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# Indigenous LGBTIQ+ Existences, Safety, & Wellbeing as a Critical Component of Truth and Justice Commissions in Australia.

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Transitional justice processes and mechanisms are undertaken to examine, interrogate, and respond to the legacies of massive and serious human right abuses (International Center for Transitional Justice [ICTJ], 2022), with the aim of societal transformation and reconciliation, particularly as this relates to racial and colonial violence (OHCHR, 2022). Globally, gender and sexual minorities are some of the most oppressed groups, enduring significant and overwhelming human rights violations under colonising regimes (Ashe, 2019), yet have been predominantly excluded from these processes. In the past thirty years, there have been more than thirty-five truth commissions in different countries with a past of conflict and violence (Fobear, 2014), yet almost all have failed to embrace the participation and testimony of the LGBTIQ+ community.

In Australia, states and territories are progressing truth and justice processes as fundamental mechanisms supporting treaties between these jurisdictions and First Nations Peoples. Colonisation, from first contact to current day, has embedded and enforced strict social constructs of gender and sexuality. Indigenous LGBTIQ+ people have experienced significant historical and continual harms specifically targeting non-compliant genders and/or sexualities. The inclusion of Indigenous LGBTIQ+ communities in Australian truth-telling and transitional justice processes, including the guaranteeing of robust Indigenous LGBTIQ+ voice and testimony, is critical to ensure that truth-telling is accurate and comprehensive.

As psychosocial risks are associated with individuals and communities being involved in these processes, Indigenous LGBTIQ+ cultural safety, health, social and emotional wellbeing supports, must be prioritised. This paper proposes direct guidelines and actions for supporting Indigenous LGBTIQ+ safety and wellbeing in truth and justice processes.

## Introduction

*“The recognition and the protection of sexual and gender minorities is one step towards dismantling hegemonic norms of patriarchy, racial hierarchy, inequality, sexism, and heterosexism whether brought on by colonization, state insecurity, or civil conflict.” (Fobear, 2014, p. 53)*

Imperialist and colonial Christo-patriarchal modes of existence, from first contact to current day, have embedded and enforced strict social constructs of gender and sexuality. This has created and sustained a pervasive and unrelenting moral battlefield, violating, punishing, criminalising (or extinguishing) all who defy, resist, or fail to conform to such paradigms. Whilst also experiencing the vast impacts of genocide and colonisation alongside their families and communities (Hill et al., 2021; Spurway, Soldatic, et al., 2022), Indigenous LGBTIQ+ people have experienced additional and significant historical and continual harms and trauma, as a *distinct* result of their *non-compliant* genders and sexualities.

Colonialism's gender project, replete with its panoptic assimilatory ideologies, intentions, and acts, restricts and categorises Indigenous peoples into binaries of gender, sexuality and 'everything else' (Day, 2020; O'Sullivan, 2021), deliberately disrupting, deforming, replacing, and erasing cultural ways of knowing, doing and being. The assignment and attribution of gender, imbues the Indigenous sexual and gendered subject with forcibly heterosexual and cisgendered traits (Whittaker, 2015), positioning and binding them into a definitive gendered existentiality, profuse in hierarchical dualism. Confined within this colonial enclosure, gender must be performed and replicated, in order to fulfil the patriarchal imperatives of power, dominance, (dis)possession, and control (Lugones, 2016). This gender containment enables the insidious, ubiquitous, and unceasing surveillance, management, enforcement, and reproduction of colonisation through personal, interpersonal, social, and institutional means.

Indigenous LGBTIQ+ people's refusal (Simpson, 2017) and non-complicity in the reproduction and perpetuation of well-entrenched colonial ideologies and practices, both positions and exposes them precariously and permanently as hostile insurgents disrupting and terrorising the completion and contentment of colonial absolutism. In acknowledging and understanding the location of Indigenous LGBTIQ+ people, as unwavering revolutionary actors against the colonising force and its determined invasive assimilatory pursuit, it is critical to guarantee that any truth and justice processes progressed within Australia (and globally) ensure robust Indigenous LGBTIQ+ voice and testimony. In doing this, such processes must authentically commit to securing and protecting the prioritisation of Indigenous LGBTIQ+ safety, health, social and wellbeing supports. This paper proposes guidelines and actions for supporting Indigenous LGBTIQ+ safety and wellbeing in truth and justice processes.

