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www.icclap.edu.au



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The project team acknowledge the traditional owners and Elders of Country on which each of us works and lives, and recognise that these have always been places of knowledge and learning. Our vision for this project was to articulate what Indigenous cultural competency (ICC) means in the context of legal education and to build a community of practice to support the embedding of ICC in law curriculum. We realised from the beginning that this important work required a collective effort, and that we did not have all the answers. A core element of the project was to bring together a range of legal academics (both Indigenous and non-Indigenous), Aboriginal and Torres Strait Islander legal service providers, peak professional and higher education bodies to explore these questions.

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List of acronyms used

ALTA	Australasian Law Teachers Association
ALTC	Australian Learning and Teaching Council
ATSILS	Aboriginal and Torres Strait Islander Legal Services
CALD	Council of Australian Law Deans
ICC	Indigenous cultural competency
ICCLAP	Indigenous Cultural Competency for Legal Academics Program
OLT	Office for Learning and Teaching

Executive summary

The Indigenous Cultural Competency for Legal Academics Program (ICCLAP) was designed as a response to the *Review of higher education access and outcomes for Aboriginal and Torres Strait Islander people* (Behrendt review; Department of Education and Training 2012), which recommends (Recommendation 32) that universities develop Indigenous cultural competency (ICC) in staff and students, as one measure to promote Indigenous student success. Universities Australia's (2011a) *Guiding principles for developing indigenous cultural competency in Australian universities* recommends (Recommendations 1, 2 and 4) that Indigenous knowledges and perspectives be embedded in all university curricula and that ICC be included as a graduate attribute, with the need for staff training to achieve this goal. The project's aim was to promote the inclusion of ICC in legal education with a view to improving Indigenous student outcomes, and to build ICC in all students. An important step towards this aim was to build the capacity of legal academics to engage with Indigenous knowledges and ICC in their work. The project was led by the University of New England, together with partner institutions The Australian National University, Queensland University of Technology, RMIT University and the University of Technology, Sydney. The project's final report was completed in April 2018.

The project's objectives were to:

- consult with legal academics and key stakeholders to identify knowledge gaps and professional development needs for incorporating ICC in law curricula
- develop guiding principles for embedding ICC in legal education, a professional development module and set of resources available online to assist legal academics in implementing ICC in law curricula
- present the ICCLAP principles, professional development module and resources at a pilot workshop for legal academics
- establish a community of practice of legal academics to support the embedding of ICC in legal education through a consultation process and workshops.

The project's approach was informed by Indigenous knowledges which emphasise 'relatedness' as a core principle of Indigenous ways of knowing, being and doing (Martin 2008: 69–87). The concept of 'relatedness' was central to the iterative approach adopted by the project to enable legal academics and key stakeholders to develop a shared language and vision around the ICCLAP goals and to involve potential users in the design of the ICCLAP materials to promote implementation and embedding (Southwell et al. 2005: 20).

The project's key activities included:

- background research to assess the climate of readiness (Hinton et al. 2011: 9–13) for embedding ICC in law, including a survey of law schools and a literature review on ICC. The *ICCLAP Law School survey report* (2017) sets out key findings about the current level of inclusion of ICC in law schools as of 30 July 2017
- the ICCLAP Consultation Workshop with legal academics and key stakeholders. It was held in September 2016 to discuss what ICC means in the context of legal education. The *ICCLAP Consultation Workshop report* (2016) outlines key issues discussed at the workshop and the knowledge, attitudes and skills that academics and students need to build ICC
- the Indigenous Cultural Competency in Law: Deliberating Future Directions Workshop. This was held in September 2017 to bring together legal academics and key stakeholders to develop guiding principles and strategies to promote the embedding of ICC in law curricula. Presentations from leading Indigenous lawyers and legal academics were featured at the workshop to stimulate reflection and discussion. The *Workshop final participant report* (2017) outlines critical success factors and barriers to incorporating ICC in curriculum, together with guiding principles and priorities for action to incorporate ICC in legal education
- the ICCLAP team have presented papers at key Indigenous law and legal education conferences including the National Indigenous Legal Conferences 2016 and 2017, the Australasian Law Teachers Association Conferences 2017 and 2018, the Association of Continuing Legal Education Conference 2017 (Montreal, Canada), and the Law and Society Association-Canadian Law and Society Association Conference 2018 (Toronto, Canada). In addition presentations on ICC and law have been made at the Queensland University of Technology, University of New England, the University of Queensland, and University of Southern Queensland.

The ICCLAP Law School Survey provides a snapshot of the current state of ICC in legal education. The survey found that very few law schools have incorporated ICC into their graduate attributes and course learning outcomes. However a small proportion of law schools currently include ICC in both core and elective units. These findings show that there is a need to improve the inclusion of ICC in law curricula.

The project has been successful in building a community of legal academic and practitioner commitment to incorporating ICC in legal education. The [ICCLAP website](#) has been established to provide a focal point to support an emerging community of practice to implement ICC in law curricula. The website hosts a Q&A forum for academics, resources to assist academics develop ICC in their teaching practice, and news and information on ICC. A special edition of the *Legal Education Review* on ICC in law has been initiated by the project team and will be published early in 2019, providing additional resources for academics.

The [*ICCLAP final evaluation report*](#) (Te Aho & Morse 2018: 7) found that the project was successful in achieving its main objectives, and that it was clear from the Consultation Workshop that the project was viewed by key stakeholders as ‘highly necessary’. Feedback from the Future Directions Workshop was very positive, with participants stating that the workshop outcomes were likely to be acted on in the future. However, the incorporation of ICC in legal curricula also requires strong leadership and an ongoing commitment from law schools to ensure that the aims of the project are implemented and sustained into the future. The following recommendations are directed to practical measures that will enable this to happen:

1. Law schools adopt the guiding principles for the incorporation of ICC into curriculum, and implement the embedding of ICC into law programs.
2. The Council of Australian Law Deans establish a working party to support the incorporation of ICC in law curriculum, with members of the project team to provide ongoing advice and guidance.
3. Law schools give priority to the recruitment and retention of Indigenous legal academics to support the embedding of ICC in curriculum.
4. Law schools take measures to ensure the cultural safety of law schools to support Indigenous academics and students.
5. The project team continue to develop the ICCLAP website to provide resources and support for academics to implement ICC in law curriculum.
6. The project team investigate opportunities for ongoing collaboration with legal academics and industry partners to support the embedding of ICC in law curricula.
7. The project team investigate funding to conduct research on the current experiences of Indigenous law students to inform future approaches to embedding ICC in law curriculum and providing culturally safe law school environments.
8. The project team continue to disseminate the project’s findings at key legal education and Indigenous law conferences and contribute to ongoing professional developments program to promote ICC in law.
9. The project team convene a working party to develop a strategy to lobby legal admissions authorities and professional associations to include ICC in legal accreditation and academic standards.

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1 Introduction

This project, the Indigenous Cultural Competency for Legal Academics Program (ICCLAP), was funded by the Australian Government Department of Education and Training for a period of two years, concluding in April 2018. The project was undertaken by Ms Marcelle Burns (project leader, Lecturer, University of New England), Professor Asmi Wood (the Australian National University), Professor Anita Lee Hong (Director, Oodgeroo Unit, Queensland University of Technology), Professor Larissa Behrendt (Professor of Law and Director of Research, Jumbunna Indigenous House of Learning, University of Technology, Sydney) and Professor Mark McMillan (Deputy Pro Vice-Chancellor Indigenous Education and Engagement, RMIT University; formerly at University of Melbourne).

Background

In 2013 the former Australian Government Office for Learning and Teaching called for projects to address the recommendations of the *Review of higher education access and outcomes for Aboriginal and Torres Strait Islander people* (Behrendt review) (Department of Education and Training 2012).¹ The review, together with Universities Australia's Indigenous cultural competency project, recommends that Indigenous cultural competency (ICC) be developed across the higher education sector, as one measure to promote Indigenous student success. The project team, all members of the National Indigenous Research and Knowledges Network, saw an opportunity to collaborate with other Indigenous law academics and legal service providers to conceptualise ICC in the context of legal education.

Purpose and rationale

It is widely recognised that Indigenous² participation and outcomes in higher education are well below parity levels. The Behrendt review (Department of Education and Training 2012: 8) identified that between 2005 and 2010 only 40.8% of Indigenous students commencing degrees completed them during this time. Within Bachelor of Laws programs, Indigenous student completion rates are alarmingly low. Data from the Department of Education show that for Indigenous students commencing law degrees between 2003 and 2012 the completion rate was only 26.53%. Although Universities Australia's (2017: 25) *Indigenous strategy 2017–2020* reports significant growth in Indigenous student enrolments since the Behrendt review, Indigenous student retention rates are still almost 10% less, and Indigenous completion rates are 26% less than for other Australians.

Universities Australia's (2011a) *Guiding principles for developing Indigenous cultural competency in Australian universities* recommends (Recommendations 1 and 2) that Indigenous knowledges and perspectives be embedded in all university curricula and that ICC be included as a 'formal graduate attribute or quality'. To achieve this goal the guiding

¹ In particular, Recommendation 32, 'that universities continue to develop and implement a range of strategies to improve the cultural understanding and awareness of staff, students and researchers within their institution, including the provision of cultural competency training'.

² In this report we use the word 'Indigenous' as a collective proper noun to refer to the First Peoples of Australia. We acknowledge that this term is not universally accepted, and that using specific names for the distinct First Nations of country, such as is *Gomerioi* and *Larrakia*, is preferable. Others prefer the use of 'Aboriginal or Torres Strait Islanders'. While 'Indigenous' serves as useful shorthand in this report, it is not an ideal term.

principles recognise the need for ‘training teaching staff in Indigenous pedagogy for teaching Indigenous Studies and students effectively, including developing appropriate content and learning resources, teaching strategies and assessment methods’ (Recommendation 4). The Behrendt review (p. 96) endorses Universities Australia’s cultural competency project and recommends the inclusion of ICC as part of developing ‘quality teaching’ of Indigenous perspectives and to support an Indigenous graduate attribute.

Despite these recommendations Universities Australia (2011a: 29) identifies only one pilot program for ICC in law, and the Behrendt review (pp. 97–98) found only two pilot projects to embed ICC in law.³ Rodgers-Falk (2011: 1–3) suggests factors contributing to low completion rates for Indigenous law students, including the culture of law schools and the nature of legal curriculum. While there was also evidence that some law schools had begun to respond to the recommendations to incorporate ICC into curriculum (Anthony 2011; Burns 2013; Wood 2013), and that steps were being taken to introduce ICC in legal practice (Kelly et al. 2013), there was a lack of discipline specific knowledge to implement ICC within legal education. Therefore the need for a broader disciplinary approach to embedding ICC in law curriculum became apparent. The project was designed to meet this evident gap in legal education.

Universities Australia’s *Indigenous strategy 2017–2020* recommends developing ICC for senior staff and that universities increase the ‘cultural capabilities of graduates’. To this end Universities Australia (2017: 30) recommends that:

By 2020, universities commit to have plans for, or have already in place, processes that ensure all students will encounter and engage with Aboriginal and Torres Strait Islander cultural content as integral parts of their course of study.

