bans were seen as counter-productive, creating a flourishing black market where even more family resources are consumed by alcohol.

Families—men and women— need to be involved, together

Men and women should work together on approaches and solutions

There was a fairly universal view that there needs to be a community-driven series of processes that would define, from an Aboriginal perspective, how men and women would work together to refresh and rejuvenate Aboriginal Culture. As a participant on the Tiwi Islands emphasised: “Both men and women must work together ... this is the proper way.” This approach would also enable better understanding, at the level of both policy and practice, of gender roles within Aboriginal and Torres Strait Islander Culture. These roles shape the ways people relate to each other and interact, and therefore need to be considered when designing practice approaches.

Men and women in the study highlighted the positive role Aboriginal men have to play in the prevention of family violence. Disempowerment was cited as a key feature of many men’s lives—creation of space for men to be more than “perpetrators” is fundamental to addressing this.

Whole-of-family approaches are needed

Non-Aboriginal or Torres Strait Islander worker participants said that family violence responses commonly deal with “victim” and “perpetrator” separately, and not with the family as a whole. They reported that during the initial conflict or dispute, generally the parties are separated by the police, and the victim (woman) removed from the home and taken to the women’s shelter, usually with the children (if they are under 13 years old). Some staff members working within the refuge said that this technically means being “banished” from their home or community. They also acknowledge that children over 13 years old are left at home to fend for themselves. One staff member said:

The children are often seen wandering the streets because they have nowhere to go for support. This can lead to them getting caught up with the police and the criminal justice system, leading to children being institutionalised because of issues at home. It also appears that once children enter the criminal justice system, they never seem to get out ...

Aboriginal participants agreed, expressing a belief that government policies on family violence seem designed to “break up” Aboriginal families, rather than strengthen them, and are not tailored to address the types of conflict experienced in Aboriginal communities. It was suggested that Aboriginal community organisations need funding to provide ongoing support to women who choose to recover and rebuild their relationships, and encourage men to seek help. For many Aboriginal women, leaving permanently is not an option, or cannot occur without considerable long-term support.

Whole-of-family approaches can also help to address the real fear and risk of child removal. In relation to this, an Elder in Darwin also stressed the importance of an inclusive definition of families:

The white system does not recognise the rights of other kin to intervene, it's just between man and wife and the state—children are their property—but in our Culture child rearing is carried out by uncles, aunties, grandmothers. They are not always consulted by government agencies.

Getting men and women and families living together, being together, working together, on-country is the solution for much family violence.
(Martu Elders)

Both parties need support for trauma and addiction

There was a strong message that there was no point in getting one partner to recovery when the other still carries trauma and addiction. For example, a woman in Darwin said:

Sometimes both partners can have problems with grog or alcohol addictions ... or if they are stressed out because of things that happen to them ... they start fighting ... one person might go to rehab and the other one is still drinking or taking drugs ... this can cause problems if they come back together ... the one who is still drinking or taking drugs or whatever ... they might put pressure on the other one to go back to the grog or drugs ... this is not good ... they need to both go to rehab or counselling ... or whatever ...

The women at Fitzroy Crossing, Kununurra and Darwin reported that women, too, need support and help in order to prevent violence. They said:

Women need to deal with their issues too because they have problems also around alcohol, drugs, jealousy³ or gambling ... they need to deal with these things before they get out of control ...

³ Jealousy includes behaviours or actions that test the commitment and seriousness of relationships by deliberately setting out to make a partner jealous, for example by flirting with or looking at others.

Implications for policymakers and practice

Community-owned and place-based Aboriginal and Torres Strait Islander organisations should be at the forefront of addressing family violence in Aboriginal and Torres Strait Islander communities. Elders know their Culture, country, and community. Governments can provide support by resourcing the creation of a range of place-based, on-country options designed to strengthen Law and Culture.

The communities consulted expressed a desire for practitioners and policymakers to:

- Recognise the link between violence and issues stemming from colonisation such as alcohol, intergenerational trauma, cognitive disabilities and jealousy, rather than focusing on gender inequality, patriarchy and male power.
- Place greater focus on prevention work (such as healing, trauma counselling, and alcohol or drug rehabilitation) with Elders' knowledge at the centre of the process.
- Provide financial and infrastructural support for “on-country” healing run by communities, rather than non-Indigenous non-government organisations.
- Place greater focus on Aboriginal Law and Culture in healing conflict. Cultural models should undergird work with Aboriginal victims and offenders to assist with health issues, trauma, healing, or other issues impacting their wellbeing.
- Place a greater focus on diversion from the mainstream legal system into community-owned and place-based structures.
- Enable greater involvement of Elders in the criminal legal system, and dialogue between Elders, government, police and judicial officers regarding the role of traditional justice mechanisms.
- Ensure a place for both men and women in the design and implementation of local family violence strategies.
- Focus on policies that keep families together, rather than break them up, which is often the outcome, if not always the intention, of mainstream approaches.
- Develop greater understanding of the nature of Aboriginal and Torres Strait Islander family obligations and ties for those working in mainstream structures and systems, particularly of skin systems, as well as increased collaboration led by Elders to respond to family violence in ways that work with those obligations and ties.

Further reading

- Australia's National Research Organisation for Women's Safety. (2018). *Resources to address violence against women in Aboriginal and Torres Strait Islander communities* (Special collection: July 2018). Retrieved from <https://d2rn9gno7zhxqg.cloudfront.net/wp-content/uploads/2019/01/19030622/ANROWS-Aboriginal-Torres-Strait-Islander-Special-Collection-July-2018-edit13July18.pdf>
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