## **Understanding Transitional Justice**

*“Transitional justice covers the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past conflict, repression, violations and abuses, in order to ensure accountability, serve justice and achieve reconciliation.” (United Nations OHCHR 2022)*

An introduction to the basic understanding of transitional justice, its definitions, aims, objectives, and processes is important to contextualise this paper. The term transitional justice was coined in 1995, as a result of the publication of *'Transitional Justice: How Emerging Democracies Reckon with Former Regimes'* by Fritz (ed.) (1995). (Sandoval, 2011). Transitional justice refers to “how societies respond to the legacies of massive and serious human right violations” (International Center for Transitional Justice, 2022), encountering, confronting and grappling with countless dilemmas inherently existent in the presence of such histories. Truth commissions (*'truth-telling'*, *'truth and justice'*, *'truth and reconciliation'*) are a transitional justice process, demonstrated within an Australian context by the 2021 commencement in the state of Victoria of the Yoorrook Justice Commission, a key foundational component of the state's progressing Treaty process.

The International Center for Transitional Justice (2022) defines transitional justice as a response to systematic or widespread violations of human rights. It seeks recognition for victims and survivors in the promotion of possibilities for peace, reconciliation and democracy, and is concerned and adapted to societies transforming themselves after a period of pervasive human rights abuse, rather than acting as a 'special form of justice'. Chiefly, transitional justice is about victims and survivors, restoring the dignity and reasserting the rights of victims and survivors. The United Nations OHCHR (2022) states that transitional justice processes may comprise “both judicial and non-judicial mechanisms, including truth-seeking, prosecution initiatives, reparations, and *various measures* to prevent the recurrence of new violations”. Such *various measures* may include “constitutional, legal and institutional reform, the strengthening of civil society, memorialization efforts, cultural initiatives, the preservation of archives, and the reform of history education” (United Nations OHCHR 2022). The four main pillars of transitional justice processes include i) truth-seeking, ii) the right to justice (prosecution), iii) reparations for victims, iv) institutional reforms guarantees of non-repetition in a reformed future; ensuring that human rights violating acts are not enacted again (American Friends Service Committee, 2011; Schmid, 2008). Additionally, transitional justice has eight broad objectives consisting of i) establishing the truth, ii) providing victims a public platform, iii) holding perpetrators accountable, iv) strengthening the rule of law, v) providing victims with compensation other appropriate forms of reparation, vi) effectuating institutional reform, vii) promoting reconciliation, viii) promoting public deliberation (African Union Panel of the Wise, 2013; Freeman, 2000; Sandoval, 2014).

In the context of Australia, [Table 1](#) outlines contemporary transitional justice processes that have been undertaken by governments as an official response. Much of transitional justice work in Australia, like elsewhere, has been community-led, progressed without formal and/or official sanction or resources, and includes actions such as memorialisation, individualised acts of

<b>Contemporary Transitional Justice Processes in Australia</b>
<ul style="list-style-type: none"> <li>• The Royal Commission into Aboriginal Deaths in Custody (1987–91)</li> <li>• The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (1995–97) by the Human Rights and Equal Opportunity Commission</li> <li>• The National Apology (2007)</li> <li>• The Royal Commission into Institutional Responses to Child Sex Abuse (2013–2017)</li> <li>• The Queensland Stolen Wages Scheme (2015 – 2020)</li> <li>• The Royal Commission into the Protection and Detention of Children in the Northern Territory (2016–2017)</li> <li>• The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2019 – Present)</li> <li>• The Stolen Generations Redress/Reparations Schemes (2022 – 2026/2027) (States and Territories)</li> </ul>

Table 1. Contemporary Transitional Justice Processes in Australia

Adapted from (Asia Justice and Rights, 2022)

acknowledgement, cultural and creative arts efforts to preserve memory and uncover truths, and other localised truth telling, such as the colonial frontiers massacre map project (Ryan et al., 2022)