This will give all Australian university graduates in the future the chance to develop their capabilities to work with and for Aboriginal and Torres Strait Islander people and communities.

Importantly Universities Australia’s *Indigenous strategy* recognises that Indigenous higher education needs to become ‘core business’ in universities. The project team supports this view, with this report outlining some strategies towards making Indigenous education core business in the discipline of law.

³ These programs were Edith Cowan University’s cultural competency project, which included introducing units on ICC into law and psychology, and University of Newcastle’s project on cultural competency in business and law.

Aim of the project

The broad aim of the project was to support the inclusion of ICC in legal education with a view to improving Indigenous student outcomes in law, and also building ICC in all students. Universities Australia (2011a: 3) defines ICC as:

Student and staff knowledge and understanding of Indigenous Australian cultures, histories and contemporary realities and awareness of Indigenous protocols, combined with the proficiency to engage and work effectively in Indigenous contexts congruent to the expectations of Indigenous Australian peoples... Cultural competence includes the ability to critically reflect on one's own culture and professional paradigms in order to understand its cultural limitations and effect positive change.

An important step towards achieving this goal is to enhance legal academics' knowledge and understanding of the relationship between Indigenous peoples and the Anglo-Australian legal system and build the capacity of legal academics to incorporate ICC into law curricula. The project's objectives were to:

- consult with Aboriginal and Torres Strait Islander legal services, key stakeholders and legal academics to identify knowledge gaps and professional development needs for incorporating ICC in law curricula
- develop guiding principles for embedding ICC in legal education, a professional development module and set of resources available online to assist legal academics in implementing ICC in law curricula
- present the ICCLAP principles, professional development module and resources at four pilot workshops for legal academics
- establish a community of practice of legal academics to support the embedding of ICC in legal education through a consultation process and workshops.

Our vision was to foster a cohort of cultural competent legal academics to support the inclusion of ICC in legal education, in partnership with Indigenous academics and legal service providers. The aim in doing so is to create culturally safe work and learning spaces for Indigenous peoples in higher education, and improve legal services for Indigenous communities in the long term.

Project approach and methodology

The project's approach was informed by Indigenous knowledges which emphasise 'relatedness' as a core principle of Indigenous ways of knowing, being and doing (Martin 2008). The concept of 'relatedness' informed the project in three ways. Firstly, the project team recognised the need to build 'relatedness' with key stakeholders through the establishment of reference groups and a consultation process. Key stakeholders for the project were identified as Aboriginal and Torres Strait Islander Legal Services (ATSILS), Council of Australian Law Deans (CALD), Law Council of Australia, Universities Australia, National Aboriginal and Torres Strait Islander Higher Education Consortium, Australasian Law Teachers Association (ALTA), legal professional bodies, Indigenous judicial officers, Indigenous lawyers associations and Indigenous and non-Indigenous legal academics. Secondly, ICCLAP is informed by the need to generate a better understanding amongst legal academics of the relationship between Anglo-Australian and Indigenous legal systems. Thirdly, the concept of 'relatedness' guided the project's objective of providing legal academics with the knowledge and skills needed to create inclusive learning environments for Indigenous students, and build ICC in all students.

'Relatedness' was central to the iterative approach adopted throughout the project to enable legal academics and key stakeholders to develop a shared language and vision around the project aims and objectives, and to involve potential users in the design of ICCLAP to promote implementation and embedding (Southwell et al. 2005: 20).

Fundamental to the project's approach is the understanding that Indigenous knowledges and cultures are diverse. This understanding guided the project's methodology which recognised that there is no one-size-fits-all approach to embedding ICC in legal education – each university exists within different Indigenous nations and must respond to its local context. For this reason the project set out to develop guiding principles for embedding ICC in legal education, rather than a model curriculum. The project adopted Nakata's (2002) view that Indigenous knowledges are not limited to 'cultural' knowledge and also include knowledge of racism, colonialism and knowledges that are generated in response to external pressures, both positive and negative, at the 'cultural interface'.

Research process

An iterative approach was adopted in developing ICCLAP as this was crucial to building a community of culturally competent legal academics, with dissemination viewed as ongoing throughout the life of the project (Southwell et al. 2005: 6). The project's activities were designed to engage legal academics and professionals at each stage to ensure that ICCLAP reflected the views of key stakeholders, promoting adoption and adaption (McKenzie et al. 2005: 121–126; Southwell et al. 2005: 20–24). The iterative approach also enabled the ICCLAP team to respond to emerging issues and review activities in response to stakeholder feedback. Explanations for changes to the research process and how the project adapted to new information and circumstances is set out below.

The research process adopted principles of 'relatedness' in designing the project activities and engaging with stakeholders. The key activities for the project included:

- establishing national and local reference groups with representatives from key stakeholders groups to oversee the project and provide advice and feedback on project plans, communication and evaluation strategies
- background research to assess the 'climate of readiness' for the project and to inform engagement strategies with stakeholders and potential adopters (Hinton et al. 2001: 9, 13)
- a two-day consultation workshop to discuss what ICC means in the context of legal education and to inform the development of guiding principles and resources to assist academics embed ICC in curriculum
- four pilot workshops for legal academics (As the project progressed this was changed to one major workshop, because the deliberative democracy process used for this workshop was more resource intensive than original budget allowed for. A variation to the grant conditions was approved by the funding body to allow project funds to be redirected to one major workshop event).
- refining the ICCLAP materials in response to evaluation and feedback
- disseminating the ICCLAP findings through peak industry bodies, publications, conference presentations and relevant websites.

The workshops were instrumental in establishing relatedness and developing a shared vision and commitment to the project's goals across a range of stakeholders – Indigenous and non-Indigenous, academic and professional staff, the legal profession and the academy. Although originally intended for legal academics, the participation of staff from Indigenous support units, government legal offices and international academics, added a broader range of perspectives to the workshop deliberations.

Project management

The project was conducted from January 2016 to April 2018, including an extension of three months to consolidate project outcomes and measure its impact. ICCLAP was based at University of New England, with a part-time project officer employed to perform the day-to-day management of project activities and finances, supervised by the project leader. Management of the project was also overseen by the project team, which held monthly meetings. The reference groups met bi-annually during the life of the project, with these meetings enabling feedback to be incorporated into project plans and activities. The independent evaluators also provided advice on key aspects of the project and evaluation.

Project funding

The project was initially funded in December 2014, with Queensland University of Technology as the lead institution. However with the relocation of the project leader to University of New England in May 2015, both universities entered a subcontract for University of New England to perform the substantive obligations under the funding agreement. This contract took some months to negotiate, so the grants funds were not available to the project team until late 2015. The original project timelines were extended by 12 months to cover this change in circumstances.

Funding was critical to achieving the project's objectives, particularly in providing resources to support the ICCLAP workshops. As consultation with key stakeholders was integral to the project's design, this funding enabled the participation of a diverse range of organisations (including ATSILS), and a broad representation of Indigenous nations. The funding also enabled the project team and reference groups, dispersed across five states, to hold face-to-face meetings at critical stages of the project. A part-time project officer and research assistant were employed to support the project. The independent evaluators, and their attendance at the workshops, was also covered by project funding.

Project evaluation

Evaluation of the project had two aspects. The first aspect was to evaluate the academic workshops, which was carried out by the project team in conjunction with the deliberative democracy facilitators. The second aspect was the appointment of two independent evaluators of international standing to conduct an external evaluation of the project.

The independent evaluators for the project were Professor Bradford W. Morse, Dean of Law, Thompson Rivers University, British Columbia, Canada; and Associate Professor Linda Te Aho, Te Piringa, Faculty of Law, University of Waikato, Aotearoa (New Zealand).

The independent evaluation focused on measuring whether the project had achieved what it had set out to do. The key evaluation questions were:

- What processes were planned and what were actually put in place for the project?
- Were there any variations from the processes that were initially proposed and, if so, why?
- How might the project be improved if it is continued?
- What were the observable short-term outcomes?
- To what extent have the intended outcomes been achieved?
- Were there any unintended outcomes?
- What factors helped and hindered in the achievement of the outcomes?
- What measures, if any, have been put in place to promote sustainability of the project's focus and outcomes?
- What lessons have been learned from this project and how might these be of assistance to other institutions?

The independent evaluation of the project was overwhelming positive, finding that the project was successful in creating a community of legal academics committed to incorporating ICC in law curricula and articulating key principles and action points for embedding ICC in legal education (Te Aho & Morse 2018: 5). An important finding was that key stakeholders saw the project as 'highly necessary', and therefore valued the opportunity to work with the ICCLAP team to develop strategies on how to achieve the project's aims (Te Aho & Morse 2018: 7).

The evaluation found that, if anything, more time was needed for workshop participants to engage with the topics and with each other (Te Aho & Morse 2018: 13). It also reported that, 'A positive outcome not explicitly intended was the cathartic and liberating sharing of experiences, articulation of frustration, and in some cases, grievances, regarding the invisibility and marginalisation of Indigenous laws and values in legal education. This proved to be therapeutic for many participants' (Te Aho & Morse 2018: 14). These findings demonstrate the commitment of workshop participants to the ICCLAP aims and objectives, and the importance they attribute to embedding ICC in law curricula.

2 Literature review

Teaching and learning projects in law

A review of teaching and learning projects in law revealed an awareness of low numbers of Indigenous law students and high attrition rates amongst this cohort;⁴ however, there are limited strategies to address this issue. The *Learning and Teaching in the Discipline of Law: Achieving and Sustaining Excellence in a Changed and Changing Environment* identified a number of factors contributing to high Indigenous attrition rates including ‘cultural clash’ and ‘perception by Indigenous people that law schools are not places for them’ (Davis & Owen; 32). Although the report noted that law schools need to accommodate diverse student needs, and that some schools included Indigenous perspectives in their graduate attributes (Davis & Owen; 51, 56), no direct correlation was made between Indigenous completion rates and curriculum.

Teaching and learning projects in law have recognised the importance of including generic cultural awareness and cultural competency in curriculum to support global legal practice (Bentley & Squelch 2012: 168), clinical legal education programs (Evans et al. 2013: 14), and to enhance the capstone experience (Kift et al. 2013: 12, 51). For global practice cultural awareness is defined as understanding different legal systems, traditions and cultures, and cultural values including Indigenous rights (Bentley & Squelch 2012: 168–172). In clinical legal education the challenge of dealing with clients from diverse backgrounds requires ‘exposure to multiple perspectives, including Indigenous perspectives’ (Evans et al. 2013: 14). The *Curriculum Renewal in Legal Education* project examined ways to improve the capstone experience for law students, including enhancing students’ capacity to ‘engage with diversity’ through teaching cultural competency skills (Kift et al. 2013: 12, 51). The project recognised that law schools can contribute to building cultural competency in students ‘by acting as role models and promoting diversity in the law school community’ and ‘developing curriculum that is inclusive of all students’ (Kift et al. 2013: 51, 52).