## **LGBTIQ+ Inclusion in Contemporary Transitional Justice Processes in Global Contexts:**

*“One explicit goal of a truth commission is ‘the writing of new national narratives that are more inclusive of groups that are historically marginalized within the nation-state.’” (Theidon, 2006, p. 457)*

Globally, in the last thirty years, there have been more than thirty-five truth commissions in different countries with a past of conflict and violence (Fobear, 2014). A systematic review of the literature uncovered a significant dearth of scholarship within transitional justice work specific to LGBTIQ+ inclusion. Only five publications between 2014 – 2020 were identified (Ashe, 2019; Bueno-Hansen, 2018; Fobear, 2014; Fobear & Baines, 2020; Maier, 2020; Mbwana, 2020). No literature specifically investigating an intersectional understanding of Indigenous gender and sexual minority communities’ experiences in transitional justice processes, either across the globe and within Australia was located. This finding potentially positions this paper as primary effort to landmark and begin to address important gaps in this realm in the scholarly literature.

[Table 2](#) provides an overview of LGBTIQ+ community inclusion in contemporary truth and justice processes across the globe. While Fobear (2014) sets out a succinct preliminary understanding on LGBTIQ+

inclusion in transitional justice processes, and the persistent barriers that have, and may continue, to exist, only Columbia's *Commission for the Clarification of Truth, Coexistence and Non-repetition (2016 – 2022)* actively included LGBTIQ+ populations in the design and process. In Canada and South Africa, submissions to their relative truth commissions have been made by LGBTIQ+ communities, under their own volition and in the absence of *active* inclusion. In Peru, LGBTIQ+ populations, were only included accidentally, *with* narratives uncovered as part of other gender-based submissions (Muddell, 2007). In some transitional justice processes across the African continent, where gender and sexual minorities may have been initially included, in those countries that continue to stigmatise, marginalise, and persecute LGBTIQ+ communities it was found that a range of non-governmental organisations (NGOs) who have included gay and lesbian activists in their advocacy, have been specifically targeted by the government in response (Muddell, 2007).

Truth-telling commissions, as preliminary processes in the progressing of Treaty between Indigenous Peoples and the illegally occupying (Nicholson, 2020) colonising State, are authorised and justified to centre *Indigeneity* as the primary identity categorisation in such processes (Hobbs, 2022; Yoorrook Justice Commission, 2021). In these cases, processes exist specifically to expose and interrogate the experiences that First Nations people have endured under colonisation, historically and currently. To fully aggregate and address such histories, it is also important that equal and simultaneous recognition and acknowledgement of the existence and presence of Indigenous peoples whom embody and express co-existent *other* identities that are marginalised and oppressed (those embedded in gender, sexuality, disability, age, class, economics, criminality, and religion), is given. Fobear (2014, p. 53) states that “violence permeates communities in complex ways” and “having individuals testify to their own experiences of violence is one way to reveal various incidents and truths”. It is critical that the expansive experiences of compounding colonial violence is not concealed in the pursuit of a (heavily weighted) *Indigenous* truth. For Indigenous LGBTIQ+ people and communities, gender and sexual orientation is never experienced in isolation from their Indigeneity, and is wholly intertwined with all other aspects of their social positioning and existence (Maier, 2020).

In Australia, state-based Treaty processes are being considered or actively progressed. As a critical feature of this, truth-telling is a necessary preparatory process. [Table 3](#) provides the progress of both treaty and associated truth-telling processes. It must be noted that the state of Victoria is the only state or territory currently to be underway with a truth-telling process.



Contemporary Global Truth Commissions in Countries with Indigenous Populations		LGBTIQ+ Inclusion
<b>Columbia</b>	– Commission for the Clarification of Truth, Coexistence and Non-repetition (2016–2022)	Actively included in the design and process
<b>Canada</b>	– Truth and Reconciliation Commission (2008–2015)	Two –spirit people included in one half page of a 4000 page report.
<b>Mauritius</b>	– Truth and Justice Commission (2009–2011)	Not actively included
<b>Timor-Leste</b>	– The Commission for Reception, Truth and Reconciliation (2002–2005)	Not actively included
<b>Peru</b>	– Truth and Reconciliation Commission (2001–2003)	<i>Accidentally</i> included in submission and final report
<b>South Africa</b>	– Truth and Reconciliation Commission (1995–2002)	Submissions made by LGBTIQ+ Community, but left out of final report
<b>Guatemala</b>	– Historical Clarification Commission (1997–1999)	Not actively included
<b>New Zealand</b>	– Te Rōpū Whakamana i te Tiriti o Waitangi (The Waitangi Tribunal) (1975–Present)	Nothing found

(Fobear, 2014; International Center for Transitional Justice (ICTJ), 2009; Muddell, 2007; Robertson, 2017)

Table 2. Contemporary Truth Commissions in Countries with Indigenous Populations In Australia, state-based Treaty processes are being considered or actively progressed. As a critical feature of this, truth-telling is a necessary preparatory process. [Table 3](#) provides the progress of both treaty and associated truth-telling processes. It must be noted that the state of Victoria is the only state or territory currently to be underway with a truth-telling process.

State	Treaty Process	Truth-telling Process
<b>Victoria</b>	Treaty Authority Established	Underway via the Yoorrook Justice Commission
<b>Northern Territory</b>	Treaty Commission Established (was closed December 2022 and replaced with a Treaty Unit within the Office of Aboriginal Affairs)	Committed to Process ‘Towards Truth-Telling’, (will undertake process via First Nations Forums, rather than a dedicated Treaty Commission)
<b>Queensland</b>	‘Tracks to Treaty’ Initiative Established, and Path to Treaty Act (2023) passed.	Committed to process
<b>South Australia</b>	Preparations for Process	n/a
<b>Tasmania</b>	Preparations for Process	Community request for process
<b>Western Australia</b>	No action	No action
<b>NSW</b>	No action	No action
<b>ACT</b>	No action	No action

Adapted from (AJAR, 2022)

Table 3. Treaty and Truth-telling Processes in Australia

## The Psychological Impacts of Truth-telling

Reviewing the literature from across the globe on truth-telling and testimony as a part of widespread transitional justice processes, and (less so) the provision of testimony by victims/survivors in formal (non-transitional

justice) court-based processes, provides *some* understanding as to the psychological risks associated with individuals and communities being involved in these processes. Throughout the scoping process, it was found that the literature is not clear and can be conflicting, on whether the provision of testimony is psychologically beneficial, or in fact, detrimental to those presenting submissions and evidence.

In accepting such complexity, it was found that the positive impacts of providing testimony includes i) the catharsis of ‘speaking out’ (De La Rey & Owens, 1998; Hayner, 2011), ii) feelings of hope and justice (Ottendörfer, 2019), iii) enhancement of perceived control and self-esteem, restoration of dignity (Villa-Vicencio, 2004 iv) the promotion of psychological healing (Kriesberg, 2004), and, v) sense of empowerment for victims/survivors (Lykes et al., 2007). In contrast, negative impacts of providing testimony include i) continued or elevated psychological distress, ii) the risk of traumatisation and re-traumatisation, iii) isolation, iv) feelings of being exposed, v) significant deterioration in physical and/or psychological health (Picker, 2005). Directly after testifying, psychological impacts can include feelings of fear, anxiety, and depression (Lucena, 2016). Other outcomes can include the possibility for feelings of resentment and retribution (Snyder & Vinjamuri, 2003), and, pain and disempowerment (Byrne, 2004). Consistent with literature investigating social determinants of psychological/mental health (Alegría et al., 2018; World Health Organization [WHO], 2014; Zubrick et al., 2004), higher levels of distress have been found in more marginalised demographics (Stein et al., 2008). Important to consider, is that across the literature, no evidence could be found on how pre-existing psychological conditions modified psychological responses either during or post-testimony.

By presenting this information, the author seeks to provide an understanding of the potential psychological impacts of truth-telling on victims/survivors, whether it be individuals, groups, or communities. The intent is to highlight that there is currently no definitive consensus on how truth-telling and testimony provision will generate psychological outcomes, either in positive or negative ways. If formal truth and justice processes are to proceed, these impacts need to be considered, with appropriate service provision designed and deployed, and potential risks mitigated wherever possible.