The *Bachelor of Laws: learning and teaching academic standards statement* also recognises the potential for inclusion of Indigenous perspectives in legal curricula, stating that ‘[a]s a discipline, law is informed by many perspectives (including Indigenous perspectives) and is shaped by the broader contexts in which legal issues arise’ (Australian Learning and Teaching Council 2010: 8). Although the standards have been criticised for their ‘silence’ on Indigenous issues, and the absence of Indigenous knowledges and law (Rodgers-Falk 2011: 15–19; Watson & Burns 2015: 41–42), it is the contention of the project team that there is substantial scope within the threshold learning outcomes to include Indigenous knowledges and ICC within this framework. It is further contended that the inclusion of Indigenous knowledges in legal education is essential to shifting unequal power relationships between First Peoples and the Anglo-Australian legal system, and offer students the opportunity to ‘critically reflect on one’s own culture and professional paradigms in order to understand its cultural limitations and effect positive change’ (Universities Australia 2011a: 9).

⁴ Gary Davis and Susanne Owen, in their report *Learning and teaching in the discipline of law: achieving and sustaining excellence in a changed and changing environment* (2009: 19), say that in 2006–2007 Indigenous students represented 1.5% of all law students, with attrition rates of 75%.

Indigenous teaching and learning projects

There have been a number of Indigenous teaching and learning projects with the primary objective of improving Indigenous student outcomes and building ICC in all students. The Can't Be What You Don't See project affirmed that ICC is fundamental to achieving a whole-of-university approach to supporting Indigenous student success, and to shift the paradigm of Indigenous 'deficit' and move towards Indigenous excellence (Kinnane et al. 2014: 3–8). Developing ICC in staff is also necessary to support the embedding of Indigenous knowledges in curriculum as a step towards building ICC in all students, and improving the capacity of universities to engage with Indigenous communities (Kinnane et al. 2014: 59, 71). Importantly the project noted that the inclusion of Indigenous knowledges needs to be 'properly integrated with meaning, purpose, perspective and context' (Kinnane et al. 2014: 71), signalling the need for discipline specific approaches to embedding ICC.

Indigenous learning and teaching projects also expressed concerns about how ICC is currently conceptualised and taught. Some have rejected the ICC terminology, preferring 'inter-cultural capabilities' (Nobin et al. 2013: 55), or 'cultural responsiveness' (McCluskey & Felton 2015: 15), as better reflecting the 'cultural interface' (Nakata 2002) that occurs in cross-cultural relationships. More recently 'cultural empathy' is used to mark a shift away from knowledge-based approaches to ICC (Wain 2013: 10). The Creating Cultural Empathy project criticised knowledge-based ICC training on a number of grounds, including:

- assuming that Indigenous cultures are static and homogenous
- assuming that competence is an achievable endpoint
- stereotyping by 'using broad population-level data or knowledge-based information'
- a focus on cultural difference 'obscures structural power imbalances'
- disempowering Indigenous people by labelling a population as disadvantaged (Wain 2010).

Other projects have questioned whether cultural 'competency' is attainable (McCluskey & Felton 2015: 13), stressing the need for ICC to be ongoing (Kinnane et al. 2014: 71), and recognising that ICC is a journey, not a destination (Ranzin et al. 2008: 19).

Pedagogical approaches

Indigenous learning and teaching projects articulate some key pedagogical principles to address the problematics of ICC they describe. These principles are summarised as:

- critical self-reflection upon one's own culture and profession, including how culture influences identity and worldview (Nobin et al. 2013: 56)
- challenging assumptions, stereotypes and awareness of unconscious bias (McCluskey & Felton 2015: 13; Wain 2013: 10)
- privileging Indigenous knowledges and voices (Mooney et al. 2017: 19; Nobin et al. 2013: 39; Turnbull 2014: 13; Wain 2013: 5)
- local-place-based community engagement (Bartleet 2014: 110)
- two-ways learning approaches (Dickson 2014: 6)
- use of Indigenous narratives to privilege Indigenous knowledges and expertise (Mooney 2017: 18–19; Wain 2013: 10–11).

Indigenous teaching and learning projects have generated a significant discourse on ICC which highlights the complexities involved in programs to develop intercultural awareness and skills to work with Indigenous peoples. These ICCLAP literature review found similar issues (as discussed below).

Indigenous cultural competency literature review

ICC in legal education

At the commencement of this project there was little evidence to show that ICC had been incorporated into Bachelor of Laws programs. Outside of some minimal inclusion of Indigenous knowledges within the Priestley 11,⁵ further engagement with Indigenous knowledges was 'largely limited to later year electives' (Wood 2013: 63). The need to build ICC in legal academics and lawyers working for legal aid was recognised (Burns 2013; Kelly et al. 2013). Developing 'cultural awareness' in the teaching of criminal law has been explored (Anthony 2011; Anthony & Schwartz 2013), together with the embedding of 'Indigenous perspectives' in a range of subjects including administrative law, property, business, foundational units and environmental resources law respectively (Graham 2009; Loban 2011; Meyers 2008; Reilly 2009). While offering good examples of how Indigenous perspectives can be incorporated into legal education, they mostly predate the current move towards embedding ICC in curricula.

⁵ Prescribed areas of legal knowledge that are required for admission as a legal practitioner; see *Legal Profession Uniform Admission Rules, Legal Professional Uniform Law, Schedule 1*.

A few notable contributions have been added to the literature on ICC and law. Charles Sturt University's approach to embedding ICC is outlined by Browne, who notes, 'presently there is very little Indigenous content and even less community Elders' perspectives addressing histories, challenges and cultural requirements' in legal education (Browne 2016: 51). An example of teaching ICC in torts is discussed by Gerard, Gainsford and Bailey (2017). The University of Newcastle's strategies for Indigenising law curriculum are examined by Maguire and Young (2015), offering approaches for embedding ICC. The appropriateness of ICC is questioned by Hamman (2017), who argues that 'cultural humility' is a more transformative learning framework, and that self-reflective, lifelong learning is needed.

Critiques of ICC

The literature warns that ICC may perpetuate stereotypes where they focus on knowledge about Indigenous culture, constituting a form of 'essentialism' (Hollingsworth 2013; Wendt & Gone 2011). Another concern is that ICC may lead to 'othering' of Indigenous peoples, thus representing a 'new racism' (Pon 2009). This may create a (false) sense of security for workers who are anxious about dealing with 'others' or frightened of being perceived as racist (Hollingsworth 2013: 1051). In the context of internationalisation of curriculum, engagement with local Indigenous knowledges is seen as a prerequisite to becoming a global citizen (Goerke & Kickett 2013: 67). However globalisation may also essentialise Indigenous culture if it does not acknowledge its 'place-based and localized nature' (Goerke & Kickett 2013: 67). These concerns underscore the need for distinct graduate attributes on intercultural competency and ICC (Goerke & Kickett 2013: 68).

Another potential problem is that ICC may unwittingly recentre 'whiteness' as the normative standard against which 'the other' is measured, creating the impression that learning a group's history is enough, 'with little need to strive for social justice' (Fisher-Borne et al. 2013). Without considerations of power, ICC may also overlook how knowledge about cultural others is produced through discourses that uphold whiteness as the 'default standard' (Pon 2009: 59). It is also stressed that training must 'acknowledge the social/cultural values which privilege certain groups (i.e., white people)' (Fisher-Borne et al. 2013). Therefore 'grappling with racism and colonialism' are seen to be more important than ICC (Pon 2009: 59). 'Cultural humility' also 'challenges us to ask difficult questions', rather than reducing Indigenous peoples to a set of perceived cultural norms (Fisher-Borne et al. 2013).

ICC can also be problematic when it creates ‘knowers’, rather than ‘learners’, with the risk that individuals assuming cultural knowledge may lead to paternalism (Goerke & Kickett 2013: 66). As McLaughlin (2013) states, if ICC is just about the dominant group getting knowledge then it is a problem: to become culturally competent requires ongoing engagement with Indigenous peoples and perspectives ‘to jar you out of your default position.’ The tendency has led several commentators to stress the need for ICC to be seen as a continuum of learning (Fisher-Borne et al. 2013; Goerke & Kickett 2013: 66; Hollingsworth 2013: 1052; Lopez 2008: 46; McLaughlin 2013: 260; Pon 2009: 71).

These critiques of ICC echoed discussions at the Consultation Workshop, and highlighted the need for an innovative approach to build ICC in legal academics. The ICCLAP team concurs with these critiques however have continued to use ICC terminology as it was already bolted into the project’s ‘branding’. Also noted is that the contested nature of the subject matter makes it inevitable that hitherto accepted terminology may quickly fall out of favour.

Towards deliberative democracy

The shift from knowledge-based content to a process that actively built the capacity of academics was seen as necessary to overcome the critiques of ICC. The ICCLAP team saw this as an opportunity to try a novel approach for the academic workshop. A deliberative democracy process was adopted because it is regarded as effective in engaging participants in formulating policy and practices that are more likely to be implemented and sustained in the long term, and emphasises a high degree of participation, ‘high quality discussion, and co-operation’ (Hartz-Karp & Briand 2009). The norms of the process – inclusivity, open-mindedness, reflectiveness and informed decision making – were compatible with ICCLAP’s approach of engaging potential adopters to encourage implementation (Orr & Levy 2016: 22–23). The project team recognised that the participation of a critical mass of Indigenous legal academics and professionals was essential to achieving these objectives and ensuring that Indigenous knowledges were centred and reflected in the process and outcomes.

3 Project activities

Background research for the project commenced with a literature review of ICC conducted in early 2016. The key findings from the literature review are discussed in chapter 2. The full *ICCLAP literature review* is available at the ICCLAP website. A desktop survey of law schools was also carried out; however, the project team found that the information sought was not always available, or was sometimes incomplete, so an online law school survey was conducted in July 2017 to gain a more complete picture. The survey was also designed to raise awareness of ICCLAP amongst CALD members. Key findings from the survey are discussed in chapter 4. The *ICCLAP law school survey report* (2017) is available at the [ICCLAP website](#). Other relevant reports are listed at Appendix C.

The ICCLAP Consultation Workshop was held in September 2016, bringing together key stakeholders to discuss what ICC means in the context of legal education and how law schools can be more responsive to the needs of Indigenous peoples. Over 25 people participated in the workshop including representatives from ATSILS (3), CALD (2), ALTA (1), National Aboriginal and Torres Strait Islander Higher Education Consortium (1), judicial officers (1) and Indigenous (12) and non-Indigenous legal academics (7), with some participants belonging to more than one stakeholder group. The high representation of Indigenous participants (70%) ensured that Indigenous knowledges and expertise were centred in the discussions. The key findings from the workshop are set out in chapter 4. The *ICCLAP Consultation Workshop report* (2016) is available at the ICCLAP website.

A survey of Indigenous law students was conducted at the recommendation of the national reference group between December 2016 and February 2017. The response to the survey was very low, with only 14 students completing the survey,⁶ therefore the data collected does not provide a representative sample of student views. Upon reflection the timing of the survey and the reliance on Indigenous support units to distribute the survey at a busy time of year were factors that may have contributed to the low response. The project did not have sufficient time or resources to try alternative research methods to gain student perspectives (e.g. focus groups).