## **Safety, Health, and Wellbeing Considerations for Indigenous LGBTIQ+ People**

*“LGBTQIA+ individuals are often hesitant to come forward for fear of stigmatization and ostracisation, as well as the legal repercussions of their perceived sexuality. They are also often not included in the design and implementation of peace efforts and transitional justice mechanisms, even in cases where these processes are widely seen as gender-sensitive”. (Global Initiative for Justice, Truth, and Reconciliation, 2021, n.p.)*

Indigenous LGBTIQ+ people experience a unique compounding of the extensive health and socioeconomic disparities identified in *both* Aboriginal and Torres Strait Islander populations, and, LGBTIQ+ populations, due to being both Indigenous, and, sexuality and/or gender diverse (Phelan & Oxley, 2021; Spurway, Soldatic, et al., 2022; Uink et al., 2020). Research shows that Indigenous LGBTIQ+ people experience a) higher incidents of moderate to severe mental health issues such as depression, anxiety, and posttraumatic stress, self-harm, suicidality and suicide rates (particularly in trans youth; b) higher incidents of substance abuse, and comorbid mental health and substance abuse, c) higher rates of poverty, higher rates of food insecurity and financial stress, higher rates of unstable employment or unemployment, insecure housing and homelessness c) increased probability of violent victimisation, and lower social capital (E. B. Black et al., 2015; Carman et al., 2020; Leonard & Metcalf, 2014; Markwick et al., 2014; Soldatic et al., 2021). Indigenous LGBTIQ+ peoples are more likely to experience covert and overt discrimination, stigma, marginalisation, harassment, and violence in the Australian community, underpinned and perpetuated by rampant colonial, patriarchal, white supremacist, cisheteronormative and cisheterosexist attitudes and ideologies (Larson et al., 2007; Meyer, 2003). This generates and sustains an inescapable environmental state that is deliberately detrimental to Indigenous LGBTIQ+ people's safety, health and wellbeing. These are, therefore, critical factors that must be recognised, acknowledged, prioritised and provisioned appropriately and safely when planning, developing, and deploying the key elements of transitional justice processes.

To exist and survive under such unceasing compounding colonial violence, is overwhelming, suffocating, exhausting, inhumane, and too often fatal (Bonson, 2016), yet, that is exactly how the colony intended that it operate. Day (2020, p. 372), states “The rigid rules of gender and sexuality we have inherited are markedly settler colonial, and we are ready for transformation”, declaring Indigenous LGBTIQ+ people's position and state of readiness in the oncoming exposure and disarmament of such, previously successful, colonial weaponry. In order to achieve such transformation, direct involvement and robust participation in formal truth-telling processes is necessary for Indigenous LGBTIQ+ people, to give voice to their *distinct* knowledge and experiences, and in doing so making a significant contribution to the progress of *overall* transformation and justice. This stance is not just for Indigenous LGBTIQ+ people, but for all Indigenous people who have and continue to suffer under western eurocentric paradigms of existence.

## **Understanding and Prioritising Indigenous LGBTIQ+ People's Requirements**

*“Indigenous queer and trans people identify ourselves collectively and relationally according to experiences of colonialism, legacies of resistance, and connection to place.” (Farrell, 2020)*



When designing, developing, and deploying transitional justice processes, it is vital that Indigenous LGBTIQ+ communities are included, understood, and that their requirements are prioritised across all stages of engagement and collaboration, in safe and meaningful ways. This includes robust actions such as considering, co-designing, implementing, and embedding engagement, servicing, and support frameworks and models that are culturally centred and safe for Indigenous populations (McKendrick et al., 2014), and, specifically those that prioritise and centre the safety of Indigenous LGBTIQ+ people (Prehn et al., 2021). Designing and implementing processes and practice architectures that are trauma-and-shame informed, person-centred, strengths-based, healing-prioritised, culturally responsive, connective, and collaborative are also critical, and, must be inclusive of mandatory intersectional orientations embedded across each element (Heris et al., 2021; Moana & Elizabeth, 2019–2020; Roy et al., 2015). Fundamentally, it is also imperative that the inherent diversity of Indigenous LGBTIQ+ populations is acknowledged and understood, thus directing safety and wellbeing, co-design, collaboration, servicing, and support appropriately. Various groups will have differing needs based on identity, and as such, culturally responsive safety and support needs must be addressed with nuanced precision.