The Indigenous Cultural Competency in Law: Deliberating Future Directions Workshop was held in September 2017, providing a forum for legal academics and key stakeholders to develop guiding principles and actions for the inclusion of ICC in legal education. A total of 52 people participated in the workshop, representing 26 out of the 39 universities with law programs. The workshop also attracted staff from Indigenous support units, lawyers from government organisations, and academics from Aotearoa (New Zealand). Presentations from leading Indigenous lawyers and academics were featured at the workshop, helping to stimulate reflection and guide discussion. A strong Indigenous presence at the workshop, with Indigenous peoples constituting 34% of participants, which was crucial to creating an environment where Indigenous voices were privileged and heard, influencing the guiding principles and strategies to promote ICC moving forward. Pre-reading for the workshop included the *ICCLAP Consultation Workshop report* and a seminal article from Nicole Watson

⁶ Data from the Law School Survey showed that there are at least 233 Aboriginal and Torres Strait Islander law students.

(2005) on racism in legal education. Feedback on the workshop was very positive, with participants stating that the workshop met or exceeded their initial expectations, and that the workshop outcomes were likely to be acted on in the future. The barriers and constraints, critical success factors, guiding principles and strategies to incorporate ICC in curricula are set out in the key findings in chapter 4. The *Indigenous Cultural Competency in Law: Deliberating Future Directions Workshop final participant report* (2017) is available at the ICCLAP website.

ICCLAP activities and publications were promoted through the project's email contact list and in newsletters during the early stages of the project. Following the establishment of the ICCLAP website in June 2017, information about ICCLAP events and news has been posted to the website, and email updates distributed to contacts. The ICCLAP website provides a platform for dissemination of the project reports and resources, and a focal point to support an emerging community of practice, through the sharing of information and ideas on the Q&A forum, bibliography of resources, and dissemination of news and events on ICC.

The ICCLAP team have also disseminated information about the project at key Indigenous law and legal education conferences including:

- National Indigenous Legal Conferences 2016 and 2017
- Australasian Law Teachers Association Conferences 2017 and 2018
- Association of Continuing Legal Education, 53rd Annual Meeting, 2017
- Public Law in the Classroom Workshop 2018, University of New South Wales
- Law and Society Association-Canadian Law and Society Association Conference 2018.

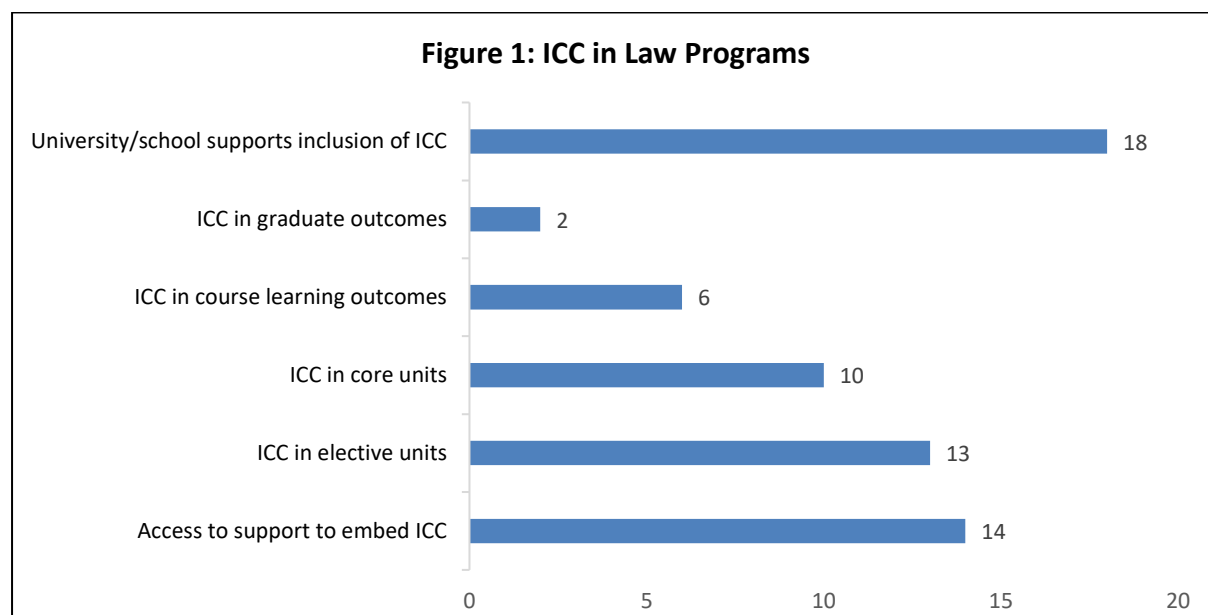
Presentations on ICCLAP have been made to peak industry bodies including CALD (March 2017 and July 2018), and the NSW Judicial Commission (December 2016). A full list of conference presentations and seminars is attached at Appendix D.

The project team have initiated a special edition of the *Legal Education Review* on ICC and law, which is scheduled for publication early in 2019. This special edition will feature articles from the project team, Indigenous experts from the Future Directions Workshop, and practical examples of how ICC has been incorporated into law curricula, providing further resources for academics to support the embedding of ICC.

4 Key findings and recommendations

The state of ICC in legal education

The ICCLAP Law School Survey was conducted to ascertain the level of inclusion of ICC in law programs as of 30 July 2017. The survey was completed by 20 out of 39 law schools (51%). To an extent the survey depended on respondents having some prior knowledge of what ICC means, which itself is a term open to interpretation. The *ICCLAP Law School Survey report* is available at the [ICCLAP website](#) and the key findings of the survey are as follows:



Law schools reported that where ICC was included in core curriculum it was mostly taught in property, constitutional law, criminal law and procedure, and foundational law units. ICC was also included in elective units on Indigenous peoples and the law, family and children's law, criminal law, human rights and law/society/culture units.

Law schools were asked to report the numbers of Aboriginal and Torres Strait Islander students and staff. The responses showed that there are 233 Aboriginal and Torres Strait Islander undergraduate students and 25 postgraduate students across 10 law schools (some schools did not provide data). There are 11 Aboriginal and Torres Strait Islander academics employed at nine universities that completed the survey.

This survey shows that although only a small proportion of law schools include ICC as a graduate attribute or course learning outcome, a significant number of schools are already taking steps to incorporate ICC into their programs. Given the response rates, the results suggest there is significant scope to improve the inclusion of ICC in law curricula. For almost 50% of law schools there is no data available.

What does ICC mean in the context of legal education?

The ICCLAP workshops provided a platform to explore the question of what ICC means in the context of legal education, identify barriers and constraints to incorporating ICC, formulate guiding principles with respect to pedagogy and curriculum, and identify resources needed to support this work. The following findings represent a synthesis of information gathered at both the Consultation and Future Directions workshops, and in many ways reflect the literature on ICC.

The Consultation Workshop examined key issues relating to ICC and legal education. Concerns were raised about whether ‘competency’ is the appropriate terminology to be used due to the impossibility of becoming fully ‘competent’ in a culture different to one’s own. Accreditation of ICC was viewed as problematic because it may create a false sense of legitimacy and implies a level of knowledge that could be used to the detriment of Aboriginal people (e.g. by misrepresenting Aboriginal culture, or stereotyping Aboriginal people). Alternatives such as ‘cultural humility’, ‘cultural inclusion’ and ‘cultural intelligence’ were discussed. Despite the terminology employed however, there was broad support for legal education to be more inclusive of Indigenous knowledges and law, and communication skills for working with Indigenous peoples. A number of key principles were identified as essential to promoting ICC in legal curricula, including:

- understanding that culture is impacting on every communication at some level
- engaging respectfully with Indigenous peoples in legal spaces
- appreciating Indigenous diversity to avoid stereotyping
- actively seeking the views of Aboriginal peoples and communities, rather than assuming a level of understanding and imposing that view.

In this context cultural competency is primarily about fostering meaningful cross-cultural dialogue, with the *process being more important than the nomenclature*. There was also a strong perception that legal academics do not necessarily view Aboriginal legal systems as equal, leading to the marginalisation of Indigenous law in legal education. Therefore an emphasis on legal pluralism and the need to ‘disrupt’ the culture of Anglo-Australian law were seen as important for developing ICC.

Views of Indigenous legal service providers

ATSILS expressed a strong desire to be able to employ Indigenous lawyers, seeing this as essential to providing culturally appropriate legal services. Pathways for Indigenous students and graduates to enter these services are needed to achieve this goal. It was also acknowledged that Indigenous graduates may choose to pursue careers outside the community sector, so there is also a need to build the capacity of non-Indigenous lawyers to do this work. In the view of ATSILS, there were a number of areas where non-Indigenous lawyers lacked capacity to work with Indigenous communities, with one participant stating, ‘It’s such a chasm between these people and the clients that they are serving’.

Key areas requiring attention were: a lack of knowledge of Aboriginal societies and connection to community; the need to understand Aboriginal decision making and dispute resolution processes; the ability to take instructions from communities rather than individuals; and the ‘perverse adversarialism’ of the Anglo-Australian legal system which is a

major barrier to building effective working relationships. Work-integrated learning programs were identified as valuable to developing cross-cultural understanding. While this is just a snapshot of key issues identified by ATSILS and other legal service providers, their views are also reflected in the key findings on pedagogy, curriculum and Indigenous knowledges below.

Indigenous students experiences of law schools

With the presence of a number of Indigenous lawyers at the workshops, discussion inevitably turned to their experiences of legal education. Key concerns highlighted were: the inability of academics to provide culturally safe learning environments for Indigenous students, especially during class discussions on Indigenous legal issues; and Indigenous students being ‘put on the spot’ in class and looked upon as an authority on everything Indigenous. Work placements were sometimes seen as tokenistic with minimal learning outcomes for students. Indigenous support units were reported to provide culturally safe spaces for Indigenous students. International study tours were highlighted as positive experiences, enabling students to build solidarity with Indigenous peoples globally. The need for further research to ascertain if there has been a shift in Indigenous student experiences of alienation and racism, as reported by Douglas (2001) and Rodgers-Falk (2011), was also identified.

Indigenous legal academics

The employment of Indigenous academics in law schools was highlighted as essential to effectively teaching ICC in curriculum. However the low numbers of Indigenous legal academics, the isolation they often feel working ‘one-out’ in a law school and the need to ensure culturally safe work environments are critical factors that must be addressed to achieve this goal. Indigenous academics also reported experiencing ‘push back’ from students when teaching Indigenous content, carrying the burden of challenging entrenched attitudes. Stereotyping of Indigenous academics should also be avoided — they should not be pigeon-holed into teaching only Indigenous content.

Indigenous legal academics also make valuable contributions to universities, providing advice, expertise and mentoring to non-Indigenous staff, which must be acknowledged. However this contribution can also be undermined, with Indigenous academics commonly employed at lower academic levels, feeling that their voices are not always heard and respected, and the need to prove themselves. The high potential for burnout was also raised. Recruitment and retention of Indigenous academics should be a priority, with appropriate support mechanisms in place.

Barriers and constraints to embedding ICC in law

Participants at the workshops noted a number of barriers and constraints to the effective implementation of ICC, drawing on their experiences at a number of universities and law schools. These barriers and constraints are set out in Table 1 below.

Table 1: Barriers and constraints to embedding ICC.	
University	Law Schools
A perception that ICC is not core business to the neo-liberal economic order.	Stubborn adherence to established law curriculum and a reluctance to change.
An institutional focus on commercial rather than social justice outcomes.	A perception that ICC is antithetical to core curriculum and not within the expertise of individual lecturers.
Funding cuts to Indigenous academic units.	Racism, ignorance and tokenism – perception that all law students share the same privileges.
	Positioning ICC as an Indigenous issue for Indigenous people to solve.
	Change fatigue and concerns about workloads.
	Need to change the culture of law schools.