### **Supporting Indigenous LGBTIQ+ Safety and Wellbeing**

Imperative to working with Indigenous LGBTIQ+ people and communities is the understanding that co-design and collaboration with specific Indigenous LGBTIQ+ organisations and community groups needs to be done whenever and wherever possible (Sullivan, Tran, et al., 2022). This provides opportunities for critical Information sharing and gathering (round-tables, planning events, yarning circles) which informs the design, development, and deployment of transitional justice processes and centring Indigenous LGBTIQ+ individuals and communities in their own engagement within it (Dimopoulos-Bick et al., 2018; Sullivan, Spurway, et al., 2022). As previously stated, Indigenous LGBTIQ+ people and communities are diverse in their identities, cultures, and the unique requirements associated with varied gender and sexual identities (Clark, 2015). Information gathering includes listening consciously and intently *across* that diversity, ensuring that information is captured in ways that accurately represent the wide-ranging voices, narratives, and experiences of Indigenous LGBTIQ+ people.

Appropriate engagement seeks to acquire essential information relevant to safety and wellbeing. This may include the types of supports and assistance required, such as the securing of appropriate social and emotional wellbeing supports and legal services. Specific resourcing that may assist in supporting submissions and truth-telling, such as those explicit to financial and logistical assistance, may be requested.

Those situated in closed environments, such as detention centres and prisons, experience significant barriers to safety and wellbeing (N. Black & Trounson, 2019). Including incarcerated individuals in truth-telling processes may necessitate innovative, and in some cases discreet, information gathering processes to ascertain their requirements, and, substantial, adapted support structures and systems to be implemented. When developing frameworks and models to meet the needs for Indigenous LGBTIQ+ people, a range of evidence does support that Indigenous LGBTIQ+ people tend to access a mixture of community-controlled and mainstream services for psychological, sexual health, wellbeing, and social supports (Hill et al., 2021). The development of a sense of safety, inclusion, community, and belongingness is strengthening and healing for Indigenous LGBTIQ+ people (Spurway, Sullivan, et al., 2022), it is therefore necessary to establish and sustain these conditions across key stages such as preparation, truth-telling, and healing in transitional justice processes.

### ***Guidelines and Actions for Supporting Indigenous LGBTIQ+ Safety and Wellbeing***

In this section, the author proposes direct guidelines and actions under three key themes a) Recruitment, b) Strengthening Comprehension and Competency, and, c) Inclusion and Accessibility, to be considered in the appropriate supporting of Indigenous LGBTIQ+ safety and wellbeing in transitional justice contexts. The intent of this section is to outline some important reflections that responsible parties may consider for the design and implementation of any future truth-telling processes, either under consideration or in progress. [Table A](#) and [Table B](#) below provide detailed guidelines and actions to consider in supporting Indigenous LGBTIQ+ safety and wellbeing within transitional justice processes.