A vision for ICC in legal education

The ICCLAP workshops were instrumental in articulating a vision for ICC in legal education. In particular, the Future Directions Workshop identified what an ‘ideal’ curriculum looks like, and factors to measure the successful implementation of ICC in law schools (both short and long term). Key measures identified were:

- ICC is included in learning environment and pedagogical methods – co-designed with Indigenous peoples.
- ICC improves student learning outcomes, increases Indigenous enrolment, retention and completion rates in law programs.
- There is a supportive law school environment for Indigenous academics. There are more Indigenous people working as academics in law schools, practising law and in positions of influence.
- Indigenous community feels a sense of ownership of the curriculum and it is endorsed and supported by Indigenous specialists/contributors.
- ICC permeates lawyering, leading to changes in the Anglo-Australian legal system and better recognition of Indigenous law and sovereignty.

Critical success factors for embedding ICC in law

Factors critical to the successful implementation of ICC in legal education, both at the institutional and school level, were discussed at the Consultation and Future Directions workshops. These factors are set out in Table 2 below.

Table 2: Critical success factors for embedding ICC.	
University	Law Schools
University leadership fosters a culture where ICC is promoted and supported, including university-wide Indigenous strategies.	Strong leadership from Deans to 'drive' the embedding of ICC and manage resistance.
University graduate attributes include ICC.	Course learning outcomes include ICC.
Curriculum review processes include ICC.	Review of curriculum to identify inclusion of ICC.
ICC part of key performance indicators for staff, selection and promotion criteria, and professional development programs.	Support for non-Indigenous academics to build their capacity to teach Indigenous content including generic and role-specific training.
ICC is valued and adequately resourced to ensure its sustainability.	Access to Indigenous expertise to support embedding of ICC.
ICC must become core university business.	Resources including workload allocations that allow time to develop relationships with Indigenous communities.
Engagement with Indigenous communities.	
Universities commit to 'truth-telling' in partnership with Indigenous communities.	ICC evaluated both internally and externally by Indigenous experts.

It was also recognised that both 'top-down' and 'bottom-up' approaches are needed, as incorporating ICC may be more genuine where it is 'intrinsically motivated'. A common view was that academics need to take responsibility to engage with Indigenous knowledges as they relate to their teaching, and to see this as an opportunity to contribute to justice: academics need to understand they have power to influence, and they should use it.

Guiding principles for embedding ICC in law

The ICCLAP workshops identified guiding principles for incorporating ICC into law curriculum. These principles reflect core values and pedagogical approaches to guide the embedding of ICC in law programs.

Table 3: Guiding principles for embedding ICC in law	
*	Adopting a whole-of-curriculum approach – with ICC integrated and a staged approach across the curriculum, with knowledge applied to practical experience.
*	Identifying relevant learning outcomes and meaningful assessment tasks to ensure students achieve learning outcomes.
*	Including Indigenous knowledges and ontological approaches in the curriculum.
*	Recognising that Indigenous knowledges are place-based, and the value of place-based learning.
*	Engaging with Indigenous communities at the national, regional and local levels. There is a need to build long term, mutually beneficial relationships with Indigenous communities, and ensure that Indigenous peoples can contribute to decision making, staff training, curriculum development and teaching (guest lectures).
*	Conceptualising the law program within a framework of legal pluralism, which recognises Aboriginal legal systems and respect for diversity.
*	Building students critical thinking and self-reflection, including critical reflection upon the presumed neutrality of law and legal positivism; the historical, social and cultural contingency of what constitutes law and legal knowledge; and awareness of the inherent biases in the Anglo-Australian legal system.
*	Enabling work-integrated learning with Indigenous communities and organisations, providing transformative learning experiences that are effective in changing attitudes. Such programs must be done ethically, ensure cultural safety and be adequately supported so as not to create a burden on communities or organisations. Indigenous and non-Indigenous 'peer-to-peer relationships' are effective at building cultural understanding and promoting two-way learning.
*	Exploring potential for online learning and teaching of ICC.

Curriculum

The Consultation Workshop developed a list of the knowledge, attitudes and skills that need to be embedded into law curriculum to foster ICC in students, including:

- Indigenous experiences of colonisation (both historical and ongoing)
- 'lived experiences' of Aboriginal and Torres Strait Islander peoples, including ongoing forms of colonialism, racism and intergenerational trauma
- key principles of Aboriginal culture
- role of 'legal actors' in historical and ongoing systems of oppression
- communication skills including the ability to take instructions from Aboriginal and Torres Strait Islander clients
- self-reflection on own culture, and understanding of cultural difference
- content in Priestley 11 relating to Indigenous peoples
- understanding the holistic needs of Indigenous clients – including legal, social, economic and health.

Teaching methods may include historical and comparative (international and interdisciplinary), values based (social justice or respect for diversity), critical race theory, narrative, and trauma informed approaches.

The full list of knowledge, skills and attitudes for ICC in curriculum is included in the *ICCLAP Consultation Workshop report* on the [ICCLAP website](#), together with the knowledge, skills and attitudes that academics need to embed ICC in curriculum.

Legal accreditation and academic standards include ICC

The workshops recognised that the ALTC and legal accreditation standards are strong drivers of the content in law curriculum. Therefore changing these standards to include ICC was seen as important to ensuring its incorporation into legal education. Participants proposed that ICCLAP lobby relevant bodies to seek these changes, with the support of CALD, ALTA, Australian Law Students Association, legal professional bodies and Indigenous lawyers and student associations. The need to identify champions amongst prominent members of the legal profession and judiciary to advocate for change was also recognised. Inclusion of ICC in the Closing the Gap targets was discussed as another avenue to promote ICC in law curricula.

Indigenous knowledges

While the inclusion of Indigenous knowledges in curriculum is seen as important, concerns were expressed about the culturally appropriate use of Indigenous knowledges. A key issue is understanding the differences between Western and Indigenous constructs of knowledge, and the cultural specificity of legal knowledge. It needs to be acknowledged that Indigenous knowledges are place-based, and may be subject to rules about who has access to information that are at odds with Western knowledge and an 'entitlement to know'. There must be recognition that Elders and community members are the owners of Indigenous knowledge and must be consulted if Indigenous knowledges are to be used. Remuneration should be provided to Elders and Indigenous community members for their contributions to curriculum, teaching and community engagement. Protocols for the use of Indigenous

knowledge are needed, including the culturally appropriate use of technology and media,⁷ and resources on appropriate terminology and language.

Another concern was the tendency for Indigenous issues to be framed negatively within curriculum (e.g. high incarceration rates). While students need to understand the lived experience of Indigenous peoples, it is equally important that *Indigenous knowledges and cultures are valued, and seen as holding the solutions, rather than simply being framed as the other*. Valuing Indigenous cultures is also necessary to transform ‘deficit’ thinking and the framing of Aboriginal people as a problem or ‘special needs’ group, towards an expectation that all Australians should be educated about the First Peoples of this country.

Resources and support

The need for resources to support the embedding of ICC and Indigenous knowledges in curriculum was highlighted. In addition to the list above, workshop participants said that the following resources would support efforts to incorporate ICC in curricula:

- textbooks and materials that include Indigenous cultural perspectives
- a clearinghouse to assist academics incorporate content in a culturally appropriate manner. This could include:
 - materials for Priestley 11 units including lesson plans, appropriate materials and resource kits for key cases
 - a guiding principles document on how to embed ICC in law curricula
 - a module for foundation law units covering the doctrine of discovery, historical encounter with English common law, and Indigenous ways of knowing, being and doing
 - a bibliography of Australian and international resources.
- a website to share information, resources and network
- an ongoing network or community of practice for academics and support staff
- ongoing professional development including workshops and conferences
- a special edition journal on ICC in law, with examples from academia and legal practice.

⁷ For example, Australian Institute of Aboriginal and Torres Strait Islander Studies (2012).

Recommendations

The following recommendations are directed to practical measures that will ensure that the aims of ICCLAP are implemented and sustained into the future:

1. Law schools adopt the guiding principles for the incorporation of ICC into curriculum, and implement the embedding of ICC into law programs.
2. The Council of Australian Law Deans establish a working party to support the incorporation of ICC in law curriculum, with members of the project team to provide ongoing advice and guidance.
3. Law schools give priority to the recruitment and retention of Indigenous legal academics to support the embedding of ICC in curriculum.
4. Law schools take measures to ensure the cultural safety of law schools to support Indigenous academics and students.
5. The project team continue to develop the ICCLAP website to provide resources and support for academics to implement ICC in law curriculum.
6. The project team investigate opportunities for ongoing collaboration with legal academics and industry partners to support the embedding of ICC in law curricula.
7. The project team investigate funding to conduct research on the current experiences of Indigenous law students to inform future approaches to embedding ICC in law curriculum and providing culturally safe law school environments.
8. The project team continue to disseminate the project's findings at key legal education and Indigenous law conferences and contribute to ongoing professional developments program to promote ICC in law.
9. The project team convene a working party to develop a strategy to lobby legal admissions authorities and professional associations to include ICC in legal accreditation and academic standards.

5 Impact of the project

The key activities of the project were successful in building a community of practice committed to embedding ICC in legal education. The ICCLAP workshops were instrumental in generating discussion about what ICC means in the context of legal education and articulating a vision for ICC in law curricula. Feedback from the Future Directions Workshop was very positive with 84% of participants reporting that the workshop outcomes are likely to be acted upon. The workshop reports and video resources provide a rich source of information for potential adopters of ICC in law.

The project has had an immediate impact for the project team, with ICC being adopted in their law schools in a number of ways. The Australian National University and Queensland University of Technology have established working groups on Indigenous curriculum. The University of New England adopted ICC as a course learning outcome for the Bachelor of Laws with implementation referred to the School's Education Committee as part of the 2019 curriculum review. The University of Melbourne has a project to incorporate ICC in the law school. The project team have also been invited to speak at a number of law schools which indicates strong interest for embedding ICC in law curricula.

The [ICCLAP website](#) provides an ongoing platform for dissemination of resources, and a focal point to support an emerging community of practice. Since June 2017 there have been over 6500 visits to the ICCLAP website and 250 downloads of ICCLAP resources. The planned special edition of the *Legal Education Review* on ICC in law is also likely to have an ongoing impact as legal academics engage with this scholarship.

The project's impact has extended beyond the intended audience of legal academics. The NSW Department of Justice has identified ICCLAP as having the potential to assist law schools implement best practice in terms of ICC training for academics and students.⁸ The project has also attracted international interest, especially in response to the Truth and Reconciliation Commission of Canada's 'Calls to Action' to include Indigenous issues and intercultural competency in legal education (Truth and Reconciliation Commission of Canada 2015: 168). This interest has prompted invitations for the project leader to present at two conferences in Canada, and academics from New Zealand attending the Future Directions Workshop. While to some extent the impact of ICCLAP is difficult to determine at this stage, there are promising signs that the project will have a significant influence on legal education into the future.

⁸ See NSW Department of Justice (2016). This review was a response to a recommendation of the NSW Legislative Council Standing Committee on Law and Justice report *The family response to the murders in Bowraville* (November 2014) that the NSW Government request that all accredited universities include 'cultural awareness' as a compulsory element of legal training.

6 Factors in project success and progress

Critical success factors

The contributions of Indigenous lawyers and academics to the workshops were essential to ensuring that Indigenous knowledges were privileged and heard, and able to influence strategies to move the ICC work forward. The reference groups were essential to the success of the project, acting as both critical and supportive friends with a wealth of experience and expertise, plus enthusiasm for the ICCLAP vision. Funding to support the participation of key stakeholders groups, especially ATSILS, and a wide representation of Indigenous nations in the project, was crucial to the project's success.

The iterative process adopted by the project was successful in building commitment to the ICCLAP goals amongst key stakeholders and participants, and an important step towards building a community of practice for ICC in legal education. This commitment is demonstrated through the ongoing contributions of participants (and in particular the Indigenous experts) to the upcoming special edition of the *Legal Education Review*. Some outcomes, including future dissemination and publications, updating website resources, monitoring the Q&A forum, and ongoing collaborations to implement the project's recommendations, requires the commitment of the project team and key stakeholders, beyond the life of the project.

Factors impeding project progress

Some factors impeded the progress of the project, but not to the extent that the success of the project was compromised. The delayed start to the project set back timelines as core activities could not be commenced without access to funding. This was overcome by an extension being granted by the OLT of 12 months.

The original budget did not include the costs of facilitating a deliberative democracy process, or the technology needed to support this approach. This issue was overcome by holding one major event, rather than four workshops, and was delivered cost-neutral. Project timelines did not anticipate the lead time necessary to organise a major event involving expert facilitators, and their availability meant that the workshop was held relatively late in the project, reducing the time available to progress other outcomes. An extension of three months for submission of the final project report was granted to overcome these factors. The budget did not anticipate some of the resources identified as desirable by participants, and therefore some resources could not be delivered within the budget or timeframes available. The budget did not include the costs for development of a website, however, with in-house expertise this was achieved.

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Appendix A

Certification by Deputy Vice-Chancellor (orequivalent)

I certify that all parts of the final report for this OLT grant provide an accurate representation of the implementation, impact and findings of the project, and that the report is of publishable quality.

Name: Michael McArdle.....Date: 1/3/2019.



Michael McArdle

Director

Office of Research

Queensland University of Technology

Appendix B

Indigenous Cultural Competency for Legal Academics Program (ICCLAP)



Final Evaluation Report 30 April 2018

Linda Te Aho, University of Waikato, Aotearoa New Zealand
Bradford Morse, Thomson Rivers University, Canada

Indigenous Law

Explanation of images on Cover Page

These images are taken from a set of drawings made by an unknown Māori artist between 1860 and 1890.¹ They depict an act of *murū*, or traditional compensation for wrongdoing, in the Waikato region, in central North Island of Aotearoa New Zealand, the homelands of one of the independent evaluators for this project, Linda Te Aho.

The images provide an example of the application of Māori law that existed prior to British settlement, known as *tikanga*. Like peoples throughout the world, our ancestors developed their own unique theoretical tradition in order to explain the mysteries of the universe, and to understand their place within it. This tradition embodied a philosophy of life that was both reflected in and reflective of, their social norms and practices. Māori continued to develop this tradition over time immemorial as they journeyed throughout the Pacific, and further refined here in Aotearoa over many centuries. The body of law that developed enabled Māori to provide the foundations for a code of behaviour that allowed them to survive and to thrive.

The Indigenous Cultural Competency for Legal Academics Program project aims to build the capacity of legal academics to incorporate Indigenous cultural competency into their individual courses and the overall curricula within Australian law schools in order to: (1) improve higher education outcomes and (2) reduce Indigenous disadvantage. The project also aims to demonstrate that: Indigenous laws both pre-exist the arrival of the common law and continue to be a vital part of the Australian legal landscape deserving of respect; Indigenous laws have value in their own right that can provide important beneficial input into Anglo-Australian law, such as, for example, in the areas of traditional dispute resolution and environmental sustainability; and that non-Indigenous law students and lawyers becoming more culturally capable or fluent improves their capacity to interact with and advise Aboriginal and Torres Strait Islander clients and lawyers far more effectively.

There are a number of ways that law schools may incorporate Indigenous cultural competency. They may explore and explain:

1. The content of Indigenous legal systems and the laws and institutions which comprise them;
2. Indigenous peoples' opinions and critiques of Anglo-Australian law; and
3. The way in which Anglo-Australian laws impact the rights and interests of Indigenous peoples and communities.

¹ <https://teara.govt.nz/en/zoomify/36522/an-act-of-muru-waikato>

In the coming years, the Panel wants higher education to become a natural pathway for Aboriginal and Torres Strait Islander people. Success in higher education will lay the foundations for an Aboriginal and Torres Strait Islander professional class that can contribute to closing the gap and to Australia's broader wellbeing and economic prosperity. The Panel also wants to see more high-quality Aboriginal and Torres Strait Islander researchers in universities and research agencies contributing to a national research agenda that values Aboriginal and Torres Strait Islander perspectives and reflects Indigenous development priorities.

REVIEW OF HIGHER EDUCATION ACCESS AND OUTCOMES FOR ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE, "THE BEHRENDT REVIEW".

Acknowledgement

The independent evaluators wish to sincerely acknowledge the traditional owners and Elders of country who gave their time and expertise to participate in and thereby enrich this project.

Overview

1. Findings and conclusions
2. Background to the project
3. Context of the project's operation
4. Purpose of the evaluation
5. Evaluation Framework
6. Key evaluation questions
 - a. *What processes were planned and what were actually put in place for the project?*
 - b. *Were there any variations from the processes that were initially proposed, and if so, why?*
 - c. *How might the project be improved?*
 - d. *What were the observable short-term outcomes?*
 - e. *To what extent have the intended outcomes been achieved?*
 - f. *Were there any unintended outcomes?*
 - g. *What factors helped and hindered in the achievement of the outcomes?*
 - h. *What measures, if any, have been put in place to promote sustainability of the project's focus and outcomes?*
 - i. *What lessons have been learned from this project and how might these be of assistance to other institutions*
7. Recommendations
8. Supplementary material (appendices)
 - a. International Context and Background of Evaluators
 - b. Programme for Programme for Indigenous Cultural Competency in Law: Deliberating Future Directions Workshop
 - c. Lists of stakeholders and audiences

Findings and conclusions

The broad aim of the Indigenous Cultural Competency for Legal Academics Program (ICCLAP) project was to increase the inclusion of Indigenous cultural competency (ICC)² in legal education with a view to improving Indigenous student outcomes in law, and also build ICC in all students, leading to better legal service delivery for Indigenous communities. For the purposes of this project, the project team adopted Universities Australia's definition of ICC being:

Student and staff knowledge and understanding of Indigenous Australian cultures, histories and contemporary realities and awareness of Indigenous protocols, combined with the proficiency to engage and work effectively in Indigenous contexts congruent to the expectations of Indigenous Australian peoples. Cultural competence includes the ability to critically reflect on one's own culture and professional paradigms in order to understand its cultural limitations and effect positive change³

The project's aims align with the Australian Government's commitment to enhancing the sustainability, transparency and accountability of the tertiary education sector while ensuring that student support is targeted to deliver the best outcomes for students and the Australian economy, articulated as follows:⁴

every person who aspires to have a legal education and that has the capacity to undertake it is given a genuine opportunity to do so. Higher education and the opportunities it affords can transform the lives of Aboriginal and Torres Strait Islander Australians.⁵

The ICCLAP project has generated engagement with ICCLAP aims and created a community of practice working towards incorporating ICC into legal education in order to improve higher education outcomes and reduce indigenous disadvantage. The project has inspired the development of successful ICC curricula which has the potential to dramatically improve legal education in Australia for all law students.

Many of the project's important outcomes have been achieved. The project has been conducted to high academic standards in a professional and empathetic manner. The project has helped to develop the capacity of the project team members and many of the participants in its workshops. More specifically, the project has distilled key principles and action points for the creation of a cohort of culturally competent legal academics to support the inclusion of ICC in individual courses and legal education generally.

² The evaluators acknowledge here the discussion identified in the Final Report regarding the language of 'indigenous cultural competency'. A significant part of the existing literature advocates other terms such as 'inter-cultural capabilities', 'cultural responsiveness', or 'cultural empathy'.

³ Universities Australia, 2011a, 3.

⁴ Department of Education and Training <https://www.education.gov.au/>.

⁵ Review of Higher Education Access and Outcomes for Aboriginal and Torres Strait Islander People, 2012, Vision, p1.

Background to the Project

The ICCLAP Project aims to increase the inclusion of Indigenous cultural competency in legal education in order to:

- Improve Aboriginal and Torres Strait Islander student outcomes in law
- Produce more culturally competent and effective law graduates and future lawyers who are better able to interact with Indigenous clients, witnesses and other lawyers; and who are more effective in representing Indigenous traditional owners, corporates, representative bodies, businesses and non-profits and providing legal services to Indigenous communities

To achieve these aims the project team has initiated a co-ordinated process aimed at enhancing legal academics' knowledge and understanding of the relationship between Aboriginal and Torres Strait Islander peoples and the Anglo-Australian legal system, and to build the capacity of legal academics themselves to develop significant competency in their own interaction with Aboriginal and Torres Strait Islander peoples so as to be able to incorporate cultural competency into law curricula. To these ends, the project team planned to design a training programme and resources and to test these in a series of pilots in selected centres.

Project team

Ms Marcelle Burns, Project Leader, University of New England
Professor Larissa Behrendt, University of Technology (Sydney)
Professor Anita Lee Hong, Queensland University of Technology
Professor Mark McMillan, RMIT University
Associate Professor Asmi Wood, Australian National University

Context of the Project's Operation

The ICCLAP project team carried out the following research:

1. Literature review on Indigenous Cultural Competency, including critiques of this terminology;
2. Desktop survey of Australian University websites;
3. Stakeholder perspectives on project objectives and outcomes via a workshop (2016); and
4. The process of deliberative democracy as an engagement and facilitation process for workshops.

Informed by the themes and findings of the stakeholder workshop in 2016, research and the findings of both the Bradley Review⁶ and the Behrendt Review,⁷ the project team designed a pilot workshop. The workshop was an important step towards enhancing legal academics'

⁶ *Review of Australian Higher Education*, Final Report, December 2008.

⁷ *Review of Higher Education Access and Outcomes for Aboriginal and Torres Strait Islander People*, 2012.

knowledge and understanding of the relationship between Aboriginal and Torres St Islander peoples and the Anglo-Australian legal system. It also sought to build the capacity of legal academics to incorporate Indigenous cultural competency into their individual courses as well as to the overall curricula within their law school.

Workshop 1: Stakeholder Perspectives, September 2016, Canberra

The project team held a stakeholder workshop on 6-7 September 2016 at Australian National University in Canberra bringing together legal academics, both Indigenous and non-Indigenous, legal service providers, and legal professional associations (the 2016 Workshop). It was clear from the 2016 Workshop that the project is seen by these key stakeholders as highly necessary. Over the course of the workshop the participants shared their experiences. Through facilitated discussion, the participants' refined the research questions and objectives of the project. The project team produced a report in November 2016 which summarised the rich discussion of the workshop and identified the knowledge, skills and attitudes required by academics and students in terms of developing cultural competency, and strategies for advancing the project's objectives. This information will ultimately provide the platform for the design of the training programme and resources.