Guidelines and Actions for Supporting Indigenous LGBTIQ+ Safety and Wellbeing (Table A).	
Recruitment	Strengthening Comprehension and Competency
<ul style="list-style-type: none"> <li>The recruitment (where possible), of Commissioners and/or Officials who are members of the Indigenous LGBTIQ+ community or are aware and motivated advocates for the essential inclusion of the Indigenous LGBTIQ+ community.</li> <li>The appointment of Indigenous LGBTIQ+ representative/s, experts, or professionals on formal Expert Advisory Committees, and, the appointment of a <i>distinct</i> external Indigenous LGBTIQ+ Community Steering Committee (with people across the diversity of the Indigenous LGBTIQ+ community) directing knowledge and practice to the executive.</li> <li>The recruitment of Indigenous LGBTIQ+ staff and the formation of an official internal Indigenous LGBTIQ+ Steering Group directing knowledge and practice within teams and across the organisation. Recruitment must consider ensuring that Indigenous LGBTIQ+ people are represented across all divisions and services branches of the organisation where possible.</li> <li>Indigenous LGBTIQ+ staff (and their allies) must have agency and authority to advocate strongly for inclusion, ensuring Indigenous LGBTIQ+ people and communities aren't 'silenced' or 'forgotten' and the organisation and transitional justice process is held to account.</li> </ul>	<ul style="list-style-type: none"> <li>Requisite training in Indigenous LGBTIQ+ safety for <i>all</i> internal organisational staff and Commissioners/Officials, with expectations that external service providers utilised for the functioning of the transitional justice processes (e.g. counsel/lawyers, legal and financial services, mental health and social and emotional wellbeing (SEWB) professionals, information technology, researchers, logistics, etc) complete appropriate training to ensure the safety of staff, participants, and community. Community engagement staff and SEWB staff must also engage in capacity and capability-building of knowledges and skills in Indigenous &amp; LGBTIQ+ mental health first aid (MHFA), and, Indigenous LGBTIQ+ suicide prevention and postvention training (SPP). These services must be delivered if and where possible by Indigenous LGBTIQ+ education providers.</li> <li>Organisational employee supports such as (often externally-sourced) employee assistance programs (EAP), and professional supervision (an ethical and professional requirement of those undertaking work across support services such as social and emotional wellbeing) must include and ensure Indigenous and LGBTIQ+ safety.</li> <li>Robust policies and procedures that promote comprehensive Indigenous LGBTIQ+ inclusion, safety and wellbeing, including zero tolerance for discrimination, harassment, and bullying. Internalised colonialism (otherwise known as lateral violence) must not be accepted. The recognition and active confrontation of cisheteronormativity is an organisational cultural imperative.</li> </ul>

Table A

Guidelines and Actions for Supporting Indigenous LGBTIQ+ Safety and Wellbeing (Table B).
Inclusion and Accessibility
<ul style="list-style-type: none"> <li>Where applicable and possible, explicit mention and/or representation of Indigenous LGBTIQ+ people and/or communities in founding documents of formal processes (i.e. Letters Patent, strategic priorities), issues papers (critical issues papers), and on all materials produced on and from the transitional justice process/commission, particularly where other specific groups are sought and so mentioned.</li> <li>Overt visibility of Indigenous LGBTIQ+ people and communities, including the use of pronouns and an inclusion LGBTIQ+ statement on organisational email signatures, progress pride flags and pro-LGBTIQ+ signage throughout physical workspaces. Recognition and observance of days/weeks/months of awareness or significance for LGBTIQ+ people (ie. Wear It Purple Day, Mardi Gras, IDAHOBIT, Pride Month, Zero Discrimination Day, LGBTIQ+ DV Day, National Coming Out Day, World AIDS Day, etc) throughout the year. The use of rainbow lanyards and/or visible progress pride pins, and the inclusion and display of progress pride flags on uniforms; this is particularly important for people-facing staff, especially those deployed in community engagement and social and emotional wellbeing functions.</li> <li>Language that is LGBTIQ+ inclusive must be implemented across all systems, protocols, and materials of the organisation, including (but not exclusive to) that relating to human resources, information technology, public relations, communications and marketing, legal and policy processes, and health and wellbeing. External, public-facing resources such as websites, submission pages and portals, call centres, and data-collection materials are key areas for ensuring safe accessibility.</li> <li>Accessibility that is LGBTIQ+ inclusive, which may include specifically gendered or non-binary engagement processes, submissions, support and healing practices. Appropriately provisioned physical facilities must be available including gendered bathrooms that promote and protect LGBTIQ+ users safety, and, one or more specifically designated gender-neutral bathrooms. Accessible bathrooms for people with disabilities must be LGBTIQ+ safe and permanently remain a designated space for people with disabilities. Organisations must avoid co-opting accessible bathrooms for use by trans and/or non-binary people, ensuring instead to plan and provision appropriately, utilising robust interior design planning and fit-out centred in universal design principles and practices.</li> <li>The explicit development of a suite of information materials <i>specific</i> to the Indigenous LGBTIQ+ community, that centre and prioritise their unique needs and requirements. This may include information regarding accessibility, processes, submissions, hearings, resources, and supports that are relevant to Indigenous LGBTIQ+ individuals and communities. Specific external organisations that have been formally engaged, or informally identified, and/or meet the support needs of Indigenous LGBTIQ+ individuals and communities should be provided. This will often be a combination of Indigenous LGBTIQ+ and mainstream LGBTIQ+ organisations, as well as Aboriginal community-controlled organisations and mainstream organisation that are identified by the community as safe.</li> </ul>