Workshop 2: Deliberating Future Directions September 2017, Melbourne

The Future Directions workshop brought together a larger group of legal academics, both Indigenous and non-Indigenous, legal service providers, legal professional associations and representative organisations. Overall, 52 attendees participated, including representatives from 26 universities (including 3 New Zealand universities).⁸ The key aims of the 2017 workshop were to:

1. Develop guiding principles for the embedding of ICC in legal education;
2. Identify knowledge gaps and resources needed to support the inclusion of ICC; and
3. Establish networks with other people engaged in this work.

The workshop was held over two days and was facilitated by experts in the field of 'deliberative democracy'.⁹ This deliberative democracy process is fully described in the 2017 Workshop Final Report. In essence, participants were provided with readings prior to the workshop to promote reflection and stimulate discussion. The discussion in the workshop was initiated by a panel of experts, followed by interactive participation in small groups. The ideas generated in the small groups were entered into a software platform, themed, and then presented back to the whole workshop group. A participant report was circulated as a summary of the deliberations at the end of Day 1. The core themes and ideas, and the resulting priorities, form the basis of the 2017 Workshop Report.

⁸ See Indigenous Cultural Competency in Law: Deliberating Future Directions Workshop: Final Participant Report, September 2017, p27. Participants are listed in Appendix 3.

⁹ See Appendix 2 for Programme.

The focus of Day 1 was on developing principles and discussion facilitated by the project team on the following topic:

1. Developing Principles
 - a. What do you want most from the two days of deliberation?
 - b. What are your most important questions for the expert panel speakers?
 - c. What would success look like if we achieved an ideal ICCLAP curriculum?
 - d. What are the roadblocks, obstacles, tacit assumptions that get in the way of achieving an ideal ICCLAP curriculum? and
 - e. What are the prioritised critical factors to achieve an ideal ICCLAP curriculum?

At the end of Day 1, participants were asked to complete extensive evaluation forms. Many participants were new to the deliberative democracy process, and strongly advocated for more time on Day 2 to discuss key issues and ideas. The agenda was changed for Day 2 to allow more discussion on the following topics:

2. Developing Actions
 - a. How would we make significant progress in each of our ICC ideals within the next year?
 - b. How can we be the change we want to see in the world (Ghandi)?
 - c. How can we implement the changes that need to be made to the ICCLAP agenda and to realise these strategies? and
 - d. What are your best ideas for ICC on which you would like to work with others?

The participants' responses to the questions posed for each Day are presented in their own words in the 2017 Workshop Report and they provide rich information for designing a training programme and associated resources. The following are a few examples of open feedback:

Feedback from Day 1: "Needed more time for discussion – just too much content for one day. I appreciate the model – just more deep thinkers in the room without enough time to explore ideas and potentials."

Feedback after Day 2: "The two days were rich with ideas – many were familiar although still lots of new information. The real benefit was identifying communities of practice. That is a gift without measure. I liked the open space options, visited 3 tables."

"Thank you for creating such a safe and rich dialogue on this issue. It gave important opportunities to explore / exchange / learn."

As noted in the Project Team's Final Report, the workshops were instrumental in identifying critical success factors, barriers and constraints and guiding principles to support the embedding of ICC in curriculum. The key findings on these areas are set out below:

Critical Success factors prioritised at the ICCLAP Future Directions Workshop.

1. ICC included in learning environment and pedagogical methods – co-designed with Indigenous peoples.
2. ICC permeates lawyering, thereby leading necessarily to changes in the Anglo-Australian legal system and better recognition of Indigenous law and sovereignty.
3. Indigenous communities need to feel a sense of ownership of the curriculum and that it is endorsed as well as supported by Indigenous specialists/contributors.
4. ICC improves student learning outcomes, and increases Indigenous enrolment, retention and completion rates in law programs.
5. Providing supportive law school environment for Indigenous academics. There would then be more Indigenous academics in law schools, practising law and in positions of influence.

Additional Outcomes

The project team was granted an extension to incorporate the following additional outcomes:

1. Website – putting more resources on the ICCLAP website, including a Q&A forum

A popular request from the *Indigenous Cultural Competency in Law: Future Directions Workshop* was to establish an online community for legal academics and professionals to share ideas and resources, and discuss issues relating to embedding Indigenous cultural competency in legal education and practice. The ICCLAP Q&A Forum has now been created to meet this need. The Forum is available on the ICCLAP website <http://www.icclap.edu.au/>.

2. The Project team's proposal to the *Legal Education Review* for a special focus edition on Indigenous cultural competency in law has been accepted. This special edition will showcase a number of articles which focus on ICC in law, and contribute to developing new knowledge and scholarship on how legal academics and practitioners have engaged in this important work. The team has received ten abstracts for the special edition, with final articles to be submitted by 30 June 2018, with a view to publication online by the end of 2018, and in print shortly thereafter.
3. ICCLAP Online Resources - video presentations from the ICCLAP Workshop 2017 have now been uploaded to the website as a resource for academics and others who have an interest in this work.

Purpose of Evaluation

- To help identify what success for the project looks like;
- To assess whether the project will achieve its aims and objectives; and
- To provide recommendations and suggestions and generally contribute to making the project as successful as possible.

Evaluation Framework

1. With reference to the grant application, the evaluators sought to assess the extent to which the project delivers what it promised to deliver. What processes were planned and what were actually put in place?
 - a. Action Points:
 - i. Review the grant application and assess whether the project will deliver what it promises; and
 - ii. Evaluate the literature review and make suggestions as to possible additions.
2. Develop evaluation plan
 - a. Action Points:
 - i. Communicate with project lead to develop a plan; and
 - ii. Present a plan for discussion at the September 2016 Workshop.
3. Analyse and interpret feedback from the September 2016 Workshop
 - a. Action Points:
 - i. Attend and participate at the September Workshop and pose the following questions to stakeholders:
 1. Do you see that you would personally have a continuing role after the project? During implementation or roll-out?
 2. What leverage might you be able to provide?
 3. What input might you have into creating teaching materials and shaping curriculum for your own law school and nationally?
 4. What opportunities are there for inclusion of the training into Continuing Professional Development programme for the profession?
 - ii. Recommend that a survey be conducted before and after training pilots for both rounds. Evaluators offer to help design survey and assess feedback.
 - b. Assess whether the report from the workshop fairly reflects the discussion.
4. Continue to engage with project lead.
5. Assess whether the proposed design of the training programme reflects the feedback from the workshop and the literature review.

6. Attend at least one pilot training programme from each round in 2017 and assess feedback from participant survey.
7. Produce a report with conclusions and recommendations – Originally planned for November 2017.

As evaluators of the project, we were interested in understanding the participants' views on:

1. Content: this includes relevance, quality and quantity of information, the sequence of delivery, whether sufficient time was given for each topic, whether content was appropriate for participants' knowledge level and whether their expected outcomes were achieved.
2. Facilitation: this includes the knowledge base of the facilitators' mode and style of delivery, whether enough opportunity was provided for participants to comment and/or ask questions, whether topics were introduced clearly and appropriately and so on.
3. What changes, if any, to your level of understanding occurred as a result of the workshop?
4. How valuable do you see workshops like this for other law teachers, or other occupations, and why or why not? Would you recommend attending a similar workshop in the future to your colleagues?
5. How valuable do you see the provision of a refresher workshop in the future, and if so, how frequently?
6. What resources would you like to see made available to enhance your understanding? Examples might include: further reading, sample added text to add to individual law course goals that addresses greater intercultural understanding, sharing syllabi and reading lists, a website containing a blog to share experiences and teaching materials.

These issues were covered in the evaluations conducted by the deliberative democracy team. The evaluators chose to use this evaluation data to help inform our findings and to reach conclusions, rather than conduct a separate and additional evaluation process so as not to burden the participants.

Participants' Views

"We must continue"

We highlight here some of the survey data below from the Future Directions workshop. In respect of the process, survey data after Day 1 of the Future Directions workshop demonstrated that participants were new to the deliberative democracy process, and made strong comments about the dangers of theming (and thus not reflecting *all* ideas in the feedback sessions during the workshop). The most common concerns included reliance upon technology and the associated insufficiency of time to fully discuss the many very important issues raised in the workshop. Participants did, however, acknowledge that their participation and the sharing of their experience and expertise was encouraged by the facilitation team. In terms of the substantive issues discussed and debated, the majority of the 42 participants who completed the evaluation forms at the end of Day 1 (36-38/42) felt that they understood the key issues being discussed and learned more about the issues and acquired more information; that the session on identifying roadblocks, obstacles and assumptions was particularly valuable; and that, overall, Day 1 was a success.

After Day 2, 28-30 participants completed evaluation questions. 28 participants rated the overall success of Day 2 quite well (13) or very well (15). The speaker presentations were rated quite useful (13) and very useful (15). 23 of the participants found the session on strategies quite useful or very useful. 26 rated the two-day workshop overall as advancing the ICCLAP agenda at their university as having done so quite well, or very well. Open comments were generally positive, particularly about the open space component where participants were able to choose from a range of topics to engage with in round table discussions:

"Thank you. Great job. Lots of new ideas to take back to my law school.

I enjoyed the open space.

Today was much more constructive. Lots of good ideas. I hope some are pursued.

The two days were rich with ideas – many were familiar although still lots of new information. The real benefit was identifying communities of practice. That is a gift without measure. I like the open space options and visited 3 tables.

We must continue."

Key evaluation questions

This part of our report provides responses to key evaluation questions posed in the ALTC Project Evaluation Resource.¹⁰

- a. *What processes were planned and what were actually put in place for the project?*
Processes planned and put in place included: literature review and desktop survey, think tank to design pilot workshops, delivery of one pilot workshop.
- b. *Were there any variations from the processes that were initially proposed, and if so, why?*
Four pilot workshops were originally envisaged, but only one was delivered. The training programme and resources envisaged in the application for research funding were not finalised during the course of the project.

With respect to the change from four to one pilot workshop, the project team has advised that the decision to use the deliberative democracy process was the catalyst for this change, which was partly in response to critiques of ICC knowledge-based content. The deliberative democracy process was much more resource intensive. The costs overall were substantial for both the facilitators and software/technology to support the process, and also the costs of travel and accommodation for the Indigenous experts which was funded by the project. These elements of the deliberative democracy process made it hard to replicate within the existing budget so the team decided to hold one major event, rather than four workshops. This change from the original grant conditions was made with the approval of the funding body.

With respect to the change in approach regarding the development of resources as set out in the original application, an extension was granted in order for the project team to incorporate the following additional outcomes:

- Website – putting more resources on the website, including a Q&A forum. A popular request from the *Indigenous Cultural Competency in Law: Future Directions Workshop* was to establish an online community for legal academics and professionals to share ideas and resources, and discuss issues relating to embedding Indigenous cultural competency in legal education and practice. The ICCLAP Q&A Forum has now been created to meet this need. <http://www.icclap.eduz.au/>.
- Development of a special edition of the *Legal Education Review* (LER) on Indigenous Cultural Competency in Law; and
- Presentations and other dissemination activities.

¹⁰ <https://docs.education.gov.au/documents/altc-project-evaluation-resource>

Resources:

- The LER special edition will provide resources for academics.
- Videos and ICCLAP reports are also available on the website for potential users to access.
- The project team will produce a guiding principles document which will summarise the key findings of the report.
- Future funding of this project will enable the production of resources to support teaching.

c. *How might the project be improved if it is continued?*

It became clear in both the 2016 and 2017 workshops that participants needed more time to engage with the topics and with each other, as a support network and to share ideas and resources. The outcomes identified in the research application were ambitious, but are still extremely important. The important outcome of designing an ongoing training programme, and resources to be used in support of such a programme, should be implemented after testing the possible structures of such a programme and the effectiveness of potential materials through a series of pilots.

d. *What were the observable short-term outcomes?*

The creation of a network of legal academics and legal professionals with a common interest. The collection and collation of valuable information that will help this cohort collaborate in designing curricula and resources for inclusion into their law schools. The creation of a website with a question and answer forum.

e. *To what extent have the intended outcomes been achieved?*

Most of the intended outcomes were achieved. One of the two planned pilot workshops was delivered. An extension was granted to enable additional outcomes to be delivered such as the creation of a website (see above).

f. *Were there any unintended outcomes?*

A positive outcome not explicitly intended was the cathartic and liberating sharing of experiences, articulation of frustration and, in some cases, grievances, regarding the invisibility and marginalisation of Indigenous laws and values in legal education. This proved to be therapeutic for many participants.

g. *What factors helped and hindered in the achievement of the outcomes?*

The need for the project is demonstrated in the desire of participants to share experiences, though this took more time than was initially expected.

- h. *What measures, if any, have been put in place to promote sustainability of the project's focus and outcomes?*

The creation of a network among the participants, the development and circulation of a comprehensive literature review, and the development of a tangible collection of principles and action points among the workshop participants will all help encourage the sustainability of the project's results. The addition to the outcomes of past and future dissemination activities and the creation of a website to provide connectivity increases the prospect that ICCLAP results will continue to be of benefit in the future.

- i. *What lessons have been learned from this project and how might these be of assistance to other institutions?*

- Building of Indigenous cultural competency takes time, commitment from many key actors and significant resources.
- There is therapeutic value in bringing people together to share ideas and resources that help create ongoing networks among those who believe the topic is important.
- Deliberative democracy encourages participation and helps with theming and prioritisation.
- Evaluations and appraisals are necessary for shaping agendas of future workshops to maximise their effectiveness.

Appendix 1. International Context and Background of the Evaluators

The ICCLAP project takes place in a global context. The evaluation team for the project consists of Professor Bradford Morse, Dean and Professor of Law, Thompson Rivers University, Kamloops, British Columbia, Canada; and Associate Professor Linda Te Aho, Associate Dean at Te Piringa Faculty of Law, University of Waikato, Hamilton, New Zealand. The evaluators bring experience as senior academics with expertise in issues relating to cultural competency and indigenising curriculum.

Aotearoa New Zealand

Associate Professor Linda Te Aho is an Indigenous legal academic and Associate Dean Māori at Te Piringa Faculty of Law. The Faculty was established in 1991 as a ‘meeting place of people and their ideas and ideals; in a spiritual or metaphysical sense, aspiring towards justice and social equity’. Its foundation principles are biculturalism, professionalism, and the teaching of law in context. With a steady percentage of around 25% of students being indigenous, the Faculty strives to interweave Māori law and Māori legal issues throughout the undergraduate and post-graduate law degrees.

Canada

Professor Bradford Morse is the Dean of Law at Thomson Rivers University. The federal Government of Canada created the Truth and Reconciliation Commission (TRC) as an independent commission in 2008 expressly as a result of a massive out-of-court settlement through Annex N of the Indian Residential School Settlement Agreement. He assisted in the initial establishment of the TRC’s operations and co-chaired its national research meeting that included representatives from other truth commissions from around the world. The TRC issued a number of Calls to Action (CTA) on education, including:

- For the Federal Government to develop a strategy to eliminate educational and employment gaps (CTA #7)
- To improve educational attainment levels (CTA #10 (ii))
- To develop culturally appropriate curricula (CTA #10 (iii))

In the area of Justice it issued Calls to Action to

- the Federation of Law Societies of Canada “to ensure that lawyers receive appropriate cultural competency training” that would require “skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.” (CTA #27)
- all Law Schools “to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights and anti-racism.” (CTA#28)

All law schools and law societies across Canada have publicly embraced these Calls to Action and are now working on implementation mechanisms.

Appendix 2: Programme for Indigenous Cultural Competency in Law: Deliberating Future Directions Workshop

The workshop was guided by a deliberative democracy process facilitated by leading experts in the field:

- Professor Janet Hartz-Karp (Curtin University Sustainability Policy Institute)
- Dr Ron Levy (ANU College of Law, Co-Director, Project on Deliberative Governance and Law)
- Rob Weymouth, Curtin University

The workshop included presentations from an expert panel of Indigenous legal academics and lawyers including:

- Marcelle Burns, Pre-Doctoral Fellow, School of Law, University of New England
- Eddie Cubillo, Former Director Community Engagement, Royal Commission into the Protection and Detention of Children in the Northern Territory
- Annette Gainsford, Lecturer in Law and Justice and Indigenous Academic Fellow, Charles Sturt University
- Anthony Hopkins, Senior Lecturer, ANU College of Law, Australian National University
- Professor Anita Lee Hong, Director, Oodgeroo Unit, Queensland University of Technology.
- Sharon Payne, Sharon Payne & Associates
- Dr Amanda Porter, Chancellors Post-Doctoral Research Fellow, Jumbunna Institute for Indigenous Education and Research
- John Rawnsley, North Australian Aboriginal Justice Agency
- Nicole Watson, Senior Lecturer, Sydney Law School, University of Sydney
- Associate Professor Asmi Wood, ANU College of Law, Australian National University

Pre-Reading

The following were recommended for pre-workshop readings:

- Nicole Watson, *'Indigenous People in Legal Education: Staring into a Mirror without Reflection'* (2005) 6 (8) *Indigenous Law Bulletin* 4, available at <http://www.austlii.edu.au/cgi-bin/viewdoc/au/journals/ILB/2005/1.html>
- Indigenous Cultural Competency for Legal Academics Program, *Consultation Workshop Report – December 2016*

Appendix 3: Participating Organisations

Australian National University
Bond University
Central Queensland University
Charles Sturt University
Curtin University
Deakin University
Flinders University
James Cook University
La Trobe University
Monash University
Northern Australian Aboriginal Justice Agency
Northern Territory Department of Attorney General and Justice
Queensland University of Technology
RMIT University
Sharon Payne and Associates
Southern Cross University
Tarwirri Indigenous Law Students and Lawyers Association of Victoria
University of Adelaide
University of Auckland (NZ)
University of Melbourne
University of New England
University of Notre Dame (Fremantle)
University of Southern Queensland
University of Sydney
University of Waikato (NZ)
Victoria University (NZ)
Western Sydney University
University of Wollongong
Total Attendees: 52

Appendix C

ICCLAP publications and reports related to this report

Reports

ICCLAP literature review 2016.

ICCLAP law school survey report 2017.

ICCLAP Consultation Workshop report 2016.

Indigenous Cultural Competency in Law: Deliberating Future Directions workshop – final participant report 2017.

All ICCLAP publications and reports are available at the [ICCLAP website](#).

Articles

Burns M (2018). 'Are We There Yet? Indigenous cultural competency in legal education'. *Legal Education Review* 28 (2) (forthcoming).

Burns M. & Nielsen J (2018). 'Dealing with the "Wicked" Problem of Race and the Law: A Critical Journey for Students (and Academics)'. *Legal Education Review* 28 (2) (forthcoming).

Burns M., Young S., & Nielsen J (2018) "'The Difficulties of Communication Encountered by Indigenous Peoples": Moving Beyond Indigenous Deficit in the Model Admission Rules for Legal Practitioners'. *Legal Education Review* 28 (2) (forthcoming).

Wood A. & Levy R. (2018). 'A Mini-public of Academics: Experimenting with Deliberative Democracy and Indigenous Cultural Competency in Legal Education'. *Legal Education Review* 28 (2) (forthcoming).

Watson N. & Wood A. (2018). 'Seeing our Reflection in our Education: Indigenous People and Law', (2018), *Legal Education Review* 28 (2) (forthcoming).

Burns M. Cavanagh R. & O'Donnell M. (2017) 'Yarning about Lawyering with and for Rural and Regional Aboriginal Communities' in Mundy T. Kennedy A. & Nielsen J. (eds). *The Place of Practice: Lawyering in Rural and Regional Australia*. Leichhardt: Federation Press, 167-194.

Appendix D

ICCLAP conference presentations and seminars

Wood A. & Watson N. 2019. 'Indigenous People and Legal Education: A Critical Reflection', TC Berne School of Law Public Lecture, University of Queensland, St Lucia, 12 February.

Burns M. 2019. '*Are We There Yet? Indigenous cultural competency in legal education*', USQ Law and Justice Research Seminar, University of Southern Queensland, Toowoomba, 12 February.

Wood A. 2018. *Indigenous Cultural Competency into Clinical Practice*, ANU Clinical Psychology Class, 14 December.

Wood A. 2018. *Indigenous Cultural Competency into Legal Practice*, ANU College of Law, 14 December.

Burns M. & Hill-Jarro B. 2018. 'Indigenous Cultural Competency in Legal Education', Law School Residential Retreat, Queensland University of Technology, Noosa Heads, 7 December.

Burns M. 2018. 'Is There Justice for First Peoples in Legal Education? The Indigenous Cultural Competency for Legal Academics Program', paper presented to Australasian Law Teachers Association Conference, Perth, 4-6 July.

Burns M. 2018. Panel Speaker: 'Indigenising the Academy: Creating Culturally Safe Spaces for Indigenous Academics', *Law and Society Association-Canadian Law and Society Association Conference*, Toronto CA, 9 June (via Skype).

Burns M. 2018. Panel Speaker: 'Indigenous Issues, Perspectives and Law in the Public Law Classroom', Public Law in the Classroom: A Workshop for Teachers of Australian Public Law, University of New South Wales, Kensington, 22 February.

Burns M. Wood A. & Lee Hong A. 2017. 'Indigenous Cultural Competency for Legal Academics Program', School of Law Seminar Series, University of New England, Armidale, 24 November.

Burns M. Wood A. & Davis C. Panel: 'Indigenous Legal Education', paper presented to *National Indigenous Legal Conference*, Adelaide, 16-17 November.

Wood A. 2017. 'Indigenous Cultural Competency for Legal Academics Program', paper presented to the *Australasian Law Teachers Association Conference*, Adelaide, 5-8 July.

Burns M. 2017. 'The ICCLAP Experience', paper presented to *Association of Continuing Legal Education 53rd Annual Meeting*, Montreal, 29-31 July (via Skype).

Burns M. 2016. 'Indigenous Cultural Competency for Legal Academics Program', paper presented to *National Indigenous Legal Conference*, Canberra, 5-6 September.