Table B

### ***Mitigating Potential Barriers to Indigenous LGBTIQ+ Safety and Wellbeing in Transitional Justice Processes***

Ensuring the safety and wellbeing of Indigenous LGBTIQ+ people throughout these processes, does not just hinge solely on progressing or meeting the guidelines and actions above-mentioned. There are a range of barriers to safety and wellbeing that include conscious or unconscious perceptions, beliefs, and consequent acts, that perpetuate harms to

Indigenous LGBTIQ+ peoples, quintessentially drawn from and anchored in long practiced and well-perfected frameworks of colonial violence (Day, 2021; O’Sullivan, 2021). To draw attention to these factors within this paper, the author seeks to make conscious that which can be i) wholly unconscious, or ii) partially or fully conscious yet deprioritised and dismissed in pursuit of broader (potentially perceived ‘high priority’ or ‘higher value’) objectives of the transitional justice process, preferenced to achieve satisfactory and successful completion in restricted timeframes.

Cognisance and mitigation of these potential barriers to safety and wellbeing must be prioritised to ensure that the transitional justice processes set-up and progressed to interrogate and expose colonial ideological perpetuated harms, isn’t also replicating and sanctioning the very same colonising paradigms simultaneously. These barriers include i) internalised colonialism, including any invalidation, demeaning, and/or suppression of Indigenous and Indigenous LGBTIQ+ peoples heritage, identity, self-worth, and human rights (Carlson, 2016; Gooda, 2011; Henningham, 2021; Tran et al., 2022; Whittaker, 2015); ii) paternalism and/or performative allyship, especially by non-Indigenous and non-LGBTIQ+ internal or external parties and staff (Bond & Singh, 2020; Finlay, 2020; Fredericks et al., 2020); and, iii) the dominating colonial fragilities of whiteness, and, cisheteronormativity (Bennett, 2015, 2022; DiAngelo, 2016; Phelan & Oxley, 2021; Smith, 2010). In the brief reference to these barriers, the author acknowledges and accepts that significantly more detailed investigation and further scholarship is required in this space.

## **The Requisite Inclusion of Indigenous LGBTIQ+ Peoples in Truth-telling**

*“Something that is not named does not exist. One of the characteristics of discrimination – a principal factor that impedes access to the full enjoyment of human rights and that causes suffering to millions of beings on the planet – is the non-recognition of identities, differences, and diversities.” - Magdala Velásquez Toro, 2001 (Villarraga Sarmiento, 2013)*

Any formal truth-telling and transitional justice process in Australia, particularly those set up and authorised to investigate, interrogate and expose the colonial legacy and impact on First Nations people, must understand and accept that Indigenous LGBTIQ+ people are a fundamental, knowledge-abundant cohort, with crucial and indispensable testimony to share. Although suffering a shared historical and present-day experiential understanding and narrative with non-LGBTIQ+ First Nations people, Indigenous LGBTIQ+ individuals and communities embody an *exquisitely unique wisdom*, existing as primary witnesses and survivors in the historical and ongoing catastrophic experience of colonialism’s Christo-patriarchal cisheteronormative authoritarianism.

To ignore, dismiss, de-prioritise, or relegate Indigenous LGBTIQ+ people from transitional justice processes, and/or fail to *also* actively interrogate colonialism through an Indigenous queer lens is to render such an important process incomplete. In this harmful act of conscious *or* unconscious omission, authentic truth-telling remains unfinished, inaccurate, or distorted, undermining or diminishing its integrity, and, that of the knowledge outcomes and justice mechanisms borne from the process. It must also be considered that by oversight or exclusion, silencing and inaction fundamentally reassures, enforces, and sustains much of the very (colonial) structures and systems that generate and necessitate the existence of the transitional justice processes in the first place.

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### ***Author Positionality***

The author is an Aboriginal woman with connections to the Riverina region of South-Western, NSW. She is a queer woman with a disability, living and thriving as a perpetual guest on the Lands of the Wurundjeri Peoples in Narm (Melbourne).



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